

Transportation Employees Alcohol and Controlled Substance Testing Policy**1.0 Purpose:**

The purpose of this Transportation Employees Alcohol and Controlled Substance Testing Policy is to establish and maintain a healthy and safe environment for all students and staff of the Wirt County Board of Education. The Wirt County 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 bus. In compliance with regulations established by the United States Department of Transportation, Federal Highway Administration, pursuant to the Omnibus Transportation Employee Testing Act of 1991, the Wirt County Board of Education has adopted and implemented this Transportation Employees Alcohol and Control Substance Testing Policy. This policy creates obligations and requirements over and above those included in the Wirt County Board of Education Drug-Free Workplace Policy, and does not supersede or nullify any provision of the Wirt County Board of Education Drug Free Workplace Policy. The purpose of this policy is also to reduce the possibility of accidental injury to persons or property, reduce absenteeism, tardiness, ensure the reputation of the Wirt County Board of Education and its employees as good, responsible citizens, and avoid indifferent job performance. The Transportation Employees Alcohol and Controlled Substance Policy also allows any affected employee the opportunity to overcome any addiction to, dependence upon, or problem relating to alcohol or controlled substances in accordance with the Wirt County Board of Education's Employee Referral Program (ERP).

2.0 Definitions:

2.1 Accident- an occurrence involving a commercial motor vehicle operating on a public road that results in a fatality, bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of accident, or one or more motor vehicles incurring disabling damages that requires the vehicle to be transported away from the scene by a tow truck or other vehicle.

2.2 Alcohol- ethyl alcohol whatever its origin and shall include synthetic ethyl alcohol but not denatured alcohol.

2.3 Alcohol Concentration (or Content)- alcohol in a volume of breath. It is expressed in terms of grams of alcohol per 120 liters or breathe as indicated by an evidential breath test.

2.4 CDL License Holder – An individual who has a valid driver's license to legally operate commercial motor vehicles. Most commonly, in the Wirt County School System, a bus driver, mechanic, or a supervisor with a West Virginia Department of Education passenger endorsement to transport students.

2.5 Commercial Motor Vehicle - Any self-propelled or towed vehicle used on public highways in interstate commerce or transport passengers or property when the vehicle has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds.

2.6 Controlled Substance- any substance that is designated as a controlled substance under State or Federal Laws.

2.7 Conviction- a finding of guilt (including a plea of nolo contendere) or the imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

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2.8 Criminal Drug Statute- a criminal statute involving the manufacture, distribution, dispersion, use, or possession of any controlled substance.

2.9 DOT – abbreviation for Department of Transportation

2.10 Driver- includes any person employed by the Wirt County Board of Education who operates a commercial motor vehicle

2.11 Drug- (1) articles/substances recognized as drugs for use in the diagnosis, cure, mitigation, treatment or prevention of disease in human or other animals as recognized by the United States Pharmacopeia Convention, and/or as noted by the American Society of Health-System Pharmacists- Facts and Comparisons, the American Society of Health-System Pharmacists drug information database, the Physician’s Desk Reference, and/or similar recognized authoritative text; (2) articles, other than food, intended to affect the structure or any function of the body of a human or animal; and (3) articles intended for use as a component of any articles specified in subsection (1) or (2) or this definition.

2.12 Illegal Drug(s) – Any drug or drugs which is not legally obtainable and/or is being used in a manner or for a purpose other than as prescribed.

2.13 Intoxicants- any intoxicating substance.

2.14 Legal Drug – nonprescription medication (medication that may be sold without a prescription and which is labeled for use by the consumer in accordance with the requirements of the laws and rules of the State and Federal Government).

2.15 Safety-Sensitive Functions- includes waiting to be dispatched, inspecting equipment, servicing, driving, loading or unloading Wirt County Board of Education vehicles, as well as repairing, obtaining assistance, or remaining in attendance upon a disabled Wirt County Board of Education 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.

2.16 While on Duty – refers to all time from the time CDL license holder begins to work or is required to be in readiness for work until the time he or she is relieved from and all responsibility for performing work.

3.0 Prohibitions and Responsibilities

3.1 On property owned or leased by the Board and/or in vehicles owned or leased by the Board and/or at any school-related event, the Wirt County Board of Education will not tolerate employee possession, use, sale or distribution of alcohol and/or any controlled substance and/or any drug, other than those drugs which have been prescribed for the employee by a licensed physician and are being taken by the employee in accordance with the physician’s orders. Further, the WCBOE follows the Federal requirement that all CDL license holders should be free of any influence of alcohol or controlled substance while on duty.

3.2 The Superintendent of Wirt County Schools shall establish a drug and alcohol testing program whereby each driver is tested for the presence of alcohol in his/her system as well as for the presence of the following controlled substances:

3.2.1 Marijuana

3.2.2 Cocaine

3.2.3 Opiates

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employee is covered by any health insurance policy which provides for such benefits, made available by the Wirt County Board of Education.

4.0 Disciplinary Actions and Procedures

- 4.1** Voluntary disclosure of an alcohol or drug addiction by a Wirt County Board of Education Transportation Department Employee will not subject the employee to disciplinary action unless such disclosure is made after the employee is selected to be tested or immediately prior to the selection of the transportation department employees to be tested. Nothing herein shall prevent the Board from disciplining a transportation department employee for misconduct associated with his/her alcohol and/or drug use regardless of whether the employee has disclosed that she/he has an alcohol or drug addiction.
- 4.2** A transportation department employee will be subject to disciplinary action, up to and including termination, for any of the following reasons:
 - 4.2.1** reports for duty or performs work while under the influence of alcohol or any controlled substance or drug prohibited herein
 - 4.2.2** reports for duty or performs work while testing positive for using a prohibited drug, whether or not the employee can be said to be under the influence of the prohibited substance
 - 4.2.3** refuses to submit to drug and/or alcohol testing
 - 4.2.4** alters or attempts to alter or unduly influence alcohol and/or drug testing results
 - 4.2.5** fails to remain readily available for post-accident testing (including notifying his/her supervisor of his/her location, if the transportation department employee leaves the scene prior to the submission of a post-accident test, unless the employee's departure is to obtain necessary emergency medical care)
- 4.3** Prior to the beginning of the testing program, the Board shall provide a drug-free awareness program which will inform each CDL license holder about:
 - 4.3.1** the dangers of illegal drug use and controlled substance and alcohol abuse;
 - 4.3.2** employee assistance programs;
 - 4.3.3** the sanctions potentially be imposed for violations of this policy.
- 4.4** All time spent undergoing an alcohol or controlled substance test, including travel time, will be paid at the transportation department employee's regular rate of pay, or at his/her overtime rate, if applicable. Any transportation department employee who is not allowed to return to work while awaiting test results will be compensated during the waiting period for all work time lost, including overtime, if applicable.

The Wirt County Board of Education shall pay all costs associated with

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the administration of alcohol and controlled substance tests. This includes testing of the “split specimen” at a Federally certified laboratory if so requested by a transportation department employee. The Wirt County Board of Education will not pay for the employee’s time while not on duty, if the split specimen results are positive.

- 4.5** Alcohol and drug results shall be protected as confidential medical records as appropriate (i.e. test results shall be provided on a right to know basis – the employee, the employer, and the substance abuse professional- and the results shall not be presented until analyzed and reported by one competent to understand and interpret the test results).
- 4.6** A tested individual, upon written request, will have access to any records relating to his/her use of drugs and alcohol, including any records pertaining to his/her drug and alcohol tests. A tested individual must provide written authorization before his/her test result can be provided to any other person except a government agency specified in the applicable Federal regulations.
- 4.7** All tests shall be conducted in accordance with Federal testing guidelines and performed by a laboratory that is Federally certified (i.e. testing procedures and devices used will be as set forth in 49 C.F.R Part 40).
- 4.8** The alcohol and drug testing program shall be under the direction of the Superintendent or Designee of Wirt County Schools. The Superintendent shall arrange for the required amount of training for appropriate transportation employee in drug recognition, in the procedures for testing, and in the proper assistance of transportation department employees who are subject to the effects of substance abuse. The Superintendent shall submit, for board approval, a contract with a certified laboratory to provide the following services:
 - 4.8.1** testing of all first and second test urine samples
 - 4.8.2** clear and consistent communication with the person or entity performing the testing and/or interpreting the results
 - 4.8.3** methodology and procedures for conducting random test for controlled substances and alcohol
 - 4.8.4** preparation and submission of all required reports to the Board and to Federal and State governments as required
- 4.9** The Superintendent of Wirt County Schools shall also select the agency or persons who will conduct the alcohol breathalyzer test and the drug collections sites in accordance with the requirements of law. Educational materials explaining the requirements of the Federal regulations and of the Wirt County Board of Education’s policies and procedures to meet the Federal regulations shall be provided to all transportation department employees, including the following:
 - 4.9.1** the name of the person designated by the Board to answer questions about the materials

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4.9.2 information sufficient to make clear to employees the period of the work day during which they are required to comply with the regulations

4.9.3 information concerning what conduct is prohibited

4.9.4 the circumstances under which employees are subject to testing

4.9.5 the procedures for testing in order to protect the employee and the integrity of the testing process, to safeguard the validity of the test results, and to confirm the results are attributed to the correct employee

4.9.6 the requirement that transportation department employees must submit to testing as required by the regulations

4.9.7 an explanation of what constitutes a refusal to be tested and the attendant consequences

4.9.8 the consequences of testing positive, including the requirements of immediate removal from safety-sensitive functions, for example, bus drivers being removed from their duties of driving school buses for the Wirt County Board of Education. The transportation department Employees also need to know the procedures regarding referral, evaluation, and information.

4.9.9 information concerning the effects of alcohol and drug misuse on an individual's health, work, and personal life; signs and symptoms of and alcohol problem (the employee's or a co-workers); and available methods of intervening when a drug or alcohol problem is suspected (including confrontation and how to refer someone to management)

4.10 All Wirt County Schools' Transportation Department Employees will be required to follow these guidelines to perform their safety sensitive functions for the Wirt County Board of Education.

4.10.1 Pre-employment Testing: Prior to the first time a driver performs safety sensitive functions, the employee shall be required to undergo testing for alcohol and control substance. No bus driver shall be permitted to perform safety sensitive functions unless the driver has been administered an alcohol test with a result indicating an alcohol concentration less than 0.04 and has received a controlled substance test result from the medical review officer indicating a verified negative test result.

4.10.2 Random Testing: Drivers shall be tested for alcohol or controlled substances at various times on an unannounced, random basis. The minimum annual percent rate is 25% of the transportation department positions for random alcohol testing. The controlled substance minimum annual random testing rate is 50% of the transportation department positions. Both of these criteria are applicable to federal

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regulations (49 CFR and 382.305). The selection of drivers for random alcohol and controlled substance testing shall be made by the scientific valid method of a computer-based random number generator that is matched with a driver's Social Security numbers. A driver shall only be tested for alcohol while the driver is performing safety sensitive functions, just before the driver is to perform safety sensitive functions, or just after the driver has ceased performing safety sensitive functions.

4.10.3 Post Accident Testing: As soon as possible following an accident involving a commercial motor vehicle, each surviving driver shall be tested for alcohol and controlled substances, if such surviving driver, was performing safety sensitive functions with respect to the vehicle if the accident involved the loss of human life, or receives a citation under state or local law for a moving traffic violation arising from the accident. A driver who is subject to post accident testing shall remain readily available for such testing or may be deemed by the Wirt County Board of Education to have refused to submit to testing. A driver, who is subject to post accident testing following an accident involving a commercial motor vehicle must take the following action:

4.10.3.1 by telephone contact the Drug and Alcohol Testing Vendor, as designated by the Superintendent of Wirt County Schools

4.10.3.2 Report to the designated location for testing, and

4.10.3.3 notify his/her supervisor of the accident. The results of a breath or blood test for the use of alcohol or a urine test for the use of controlled substances conducted by the federal, state, or local officials having independent authority for the test shall be considered to meet the requirements of this policy regarding post-accident testing, provided that such tests conform to applicable federal, state, or local requirements and that the results of the tests are obtained by Wirt County Board of Education.

4.10.4 Reasonable Suspicion Testing: This occurs when a supervisor or administrator receives a report of a transportation department employee being under the influence of prohibited substance. Reasonable suspicion for requiring the employee to submit to drug and or alcohol testing to determine whether the employee has violated this policy by being under the influence of alcohol or other controlled substances shall be deemed to exist when an employee manifests physical and behavioral symptoms or reactions commonly attributed to the use and/or misuse of alcohol or other prohibited substances. The administrator, under these circumstances, can demand that the transportation department employee submit to drug/alcohol testing. If initial testing results will not be available within an hour of providing testing or the employee shall be instructed not to report to work until:

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4.10.4.1 the results are provided to the administration, and

4.10.4.2 he/she is instructed to do so by the Superintendent or his/her designee refusal by any transportation employee to submit to this testing will be deemed a positive test and shall be deemed grounds for termination of employment of such employee.

4.10.5 Return to Duty Testing: Before a driver returns to duty requiring the performance of safety sensitive functions after engaging in conduct prohibited by this policy, the driver shall undergo a return to duty alcohol result of less 0.02 and a verified negative result for controlled substance use.

4.10.6 Follow-up Testing: Following a determination that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or controlled substance testing as directed by a substance misuse previously, that employee will be subject to unannounced substance abuse testing. In regards to alcohol follow-up testing, it may take place prior to performing safety sensitive functions or immediately following.

5.0 Administrative Guidelines:

The Board authorizes the Superintendent to establish written administrative guidelines to facilitate enforcement of and compliance with this policy.

6.0 Severability:

If any provision of this policy or application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions of applications of this policy. Changes or updates to legislative items requiring compliance will be included as needed by decision of the Superintendent.

Review Schedule: Policies are subject to a review schedule as set by the Superintendent.

Authority: Omnibus Transportation Employee Testing Act of 1991; WVDE Policy 4336; Federal Motor Carrier Safety Regulations, CFR §382.305; Federal Motor Carrier Safety Regulations Part 40.

Replaces: GCR-RAB, August, 1998.