

MEDICAL EXAMINATIONS

1.0 SCOPE: This policy sets the expectation that all school employees may be subject to medical examinations as a condition of employment either in accordance with state policy or as determined by the Superintendent.

2.0 PURPOSE: The purpose of this policy is to ensure the health and safety of our employees and students.

3.0 PHYSICAL/MENTAL EXAMINATION: The Superintendent, as the designee of the BCBOE, reserves the right to require, after a conditional offer of employment, that the candidate submit to an examination in order to determine the physical and/or mental capacity to perform assigned duties as outlined in the job description. The Board also reserves the right to require employees to submit to such examination. Such examinations shall be done in accordance with the Superintendent's guidelines.

3.1 Examinations or evaluation results shall be delivered to the Superintendent, in written form. If needed, reports will be discussed with the employee or candidate and made a part of a medical file kept separate from the employee's personnel file, as are all other medical records.

3.2 The Superintendent has the right to require a physical and/or psychological examination from a designated health care provider when s/he has any reasonable questions regarding the physical ability of a school bus operator and the safety of students or the sufficiency of an annual physical examination.

3.3 The Board shall assume any uninsured fees for required examinations

4.0 TUBERCULOSIS EXAMINATION: All school personnel shall have a tuberculin skin test pursuant to WV code 16-3D-3(c).

5.0 PHYSICAL EXAMINATION FOR SCHOOL BUS OPERATORS: The school bus operator shall pass a physical examination from a Medical Examiner as specified by West Virginia State Board of Education policy 4336. This examination shall be conducted no earlier than April 1st to receive certification for the following school term.

5.1 The Superintendent has the right to require a physical and/or psychological examination from a designated health care provider when s/he has any reasonable questions regarding the physical ability of a school bus operator and the safety of students or the sufficiency of an annual physical examination.

- 5.2 The original report of the physical examination of all school bus operators, except for designated Head Start bus operators, is to be sent to the Superintendent. The Board shall provide the State Department, by certified mail, the name and Social Security number of any school bus operator who fails to meet the physical and mental/emotional requirements above.

6.0 DRUG AND ALCOHOL TESTING OF CDL LICENSE HOLDERS: The Barbour County Board of Education supports the notion that the safety of students and personnel 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 vehicle. To fulfill such a responsibility, each driver, as well as others who perform safety-sensitive functions with Board-owned and/or operated ("Board-owned") vehicles must be mentally and physically alert at all times while on duty.

6.1 Definitions: For purposes of this policy associated with the policy, the following definitions shall apply:

- 6.1.1 The term *illegal drug* means drugs and controlled substances, the possession or use of which is unlawful, pursuant to Federal, State, and local laws and regulations.
- 6.1.2 The term *controlled substance* includes any illegal drug and any drug that is being used illegally, such as a prescription drug that was not legally obtained or not used for its intended purposes or in its prescribed quantity. The term does not include any legally-obtained prescription drug used for its intended purpose in its prescribed quantity unless such use would impair the individual's ability to safely perform safety-sensitive functions.
- 6.1.3 The term *controlled substance abuse* includes excessive use of alcohol as well as prescribed drugs not being used for prescribed purposes, in a prescribed manner, or in the prescribed quantity.
- 6.1.4 The term *safety-sensitive functions* includes all tasks associated with the operation and maintenance of Board-owned vehicles.
- 6.1.5 The term *CDL license holder* means all regular and substitute bus drivers, other staff members who may drive students in Board-owned vehicles or drive, inspect, repair, and maintain Board-owned vehicles.
- 6.1.6 The term *while on duty* means all time from the time the CDL license holder begins to work or is required to be in readiness for work until the time s/he is relieved from work and all responsibility for performing work.

6.2 The Board will not tolerate the possession, use, sale, or distribution of alcohol and/or any controlled substance or drug other than those approved for administration by the appropriate school personnel on school property, at any time. All CDL license holders must comply strictly with this policy. Further, the Board concurs with the Federal requirement that all CDL license holders should be free of any influence of alcohol or controlled substance while on duty.

6.3 The Board directs the Superintendent to establish a drug and alcohol testing program, in concordance with 49 C.F.R. (Code of Federal Regulations) Part 40 whereby each regular and substitute bus driver, as well as any other staff member who holds and utilizes, on behalf of the Board, a CDL license, is tested for the presence of alcohol in his/her system as well as for the presence of the following controlled substances:

- 6.3.1. Marijuana
- 6.3.2 Cocaine
- 6.3.3 Opiates
- 6.3.4 Amphetamines
- 6.3.5 Phencyclidine (PCP)
- 6.3.6 Other

6.4 The drug tests are to be conducted in accordance with Federal and State regulations

6.4.1 prior to employment, **(Controlled Substances Only)**;

6.4.2 for reasonable cause, as determined by the Superintendent and/or the Transportation Supervisor;

6.4.3 upon return to duty after any alcohol or drug rehabilitation;

6.4.4 after any accident, which:

6.4.4.1 involves any human or domestic animal;

6.4.4.2 damage to non-board owned property anticipated to exceed \$1,000;

6.4.4.3 produces reasonable suspicion at the discretion of Superintendent and/or the Transportation Supervisor;

6.4.5 on a random basis, and

6.4.6 on a follow-up basis.

6.5 Any CDL license holder who tests positive shall be prohibited from performing or continuing to perform his/her safety-sensitive functions (e.g., driving any Board-owned vehicle) and be referred to the Superintendent.

6.6 It shall be the responsibility of any employee who receives information concerning an employee who:

- 6.6.1. sells, gives away, distributes or markets any substance or product in this State or transports such a substance or product into this State with the intent that the substance or product will be used to defeat a drug or alcohol

- screening test;
 - 6.6.2 attempts to defeat a drug or alcohol screening test by the substitution of a false sample;
 - 6.6.3 advertises for sale or distribution any substance or product the advertised purpose of which is to defeat a bodily fluid screening test for drugs or alcohol;
 - 6.6.4 adulterates a bodily fluid sample with the intent to defeat a drug or alcohol screening test;
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 - 6.6.5 possess adulterants for the purpose of defeating a drug or alcohol screening test; or
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 - 6.6.6 sells adulterants which are intended to be used to adulterate a urine or other bodily fluid sample for the purpose of defeating a drug or alcohol screening test to report such information to the appropriate law enforcement office.
- 6.7** Furthermore, if during any test the lab determines that an adulterant has been added to the specimen, then the test will be considered positive and the employee shall be prohibited from driving any school vehicle and be referred to the County's Employee Assistance Program.
- 6.8** Any staff member who refuses to submit to a test shall be prohibited from performing or continuing to perform his/her safety-sensitive functions (e.g., driving any Board-owned vehicle) and shall be considered to have abandoned his/her job.
- 6.9** Staff members who voluntarily disclose that they have an addiction to alcohol or controlled substances may qualify for the receipt of medical insurance benefits for treatment of alcohol or substance abuse, including follow-up care, to the extent that such staff member is covered by any health insurance policy which provides for such benefits, made available by the Board. Voluntary disclosure of an alcohol or drug addiction by a staff member will not subject the staff member to disciplinary action unless such disclosure is made after the staff member is selected to be tested or immediately prior to the selection of staff members to be tested. Nothing herein shall prevent the Board from disciplining a staff member for misconduct associated with his/her alcohol and/or drug use regardless of whether the employee has disclosed that s/he has an alcohol or drug addiction.
- 6.10** 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:
- 6.10.1. the dangers of illegal drug use and controlled substance and alcohol abuse;
 - 6.10.2 Employee Assistance Program;
 - 6.10.3 the sanctions that may be imposed for violations of this policy.

7.0 MISCELLANEOUS

7.1 Employee Discipline: A staff member will be subject to disciplinary action, up to and including termination, for any of the following reasons herein:

- 7.1.1 reports for duty or performs work while under the influence of alcohol or any controlled substance or drug prohibited herein;
- 7.1.2 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;
- 7.1.3 refuses to submit to drug and/or alcohol testing;
- 7.1.4 alters or attempts to alter or unduly influence alcohol and/or drug testing results;
- 7.1.5 fails to remain readily available for post-accident testing (including notifying his/her supervisor of his/her location, if the staff member leaves the scene of the accident prior to the submission of a post-accident test, unless the staff member's departure is to obtain necessary emergency medical care).

7.2 All time spent undergoing an alcohol or controlled substance test, including travel time, will be paid at the staff member's regular rate of pay, or at his/her overtime rate, if applicable.

7.3 Any staff member who is not allowed to return to work while awaiting test results will be compensated during the waiting period for all work time lost, if the results come back negative. The Board shall pay all costs associated with the administration of alcohol and controlled substance tests. This does not include testing of the "split specimen" at a Federally certified laboratory if so requested by a staff member. The Board will not pay for the employee's time while not on duty, if the split specimen test results are positive.

7.4 Alcohol and drug test 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 by and reported on by one competent to understand and interpret the test results.

7.5 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.

7.6 All tests shall be conducted in accordance with Federal testing guidelines and be 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).

7.7 The alcohol and drug testing program shall be under the direction of the Superintendent.

- 7.8** The Superintendent shall arrange for the required amount of training for appropriate staff members in drug recognition, in the procedures for testing, and in the proper assistance of staff members who are subject to the effects of substance abuse.

Educational materials explaining the requirements of the Federal regulations and of the Board's policies and procedures to meet the Federal regulations shall be provided to all staff members, including the following:

- 7.8.1 the name of the person designated by the Board to answer questions about the materials;
- 7.8.2 information sufficient to make clear to employees the period of the work day during which they are required to comply with the regulations;
- 7.8.3 information concerning what conduct is prohibited;
- 7.8.4 the circumstances under which employees are subject to testing;
- 7.8.5 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;
- 7.8.6 the requirement that staff members must submit to testing as required by the regulations;
- 7.8.7 an explanation of what constitutes a refusal to be tested and the attendant consequences;
- 7.8.8 the consequences of testing positive, including the requirements of immediate removal from safety-sensitive functions, and the procedures regarding referral, evaluation, and treatment;
- 7.8.9 information concerning the effects of alcohol and drug misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a co-worker's); and available methods of intervening when a drug or alcohol problem is suspected (including confrontation and how to refer someone to an Employee Assistance Program or to management).

- 7.9** The Superintendent shall submit, for Board approval, a contract with a certified laboratory to provide the following services:

- 7.9.1 testing of all first and second test urine samples;
- 7.9.2 clear and consistent communication with the person or entity performing the testing and/or interpreting the results;
- 7.9.3 methodology and procedures for conducting random test for controlled substances and alcohol;
- 7.9.4 preparation and submission of all required reports to the Board of Education, and to Federal and State governments as required.

7.10 The Superintendent shall also select the agency or persons who will conduct the alcohol breathalyzer test and the drug collection site(s) in accordance with the requirements of the law.

7.11 These materials are to be distributed to each staff member upon being hired or transferred into a covered position thereafter. Each staff member must sign a statement certifying receipt of these materials. Each employee (and organization representing Board employees) shall receive written notice of the availability of this information, and the identity of the Board's designated representative in charge of answering employee questions about the materials.

AUTHORITY:

West Virginia Board of Education Policy 4336
W. Va. Code 60A-4-412(a)
49 C.F.R. 382.101 et seq.
42 U.S.C. 12101 et seq. Americans with Disabilities Act of 1990
29 C.F.R. Part 1630
West Virginia Code 16-3D-3
Federal Motor Carrier Safety Administration
Omnibus Transportation Employee Testing Act

Source: Board of Education Minutes

Adopted: 9/18/1979

Revised: 06/14/10; 09/06/1994; 1983