

Policy Code: 5145 DRUG AND ALCOHOL TESTING OF COMMERCIAL MOTOR VEHICLE OPERATORS

The purpose of this policy is to help ensure safe operation of school vehicles and to comply with federal law and regulations by establishing a comprehensive program of drug and alcohol testing for any person who operates a commercial motor vehicle and who is employed by or volunteers for the Edenton-Chowan Board of Education.

A. Applicability

~~Persons subject to~~ This policy include applies to any driver, which, for purposes of this policy, is defined as any employee, any volunteer or independent contractors who operates a commercial motor vehicle in the course of duties for the Edenton-Chowan Board of Education, including anyone whose duties for the Edenton-Chowan Schools Board of Education require a commercial driver's license under federal law. This includes anyone who regularly or intermittently drives a school bus, activity bus, or other vehicle designed to transport sixteen or more people, (including the driver), or any other vehicle that meets the definition of commercial motor vehicle under 49 C.F.R. 382.107. Employees who operate vehicles for inspection, service, or maintenance purposes are included in this definition.

~~For purposes of this policy and its accompanying regulations, the term "driver" includes, but is not limited to, school bus drivers, activity bus drivers, substitute school or activity bus drivers, and school system delivery truck drivers employed by the Edenton-Chowan Board of Education, and any volunteers or independent contractors who operate a commercial motor vehicle on behalf of the Edenton-Chowan Board of Education.~~

B. Prohibited Acts

No driver may:

1. operate any school bus or school activity bus while consuming alcohol or while alcohol remains in the driver's body, in violation of G.S. 20-138.2B;
2. use alcohol while performing safety-sensitive functions;
3. perform safety-sensitive functions within four hours after using alcohol;
4. use alcohol following an accident while operating a commercial motor vehicle;
5. report for or remain on duty requiring the performance of safety-sensitive functions when the driver uses any Schedule I drug or substance; or
6. report for or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other federal schedules of controlled drugs, unless such use is

pursuant to the instructions of a licensed medical practitioner who is familiar with the driver's medical history and has advised the driver that use of the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

Safety-sensitive functions include, but are not limited to, inspecting, servicing, or conditioning any commercial motor vehicle; operating any commercial motor vehicle; participating in or supervising the loading or unloading of a commercial motor vehicle; and repairing, obtaining assistance for, or remaining in attendance upon a disabled vehicle.

In addition, drivers and anyone who supervises drivers must not commit any act prohibited by federal law, including the federal regulation entitled "Controlled Substances and Alcohol Use and Testing" (49 C.F.R. pt. 382, hereinafter referred to as Part 382), or by policy 7240, Drug-Free and Alcohol-Free Workplace.

~~Drivers shall not be impaired by alcohol or drugs while on duty or while operating any motor vehicle or while performing any safety sensitive function. Prescription or nonprescription drugs shall be validated by the driver's supervisor. In all cases, a driver will be considered impaired and in violation of the policy when testing reveals the presence of any alcohol or drugs. Further, no driver will be permitted to perform or continue to perform safety sensitive functions if evidence exists of alcohol consumption or if the employer knows the driver has consumed any alcohol or used a controlled substance. Drivers shall not commit any act prohibited by federal law, the federal regulations contained in the Controlled Substance and Alcohol Use and Testing ([49 C.F.R. part 382](#)), by this policy and its regulations, or by the Board's Drug-Free Workplace Environment Policy. Further, anyone who supervises commercial motor vehicle operators shall be responsible for enforcing and complying with the foregoing provisions.~~

C. Testing

The administration shall carry out pre-employment testing for drugs, and post-accident, random, reasonable suspicion, return-to-duty and follow-up testing for drugs and alcohol as required by [49 C.F.R. part 382](#) for all drivers. School bus drivers and others employed by the Board for the primary purpose of operating a commercial motor vehicle shall undergo pre-employment testing. All other drivers will not be subject to pre-employment testing but must undergo all other testing required by [49 C.F.R. part 382](#), and shall undergo pre-employment drug testing prior to performing any safety-sensitive function for the Board. All other employees whose duties change during the course of their employment to include the driving of commercial motor vehicles shall be subject to a pre-driving drug test and shall undergo any other testing required by [49 C.F.R. part 382](#) prior to being assigned driving duties. Volunteer drivers who are not employees will be initially tested prior to operating a school or activity bus and tested on a random basis thereafter. Refusal of any test required pursuant to this policy or [49 C.F.R. part 382](#) shall be cause for dismissal or removal.

D. Employee and Applicant Inquiries Pre-employment Inquiry

All employees subject to this policy, all employees who would become subject to this policy by virtue of a change or expansion of duties, and all applicants who would be subject to this policy if employed shall consent in writing to the release of any information gathered pursuant to [49 C.F.R. part 382](#) by any of the applicant's previous employers and must give written or electronic consent to any query by school officials of the federal Commercial Driver's License Drug and Alcohol Clearinghouse ("Clearinghouse").

1. Pre-Employment Inquiry

Before employing any applicant covered by this policy or [49 C.F.R. part 382](#), the administration shall obtain, pursuant to the applicant's written consent, all records maintained by the applicant's previous employer regarding violations of Part 382 in the three years prior to the inquiry date. of prohibited acts by the applicant that have taken place in the two years prior to the inquiry date. School officials shall also conduct a query of the Clearinghouse, pursuant to the applicant's electronic consent submitted through the Clearinghouse, to obtain any information regarding the applicant's violations of Part 382.

If school officials obtain information from the applicant's previous employer or from the Clearinghouse that the applicant committed a violation of Part 382 and has not subsequently completed the return-to-duty process required under federal law, the applicant may be disqualified from employment.

2. Annual Query

School officials shall conduct a limited query of the Clearinghouse at least once per year for each employee subject to this policy, pursuant to the employee's written or electronic consent, to determine whether information exists about the employee regarding violations of Part 382. If information exists about the employee, school officials shall obtain the information in the Clearinghouse within 24 hours of conducting the limited query, subject to the employee's electronic consent submitted through the Clearinghouse.

E. Training and Education

Each driver and supervisory employee, including principals and assistant principals, shall be provided with educational materials that inform them of drug testing procedures, prohibited acts, consequences, and other aspects of [49 C.F.R. part 382](#), this policy and any attached regulations. The information also shall identify a school system employee who will be responsible for providing information on substance abuse. Each employee shall sign a statement certifying receipt of these materials.

Each supervisor responsible for overseeing the performance of drivers, including principals and assistant principals, shall undergo at least one hour of training concerning alcohol misuse and an additional hour of training concerning drug abuse.

F. Referrals

Each driver who commits acts prohibited by [49 C.F.R. part 382](#) shall be provided with information concerning resources available for evaluating and resolving drug or alcohol misuse. This information shall include names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

G. Consequences Penalties

~~Employees found in violation of this policy and the attached regulations, or [49 C.F.R. part 382](#), will be subject to disciplinary action up to and including dismissal.~~

Employees who have committed a prohibited act; refused any test required by this policy; or otherwise violated this policy, G.S. 20-138.2B, or Part 382 will be subject to disciplinary action, up to and including dismissal.

Any employee who has committed a violation of Part 382 will not be allowed to perform any safety-sensitive functions until the employee has completed the return-to-duty process, including an evaluation by a substance abuse professional, completion of any appropriate treatment designated by the substance abuse professional, and achievement of a negative return-to-duty test. Moreover, if the employee's violation of Part 382 has been reported to the Clearinghouse, the employee may not resume safety-sensitive functions until a query of the Clearinghouse demonstrates that the employee completed the return-to-duty process.

H. Procedures

~~The Superintendent shall enact appropriate regulations and procedures to ensure compliance with the collection and testing procedures outlined in the Federal Highway Administration's "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" ([49 C.F.R. part 40](#)), and to ensure compliance with [49 C.F.R. part 382](#), including, but not limited to, testing, reporting, record retention, training, and confidentiality.~~

All procedures for collection and testing provided in the Federal Highway Administration's "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 C.F.R. pt. 40) and all requirements in Part 382, including testing, reporting, record retention, training, and confidentiality, will be followed. Copies of these federal regulations will be readily available. The superintendent shall develop any other procedures necessary to carry out these regulations.

LEGAL REF: [49 U.S.C. § 31306](#); [49 C.F.R. parts 40](#) and [382](#); [G.S. 20-138.2B](#)

ADOPTED: February 7, 2005

Edenton-Chowan Schools