

DRUG AND ALCOHOL TESTING OF SCHOOL BUS DRIVERS

The safety of our students, employees and the general public requires that our drivers perform their duties free from the effects of alcohol and/or drugs. A driver who uses or abuses alcohol and/or drugs is a hazard to the students he/she is transporting, the general public, other school employees and him/herself.

All employees, including drivers, are subject to [identify any existing substance abuse policies, drug-free workplace policies, etc.]. Any employee who operates a vehicle designed to carry 10 or more passengers is also subject to federal regulations concerning use of alcohol and drugs and testing for these substances. The requirements of these regulations shall be implemented by the superintendent, who shall have the authority to adopt rules and impose consequences for violations of the rules.

Legal References: TITLE 26 MRSA SEC. 681.8.B; 685 2.C(1)  
49 U.S.C. SEC. 2717 ET SEQ. (OMNIBUS TRANSPORTATION  
EMPLOYEE TESTING ACT OF 1991)  
49 C.F.R. PART 40 (PROCEDURES FOR TRANSPORTATION  
WORKPLACE DRUG AND ALCOHOL TESTING  
PROGRAMS); PART 382 (CONTROLLED SUBSTANCE  
AND ALCOHOL USE AND TESTING); AND PART 391  
(QUALIFICATION OF DRIVERS)

Cross References: EEAEA - BUS DRIVER REQUIREMENTS, TRAINING, AND  
RESPONSIBILITIES  
GBEC - DRUG-FREE WORKPLACE

Adopted: MAY 23, 1995

Revised: MAY 28, 1996

DRUG AND ALCOHOL TESTING OF SCHOOL BUS DRIVERS—REGULATIONS

The purpose of this rule is to provide guidance to supervisors and notice to drivers concerning the implementation of alcohol and controlled substance testing required by federal regulations. It does not attempt to provide a complete overview of or to limit or modify federal regulations, which should be referred to for more detailed information concerning testing procedures and consequences.

A. Program Administrator

The Superintendent of Schools has been designated as the Alcohol/Drug Testing Program Administrator. Questions concerning the testing program should be directed to the Program Administrator.

B. Substances Tested For

References to tests in this rule include both drug and alcohol tests unless the context specifies otherwise. The terms alcohol and controlled substances are interchangeable and have the same meaning. Drugs refer to marijuana, cocaine, opiates, phencyclidine (PCP) and amphetamines (including methamphetamines).

C. Drivers Subject to Testing

All drivers who must have a Commercial Driver's License to perform their duties will be subject to the alcohol and/or drug testing as outlined in this rule and required by 49 C.F.R. Part 382.

D. Driver Compliance with Rule and Regulations

All employees must comply with this rule and federal regulations during any portion of the work day that they perform any duties relating to driving, including, but not limited to: driving; waiting for help with a disabled vehicle; performing driver requirements related to accidents.

E. Prohibited Conduct

Drivers shall not:

1. Report to and/or remain on duty with an alcohol concentration of 0.02 or greater;

2. Possess any alcohol while on duty;
3. Use any alcohol while on duty;
4. Use any alcohol within four hours before going on duty;
5. Use any alcohol for eight hours after an accident which will require the driver to be tested for alcohol, or until tested after such an accident, whichever occurs first;
6. Refuse to submit to a required alcohol and/or controlled substances test;
7. Report to or remain on duty when using any controlled substance, except when used under a physician's orders and the physician has informed the driver that the use will not affect the safe operation of a vehicle; and
8. Report to or remain on duty if he/she has tested positive for controlled substance.

F. Tests Required

All drivers who are subject to testing will be tested under the following circumstances:

1. Pre-employment

Tests will be administered before a driver assumes his/her position as bus driver, if such tests are required under Federal law/regulation or under Maine law.

The tests will be required of an applicant only after he/she has been offered the position. Employment is conditional upon the applicant receiving negative alcohol and drug test results. Exceptions may be made if the driver has had an alcohol test administered in accordance with federal regulations within the previous six months and the District ensures that no prior employee of whom the District has knowledge has records showing a violation of the alcohol use rules within the past six months. An employee also may be exempt from pre-employment drug tests if he/she has participated in a drug-testing program within 30 days prior to the application for employment and while participating in that program either was tested for drugs within the last six months (from the date of the application) or in a random drug testing program in the previous 12

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months, provided that the District has been able to make all verifications required by law.

2. Random

Tests shall be conducted on a random basis at unannounced times throughout the year. Tests for alcohol shall be conducted just before, during or just after the performance of safety-sensitive functions. The number of random alcohol tests annually will equal 25% of the average number of driver positions. Random tests for drugs do not have to be conducted in immediate proximity to performing safety-sensitive functions. The number of random drug tests annually will equal 50% of the average number of driver positions. Drivers will be selected by a scientifically valid process, and each driver shall have an equal chance of being tested each time selections are made.

[The District has entered into a consortium including drivers from other school Districts and the 25 and 50 percent levels will apply to the entire pool of drivers.]

3. Post-accident

Drivers will be tested as soon as possible after any accident:

- a. Involving a fatality; or
- b. If the driver receives a summons for a moving traffic violation as a result of the accident. A driver involved in an accident may not use alcohol for eight hours after the accident or until after he/she undergoes a post-accident alcohol test whichever occurs first. If an alcohol test is not administered within two hours or if a drug test is not administered within 32 hours after the accident, the District will prepare and maintain records explaining why the test was not conducted.

4. Reasonable Suspicion

Tests must be conducted when a properly-trained supervisor or District official has reasonable suspicion that the driver has violated the District's alcohol or drug prohibitions. This reasonable suspicion must be based on specific, contemporaneous articulable observations concerning the driver's

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appearance, behavior, speech, or body odors. The observations may include indications of chronic and withdrawal effects of controlled substances.

Alcohol tests will be authorized for reasonable suspicion only if the required observations are made during, just before, or just after the period of the work day when the driver must comply with alcohol prohibitions. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the District will prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests will terminate after eight hours.

An alcohol test may not be conducted by the person who determines that reasonable suspicion exists to conduct such a test.

A supervisor or District official who makes a finding of reasonable suspicion also must make a written record of his/her observations leading to a reasonable suspicion drug test with 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

5. Return to Duty

A drug or alcohol test shall be conducted when a driver who has violated the District's drug or alcohol prohibition returns to performing safety sensitive duties.

Employees whose conduct involved drugs cannot return to duty in a safety-sensitive function until the return-to-duty drug test produces a verified negative result.

Employees whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the return-to-duty alcohol test produces a verified result that meets federal and District standards.

6. Follow-up Tests

A driver who violates one of the prohibitions listed in section 5 above and is subsequently identified by a substance abuse professional as needing assistance in resolving a drug or alcohol problem shall be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with

law. Follow-up alcohol testing shall be conducted just before, during or just after the time when the driver is

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performing safety-sensitive functions. A driver who previously tested positive and has returned to duty must submit to at least six (6) alcohol and/or controlled substance tests during the first year after returning to work. Follow-up tests will be unannounced and may continue for up to sixty (60) months after returning to work.

G. Testing Procedures

The District will arrange to have testing performed by persons and at facilities having adequate expertise to ensure that testing will be performed in a manner to protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver.

All testing for alcohol misuse will be conducted by trained Breath Alcohol Technicians (BATs). All testing to determine alcohol use or misuse will utilize measurement of expired breath with an Evidential Breath Test Device (EBT).

H. Requirement That Drivers Must Submit to Tests

All drivers who are required by federal regulations to be subjected to tests must fulfill that requirement when so directed by the Program Administrator. Once a driver has been directed to submit to a test, he/she will proceed directly to the testing area. Drivers must comply with the lawful requests of the technician performing the test. Failure to comply with the regulations or this rule will be grounds for disciplinary action up to and including dismissal.

I. Refusal to Test

The following circumstances will be construed as refusing to submit to a test:

1. Failure to report to the designated testing area within thirty (30) minutes of being notified to submit to a required test; or
2. Failure to provide a sufficient sample to be tested, either breath or urine as the case may be, unless medically determined impossible to do so.

J. Records

Employee drug and alcohol test results and records shall be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver shall receive copies of any records pertaining to his/her use of drugs or alcohol, including any records pertaining to his/her drug or alcohol tests. Records

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shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver.

K. Use of Prescription Drugs

Drivers shall inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for their therapeutic purposes. Such a substance may be used only if the physician has advised the driver that it will not adversely affect his/her ability to safely operate a vehicle.

L. Enforcement

1. General Rule

Any driver who violates either the Federal Motor Carrier Regulations or this rule may be subject to disciplinary action up to and including dismissal.

2. Removal From Duty

Any driver who tests positive for alcohol concentration of .02 or above or drug use shall immediately be relieved from duty, without pay, for a minimum of 24 hours. No such driver shall be returned to duty, if at all, until the provisions of this section have been satisfied.

3. Disciplinary Action

An employee receiving a test indicating a blood alcohol concentration of .04 or above or a positive test for controlled substances shall be dismissed from employment unless the employee must first be allowed treatment under 26 MRSA section 685 or other law, or if the superintendent determines that compelling mitigating circumstances exist. A test indicating a blood

alcohol concentration of .02 but less than .04 shall be grounds for discipline, up to and including dismissal, except as limited by law.

4. Referral

A driver who violates District prohibitions listed in Section 5 above will be given the names, addresses and telephone numbers of substance abuse professionals and counseling programs available to evaluate and resolve drug and alcohol-related problems. The driver shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with drug use or alcohol misuse.

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5. Conditions of Reinstatement

Before a driver is returned to safety-sensitive duties, if at all, the driver must:

- a. Have been evaluated by a substance abuse professional;
- b. Have complied with any recommended treatment; and
- c. Have taken a return-to-duty test with a result indicating an alcohol concentration level of less than .02 and/or a verified negative test for controlled substances.

M. Information

The Program Administrator will provide each driver subject to the Federal Motor Carrier Regulations Title 49 Part 382 with a copy of this rule. In addition, the Program Administrator will provide printed material which describes the effects of alcohol and/or controlled substance use or abuse on the individual's health, work and personal life as well as information on the signs and symptoms of an alcohol or controlled substance problem.

Any driver who wishes to seek personal and confidential advice on an alcohol and/or controlled substances problem may contact the superintendent.

N. Notification

1. The identity of the person designated by the employer to answer driver questions about the material;
2. The categories of drivers who are subject to the testing;

3. To make it clear what period of the work day the driver is required to be in compliance with the regulations;
4. Specific conduct that is prohibited;
5. The circumstances under which a driver will be tested;
6. The procedures that will be used;
7. The requirement that a driver submit to alcohol and controlled substance tests;

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8. An explanation of what constitutes a refusal to submit to a test;
9. The consequences for drivers found to have violated the regulations;
10. The consequences for drivers found to have an alcohol concentration of .02 or greater but less than .04; and
11. Information concerning the effects of alcohol and controlled substance use on an individual's health, work and personal life; signs and symptoms of an alcohol or a controlled substance problem; and available methods to intervene in the problem.

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Revised; \_\_\_\_\_

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MSAD #30 ADMINISTRATIVE RULE ON ALCOHOL AND DRUG USE AND TESTING

INFORMATION

A. What Is the Omnibus Act?

The Omnibus Transportation Employee Testing Act of 1991 requires alcohol and drug testing of safety-sensitive employees in aviation, motor carrier, railroad, and mass transit industries. The Department of Transportation published rules mandating anti-drug and alcohol misuse prevention programs in February 1994. The rules also expand the supplemental existing drug testing rules published in November 1988 that mandated drug testing of aviation, interstate motor carrier, railroad, pipeline, and commercial marine employees. The February 1994 rules generally require implementation beginning on January 1, 1995, for large employers (generally 50 or more safety-sensitive drivers) and January 1, 1996, for all other employers. The current rules for drug testing of interstate commercial motor vehicle drivers remain in effect until the new rules are required to be implemented.

B. Who Does the Testing?

Employers are responsible for implementing and conducting the testing programs. They may do this using their own employees, contract services, or by joining together in a consortium that provides services to all member companies. Law enforcement officers will not conduct the tests as part of roadside or other inspections. However, under certain circumstances, post-accident tests conducted by law enforcement personnel will be acceptable. Any individual who conducts the testing must be trained to operate EBT and be proficient in the breath-testing procedures.

C. What Drugs Are Tested For?

All urine specimens are analyzed for the following drugs.

1. Marijuana (THC meyobolite)
2. Cocaine
3. Amphetamines
4. Opiates (including heroin)
5. Phencyclidine (PCP)

The testing is a two-stage process. First, a screening test is performed. If it is positive for one or more of the drugs, then a confirmation test is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis. GC/MS confirmation ensures that over-the-counter medications or preparations are not reported as positive results.

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D. How Does Random Drug Testing Work?

Employers are responsible for conducting random, unannounced drug tests for the total number conducted each year must equal at least 50% of the safety-sensitive drivers. Some drivers may be tested more than once each year; some may not be tested at all depending on the random selection. Once notified of selection for testing, however, a driver must proceed to a collection site to accomplish the urine specimen collection. The random drug-testing rate would be determined annually based upon the random positive rate for the FHWA industry.

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ALCOHOL AND CONTROLLED SUBSTANCES TESTING POLICY FOR DRIVERS

Dear Driver:

As you may know, MSAD #30 is mandated by federal law, beginning in January 1996, to comply with the Federal Highway Administration drug and alcohol testing rules as outlined in the Omnibus Transportation Employee Testing Act of 1991. We are providing you with this booklet so that you will have a chance to become familiar with the process that we will use to carry out the law.

The obligation of the District is two-fold in complying with these regulations. First and foremost, we want to ensure that all of the students under our care are transported to and from school and activities in the safest manner possible. Secondly, we want to be sure that we provide our employees that are performing in a safety-sensitive position are at all times, while conducting such functions, free of mind and mood-altering substances.

We stand ready, under the policies set forth by the Board of Directors of MSAD #30, to help any employee that has a substance abuse problem. It is our intention to help such individuals to overcome their problem and to return to work as a contributing member of our team. Any employee concerned about his/her use is urged to seek a professional assessment.

We urge you to read and become familiar with the information in this booklet. It is important that you understand your rights and responsibilities in this matter.

Legal Reference: 49 C.F.R. PART 382,  
26 MRSA SEC. 681(8)(B); 685(2); 689

Sincerely,

John B. Backus  
Superintendent

Jeff Smith  
Assistant Transportation Director

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ACKNOWLEDGMENT

I certify that I have received a copy of the MSAD #30 Administrative Rule On Driver Alcohol and Drug Use and Testing and other printed material explaining the effects of an alcohol and/or controlled substance problem.

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Driver's Signature

Date

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