

## **Policy Code: 7241 Drug and Alcohol Testing of Commercial Motor Vehicle Operators**

The purposes of this policy are to help ensure the safe operation of school vehicles and to comply with federal law and regulations by establishing a comprehensive program for the drug and alcohol testing of school bus drivers and all other commercial motor vehicle operators employed by the board of education.

### **A. Applicability**

This policy applies to any driver which, for purposes of this policy, is defined as any employee, volunteer, or independent contractor whose duties for the board of education require a commercial driver's license under federal law. This includes anyone who regularly or intermittently drives a school bus, an activity bus, a vehicle designed to transport 16 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.

### **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 under [§ 90-86](#) North Carolina Controlled Substances Act, 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.

### **C. Testing**

The human resources office will carry out pre-employment, post-accident, random, reasonable suspicion, return-to-duty, and follow-up testing for drugs and alcohol as required by [Part 382](#).

Federal regulations prohibit a driver who is tested under the provisions of this section and found to have an alcohol concentration of at least .02 from performing safety-sensitive functions for at least 24 hours following administration of the test. Drivers who are tested under the provisions of this section and found to have any alcohol in their system are subject to additional discipline under this policy, including dismissal.

## **D. Employee and Applicant Inquiries**

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 by the board must give written or electronic consent to any query by school officials of the federal Commercial Driver's License Drug and Alcohol Clearinghouse ("Clearinghouse") and, where applicable, must consent in writing to the release of any information that the school system is required to obtain from any previous employers under [Part 382](#).

### **1. Pre-Employment Inquiry**

Before employing any applicant subject to this policy, school officials shall 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 the applicant was subject to an alcohol and controlled substance testing program under the requirements of a U.S. Department of Transportation (DOT) agency other than the Federal Motor Carrier Safety Administration within the previous three years, school officials shall also obtain, pursuant to the applicant's written consent, all records maintained by those DOT-regulated employers that the school system is required to obtain under [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, must be provided with educational materials that inform the employees of drug testing procedures, prohibited acts, consequences, and other aspects of [Part 382](#), this policy, and any accompanying administrative procedures. The information also will identify a school system employee who is responsible for providing information on substance abuse. Each employee must sign a statement certifying his or her receipt of these materials.

Each supervisor who is responsible for overseeing the performance of drivers, including principals and assistant principals, must undergo at least one hour of training concerning alcohol

misuse and one additional hour of training concerning drug abuse.

## **F. Referrals**

Each driver who commits acts prohibited by [Part 382](#) or [G.S. 20-138.2B](#), other than provisions governing pre-employment testing, will be provided with information concerning resources available for evaluating and resolving drug or alcohol misuse. This information will include the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

## **G. Consequences**

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.

The return-to-duty process begins with a face-to-face substance abuse evaluation conducted by a substance abuse professional (SAP) that has met the credential and training requirements set by the Department of Transportation. The SAP must make treatment and/or education recommendations for the employee. Once the employee has successfully complied with the recommendations, a follow-up face-to-face DOT SAP evaluation is scheduled with the same SAP. Based upon the follow-up evaluation, the SAP issues a written determination of the employee's eligibility (or ineligibility) to return-to-duty and to perform a safety sensitive job. The decision to return the employee to work is at the discretion of the employer.

## **H. Procedures**

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 References: [49 U.S.C. 31306](#); [49 C.F.R. pts. 40, 382](#); [G.S. 20-138.2B](#); [G.S. 90-86](#) North Carolina Controlled Substances Act

Cross References: Drug-Free and Alcohol-Free Workplace (policy 7240)

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