

[X] **Required**
 [] Local
 [X] Notice

ALCOHOL AND DRUG TESTING OF DRIVERS

The BOCES Board recognizes the dangers inherent in alcohol and controlled substance use by employees, especially those in safety-sensitive positions. To ensure the safety of its students and to comply with federal regulations, the Board requires alcohol and controlled substance testing of certain employees, mainly “drivers”.

A “driver” is defined as any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

The BOCES shall directly, by contract, or through a consortium, implement and conduct a program to provide alcohol and controlled substance testing of employees who operate a commercial motor vehicle, perform in a safety-sensitive position, and are required to hold a commercial driver’s license. Such employees include:

1. drivers of vehicles designed to transport 16 or more passengers, including the driver;
2. drivers of commercial motor vehicles whose manufacturer’s rating is 26,001 lbs. or more; or
3. any other employee who may drive or service a listed vehicle (e.g. a mechanic who performs test drives, repairs, inspects, or loads or unloads a listed vehicle).

Controlled substance and alcohol tests* will be conducted at the time of employment and randomly throughout the school year. In addition, testing will be conducted when a supervisor has a reasonable suspicion that an employee has engaged in prohibited alcohol or controlled substance use; after certain accidents; prior to return to duty when the employee has been found to violate BOCES policy and federal regulations; and after the employee’s return to duty.

In accordance with federal and state law, a driver will not be permitted to drive if he or she:

1. possesses, consumes or is reasonably believed to possess or have consumed alcohol or a controlled substance, while on duty;
2. uses or is under the influence of alcohol or a controlled substance within six hours or less before duty;
3. has an alcohol concentration of 0.02 or higher, or tests positive for a controlled substance; or
4. refuses to take a required alcohol or controlled substance test.

Also, no driver shall use alcohol after being involved in an accident in which there was a fatality or in which the driver was cited for a moving violation and a vehicle was towed from the scene or an injury was treated away from the scene until he/she has been tested or 8 hours have passed, whichever occurs first.

Any employee who is tested and found to have an alcohol concentration of at least 0.02, but less than 0.04, shall be removed from the position until his or her next regularly scheduled duty period, but not less than 24 hours following administration of the test. Any employee found to have violated this

requirement may be disciplined in accordance with the provisions of the applicable collective bargaining agreement, BOCES policy, and/or law.

If a driver has an alcohol concentration of 0.04 or greater, or has engaged in prohibited alcohol or controlled substance use, he or she will be removed from driving duties, and referred to a substance abuse professional. The employee may be required to complete a treatment program and/or be disciplined pursuant to BOCES policy and/or collective bargaining agreement. No driver who has abused controlled substances and/or alcohol may return to duty unless he/she has successfully passed a required return to duty test. Thereafter, the driver will be subject to follow-up testing. Violation of this policy shall constitute just cause for discipline including discharge.

Should the BOCES receive a dilute test result in which the creatinine concentration is greater than 5mg/dL in the case of any pre-employment, return-to-duty, follow-up, reasonable suspicion, or random test, it is the policy of the BOCES that the individual shall be re-tested and that re-test will become the test of record.

The District Superintendent shall ensure that a copy of this policy, the BOCES' policy on misuse of alcohol and use of controlled substances, information on alcohol and drug abuse and treatment resources and any other information prescribed by federal regulations is provided to all drivers and prior to the initiation of the testing program and to each driver subsequently hired or transferred to a position subject to testing.

The Driver Alcohol and Drug Testing Program is administered by the Supervisor of Operations and Maintenance. This person is designated by the District Superintendent to answer questions concerning materials and other information provided to drivers about this program.

Cross-ref: 8414.1, Driver Qualifications and Training
9320, Drug-Free Workplace
9610, Staff Substance Abuse

Ref: Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§31136; 31306
49 U.S.C. §521(b)
49 CFR Part 391
49 CFR Part 382
49 CFR Part 40
49 CFR §395.2
Vehicle and Traffic Law §§509-1; 1192; 1193
Will v. Frontier CSD Bd. of Educ., 97 N.Y.2d 690 (2002)

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