

Fowlerville Community Schools Bylaws & Policies

4162 - CONTROLLED SUBSTANCE AND ALCOHOL POLICY FOR COMMERCIAL MOTOR VEHICLE (CMV) DRIVERS

Purpose

The Board of Education believes that the safety of students while being transported to and from school or school activities is of utmost importance and is the primary responsibility of the driver of the school vehicle. To fulfill such a responsibility, each driver, as well as others who perform safety-sensitive functions with District vehicles, must be mentally and physically alert at all times while on duty.

To that end, the Board has established this policy, which includes an alcohol and controlled substances testing program. The Board expects all Drivers to comply with Board Policy 4122.01 on Drug Free Workplace which prohibits the possession, use, sale, or distribution of alcohol and any controlled substance on school property at all times.

Further, the Board concurs with the Federal requirement that all Drivers should be free of any influence of alcohol or controlled substance while on duty. Therefore, participation in the alcohol and controlled substances testing program is a condition of employment for all Drivers.

Covered Employees

This policy covers all commercial driver's license (CDL) holders and regular and substitute bus drivers as well as other staff who operate, inspect, service and condition a commercial motor vehicle (CMV) while on duty, regardless of whether they are required to hold a CDL.

This policy also covers other staff members who drive students in or inspect, service, and condition non-CMV District vehicles.

Definitions

For purposes of this policy and the guidelines associated with the policy, the following definitions shall apply.

- A. The term *alcohol* means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol. This term is a volume breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test as described herein.
- B. The term *controlled substance* includes any illegal drug, the possession or use of which is unlawful pursuant to Federal, State and local laws and regulations, and any drug that is being used illegally, such as a prescription drug that was not legally obtained or not used for its intended purposes or in its prescribed quantity. The term does not include any legally-obtained prescription drug used for its intended purpose in its prescribed quantity unless such use would impair the individual's ability to safely perform safety-sensitive functions. This term includes, but is not limited to, marijuana metabolites, cocaine metabolites, amphetamines, opiate metabolites, phencyclidine (PCP).
- C. The term *controlled substance abuse* includes excessive use of alcohol as well as prescribed drugs not being used for prescribed purposes, in a prescribed manner, or in the prescribed quantity.
- D. The term *safety-sensitive functions* includes waiting to be dispatched, inspecting equipment, servicing, driving, loading or unloading District vehicles, as well as repairing, obtaining assistance, or remaining in

attendance upon a disabled District vehicle. This term further includes any period in which an individual is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.

- E. The term *CDL license holder* means all *Driver* CDL holders and regular and substitute bus drivers who operate a commercial motor vehicle while on duty, as well as other staff members who operate, inspect, service and condition a commercial motor vehicle (CMV) while on duty, regardless of whether they are required to hold a CDL.

This policy also covers other staff members who drive students in or inspect, service, and condition non-CMV District vehicles.

- F. The term *while on duty* means all time from the time the Driver begins to work or is required to be in readiness for work until the time s/he is relieved from work and all responsibility for performing work.

Procedures

The Superintendent shall establish a drug and alcohol testing program whereby each Driver is tested for the presence of alcohol in his or her system as well as for the presence of the following controlled substances:

- A. Marijuana
- B. Cocaine
- C. Opiates
- D. Amphetamines
- E. Phencyclidine (PCP)

The alcohol and controlled substances tests are to be conducted in accordance with Federal and State regulations:

- A. prior to employment (**Controlled Substances Only**),
- B. reasonable suspicion,
- C. upon return to duty after any alcohol or drug rehabilitation,
- D. after any accident:
 1. resulting in human death,
 2. where the driver is issued a citation and the accident results in an injury that requires immediate medical attention away from the scene, or
 3. where there is disability damage to any motor vehicle that requires towing,

- E. on a random basis, and
- F. on a follow-up basis.

Any staff member who tests positive as defined in the guidelines shall be:

- A. immediately prohibited from driving any District vehicle or conducting a safety sensitive function;
- B. subject to discipline, up to and including discharge, in accordance with District guidelines and the terms of any applicable collective bargaining agreements.

No staff member who has tested positive for alcohol or a controlled substance may be returned to a safety sensitive position without having been evaluated by a qualified substance abuse professional (SAP), completed any required treatment program, and passed a retest. Return to a safety sensitive position is solely at the District's discretion.

Prior to the beginning of the testing program, the District shall provide training for all employees, including Drivers and their supervisors, about:

- A. the dangers of illegal drug use and controlled substance and alcohol abuse;
- B. indicators of probable alcohol misuse and controlled substance abuse;
- C. Policy 4122.01 - Drug-Free Workplace, Policy 4161 - Unrequested Leaves of Absence/Fitness for Duty, and Policy 4170 - Substance Abuse;
- D. the sanctions that may be imposed for violations of Policy 4122.01.

The Superintendent shall arrange for periodic retraining of supervisors and staff members as necessary. The Superintendent shall provide a copy of this policy and testing guidelines to all Drivers and will include available resources to assist employees with problems related to the use of alcohol and controlled substances.

The Superintendent shall submit, for Board approval, a contract with a certified laboratory to provide the following services:

- A. testing of all first and second test urine samples
- B. clear and consistent communication with the District's Medical Review Officer (MRO)
- C. methodology and procedures for conducting random tests for controlled substances and alcohol
- D. preparation and submission of all required reports to the District, the MRO, and to Federal and State governments

The Superintendent shall also select the agency or persons who will conduct the alcohol breathalyzer tests, the District's MRO, and the drug collection site(s) in accordance with the requirements of the law.

49 C.F.R. 382.101 et. seq.

Adopted 2/16/16

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4161 - UNREQUESTED LEAVES OF ABSENCE/FITNESS FOR DUTY

It is the policy of the Board of Education to protect students and employees from support staff members who are unable to perform essential job functions with or without accommodation.

The Board may place a support staff member on unrequested leave of absence when the staff member is unable to perform assigned duties in conformance with statute and the negotiated, collectively-bargained agreement with or without accommodation.

If the Superintendent believes the staff member is unable to perform essential job functions, the support staff member will be offered the opportunity for a meeting to discuss these issues.

If a support staff member refuses to attend the meeting, the Board may order the support staff member to submit to an appropriate examination by a physician designated and compensated by the Board.

All such requests for examination shall include the following notice to the examiner:

"The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, do not provide any genetic information when responding to this request for medical information. 'Genetic information' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services."

If, as a result of such examination, the support staff member is found to be unable to perform assigned duties with or without accommodation, the support staff member may be placed on leave of absence for a reasonable time to heal or until the staff member is able to perform the essential job function, but only for a period not to exceed one (1) year.

Should a support staff member refuse to submit to the examination requested by the Board and the support staff member has exercised his/her rights under the provisions hereinabove set forth, such refusal shall subject the support staff member to disciplinary action.

Americans with Disabilities Act of 1990, as amended
42 U.S.C. 12101 et seq.
29 C.F.R., Part 1630
29 C.F.R. Part 1635

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4170 - SUBSTANCE ABUSE

The Board of Education recognizes alcoholism and drug abuse as treatable illnesses. When such illnesses impair the performance of support staff members, the Board recognizes the responsibility to assist in a manner recommended by an appropriate specialist in the treatment of those illnesses.

A support staff member having an illness or other problem relating to the use of alcohol or other drugs will receive the same careful consideration and offer of assistance that is presently extended to support staff members having any other illness.

The responsibility to correct unsatisfactory job performance or behavior resulting from a suspected health problem rests with the supportstaff member. Failure to do so will result in appropriate corrective or disciplinary action as determined by the Board.

If a support staff member voluntarily requests counseling or assistance before the Board learns of the support staff member's substance abuse problem (through a positive test result or otherwise), the support staff member's job security or promotion opportunities will not be jeopardized by his/her request for counseling or referral assistance. A support staff member may not avoid the consequences of a positive test by requesting counseling or assistance for a substance abuse problem after being instructed to submit to a drug test.

Support staff members who suspect they may have an alcohol or other drug abuse problem are encouraged to seek counseling and information on a confidential basis by contacting resources available for such service.

Rehabilitation Act of 1973, 29 U.S.C. 794

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4122.01 - DRUG-FREE WORKPLACE

The Board of Education believes that quality education is not possible in an environment affected by drugs. It will seek, therefore, to establish and maintain an educational setting which is not tainted by the use or evidence of use of any controlled substance.

The Board shall not permit the manufacture, possession, use, distribution, or dispensing of any controlled substance, alcohol, and any drug paraphernalia, by any member of the District's support staff at any time while on District property or while involved in any District-related activity or event. Any staff member who violates this policy shall be subject to disciplinary action in accordance with District guidelines and the terms of collective bargaining agreements.

The Superintendent shall establish guidelines that ensure compliance with this policy and that each staff member is given a copy of the standards regarding unlawful possession, use, or distribution of illicit drugs and alcohol by staff and informed that compliance with this requirement is mandatory. Such guidelines shall provide for appropriate disciplinary actions, if and when needed, which comply with the terms of any negotiated agreement.

P.L. 101-126
Drug-Free Workplace Act of 1988, 41 U.S.C. 701, et seq.
20 U.S.C. 3224A

Adopted 2/16/16