

<p>PRESTON COUNTY BOARD OF EDUCATION</p> <p>FILE: 8 – PERSONNEL MANAGEMENT</p> <p>File: 8-8 Transportation Employees’ Alcohol and Controlled Substance Testing</p>	<p>Last Reviewed: 6-28-10</p> <p>Next Review: 7-01-12</p>
---	---

This policy complies with the Omnibus Transportation Employee Testing Act of 1991. Employees and students are the Boards' most valuable resource and their health and safety is a serious concern. The board will not tolerate any drug or alcohol misuse which imperils the health and well being of its employees or students or threatens the economic health of the county school system.

The use of illegal drugs and the misuse of alcohol and other controlled substances is inconsistent with the responsible behavior expected of all citizens. Employees who use illegal drugs or abuse alcohol and other controlled substances tend to be less productive, less reliable, and prone to greater absenteeism resulting in increased cost, delay, and risk in the board's performance and their own safety. Employees have the right to work in a safe environment. Employees who abuse drugs or alcohol are a danger to themselves, to other employees, to students and to the public. Our board is therefore committed to maintaining a safe and healthy work environment, free from the negative influence of drugs and alcohol.

Communication/Distribution of Policy

The individuals affected by this drug and alcohol testing program will be given a copy of this policy and a signed receipt will be obtained from each individual, which will be placed in their personnel file. Subsequent questions regarding the policy and administrative regulations and their implementations should be referred to the director of transportation.

Types of Testing Required

The Preston County Board of Education will conduct drug and alcohol screening on all regular, substitute, and potential employees in safety-sensitive positions, who are required to maintain a Commercial Driver's License (CDL). Employees in safety-sensitive positions are required to be tested in the following categories:

Post Offer of Employment

The Board requires that each offer of employment, as well as transfer into a safety-sensitive position, shall be conditioned on the passing of a urine drug screen, testing for the following drugs: marijuana, PCP, opiates, amphetamines, and cocaine, and the passing of an alcohol breath test of less than 0.02 concentration of alcohol. The board will not hire or transfer into a safety-sensitive position, any applicant who fails to pass either test.

Random Testing

All employees covered by this policy are subject to unannounced testing based on random selection, which also includes substitute employees performing safety-sensitive functions. Random testing will be spread reasonably through a twelve (12) month period, with testing to be at the rate of 50% of the number of employees covered for drug testing, and at a rate of 25% of the same employees, for alcohol testing. Random selection will be provided by the designated contractor through a computerized program.

If an employee (driver) has not been chosen through a scientifically valid method within a three year period, the Preston County Board of Education may request the employee to submit to a drug and alcohol test.

Reasonable Suspicion

When a trained supervisor has reasonable cause to believe an employee is using a prohibited substance, the supervisor will require that the employee submit to a urine drug test and/or an alcohol breath test. The decision to test must be based on a reasonable and identifiable belief that the employee is using a prohibited substance on the basis of specific physical, behavioral, or performance indicators. Supervisors will be required to document the employee's conduct and his/her justifications for the test.

Reasonable suspicion alcohol testing is authorized only if the observations required by these regulations are made during, just preceding, or just after the period of the workday that the driver is required to be in compliance with these regulations. A driver may be directed by the Board to undergo reasonable suspicion alcohol testing only while the driver is performing safety-sensitive functions, or just after the driver has ceased performing such functions.

Post Accident Testing

As soon as practicable following an accident, the county shall test for alcohol and controlled substances each surviving employee if the following conditions exist:

- ❖ The employee who was performing safety sensitive functions with respect to the vehicle, if and the accident involved the loss of human life; or
- ❖ The employee ~~who~~ receives a citation under State or local law for a moving traffic violation arising from the accident.
 - An alcohol test must be administered within eight (8) hours following the accident; and
 - A controlled substances test must be administered within thirty-two (32) hours following the accident.

Any employee subject to post-accident testing shall remain readily available for such testing or may be deemed to have refused to submit to testing.

Return-to-Duty Testing

Before an employer returns to the performance of safety-sensitive duties after engaging in conduct prohibited by this policy, he/she will be required to undergo an alcohol test with a result indicating an alcohol concentration level of less than 0.02 and a controlled substance test with a result indicating a verified negative result for controlled substance use.

Follow-up Testing

Follow-up testing will be done with employees for whom it has been determined that they are in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances. The number and frequency of such follow-up tests shall be directed by the substance abuse

professional and consist of at least six (6) tests in the first twelve (12) months following the employee's return to duty. Follow-up testing shall not exceed sixty (60) months from the date of the employees return to duty.

Drug Testing Procedures

The Board will designate collection sites which have necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, storage, and transportation of urine specimens to the certified drug laboratory as specified in 49 CFR, part 40. Laboratories conducting such tests will be certified by the National Institute of Drug Abuse (NIDA) and certified under the Department of Health and Human Services guidelines. The screening and confirmation values are subject to change, based on updates and DOT criteria. The initial testing will use an immunoassay for: PCP, Amphetamines, Cocaine, Marijuana, and Opiates. All specimens identified as positive on the initial test will be confirmed positive using gas chromatography/mass spectrometry (GC/SM). All test results will be forwarded to the Medical Review Officer in a confidential manner. The MRO will review both positive and negative test results to assure their accuracy and that the chain of custody is intact. Before a specimen is considered positive, the MRO will make contact with the donor to verify the test as being positive. Additional information about not being able to make contact with donor is covered in the Medical Review Officer section further into this policy.

Drug Specimen Procedures

Drug specimens will be collected at the designated collection site in concurrence with DOT regulations.

- ❖ The collection site person shall instruct the employees to provide at least 45 ml of urine under the split sample method of collection.
- ❖ If a collection container is used, the collection site person, in the presence of the donor, pours the urine into two specimen bottles: Thirty (30) ml shall be poured into one bottle, to be used as the primary specimen. At least fifteen (15) ml shall be poured into the other bottle, to be used as the split specimen.
- ❖ If a single specimen bottle is used as a collection container, the collection site person shall pour thirty (30) ml of urine from the specimen bottle into a second specimen bottle (to be used as the primary specimen) and retain the remainder (at least fifteen [15] ml in the collection bottle to be used as the split specimen).
- ❖ Both bottles shall be shipped in a single shipping container, together with copies 1, 2, and the split specimen copy of the chain or custody form, to the laboratory.
- ❖ If the test results of the primary specimen are positive, the employee may request that the MRO direct that the split specimen be tested in a different DHHS-certified laboratory for presence of drug(s) for which a positive result was obtained in the test of the primary specimen. The MRO shall honor such a request; it is made in writing, within 72 hours of the employee having been notified of a verified positive test result.
- ❖ When the MRO informs the laboratory in writing that the employee has requested a test of the split specimen, the laboratory shall forward, to a different DHHS-approved laboratory, the split specimen bottle, with seal intact, a copy of the MRO request, and the split specimen copy of the chain of custody form with appropriate chain of custody entries.

- ❖ The result of the test of the split specimen is transmitted by the second laboratory to the MRO.
- ❖ Removal from performing a safety-sensitive function is not stayed, pending the result of the test of the split specimen
- ❖ If the result of the test of the split specimen fails to reconfirm the presence of the drugs(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test, and report the cancellation and the reasons for it to the employer, the employee, and the DOT.

Medical Review Officer/Review and Reporting Test Results

The Preston County Board of Education has retained Preston Memorial Hospital, an approved Medical Review Officer, to review and verify the validity of all test results and to authorize re-analysis of a specimen to determine the accuracy of the reported result when appropriate. The Medical Review Officer will act in accordance with the guidelines for Medical Review Officer, as set up by the Department of Transportation, and with the Standard Operating Procedure Manual on file at the County Office.

Negative Results: In the area of negative results, the MRO's position is purely administrative. All negative results will be reviewed by the MRO and reported as such to the county designate.

Positive Results: Prior to reporting as verified positive, the MRO will give the individual an opportunity to discuss the test. The MRO will review, interpret, and verify positive test results. He will be responsible for examining alternative medical and biochemical explanations. Such action and review may include conducting a medical interview, medical history, or reviewing other relative factors. The MRO is responsible for directly contacting the individual, on a confidential basis, to review test results. If after making all reasonable efforts and documenting such, the MRO is unable to reach the Individual directly, the MRO will contact the board designate, who will direct the individual to contact the MRO as soon as possible. If these efforts are unsuccessful, the Board will remove the employee from the safety-sensitive position.

Under the following circumstances, the MRO may verify a test as positive without having communicated directly with the individual:

- ❖ The employee expressly declines the opportunity to discuss the results with the MRO.
- ❖ The MRO may verify a test as positive after five (5) days if the Board has contacted or made a reasonable effort to contact the employee but the employee did not contact the MRO.

The employer shall notify a driver of the results of a pre-employment controlled substance test if the driver requests such results within sixty (60) calendar days of being notified of the disposition of the employment application. The employer shall notify a driver of the results of the random, reasonable suspicion and post-accident tests for controlled substances if the results are verified as positive. The employer shall also inform the driver as to which controlled substance(s) were verified as positive.

Consequences of Positive Drug Testing

An employee testing positive for a controlled substance or refusing to submit to a drug test will be immediately removed from their safety-sensitive position. Said employee will be suspended from employment, without pay, and recommended for dismissal per the school laws of West Virginia.

Alcohol Testing Procedures

The Preston County Board of Education will designate collection sites which have necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, and storage of information, as specified in 49 CFR, part 40. Persons conducting such tests will be called breath alcohol technicians, as defined by the Department of Transportation. Because alcohol is a legal substance, the rules define specific prohibited alcohol-related conduct. Performance of safety-sensitive functions is prohibited:

- ❖ while having an alcohol concentration of 0.04 or greater, as indicated by breathe test;
- ❖ while using alcohol;
- ❖ within four (4) hours after using alcohol;
- ❖ if the employee refuses to submit to an alcohol test; or
- ❖ if the employee uses alcohol within eight (8) hours after an accident, or until tested.

In order for an individual to have a verified positive, two (2) tests are required. If the initial test registers an alcohol concentration of less than 0.02, the test is considered "negative" and nothing else is required. If an Individual has an alcohol concentration of 0.02 or greater a second or confirmation test is required. This test must be performed using an evidential breath device (EBT) that prints the results, date and time, a sequential test number, and the name and serial number of the EBT, to ensure the reliability of the results. The confirmation test results determine any action taken.

Prohibitions

- ❖ No driver shall report to duty or remain on duty requiring the performance of safety-sensitive function
 - while having an alcohol concentration of 0.04 or greater;
 - while in possession of alcohol;
 - while using alcohol or any controlled substance, except when the use of the controlled substance is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle;
 - within four (4) hours after using alcohol.
- ❖ No driver required to take a post-accident test shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.
- ❖ No driver shall perform a safety-sensitive function if the driver refuses to submit to a required alcohol or controlled substances test.

- ❖ No driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following the administration of the test.

Consequences of Positive Alcohol Testing

If a subject employee has an alcohol concentration level of 0.02 or greater but less than 0.04 s/he is to be removed from safety-sensitive duties until the start of his/her next regularly scheduled duty period, but not less than 24 hours following the administration of the test.

If an individual registers a concentration of 0.04 or greater, they must be immediately removed from any safety-sensitive duties. If an employee has an alcohol concentration of 0.04 or greater, the employee cannot return to work in a safety-sensitive function until (1) evaluated, (2) treated, if required by substance abuse professional, and (3) retested with a result below 0.02. Disciplinary action, up to and including dismissal, will be initiated.

Consequences for Refusing to Submit to Testing

- ❖ The Preston County Board of Education may not employ any person who fails the drug or alcohol test specified in this policy. Refusal to submit to testing or to sign appropriate consent forms will be considered a positive test. The following will be considered as refusal to submit to testing.
- ❖ Failure to provide adequate breath or urine for testing when required without a valid medical explanation;
- ❖ Engaging in conduct which clearly obstructs the testing process;
- ❖ Failure to sign the alcohol testing form if the employee did not take the test; or
- ❖ Leaving the scene of an accident requiring testing before being tested and not being reasonably available for testing (except, for example, when necessary to receive medical treatment);
- ❖ A refusal can also occur where an employee who screens positive for alcohol admits alcohol misuse in violation of the rules and refuses a confirmation test.

Record keeping

Documentation of all results will be maintained in separate and secure files. The regulations require that the following records be maintained for five (5) years:

- ❖ Driver alcohol test results indicating concentration of 0.02 or greater;
- ❖ Driver verified positive controlled substance test results;
- ❖ Refusals to take required alcohol and/or controlled substance tests;
- ❖ Calibration documentation of EBT's;
- ❖ Driver evaluation and referrals; and
- ❖ Annual calendar year summaries.

Records related to the alcohol and controlled substances collection process (except calibration of EBT's) and training shall be maintained for two (2) years. Records of negative and canceled controlled substance test results and alcohol test results with a concentration of less than 0.02 must be maintained for a minimum of one (1) year.

Confidentiality

The Board policy is to ensure confidentiality in the application of this program. Results will not be released without the expressed authorization of the tested individual except upon request by the appropriate supervisor, MRO or DOT. All drug and alcohol testing records will be stored in a secure location, as designated by the Board, in the Board's offices. Such records will not be made part of the individual's personnel files. Results of testing will not be released to subsequent employers unless written consent is given by the individual. Each employee may also have access to their individual records upon written request.

The information maintained in-the employee's file will include the following:

- ❖ Employee submitting to a drug test and type of test.
- ❖ Collection date.
- ❖ Collection location.
- ❖ Identity of person performing the test, collection, analysis, and MRO.
- ❖ Test results. If a test result for controlled substance is positive, the identity of the drug for which the test was verified positive will be maintained.

All such reports will be retained by the school system for five (5) years, with the exception of one (1) year limitation for negative results. The MRO is responsible for maintaining records for a period of five (5) years.

[Home](#)

R 8-8-1 Defeating Drug/Alcohol Screening Tests (Criminal Penalties)

Criminal penalties may be imposed upon persons who:

- ❖ Knowingly 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;
- ❖ Attempts to defeat a drug or alcohol screening test by the substitution of a false sample;
- ❖ Knowingly 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;
- ❖ Adulterates a bodily fluid sample with the intent to defeat a drug or alcohol screening test;
- ❖ Knowingly possesses adulterants for the purpose of defeating a drug or alcohol screening test;
or

- ❖ Knowingly 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.

A person who violates a provision of §60A-4-412(a):

- ❖ For a first offense is guilty of a misdemeanor and, upon conviction, shall be fined not more than one thousand dollars (\$1,000);
- ❖ For a second offense is guilty of a misdemeanor and, upon conviction, be fined not more than five thousand dollars (\$5,000);
- ❖ For a third or subsequent offense is guilty of a misdemeanor and, upon conviction, be fined not more than ten thousand dollars (\$10,000) or confined in the regional jail for not more than one year, or both.

As defined in the code, "adulterate" means a substance that is not expected to be in human fluids but that is a concentration so high that it is not consistent with human bodily fluids, including, but not limited to: Bleach; chromium; creatinine; detergent; glutaraldehyde; glutaraldehyde/squalene; hydrochloric acid; hydroiodic acid; iodine; nitrite; peroxidase; potassium dichromate; potassium nitrate; pyridinium chlorochromate; and sodium nitrite.

(WVC §60-4-412 (a)(b))

[Home](#)

Adopted: January 12, 1995
Amended/Revised: June 28, 2010