

**MIDDLETON SCHOOL DISTRICT #134 POLICY
AND PROCEDURE MANUAL
SECTION 8000 – Non Instructional Operations
BUS DRIVER DRUG, ALCOHOL TESTING PROGRAM
AND TOBACCO FREE ENVIRONMENTPOLICY 8044**

The Middleton School District utilizes a contracted student transportation provider. The contracted student transportation provider is required to follow all the state and federal rules and regulations regarding student transportation.

This School District has an interest in establishing a work environment free from the influence of drugs and alcohol for the benefit of its contracted student transportation provider bus drivers, students and the public. This policy is adopted to ensure that the contracted student transportation provider’s bus drivers are free from the effects of drugs and alcohol while at work or on District business. Questions pertaining to this policy will be directed to the Superintendent or his/her designee.

The District maintains tobacco free buildings and grounds. Use of tobacco will not be allowed in any buildings, grounds, or on any school property, buses, vans, or vehicles that are owned, leased, or controlled by the District. Nor will employees be allowed to use tobacco while on duty. New employees of the District will be hired with the understanding that they will be directed not to use tobacco in school buildings or grounds or on any school property, buses, vans, or vehicles that are owned, leased, or controlled by the District. Limitations or prohibitions on tobacco use are applicable to *all* hours. For the purposes of this policy, tobacco use shall be defined as the use of a cigarette, cigar, pipe, smokeless tobacco in any form, and other smoking products specifically including electronic cigarettes, electronic nicotine delivery systems, or vaporizer smoking devices.

DEFINITIONS

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

Alcohol use: The consumption of any beverage, mixture or preparation, including any medication containing alcohol.

Alcohol screening test: An analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system. In controlled substance testing, it means an immunoassay screen to eliminate “negative” urine specimens from further consideration.

Confirmation test: A second test, following a screening test with a result of point zero two (0.02) or greater, that provides quantitative data of alcohol concentration. For controlled substances testing, confirmation test means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and

accuracy. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

Bus Driver / Driver: Any person operating a school bus owned or operated by the contracted student transportation service provider. This includes full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

Safety-sensitive function: Any activity by a contracted student transportation provider's bus driver during any period in which he/she is actually performing, ready to perform, or immediately available to perform bus driving duties.

Refusal to submit to a test means that a driver:

1. Fails to provide adequate breath for testing without a valid medical explanation;
2. Fails to provide adequate urine without a valid medical explanation;
3. Engages in conduct that clearly obstructs the testing process.

PROHIBITIONS

A bus driver for the contracted student transportation service provider's will not:

1. Report to duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of point zero four (0.04) or greater.
2. Be on duty or operate a school bus while in possession of alcohol.
3. Use alcohol while performing safety-sensitive functions.
4. Perform safety-sensitive functions within four (4) hours after using alcohol.
5. Use alcohol for eight (8) hours following an accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
6. Refuse to submit to a post-accident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, or a follow-up alcohol or controlled substances test.
7. Report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substances, except when the use 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 school bus.

8. Report for duty, remain on duty, or perform a safety-sensitive function if he/she tests positive for controlled substances.

REQUIRED TESTING

Pre-employment Testing

Prior to performing any safety-sensitive functions, a bus driver will undergo testing for alcohol and controlled substances. The test results from the pre-employment testing must show an alcohol concentration of less than point zero four (0.04), and a controlled substances test result indicating a verified negative result before a bus driver will be allowed to operate a school bus.

Baseline Testing

This District requires the contracted student transportation provider to have all their bus drivers submit to testing for the presence of alcohol and/or controlled substances within thirty (30) days after the effective date of this policy.

Post-accident Testing

As soon as practicable following an accident involving a school bus, the contracted student transportation provider's bus driver operating the bus involved in the accident will be tested for alcohol and controlled substances if:

1. The accident involved the loss of human life;
2. Personal injury to another person required medical treatment away from the scene of the accident;
3. The bus driver incurred an injury;
4. Damage to property owned by the School District or a third party is estimated to exceed one thousand dollars (\$1,000); or
5. The bus driver received a citation for a moving traffic violation arising from the accident.

A contracted student transportation provider's bus driver involved in a work-related accident requiring medical attention will inform his or her supervisor as soon as possible after the accident. Any needed alcohol or controlled substances tests may be promptly conducted in conjunction with his or her medical treatment. A bus driver who is injured in a work-related accident and is unable to provide a specimen for testing will authorize the release of relevant hospital reports or other documentation indicating the presence, or lack of, alcohol or controlled substances at the time of the accident.

A contracted student transportation provider's bus driver subject to post-accident testing will remain readily available for such testing or may be deemed by the School District to have refused to submit to testing.

A post-accident test for alcohol will be administered within two (2) hours following the accident if possible. No test for alcohol will be administered after eight (8) hours following the accident. A post-accident controlled substance test will be administered within thirty-two (32) hours following the accident.

If it is determined by the contracted student transportation provider and/or the District's administration that a bus driver's accident was caused solely by unsafe conditions or by the actions of a third party, the School District reserves the right to waive post-accident testing unless the accident involved the loss of human life or the bus driver received a citation for a moving traffic violation arising from the accident.

Random Testing

A random test is a test that is unannounced and results in every contracted transportation service provider's bus driver having an equal chance of being selected for testing at any given time. The random selection method used by this contracted transportation service provider and/or this District will consist of placing all drivers' names into a hat and a name will be pulled out at intervals chosen by the contracted transportation supervisor or District Superintendent or his/her designee. Such random testing may result in a driver being tested more than once a year.

The minimum annual percentage rate for random alcohol testing will be twenty-five (25) percent of the average number of bus driver positions. The minimum annual percentage rate for random controlled substances testing will be fifty (50) percent of the average number of bus driver positions. The minimum annual percentage rates set forth may change based upon the Federal Highway Administration's yearly minimum annual percentage rates.

Each contracted transportation service provider's bus driver notified that he/she has been selected for random alcohol and/or controlled substances testing will immediately go to the testing site; provided, however, that if the bus driver is performing a safety-sensitive function at the time of the notification, the driver will proceed to the testing site as soon as possible.

A contracted transportation service provider's bus driver will only be tested for alcohol while the driver is performing safety-sensitive functions, just before the bus driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

Reasonable Suspicion Testing

A contracted transportation service provider's bus driver will be required to submit to an alcohol test and/or a controlled substances test when the transportation supervisor and/or the District has reasonable suspicion to believe that the bus driver has violated this policy. The District's

determination that reasonable suspicion exists to require the bus driver to undergo an alcohol and/or controlled substances test will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the bus driver.

Such observations will be made by the contracted student transportation provider or District official having received a minimum of sixty (60) minutes of training on alcohol misuse and a minimum of sixty (60) minutes of training on controlled substance use. Said training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. The individual making the determination that reasonable suspicion exists will not conduct such tests.

A reasonable suspicion alcohol test is authorized only if the observations are made during, just preceding, or just after the period of the workday that the contracted student transportation provider's bus driver is required to be in compliance with this policy. No adverse employment action will be taken against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test.

DRUG TESTING PROCEDURES

The drug testing procedures will include, but not be limited to, the following controlled substances:

1. Cocaine;
2. Marijuana;
3. Opiates;
4. Amphetamines; and
5. Phencyclidine.

Urine samples collected under this policy will not be used to conduct any other analysis or test.

The collection site person is responsible for maintaining the integrity of the specimen collection and transfer process, and will carefully ensure the modesty and privacy of the driver, and will avoid any conduct or remarks that might be construed as accusatorial or otherwise offensive or inappropriate.

If, during the specimen collection process, the collection site person detects an effort by the driver to adulterate or substitute a specimen, a second specimen will be requested. If a second specimen is provided both will be tested. If the contracted student transportation provider's bus driver refuses to provide a second specimen the District will be so informed. Such conduct will be considered equivalent to testing positive and will result in an applicant not being offered

employment with the District's contracted student transportation provider. A bus driver will have his or her employment with this District's contracted student transportation provider terminated in such a circumstance.

The entity or person(s) designated by this contracted student transportation provider or the District to perform alcohol testing procedures and/or the specimen collection and analysis will strictly follow the Department of Transportation's rules, provide the necessary qualified personnel, protect the integrity of the testing processes, safeguard the validity of the test results. Maintain the strict confidentiality of the testing and test results with disclosure only to the employer and the employee, and ensure that those results are attributed to the correct driver.

RETENTION OF RECORDS

The following records will be retained by contracted student transportation provider for five (5) years:

1. Records of driver alcohol test results indicating an alcohol concentration of point zero two (0.02) or greater;
2. Records of driver verified positive controlled substances test results;
3. Documentation of refusals to take required alcohol and/or controlled substances tests;
4. Calibration documentation;
5. Driver evaluation and referrals; and
6. A copy of each annual calendar year summary.

The following records will be retained for two (2) years:

1. Records related to the alcohol and controlled substances collection process; and
2. All training records.

The following records will be retained for one (1) year:

1. Records of negative and canceled controlled substances test results; and
2. Alcohol test results with a concentration of less than point zero two (0.02).

CONFIDENTIALITY OF RECORDS

This District's contracted student transportation provider or the District will not release bus driver information compiled pursuant to this policy except in the following circumstances:

1. A bus driver, upon written request, is entitled to receive copies of any records pertaining to the driver's use of alcohol or controlled substances, including records of test results.
2. Results of all bus driver alcohol and/or controlled substances testing will be provided at the request of the Secretary of Transportation (DOT), any DOT agency, or any State or local officials with regulatory authority over the District or any of its bus drivers.
3. Records may be used in a lawsuit, grievance, worker's compensation claim, unemployment compensation, or other proceeding initiated by or on behalf of a bus driver, and arising from the results of an alcohol and/or controlled substance test administered under this policy.
4. Records will be made available to a subsequent employer or other identified person upon receipt of a written request from a bus driver. The release of information is permitted only in accordance with the terms of an employee's consent.

NOTIFICATION OF TEST RESULTS

This District's contracted student transportation provider will notify a bus driver of the results of a pre-employment controlled substances test if the bus driver requests the results within sixty (60) calendar days of being notified of the disposition of the employment application.

This District's contracted student transportation provider will notify a bus driver of the results of random, reasonable suspicion, and post-accident tests for controlled substances if the test results are verified positive. The employee will also be informed which controlled substance or substances were verified as positive.

In those instances where the medical review officer has been unable to contact the driver to discuss the results of a controlled substances test, the Superintendent or his/her designee will make reasonable efforts to contact and discuss the test results with the individual, regardless of employment status. The contracted student transportation provider, Superintendent or his/her designee will request that the individual contact the medical review officer within twenty-four (24) hours, and will also inform the medical review officer of such notification.

Each driver who has engaged in conduct which violates this policy will be advised of the resources available to the driver in evaluating and resolving the problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

Each driver who engages in conduct which violates this policy will be evaluated by a substance abuse professional, at the driver's own expense, who will determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substances use.

SELF-REFERRAL

All bus drivers employed by this District's contracted student transportation provider who may consider themselves alcohol or controlled substances dependent will be encouraged to obtain an evaluation by a licensed substance abuse professional and seek treatment, if so recommended. This District's contracted student transportation provider will provide informational assistance in locating professional substance abuse counseling to any driver requesting such assistance.

Bus drivers undergoing alcohol or controlled substances rehabilitation will do so at their own expense (other than those expenses covered by the contracted student transportation provider's insurance program), on their own time, or during an unpaid leave of absence approved by the District prior to taking the leave.

Any contracted student transportation provider's bus driver who demonstrates successful progress or completion of a recommended course of treatment may return to work only after passing an alcohol and/or controlled substances test at the driver's expense. Any such driver will be expected to comply with all aspects of this policy.

POLICY VIOLATION CONSEQUENCES

Any individual who tests positive in the pre-employment test for alcohol (point zero four (0.04) or higher) or controlled substances will not be offered employment with this District. Any bus driver who tests positive for alcohol (point zero four (0.04) or higher) or controlled substances will have his or her employment with this District's contracted student transportation provider terminated.

No driver tested under this policy who is found to have an alcohol concentration of point zero two (0.02) or greater, but less than point zero four (0.04), will perform or continue to perform safety-sensitive functions for this District's contracted student transportation provider, until the start of the driver's next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the test. No action will be taken under this policy against a driver based solely on test results showing an alcohol concentration less than point zero four (0.04).

The possession, use, purchase, or distribution of alcohol or controlled substances by a bus driver in a contracted student transportation provider's vehicle, on District property, or during work hours is prohibited. Any bus driver who violates this prohibition will have his or her employment with this District's contracted student transportation provider terminated.

A contracted student transportation provider's bus driver's off-the-job illegal use, manufacture, purchases, possession, or distribution of controlled substances, drug paraphernalia, or illegal use of alcohol resulting in criminal charges against the driver will result in the driver being requested to submit to alcohol and/or controlled substances testing. If the tests are positive, the driver will

fall within the provisions of this policy. If a bus driver is convicted of the above-stated offense, the driver will have his or her employment with this District terminated.

Any driver who refuses to be tested, or fails to release or provide information as required by this policy, will have his or her employment with this District's contracted student transportation provider terminated.

CONCLUSION

The terms of this Transportation Workplace Alcohol and Drug Testing Program are intended to achieve a work environment where bus drivers are free from the effects of alcohol and/or controlled substances. The provisions of this policy may be revised as necessary. This District anticipates that by implementing the provisions of this policy, its drivers will enjoy the benefits of working in a safer and more productive environment.

Further information is available from the Superintendent or his/her designee concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem of a driver or a coworker; and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program, and/or referral to management.

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POLICY/PROCEDURE REFERENCE:

8042 Bus Driver Conduct

LEGAL REFERENCE:

The Omnibus Transportation Employee Testing Act of 1991

PL 102-143

49 C.F.R. Parts 40 and 382

Idaho Private Employer Alcohol and Drug-Free Workplace Act

Idaho Code Section 72-1701, *et seq.*

ADOPTED: 05/13/03 (Implementation July 2003)

REVISED: 07/10/07

REVISED: 03/10/14