

**STAFF CONDUCT
SUBSTANCE ABUSE/MISUSE PROCEDURES
SAFETY-SENSITIVE POSITIONS**

I. APPLICABLE FEDERAL REGULATIONS.

- A. The Department of Transportation (DOT), through its Operating Administration of the Federal Highway Administration (FHWA), enacted federal regulations 49 CFR Parts 382 et al (FHWA) as amended, that mandate urine drug and breath alcohol testing for safety-sensitive positions and prevent performance of safety-sensitive functions when there is a positive test result and/or reasonable suspicion of use/misuse. The DOT enacted 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
- B. In addition to the above-referenced regulations, this policy includes sections of specific reference, as notated, to the Drug-Free Workplace Act of 1988 and the Americans with Disabilities Act of 1990.

II. DEFINITIONS.

- A. Safety-Sensitive Function shall be as set forth herein.
- B. Covered Employee.
 - 1. Any person, including a volunteer, applicant or transferee, who performs a safety-sensitive function for the school district, including students and instructors in the trucking program at Western Dakota Technical Institute.
- C. Substance Abuse Professional (SAP).
 - 1. A licensed physician or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission, with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders.
- D. Breath Alcohol Technician (BAT).
 - 1. An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

- E. Evidential Breath Tester (EBT).
 - 1. A device approved by the National Highway Traffic Safety Administration for the evidential testing of breath.
- F. Medical Review Officer (MRO).
 - 1. A licensed physician responsible for receiving laboratory results who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate a confirmed positive test result.
- G. Accident.
 - 1. Any occurrence involving a vehicle in which (1) a death occurs, (2) an individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident, or (3) one or more vehicles involved in the accident incurs disabling damage and must be towed from the accident scene and a citation must be given.

III. CATEGORIES SUBJECT TO TESTING.

- A. Participation in the prohibited substance testing program is a requirement of each safety-sensitive position and is a condition of employment (See Appendix A - Job Classifications). The following positions are subject to the contents of this policy and the defined provisions of the federal regulations:
 - 1. Operation of a school bus which has a capacity of greater than fifteen (15) passengers.
 - 2. Operation of any vehicle when required to be operated by the holder of a commercial driver's license.
 - 3. Contractor employees that drive school buses or any vehicle when required to be operated by the holder of a Commercial Driver's License.

IV. PROHIBITED SUBSTANCES.

- A. Illegal Substances. The use of the following illegal substances is prohibited:
 - 1. Marijuana.
 - 2. Amphetamines.
 - 3. Opiates.
 - 4. Cocaine.
 - 5. Phencyclidine (PCP).

B. Alcohol.

1. The use and misuse of beverages containing alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl or isopropyl alcohol, is prohibited within specified time limits. Alcohol concentration is expressed in terms of grams of alcohol per 210 liters of breath as indicated by an EBT. This prohibition includes the use of any alcohol-based over-the-counter or prescribed medications.

C. Legal Drugs.

1. The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited so long as the use of same conforms to the requirements of this policy. The use of any non-prescription medication which carries a warning label indicating that mental functioning, motor skills, or judgment may be adversely affected must be reported to supervisory personnel and medical advice must be sought, as appropriate, before performing safety-sensitive functions.

2. A person physically qualified to drive a commercial vehicle if that person:

Does not use a controlled substance identified in 21 CFR 1308.11, Schedule I, an amphetamine, a narcotic, or any other habit-forming drug.

A driver may use a substance or drug, if the substance or drug is prescribed by a licensed medical practitioner who is familiar with the driver's medical history and assigned duties; and has advised the driver that the prescribed substance or drug will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

V. PROHIBITED CONDUCT.

A. Alcohol Use. No covered employee will:

1. Report for duty or remain on duty when his/her ability to perform assigned safety-sensitive functions is adversely affected by alcohol or when his/her alcohol concentration is 0.04 or greater.
2. Use alcohol while on duty or while performing safety-sensitive functions.
3. Have used alcohol within four hours of reporting for duty.

B. Employee Self-Identification.

1. If a covered employee has consumed alcohol within four (4) hours prior of performing a safety-sensitive function, the employee may state, prior to performing any safety-sensitive function, he/she has consumed alcohol and indicate whether or not he/she is able to perform a safety-sensitive function.
2. If the employee believes he/she is not capable of performing the function, the supervisor will excuse the employee from doing so. If, however, the employee believes he/she is capable of performing the function, the employee will be tested and allowed to perform the function if the concentration level measures less than 0.02. If the concentration level measures greater than 0.02 but less than 0.04, the employee will be allowed to perform the function only if a retest is conducted and the concentration level measures less than 0.02. If the employee is not retested, he/she must wait until 8 hours have elapsed before resuming the performance of a safety-sensitive function. To encourage employees to admit that alcohol has been consumed, they will not be subject to the consequences specified herein provided such an admission is made prior to performing any safety-sensitive function. If an on-call employee does not indicate that he/she has consumed alcohol and exhibits signs of alcohol misuse, the employee may be subject to reasonable suspicion testing. If the test indicates a concentration level at 0.04 or greater, the employee will be subject to the consequences of violating this policy.

C. Drug Use.

1. The consumption of illegal drugs is prohibited at all times.

D. Impaired Covered Employees.

1. Any covered employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty will not be allowed to commence job duties and/or will be suspended from job duties pending an investigation and verification of the employee's condition. Any covered employee found to be under the influence of prohibited substances will be removed from duty and will be required to subject to the appropriate drug or alcohol test. A drug or alcohol test will be considered positive if the covered employee is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

E. Manufacture, Trafficking, Possession, and Use.

1. In accordance with the Drug-Free Workplace Act of 1988, any employee engaging in the manufacture, distribution, dispensing, possession, or use of prohibited substances while in the performance of job duties will be subject to disciplinary action up to and including termination. Law enforcement will be notified, as appropriate, where criminal activity is suspected.

VI. CIRCUMSTANCES FOR TESTING.

A. All covered employees will be subject to testing at the times prescribed as follows:

1. Pre-employment and Pre-transfer into Safety-Sensitive positions.
2. Alcohol. Any time prior to the first time a covered employee performs a safety sensitive function, the covered employee will be required to submit to a breath alcohol test with a result indicating an alcohol concentration of less than 0.04. If a test result indicates an alcohol concentration of 0.02 or greater but less than 0.04, the provisions of this procedure will apply.
3. Drugs. An applicant will be required to take a drug test for the screening of illegal drugs and the drug test must produce a verified negative result. No current employee may transfer from a non-safety-sensitive function to a safety-sensitive function until the employee takes a drug test with a verified negative result. If an applicant or employee drug test is canceled, the applicant or employee will be required to take another pre-employment drug test before he/she will be offered employment or transfer.
4. Pre-employment test if employee out of pool for thirty (30) days.

B. Random Testing. Random testing will be unannounced, conducted on all days and hours safety-sensitive functions are performed and spread throughout the calendar year as follows:

1. Random Test Selection.
 - a. Random test selection will be made by a scientifically valid method by either the school district or an appropriate consortium that is matched with covered employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process, each covered employee will have an equal chance of being tested each time selections are made.

2. Alcohol.

- a. The school district will randomly test identified covered employees at a minimum annual rate as established by the DOT. A covered employee will be randomly tested:
 - 1) Just before the employee is to perform a safety-sensitive function.
 - 2) While the employee is performing a safety-sensitive function.
 - 3) Just after the employee has ceased performing such functions.
 - 4) When the selected employee is not scheduled to perform a safety-sensitive function but may be called upon to do so at any time during the work shift.
- b. Upon notification of selection for random testing, the covered employee must immediately proceed to the test site.

3. Drugs.

- a. The school district will randomly test identified covered employees at an annual rate as established by the DOT. Upon notification of selection for random testing, the covered employee must immediately proceed to the test site.

C. Reasonable Suspicion.

- 1. The school district will conduct an alcohol and/or drug test when there is reasonable suspicion to believe that a covered employee has violated the prohibitions of this policy. The determination of reasonable suspicion must be made by a supervisor who is trained in detecting the signs and symptoms of alcohol misuse and drug abuse and must be based upon specific, immediate, and clearly obvious observations concerning the appearance, behavior, speech, or body odors of the covered employee. At no time will the supervisor who makes a reasonable suspicion determination be allowed to conduct a drug and/or alcohol test.

2. Alcohol. Testing is authorized if the observations of suspected misuse are made just preceding, during, or just after the performance of a safety-sensitive function and the directive to submit to the test will only be at these defined times. If the test is not performed within 2 hours of determination of reasonable suspicion, a report must be prepared by the supervisor and filed with the Office of Human Resources stating the reason the test was not administered promptly. Attempts to test must continue up until 8 hours have elapsed. If a test is not administered within 8 hours following determination, the attempts to administer the test will cease and the reasons for not obtaining the test recorded. Regardless of the absence of the test, the supervisor must not permit a covered employee to report for duty, remain on duty, nor perform or continue to perform safety-sensitive functions while the covered employee is under the influence of or impaired by alcohol until:
 - a. An alcohol test is administered and the alcohol concentration is less than 0.02.
 - b. The start of the covered employee's next regularly scheduled duty period, but not less than 8 hours following the determination of reasonable suspicion.
3. Drugs. Testing is authorized at any time the covered employee is on duty if the observations are made within the defined parameters by a trained supervisor. When directed to submit to a drug test, the covered employee must proceed to the drug testing facility. As soon as practicable after receiving notice from the MRO that the covered employee has a verified positive drug test result, or if the covered employee refuses to submit to a drug test, the supervisor must require that the covered employee cease performance and/or not allow the performance of any safety-sensitive function. Before the employee is allowed to resume performance of safety-sensitive functions, the employee must meet the requirements of return to duty drug testing with a verified negative result.

D. Post Accident.

1. Fatal Accidents.
 - a. As soon as practicable following an accident in which a death occurs, each surviving covered employee on duty in the vehicle and any other covered employee whose performance could have contributed to the accident, as determined using the best information available at the time of the decision, will be tested for drugs and alcohol.

2. Nonfatal Accidents—Alcohol.
 - a. All covered employees will be tested for alcohol under the following circumstances:
 - 1) When one or more vehicles is disabled and requires a tow from the scene or if a person receives medical attention away from scene and:
 - a) the covered employee has been issued a citation under state or local laws for a moving traffic violation.
 - b. If no citation is issued within eight (8) hours, no alcohol test is required.
3. Nonfatal Accidents—Drugs.
 - a. The same parameters outlined for alcohol herein above apply to testing for drugs in a nonfatal accident with the exception of the time constraints. A covered employee subject to drug testing will be tested as soon as practicable but within 32 hours of the accident.
4. Availability For Testing.
 - a. Any covered employee subject to testing under this section and who fails to remain readily available for testing, including notification of his/her location if departing the scene of the accident prior to submission to a test, may be deemed to have refused to submit to testing. This will not be construed to require the delay of necessary medical attention for injured people or to prohibit a covered employee from leaving the scene for a period necessary to obtain assistance in responding to the accident or to obtain emergency medical care.

E. Return to Duty.

1. Before assuming duties in a safety-sensitive position, any covered employee who has violated the prohibitions concerning the use/misuse of alcohol or substance abuse and has previously tested positive on a drug or alcohol test will undergo a return to duty test with a verified negative result. All return-to-duty test collections will be completed employing direct observation of the specimen collection by a member of the same gender as the employee. Direct observation will require the donor to reveal to the observer that no prosthetic devices or other cheating devices are being utilized.

F. Follow-up Testing.

1. Any covered employee who has tested positive for drugs or alcohol and has been evaluated by an SAP must undergo follow-up unannounced testing for a minimum period of 12 months up to a maximum period of 60 months and will be required to have verified negative test results. The frequency and duration of follow-up testing will be recommended by the SAP as long as a minimum of 6 tests are conducted during the first 12 months after the employee has returned to duty. If a covered employee has tested positive for either drugs or alcohol, the school district may require the covered employee to test negative for both drugs and alcohol. Any covered employee who is subject to follow-up testing will also continue to be subject to random testing.

G. Transportation To Test Site.

1. At no time will any covered employee who is suspected of being under the influence of drugs or alcohol be allowed to transport him/herself to the test site. The supervisor or designee will make appropriate arrangements for the employee to be transported to the test site.

H. Test Scheduling.

1. During the normal business hours of the Office of Human Resources, all test scheduling for drug/alcohol testing will be coordinated through the Office of Human Resources. In the event a supervisor determines reasonable suspicion exists or an accident occurs after normal office hours of the Office of Human Resource, the supervisor will call the testing facility to arrange for completion of testing. The supervisor will report the incident in writing to the Office of Human Resources the next business day.

VII. REFUSAL TO SUBMIT TO TESTING.

A. Conduct that constitutes a refusal to submit to a drug and/or alcohol test includes:

1. Refusal to take a test.
2. The covered employee's inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation.
3. Providing false information in connection with a test, attempting to falsify test results through tampering, contaminating, adulterating, or substituting the specimen or collection procedure.

4. Not reporting to the collection site within the time frame allotted.
 5. Leaving the scene of an accident without a valid reason before required testing has been conducted.
- B. Any covered employee who exhibits the behaviors described will be immediately removed from duty. Refusals, as defined herein, will be construed as a positive test result and will result in the same consequences applicable to an actual positive test. As well, refusals will be considered as insubordination and will be subject to disciplinary action.

VIII. DRUG/ALCOHOL TESTING PROCEDURES.

A. Testing Facilities.

1. Testing will be conducted in a manner that assures adherence to all standards of confidentiality of test specimen collection, test results and release of records; assures the privacy of a tested employee is protected; assures a high degree of accuracy and reliability; and utilizes techniques, equipment and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS) and the DOT. Testing may be conducted at any site, including laboratory facilities or field specimen collection sites, deemed necessary to achieve the testing requirements.

B. Drug Testing.

1. An initial drug screen will be conducted on each specimen as per the procedures in 49 CFR Part 40 of the federal regulations. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40. In the event of a positive result, the applicant or covered employee will have 72 hours in which to request a confirmatory gas chromatography/mass spectrometry (GC/MS) test.

C. Alcohol Testing.

1. Testing for the presence of alcohol will be conducted by a certified BAT using an approved EBT. In limited circumstances, generally involving an accident, alcohol testing may be performed at the accident site by law enforcement personnel trained in the use of and utilizing an approved EBT.

D. Test Results.

1. The laboratory and/or BAT will use procedures to ensure that all drug and/or alcohol test results are attributed to the correct safety-sensitive employee.

E. Confidentiality/Access To Records.

1. The school district will take appropriate measures to ensure that the confidentiality of test results and access to records are strictly maintained. Test results and records may be released only under the following circumstances:
 - a. Release of information or copies of records to third parties as directed by specific, written instruction from the employee.
 - b. As pertaining to the proceedings of a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested.
 - c. Upon written request from any employee relating to his/her test.
 - d. To the National Transportation Safety Board investigating any accident involving vehicles/employees.
 - e. As requested by DOT or any DOT agency with regulatory authority over the school district or any of its employees.

IX. CONSEQUENCES OF THE USE/MISUSE OF DRUGS OR ALCOHOL.

- A. Any covered employee who has a confirmed positive drug or alcohol test will be removed from his/her position and will be subject to the consequences as detailed in this section.

B. Drugs.

1. Any covered employee who has a confirmed positive drug test will be removed from his/her position, informed of available educational and rehabilitation programs, and evaluated by an SAP who will determine whether the covered employee is in need of assistance in resolving problems associated with prohibited drug use. The employee will not be allowed to return to his/her position until he/she has been evaluated and released to return to duty by the SAP.

C. Alcohol.

1. Any employee who has engaged in prohibited conduct will not be permitted to perform safety-sensitive functions. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. An employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his/her position for 8 hours unless a retest results in a concentration measure of less than 0.02. An alcohol concentration of 0.04 or greater will be considered a positive test and will result in referral to an SAP. The employee will not be allowed to return to his/her position until he/she has been evaluated and released to return to duty by the SAP.

D. Treatment Requirements.

1. Under certain circumstances, safety-sensitive employees may be required to undergo treatment for substance abuse/misuse. Any safety-sensitive employee who refuses to undergo or fails to comply with requirements for treatment, after care, or return to duty will be subject to disciplinary action, up to and including termination.

E. Continuation of Employment.

1. Any covered employee who tests positive for drugs and/or alcohol will be subject to disciplinary actions. In accordance with school district standards, violations of this policy may result in termination of employment.

X. TRAINING.

A. Training related to the effects of drugs and alcohol will be conducted by the Office of Human Resources and/or others selected by the school district who are qualified to provide instruction. All covered employees will be required to participate in drug/alcohol training as follows:

1. Supervisors who make reasonable suspicion determinations will participate in a minimum of one hour of training each on the physical, behavioral, and performance indicators of probable drug use and alcohol misuse.
2. Covered employees, including new hires and transferees to safety-sensitive positions, will participate in a minimum of one hour of training on the effects and indicators of drug use and will receive, at a minimum, printed information concerning the effects of alcohol misuse on the employee's health, work, and personal life and signs and symptoms of an alcohol problem.

3. All covered employees will be provided copies of the school district's alcohol misuse and drug abuse policy and procedure and written information regarding the effects of drug and alcohol misuse/abuse. Additionally, information regarding the prohibited drug use and alcohol misuse policy and program will be prominently displayed in all work areas in which covered employees perform safety-sensitive functions.

XI. EFFECTS OF ALCOHOL MISUSE.

- A. Alcohol abuse and misuse has a devastating impact on the workplace, the individual and his/her personal health, and the family unit. The signs and symptoms of alcohol use include dulled mental processes, lack of coordination, odor of alcohol on breath, possible constricted pupils, sleepy or stuporous condition, slowed reaction rate, or slurred speech. The employee personally can suffer chronic and deteriorating health consequences such as dependency, fatal liver disease, increased cancers of various body parts, kidney disease, pancreatitis, spontaneous abortion and neonatal mortality, ulcers, birth defects in unborn infants, malnutrition, tremors, and despair or depression. Social issues that are affected by alcohol use include homicides, motor vehicle accidents, suicides, family stability, increasing the chances of domestic violence, and impacting financial well-being. In the workplace, alcohol affects an employee's ability to perform his/her job by impairing the person's reasoning and motor skills, increases the incidents of absenteeism, and jeopardizes the safety of the employee, coworkers, and the public. A person who is legally intoxicated is 6 times more likely to have an accident than a sober person. When an employee is suspected of or self-identifies an alcohol problem, help is available through the Office of Human Resources. Any employee who believes he/she has an alcohol-related problem is encouraged to contact his/her supervisor or the Office of Human Resources for guidance and referral to assistance. All contacts are held in the strictest of confidence.

XII. IMPACT OF AMERICANS WITH DISABILITIES ACT (ADA).

- A. In accordance with the provisions of the Americans With Disabilities Act of 1990, any applicant or covered employee who tests positive for the use of illegal drugs is not "a qualified individual with a disability". Under Title I of the ADA, the school district may deny employment to or discharge any individual who has a positive result on a DOT-mandated test. However, a qualified applicant or covered employee who has completed a rehabilitation program for drugs or alcohol and who is currently drug or alcohol free may be considered to have a disability and may be entitled to reasonable accommodation. Determinations will be made by or in cooperation with the SAP on a case by case basis. All questions regarding the provisions of the ADA should be directed to the Office of Human Resources.

XIII. RETENTION OF RECORDS.

- A. The school district will maintain records of its anti-drug and alcohol misuse programs. Records are maintained, with controlled access, in the Office of Human Resources. Each record will be maintained for the specified period of time, measured from the date of the document's or data's creation, in accordance with the following schedule:
1. Five Years.
 - a. Records of verified positive drug test results, alcohol test results with results indicating an alcohol concentration of 0.02 or greater, documentation of refusals to take required drug or alcohol tests, employee evaluations and referrals to the SAP, and a copy of the annual management information system reports submitted to the appropriate federal agencies.
 2. Two Years.
 - a. Records related to the collection process, except calibration of EBT's, and employee training.
 3. One Year.
 - a. Records of negative drug tests and alcohol test results of less than 0.02.
 4. Types of Records.
 - . Records related to the collection process that must be maintained:
 - 1) Collection logbooks.
 - 2) Documents relating to the random selection process.
 - 3) Calibration documentation for EBT devices.
 - 4) Documentation of BAT training.
 - 5) Documents generated in connection with decisions to administer reasonable suspicion testing.
 - 6) Documents generated in connection with post accident testing.

- 7) Documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for testing and/or an adequate urine sample.
- b. Records related to the test results that must be maintained:
 - 1) The employer's copy of the drug sample custody and control form and the alcohol test form, including the results of the test.
 - 2) Documents related to the refusal of any covered employee to submit to a drug or alcohol test.
 - 3) Documents presented by a covered employee to dispute the results of a drug or alcohol test.
 - c. Records related to other violations of the alcohol abuse regulations.
 - d. Records related to evaluations, referrals, and return to duty and follow up testing:
 - 1) Records pertaining to a determination by a SAP concerning a covered employee's need for assistance.
 - 2) Records concerning a covered employee's compliance with the recommendations of the SAP and entry into and completion of a recommended treatment program.
 - e. Copies of management information system reports.
 - f. Records related to employee training:
 - 1) Materials on drug use/alcohol misuse awareness including a copy of this policy and procedure.
 - 2) Names of covered employees attending training on prohibited drug use, dates and times of such training, and documentation of compliance with alcohol regulations concerning this policy and procedure.
 - 3) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make reasonable suspicion determinations.
 - 4) Certification that all training complies with the regulations.

XIV. PROPER APPLICATION OF POLICY.

- A. Supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the provisions of the federal regulations or this policy, or who is found to deliberately misuse the policy with regard to subordinates, will be subject to disciplinary action, up to and including termination.

XV. CONTACT DEPARTMENT.

- A. Any questions regarding implementation of the federal regulations, the contents of this policy, and available assistance to the drug/alcohol impaired employee should be directed to the following department:

Rapid City Area School District No. 51-4
Office of Human Resources
300 Sixth Street
Rapid City, SD 57701
(605) 394-4014

Reviewed: 04/27/99
Revised 08/06/13

APPENDIX A

SAFETY SENSITIVE JOB CLASSIFICATIONS

School Bus Driver
School Bus Driver/Student Transportation Supervisor
WDTI Trucking Program Instructor and Students