

# LITTLESTOWN AREA SCHOOL DISTRICT

SECTION: OPERATIONS

TITLE: TRANSPORTATION  
PERSONNEL - DRUG AND  
ALCOHOL TESTING

ADOPTED: January 15, 1996

REVISED:

<p>1. Purpose</p> <p>2. Authority SC 510</p> <p>3. Policy</p>	<p>810.2. TRANSPORTATION PERSONNEL - DRUG AND ALCOHOL TESTING</p> <p>This policy is adopted to comply with federal regulatory mandates and to establish programs and practices designed to help prevent accidents and injuries resulting from the misuse of alcohol or controlled substances by school bus drivers.</p> <p>The authority granted to Boards by the Pa. Public School Code of 1949, as amended, permits the Board to adopt reasonable rules and regulations regarding the management of school district affairs and the conduct and department of employees during the time they are engaged in the performance of their duties.</p> <p>A. <u>Employee Prohibitions</u></p> <ol style="list-style-type: none"> <li>1. No covered school bus driver (definition referenced in Section E of this policy) shall report for duty or remain on duty while:             <ol style="list-style-type: none"> <li>a. Having an alcohol concentration of 0.04 or greater.</li> <li>b. Possessing alcohol.</li> <li>c. Using alcohol.</li> <li>d. Within four (4) hours after using alcohol.</li> </ol> </li> <li>2. No covered school bus driver shall report for duty or remain on duty when the driver uses any controlled substance (except when the use is pursuant to the written instructions or prescription, on a form provided by the district, of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate the school bus) or tests positive for controlled substances.</li> <li>3. No covered school bus driver required to take a post-accident alcohol test under this policy shall use alcohol for eight (8) hours following the accident, or until s/he undergoes a post-accident alcohol test, whichever occurs first.</li> </ol>
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<p>49 CFR Sec. 382.401 (c)(4) 49 CFR Sec. 382.309</p>	<ol style="list-style-type: none"><li>4. No covered school bus driver shall refuse to submit to a post-accident alcohol or controlled substances test required under this policy, a random alcohol or controlled substances test required under this policy, a reasonable suspicion alcohol or controlled substances test required under this policy, or a follow-up alcohol or controlled substances test required under this policy.</li><li>5. No individual shall be hired by the school district as a school bus driver covered by this policy or transferred into a covered school bus driver position after December 31, 1995 unless:<ol style="list-style-type: none"><li>a. S/He has undergone and passed pre-employment testing for a controlled substance in accordance with this policy.</li><li>b. S/He has either certified that s/he has not been employed for the previous two (2) years or has given written consent and authorization for the school district to obtain information from the individual's employers during the preceding two (2) years pertaining to the driver's alcohol tests showing concentration results of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two (2) years, which are maintained by the driver's previous employers.</li><li>c. The school district has received the required information from the driver's previous employer, if any.</li></ol><p>A school bus driver candidate shall not be recommended for hire if the Supervisor of Transportation obtains information on the candidate's alcohol test with a concentration of 0.04 or greater, verified positive controlled substances test result, or refusal to be tested, without obtaining records of a subsequent substances abuse professional's evaluation and/or determination under the law.</p></li><li>6. Any covered school bus driver shall be deemed to have consented to such testing as is required of him/her by this policy. Consent is implied by agreeing to continue to drive a covered school bus after notification of this policy.</li></ol> <p><b>B. <u>Duties of Covered School Bus Drivers</u></b></p> <ol style="list-style-type: none"><li>1. Covered school bus drivers shall comply with all mandates and prohibitions in this policy.</li><li>2. Covered school bus drivers shall cooperate fully with all required testing and shall promptly report to all required testing as required.</li></ol>
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3. Covered school bus drivers are required to notify the Supervisor of Transportation if they are taking any therapeutic drugs and shall supply a written certification on a form provided by the district from the physician prescribing the drug(s) that the substance(s) will not adversely affect the driver's ability to safely operate a bus or motor vehicle.

C. Consequences for Drivers Engaging in Substance Use-Related Conduct

1. Consistent with contractual, legal and constitutional requirements, a determination shall be made as to the appropriate disciplinary action, if any, to be imposed upon any covered school bus driver who violates any of the prohibitions or mandates set forth in this policy. Nothing in this policy shall be construed to limit the authority of the school district to impose discipline, including discharge, as it shall determine so long as the minimums set forth in this policy are satisfied.
2. Any covered school bus driver tested under this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall be suspended without pay at least until the start of the driver's next regularly scheduled duty period that is at least twenty-four (24) hours following administration of test.
3. Any covered school bus driver: (1) who reports or remains on duty while having an alcohol concentration of 0.04 or greater; possessing alcohol; using alcohol or having used alcohol within four (4) hours of reporting to work; or (2) who reports or remains on duty when the driver uses or has used any controlled substance (except when the use is pursuant to the written instructions or prescription of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely drive the bus and the driver has so advised the Supervisor of Transportation in accordance with this policy) or tests positive for controlled substances; or (3) who consumes alcohol in contravention of a post-accident alcohol test requirement or refuses to submit to any drug or alcohol test required under this policy; and who is not to be discharged, shall be suspended without pay and shall not be reinstated until after the following requirements have been met:
  - a. The driver has been advised of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances, including the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs.

<p>75 Pa. C.S.A. Sec. 3731(a) (5), (i)</p>	<ul style="list-style-type: none"><li>b. The driver has been evaluated by a substance abuse professional (S.A.P.) who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substances use.</li><li>c. The driver has undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substances test with a verified negative result if the conduct involved a controlled substance.</li><li>d. If the driver has been identified as needing assistance in resolving problems associated with alcohol misuse or controlled substances use, the driver shall be evaluated by a substance abuse professional to determine that the driver has properly followed any rehabilitation program prescribed.</li><li>e. The driver serves the length of the suspension and meets any other conditions of reinstatement that may have been imposed by the district.</li></ul> <p>4. The minimum suspensions without pay under section 3 above shall be as follows. The district may impose discipline which exceeds the following minimums:</p> <ul style="list-style-type: none"><li>a. A driver with an alcohol concentration of 0.02 or greater but less than 0.04 shall be suspended without pay until the next scheduled duty period that is at least twenty-four (24) hours following the administration of the test.</li></ul> <p>5. Where alcohol testing shows a concentration of 0.10 or greater while a driver has been driving or controlled substances testing shows a positive result and the driver has not advised the district of therapeutic drug use prescribed by a physician in accordance with this policy, the matter shall be turned over to the police.</p>
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D. Duties of the Supervisor of Transportation

1. The Supervisor of Transportation shall take action to insure that covered school bus drivers do not violate the prohibitions and mandates set forth in this policy. If the Supervisor of Transportation or his/her designee has reasonable suspicion that a school bus driver has violated any prohibition or mandate, the following actions shall be taken:
  - a. The employee shall be promptly contacted and an informal hearing shall be conducted. The school bus driver shall be advised of the allegations and be given an opportunity to tell his/her side of the story.
  - b. If the suspicion relates to the bus driver's alcohol concentration levels or use of alcohol during or prior to reporting to work, the driver shall be required to submit to an alcohol test in accordance with the section on Reasonable Suspicion Testing of this policy.
  - c. If the suspicion relates to the bus driver's use of controlled substances during or prior to reporting to work, the driver shall be required to submit to a controlled substances test in accordance with the section on Reasonable Suspicion Testing of this policy.
  - d. If after investigation, testing as may be required, and consideration of the driver's input, it is determined by the Supervisor of Transportation that a driver violated any of his/her obligations, the matter shall be referred to the Superintendent or his/her designee for appropriate action.
2. The Supervisor of Transportation shall insure that the following tests are performed:
  - a. Pre-employment testing - Prior to recommending to the Board that any individual be hired as a school bus driver, the candidate shall undergo testing for controlled substances. No individuals shall be recommended to the Board to be hired as a school bus driver who has not undergone such testing or who has not been administered such tests with a result indicating a negative controlled substances result.

- b. Post-accident testing - As soon as practicable following a school bus accident involving loss of human life or where the driver receives a citation under state or local law for a moving traffic violation arising from the accident, the covered school bus driver shall be tested for alcohol and controlled substances.
- 1) A driver who is subject to post-accident testing under this policy shall remain readily available for such testing or may be deemed by the district to have refused to submit to testing.
  - 2) If a post-accident alcohol test is not administered within two (2) hours following the accident, the Supervisor of Transportation or his/her designee shall prepare and maintain a record stating the reasons the test was not promptly administered. If the test is not administered within eight (8) hours following the accident, attempts to administer the alcohol test shall cease and the Supervisor of Transportation or his/her designee shall prepare and maintain the same record.
  - 3) If post-accident controlled substances test is not administered within thirty-two (32) hours following the accident, attempts to administer the test shall cease and the Supervisor of Transportation or his/her designee shall prepare and maintain a record stating the reasons why the test was not administered within the required time.
  - 4) A breath or blood test for the use of alcohol or a urine test for the use of controlled substances conducted by federal, state or local officials or police having authority to conduct such testing shall be considered to meet the requirements of this policy if the results of the test will be turned over to the district.
- c. Random testing - Random alcohol and controlled substances testing shall be conducted on that percentage of drivers as mandated from time to time by the federal government. The selection of drivers for random testing shall be by a scientifically valid method so that each driver shall have an equal chance of being tested each time selections are made. These tests shall be unannounced and the tests shall be spread reasonably throughout the year.
- 1) Each driver who is notified of selection for random testing shall proceed to the test site immediately.

	<p>2) Random alcohol testing may be conducted only just before the driver is to begin driving a school bus or just after the driver has finished driving a school bus.</p> <p>d. <u>Reasonable suspicion testing</u> - A driver shall be required to submit to an alcohol and/or controlled substances test when the Supervisor of Transportation or his/her designee(s) has reasonable suspicion that the driver is using or has used alcohol or controlled substances in violation of the prohibitions or mandates of this policy. Notwithstanding anything to the contrary, such suspicion may be formed after an accident.</p> <ol style="list-style-type: none"><li>1) The determination that reasonable suspicion exists to require a driver to undergo testing must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances. Reasonable suspicion as to alcohol use may be based only on observations made while the driver is driving or just before the driver begins driving or just after the driver has ceased driving.</li><li>2) The Supervisor of Transportation and supervisors s/he designates shall obtain necessary training that covers the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances. Only those so trained are permitted to make the determination that can lead to reasonable suspicion testing.</li><li>3) Reasonable suspicion testing may not be performed by the individual who made the determination that there was reasonable suspicion for the testing.</li><li>4) A written record shall be prepared and maintained setting forth the basis and observations for the reasonable suspicion leading to the testing. With respect to suspicion related to controlled substances, such records shall be made and signed by the supervisor who made the observations within twenty-four (24) hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.</li></ol>
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	<p>5) Reasonable suspicion alcohol testing shall be required while the driver is driving, just before the driver is to drive or just after the driver has ceased driving. If an alcohol test is not administered within two (2) hours following the determination that reasonable suspicion exists, the Supervisor of Transportation shall prepare and maintain a record stating the reasons the test was not promptly administered. If the test is not administered within eight (8) hours following the accident, attempts to administer the alcohol test shall cease and the Supervisor of Transportation shall prepare and maintain the same record. Notwithstanding the absence of a reasonable suspicion alcohol test, where there was reasonable suspicion of alcohol use, the driver shall not be permitted to drive until:</p> <ul style="list-style-type: none"><li>a) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02.</li><li>b) Twenty-four (24) hours have elapsed following the determination of reasonable suspicion.</li></ul> <p>e. <u>Return-to-duty testing</u> - No school bus driver may return to work after engaging in conduct prohibited by this policy until after s/he has, as appropriate, undergone an alcohol test with a result indicating an alcohol concentration of less than 0.02 or a controlled substances test with a result indicating a verified negative result for controlled substances use.</p> <p>f. <u>Follow-up testing</u> - Any driver who is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances shall be subject to unannounced follow-up testing as directed by a substance abuse professional. Follow-up alcohol testing shall be conducted only when the driver is driving, just before the driver is to drive or just after the driver has stopped driving.</p> <p>3. The Supervisor of Transportation shall be the district's representative for purposes of receiving and handling alcohol and drug test results. Those results shall be handled by the Supervisor of Transportation in a confidential manner in accordance with applicable federal, state and local law and regulations.</p>
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49 CFR  
Sec. 382.601

4. The Supervisor of Transportation shall advise a driver of the results of random, reasonable suspicion and post-accident tests if the test results show an alcohol concentration in excess of 0.02 or are verified as positive in the case of controlled substances. The driver shall be advised which controlled substance or substances were verified as positive. The Supervisor of Transportation shall (1) make reasonable efforts to contact and request each driver who submitted a specimen under this policy, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver; and (2) notify within twenty-four (24) hours the medical review officer that the driver has been notified to contact the medical review officer.
5. The Supervisor of Transportation shall develop and implement procedures for the preparation, maintenance, retention and disclosure of records as required by law.
6. The Supervisor of Transportation shall recommend the actions necessary to insure that the school district can perform the testing described in this policy and has the services of a qualified medical review officer, a qualified substance abuse professional, and a certified laboratory.
7. The Supervisor of Transportation shall develop and provide educational materials that explain the requirements of this policy and the school district's policies and procedures with respect to meeting said requirements. Materials in compliance with law shall be distributed to each driver prior to the start of the school district's testing under this policy and to each driver subsequently hired or transferred into a school bus driving position.

A copy shall also be provided to the employee's bargaining representative.

Each driver shall be required to sign a statement certifying that s/he has received a copy of the material and the Supervisor of Transportation shall maintain the original copy of the signed certification.

8. The Supervisor of Transportation shall ensure that access is provided to all school district facilities utilized in complying with the requirements of the Federal Highway Administration, the Secretary of Transportation, any Department of Transportation agency, or any state or local official with regulatory authority over the school district or any of its drivers.

E. Miscellaneous

1. A **covered school bus driver** under this policy shall mean any person who is an employee of the district and who drives or operates for the district a motor vehicle:

- a. With a gross vehicle weight rating of 26,001 or more pounds.
- b. Designed to transport sixteen (16) or more passengers, including the driver; or any other district employee who is regularly assigned to drive a school district vehicle of any size or kind.

The phrase includes drivers and mechanics who operate such vehicles, including fulltime, regularly employed individuals; casual, intermittent or occasional individuals; and leased drivers and independent owner-operator contractors who are either directly employed by or under lease to the district or who operate a bus owned or leased by the district.

2. It is not intended that this policy create any practices and the district expressly adopts this policy on an experimental basis. The Board directs the administration of the district to evaluate the effects of this policy after it has been in operation for two (2) full years and to advise the Board on the effects of this policy in general. As part of the report, the Board shall be advised about the effects with respect to:

- a. Employee compliance rates.
- b. Cost.
- c. Incidents of discipline.
- d. Improvement of driver performance.

3. This policy shall not be construed to limit the authority of the district to conduct drug or alcohol testing on individuals not covered by this policy or to conduct such testing on individuals covered by this policy at times other than stated in this policy.