CDL Drivers Controlled Substance and Alcohol Policy

Section 1. General. It is the purpose of this policy to encourage an enlightened viewpoint toward alcoholism and other drug dependencies as behavioral/medical problems which can be treated, and to place all employees holding a Commercial Drivers License in compliance with the Federal Highway Administration's Controlled Substance and Alcohol Use Testing laws, (Federal Law 49 CFR 40 & 382).

This policy applies to all East Allen County Schools corporation employees who are required to hold a Commercial Drivers License (CDL) to perform their job function. The use, possession, sale, purchase or transfer of unauthorized or illegal drugs or substances, or the abuse or misuse of legal drugs on school property, while on school business, or while operating school vehicles and equipment, is prohibited. Drinking alcoholic beverages during working hours, four (4) hours before reporting to work or having any measurable amount of alcohol in his/her system during working hours is prohibited, whether on or off school property. Working hours include all breaks. Off-duty use of drugs and alcohol is prohibited to the extent it affects an employee’s attendance or performance and his/her ability to pass required DOT alcohol and controlled substance tests. Any violation of this policy is grounds for disciplinary action not excluding termination as an employee for the school corporation and possible legal prosecution.

Since physician-directed use of drugs can affect behavior and performance, employees are encouraged to advise their supervisor whenever they are taking drugs for medical reasons. When such use of drugs adversely affects job performance or safety, it is in the best interest of the employee, co-workers, and the school corporation that the employee take sick or vacation days or, if necessary, unpaid leave within the school corporation's leave policies.

CDL drivers have a duty to check/advice their physicians that they drive a CMV (school bus) that requires a CDL and get a determination if medication will affect abilities to drive safely.

Section 2. Termination. East Allen County Schools reserves the right to terminate any employee who violates the school corporation’s Controlled Substance and Alcohol Policy for CDL drivers. Employees who are convicted for alcohol or drug-related charges may be subject to school corporation disciplinary action, up to and including termination. Employees who test positive to a controlled substance or to breath alcohol in excess of .02% will immediately be suspended with pay pending a disciplinary hearing. This disciplinary hearing will be scheduled within one (1) week of the positive test result. If the hearing confirms a violation of policy occurred, the employee will be subject to the following disciplinary action:
1. First offense violation of controlled substance provision of the policy: the employee shall be terminated and referred to a substance abuse professional for his/her voluntary treatment.

2. First offense violation of the alcohol provision of the policy: the employee who tests .02% or greater but less than .04% shall be suspended without pay until released by a substance abuse professional who will make recommendations for necessary treatment. (Federal law requires that the employee be taken out of a safety sensitive function for 24 hours.)

The employee shall assume all expenses for referral to a substance abuse professional and treatment as it relates to the disciplinary action.

A list of names and phone numbers will be provided to the employee as is required by Federal Law 49 CFR 40 & 382.

A substitute employee shall be placed into the vacated position until the employee has met all the requirements established by the substance abuse professional and agrees to the provisions outlined in the Federal Law (49 CFR) as it relates to follow-up testing.

Failure of the employee to meet any of the recommendations and/or requirements of the program established by the substance abuse professional shall result in the employee's immediate termination.

3. First offense violation of the alcohol provision of the policy, the employee whose breath alcohol test is .04% or greater shall be terminated and referred to a substance abuse professional for his/her voluntary treatment.

4. Second offense violation of the alcohol provision of the policy: the employee whose breath alcohol test is .02% or greater but less than .04% shall be terminated and referred to a substance abuse professional for his/her voluntary treatment.

Section 3. Confidentiality. Any information concerning an employee's drug or alcohol abuse will be available only to members of the administration whom the school corporation believes should be aware of this information. Unless otherwise required by law, this information will not be disclosed by the school corporation to any other employer, organization or individual without the employee's written consent.

Section 4. Alcohol and Controlled Substance Testing for Commercial Drivers License (CDL) Employees. East Allen County Schools recognizes the critical and growing problem alcohol and controlled substance abuse poses to the transportation of its students. It is the policy of the school corporation to provide and maintain a safe, healthy and productive work environment for our drivers. This policy applies to all...
drivers and applicants for driver positions for the school corporation who must have a Commercial Drivers License (CDL) to operate school vehicles.

All such drivers have the responsibility to report for work and perform their jobs in a fit mental and physical condition. The nature of school transportation is such that any unnecessary risk could affect our students and the public as a whole. This policy was developed to ensure not only the students’ and employees’ safety, but the general public’s as well.

East Allen County Schools will provide all CDL employers with training materials described in Federal Law 49 CFR 382.601 before subjecting drivers to required drug & alcohol testing. Drivers will be required to sign a certificate showing that they received their materials.

All CDL drivers working for East Allen County Schools will be expected to report to management or police a suspected drug or alcohol problem which would put anyone at risk, or be a violation of law.

East Allen County Schools will keep all records relating to this drug and alcohol testing policy in accordance to Federal Law 49 CFR 382.401.

Questions about this policy and drug/alcohol testing can be directed to the Superintendent or Director of Transportation.

The Director of Transportation is authorized to implement this policy and program, including a periodic review of the program to address any problems, changes, and/or revisions of it, maintenance of all records required by the federal regulations, and determination of how the program will be accomplished, whether in-house, contracted, or by consortium.

The Director of Transportation is responsible for communicating this policy to all drivers and is accountable for its consistent enforcement. The Director of Transportation is designated to answer questions about this policy and all other matters involved in alcohol and controlled substance testing of CDL drivers.

Section 5. Testing of Drivers. All drivers will be tested for alcohol and drug abuse in accordance with the approved procedures when directed by the Director of Transportation.

Drivers will be tested under the following guidelines:

1. Pre-employment. Under no circumstances will an individual be placed on the payroll without successful completion of an alcohol and drug test. Any individual who refuses to submit to a drug test, has a detectable amount of alcohol in his/her system, or has a positive controlled
substance test result will not be considered for employment with the school corporation.

2. **Random.** A minimum rate of 50% of drivers shall be tested annually for drugs and 25% of drivers shall be tested annually for alcohol.

Random drug and alcohol testing may be combined. For example, when testing at 50% drug random rate and 25% alcohol random rate, half of the randomly selected drivers chosen for testing could be tested for both drugs and alcohol, while the rest could be tested only for drugs.

Random testing selection:

A. Employee remains in pool.
B. Use valid random selection.
C. Test at least once each quarter.
D. Do not announce dates of testing.
E. Test 50% of drivers for drugs and 25% of drivers for alcohol.

3. **Post-Accident.** Drivers are required to submit to drug and alcohol testing as soon as possible following a D.O.T. accident which involves the loss of human life or the driver 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 school corporation to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical treatment or to prohibit the driver from leaving the scene of an accident for a period necessary to obtain assistance in responding to the accident, or to obtain necessary medical care.

No driver required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

If a driver is seriously injured and cannot submit to testing at the time of the accident, he/she shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were any drugs or alcohol in his/her system.

The results of a breath or blood test for the use of alcohol or a urine test for the use of drugs conducted by Federal, State, or local officials having independent authority for the test shall be considered to meet requirements for post-accident testing if the results are obtained by the school corporation.
Actions to take in a post-accident testing situation:

A. Treat injuries.
B. Work with law enforcement.
C. Explain the need for testing.
D. Work with medical facility.
E. Collect specimens promptly.
F. Document events.

4. **Reasonable Suspicion.** The school corporation is required to test for the use of alcohol and controlled substances upon “reasonable suspicion.” Reasonable suspicion is defined to mean that the school corporation believes the behavior, speech, body odor, or appearance of a driver while on duty are indicative of the use of alcohol and/or controlled substances. The conduct must be witnessed by a supervisor or the Director of Transportation, if so trained. The mere possession of alcohol does not constitute a need for an alcohol test. The witness must have received training in the detection of probable alcohol and drug use by observing a person’s behavior. If it is at all possible, the witness should not conduct the alcohol test in order to protect the driver.

Alcohol testing is authorized only if the observations are made during, just before, or just after the period of the work day of the driver. A written record shall be made of the observations leading to an alcohol and/or controlled substance test. This record is to be signed by the supervisor who made the observations.

If a reasonable suspicion alcohol test is not administered within two (2) hours following the observations, the witness shall prepare and maintain on file a record stating the reasons the alcohol test was not administered promptly. In addition, if not administered within eight (8) hours, all attempts to administer the test shall cease. A record shall be prepared and maintained stating why the alcohol test was not administered.

Guide to successful reasonable suspicion testing includes:

A. Focus on safety.
B. Verify reasonable suspicion.
C. Isolate and inform the employee.
D. Inquire and observe the employee.
E. Review the findings.
F. Transport the employee to a testing site.
G. Document events.
Prior to the start of work, a driver must report to his/her immediate supervisor use of any prescription and/or over-the-counter drugs which may affect job performance or the safety of others. It is the driver’s responsibility to obtain from his/her physician a determination as to whether or not the drug could affect job performance. The driver must present the drug container with the full label on it.

5. Confidentiality. All information obtained in the course of testing of drivers shall be protected as confidential medical information. No data concerning this information will be made a part of the employee’s personnel file or will be provided to any other party without the direct written consent of the driver.

Failure to sign a release for alcohol and drug testing will be classified as insubordination and the driver shall be terminated as a driver for the school corporation, subject to applicable state law.

Refusal to submit to alcohol and/or controlled substance testing as required will be recorded as a positive test. Refusal to submit to an alcohol or controlled substance test means that a driver (1) fails to provide adequate breath for testing without valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with this policy; (2) fails to provide adequate urine for controlled substance testing without a valid medical explanation after he or she has received notice of the requirement for testing in accordance with this policy; or (3) engages in conduct that clearly obstructs the testing process.

Drivers testing positive for alcohol (.02 or greater) or for a controlled substance shall be prohibited from driving or performing a safety-sensitive function for the school corporation and become subject to any EACS school corporation policy dealing with the use of alcohol and controlled substances.

A performing safety-sensitive function means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

A safety-sensitive function is defined as:

A. All time spent at a facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the school corporation.
B. All time spent inspecting equipment, otherwise inspecting, servicing, or conditioning any motor vehicle at any time.

C. All driving time spent at the driving controls of a motor vehicle in operation.

D. All time, other than driving time, in or upon any motor vehicle.

E. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, or remaining in readiness to operate the vehicle.

F. All time spent performing the driver requirements relating to an accident.

G. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

6. Return to Duty Testing. A driver who has been prohibited from performing a safety-sensitive function after engaging in conduct regarding alcohol misuse prohibited by U.S. Department of Transportation regulations and before returning to duty shall undergo a Return-to-Duty test which indicates a breath alcohol concentration of less than .02.

When a Return-to-Duty test is required, the driver must continue to be evaluated by a Substance Abuse Professional (SAP) and participate in any assistance program prescribed by the SAP.

7. Follow-Up Testing. When a driver has been determined to be in need of assistance in resolving problems associated with alcohol misuse and/or controlled substance use, the driver will be subject to a minimum of six (6) follow-up tests in the first twelve (12) months. The follow-up testing period shall not exceed 60 months. Follow-up testing for alcohol shall be performed only when the driver is performing safety-sensitive functions.

Section 6. Supervisor Training. Transportation directors and supervisors are the key to a drug-free work environment. At a minimum, the Director of Transportation and supervisors will receive basic training and orientation on:

1. The identification of behavioral and physiological signs of alcohol and drug abuse.

2. How to recognize, counsel and document employees whose performance has deteriorated.
3. How and when to suggest and/or require the services of a drug/alcohol assistance program.

4. Documentation of training.

Section 7. **Driver Training.** The driver’s training program will consist of:

1. Explanation of the effects and consequences of alcohol and controlled substance use on personal health, safety and work environment.

2. The manifestations and behavioral causes that may indicate alcohol and controlled substance use or abuse.

3. Information and materials required by federal regulations.

4. Documentation of training.

Section 8. **Retention of Records.** Records relating to the school corporation’s drug and alcohol testing program will be maintained according to guidelines established by Federal Law 49 CFR 328, et al.

All required records shall be maintained in a secure location with limited access. Records shall be made available for inspection at the school corporation’s central office within two (2) business days after a request has been made by an authorized representative of the Federal Highway Administration.

Section 9. **Testing Procedures.** The following testing procedures are to be strictly observed by any collection activity and/or laboratory contracted with by the school corporation in order to carry out its drug and alcohol testing program.

Controlled substance testing procedures include the following:

1. **Chain of Custody.** Chain of Custody is defined as procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures will require an approved chain-of-custody form.

2. **Preparation for Testing.**

   A. Use of tamper-proof seal system designed in a manner that a specimen bottle top can be sealed against undetected opening and the bottle has a means for identification of the test subject, either by number or some other confidential manner.
B. Use of shipping container in which one or more specimens and associated paperwork may be transferred and which can be sealed and initialed to prevent undetected tampering.

C. Written procedures and instructions for collection site.

3. Specimen Collection. Specimen collection will be done at collection sites designated by the school corporation.

4. Laboratory analysis. Laboratory analysis of all specimens collected will be done under all federal guidelines.

5. Review of Results of the Laboratory Tests. The laboratory reports the test results of the school corporation directly to the school corporation’s Medical Review Officer (MRO) within an average of five (5) working days.

Both positive and negative results must be reported. The report, as certified by the responsible laboratory individual shall indicate the drug/metabolites tested for, whether the results are positive or negative, and the cut-off level for each drug analyzed, the specimen number assigned to the specimen and the drug testing laboratory identification number. All tests submitted to the laboratory at the same time must be submitted to the MRO at the same time.

The laboratory may transmit the test results to the MRO by various electronic means, such as teleprinter, facsimile or computer, so long as those methods established are designed to maintain confidentiality. Results cannot, at any time, be provided verbally by telephone. The laboratory must also transmit to the MRO the original or a certified copy of urine chain-of-custody and control form and must identify the individual responsible for the day-to-day management of the laboratory process.

6. The Role of the Medical Review Officer. The MRO must be a licensed M.D. or D.O. and principally serve as an arbiter between the laboratory and the school corporation. The MRO must possess a knowledge of drug abuse disorders. It is the primary role of the MRO to review and interpret positive results obtained from the laboratory. The MRO must access and determine whether alternate medical explanations could account for the positive test results.

To accomplish this task, the MRO may conduct medical interviews of the individual, review the individual’s medical history and review any other relevant biomedical factors. Additionally, the MRO must examine all medical records as evidence of prescribed medications.

The MRO must give the individual testing positive an opportunity to discuss the test results. If the tested individual provides sufficient medical documentation that the positive result derives from the use of
legally prescribed medication, the MRO may allow the driver to continue to operate, or the MRO may request the opinion of another physician. After the individual testing positive has been given the opportunity to provide sufficient information and the MRO makes a final decision, the school corporation is notified of the results of the substance test.

7. **The Need for Confidentiality.** All information obtained in the course of testing employees shall be protected as confidential medical information. No data concerning this information will be made part of the driver’s personnel file or will be provided to any other party without the written consent of the driver.

8. **The Appeal Process Available to Drivers Testing Positive.** If a driver tests positive, he/she has the right to question the results by:

   A. Contacting the MRO to verify the sample number of the urine sample to the MRO’s form.

   B. Requesting the split-sample be tested within 72 hours of the original testing.
9. **Testing Procedures.** Alcohol testing procedures include the following:

A. **Testing Devices.** Alcohol tests are to be conducted with only evidential breath testing devices (EBT's) approved by the National Highway Traffic Safety Administration (NHTSA) on their Conforming Products List (CPL). The rules allow the use of EBT's for the initial screening test that are on the CPL that do not meet the additional requirements for the confirmation test (e.g. sequential numbering and print-out capability).

B. **Test Administrators.** Only a Breath Alcohol Technician (BAT) that has had proper training may administer breath alcohol tests. Reasonable cause tests may not be conducted by the person making the determination that reasonable suspicion exists to conduct an alcohol test.

C. **Test Procedures.** The BAT will perform an initial alcohol screen. If the initial screen results in a Blood Alcohol Concentration (BAC) of .02% or above, a confirmation test is required. Any tests resulting in a BAC of less than .02% will be considered negative. The BAT will wait a minimum of 15 minutes before administering the confirmation test. Confirmation tests must be performed within 20 minutes.