

**BRUNSWICK SCHOOL DEPARTMENT'S ADMINISTRATIVE
RULE ON DRIVER ALCOHOL AND DRUG USE AND TESTING**

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. Copies of the federal regulations will be provided upon request.

I. PROGRAM ADMINISTRATOR

The Director of Buildings, Grounds and Transportation has been designated as the ALCOHOL/DRUG TESTING PROGRAM ADMINISTRATOR. Questions concerning the testing program should be directed to the PROGRAM ADMINISTRATOR.

II. 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 federal regulations 49 C.F.R. Part 382.

III. SUBSTANCES TESTED FOR

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

IV. DRIVER COMPLIANCE WITH RULE AND REGULATIONS.

All drivers must comply with federal regulations during any portion of the work day in which they perform any duties relating to driving, including, but not limited to: driving; waiting to be dispatched; inspecting and servicing equipment; supervising, performing or assisting in loading and unloading; repairing or obtaining and waiting for help with a disabled vehicle; performing driver requirements related to accidents.

V. 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 that require the driver to be tested for alcohol, or until tested after such an accident, whichever comes 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;
8. Report to or remain on duty if he/she has tested positive for a controlled substance.

VI. TESTS REQUIRED

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

1. Pre-employment. Drug testing will be administered before a driver performs any safety-sensitive functions for the School Department. The test will be required of an applicant only after he/she has been offered a position. Employment is conditional upon receiving negative drug test results.
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 be at least 10% of the average number of driver positions. The number of random drug tests annually will be at least 50% of the average number of driver positions. Drivers will be selected by a scientifically valid random process, and each driver shall have an equal chance of being tested each time selections are made.

The District will enter into a consortium with Maine Motor Transportation Association which includes 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.
4. Reasonable Suspicion. Tests shall be conducted when a trained supervisor or School Department official has reasonable suspicion that the driver has violated the alcohol or drug prohibitions contained in this rule. The reasonable suspicion must be based on specific, contemporaneous, articulated observations concerning the driver's appearance, behavior, speech, or body odors. The observations may include indications of chronic 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 meet alcohol prohibitions. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the

5. School Department will prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests will terminate after eight hours and the School Department shall record the reasons for not administering the test.

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

6. Return to Duty. A drug or alcohol test will be conducted when a driver who has violated the School Department's drug or alcohol prohibition returns to performing safety-sensitive duties.

Employees whose conduct involved misuse of drugs may not 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 may not return to duty in a safety-sensitive function until the return-to-duty alcohol test produces a verified result that meets federal and School Department standards.

6. Follow-up. A driver who violates one of the prohibitions listed under V, Prohibited Conduct, 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 performing safety-sensitive functions. A driver who previously tested positive and who has been identified as needing assistance in resolving a drug or alcohol problem 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.

VII. TESTING PROCEDURES: The School Department 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, the validity of the test results and to 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 exhaled breath with an Evidential Breath Test device (EBT).

VIII. 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.

IX. 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.

X. 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 shall be made available to a subsequent employer or other persons identified by the driver as directed by the written request or consent of the driver.

XI. 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 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.

XII. ENFORCEMENT

1. General rule. Any driver who violates either the Federal Motor Carrier Safety Regulations 49 C.F.R. Part 382 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 rule and the federal regulations 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 M.R.S.A 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 School Department prohibitions listed in Section V above will be given the names, addresses and telephone numbers of substance abuse professionals and counseling program 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.
 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.
 - C. Have taken a return to duty test with a result indicating an alcohol concentration level of less than 0.02 and/or a verified negative test for controlled substances.

XIII. INFORMATION

The Program Administrator will provide each driver subject to the Federal Motor Carrier Safety Regulations 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 substances problem.

Any driver who wishes to seek personal and confidential advice on an alcohol and/or controlled substances problem may contact the Brunswick School Department's substance abuse counselor.

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