

**TALBOT COUNTY  
PUBLIC SCHOOL  
EASTON, MD 21601**

**POLICY CODE  
5.10 - AR  
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**SCHOOL BUS DRIVER DRUG AND ALCOHOL TESTING - AR**

**I. PURPOSE**

The Talbot County Board of Education (TCBOE) prohibits the use, possession, purchase, sale distribution and being under the influence of or impaired by drugs or alcohol on school property during school hours or while on school business. This policy applies to all bus drivers who operate for the Talbot County Public School System

**II. REQUIRED TESTING**

A. Bus drivers will be subject to drug and/or alcohol testing in four (4) circumstances:

1. All applicants for bus driver positions with the board and contractors will be required to take a drug test prior to employment.

Upon an offer of certification or employment, an applicant will be required to sign a release authorizing the TCBOE to obtain information regarding his/her drug and alcohol testing history for the two years preceding the date of application. An applicant will also be required to disclose any drug or alcohol statute convictions, and/or any previous history of drug or alcohol abuse within two years preceding date of application for certification or employment provided the applicant has not been previously disqualified from driving a vehicle under C.O.M.A.R 08-1 B. The TCBOE reserves the right to make a determination if certification or employment of the applicant would pose a direct threat to the safety of the applicant or others based on this history.

2. All drivers will be subject to random testing.

Random tests will occur four (4) times during the year.

At each designated time 10% of the total number of drivers will be randomly selected for drug testing and of that group, 50% will be randomly selected to include alcohol testing. This will result in 50% of the total number of drivers being tested for drugs and 25% for alcohol, per year

Drivers selected for random testing will be notified by the Supervisor of Transportation (or designee) and shall report to the collection testing site within one (1) hour, plus travel time, of notification to be tested. Failure to

report within the one (1) hour, plus travel time, may be deemed a refusal to test and result in disciplinary action up to and including disqualification, suspension of driver certification, and discharge of a county-employed driver for misconduct

Random alcohol tests will be performed immediately before, during or immediately after the driver is performing a safety sensitive function.

3. A driver will be tested after an accident according to D.O.T. guidelines.

A school bus driver will submit to a drug and alcohol test following a school bus accident in which there was loss of any human life. or bodily injury to a person who, as a result of injury, immediately receives medical treatment away from the scene of the accident and the driver receives a citation for a moving violation of a state or local traffic law.

4. A motor vehicle is required to be towed away from the accident scene and the driver receives a citation for a moving violation of a state or local traffic law.

- III.**
  - A. Drivers must remain readily available for testing, in the absence of receiving medical treatment, and are prohibited from using any drugs or alcohol until testing has been performed.
  - B. A driver not readily available for testing in the event of an accident, in the absence of receiving medical treatment, will be deemed to have refused to submit to testing. Failure to cooperate or be available for testing is sufficient cause to conclude that the driver is positive for a chemical substance or alcohol.
  - C. Post accident drug tests must be performed as soon as possible but within 32 hours after an accident. If the test is not administered within 32 hours following the accident, the supervisor shall cease any attempt to administer the test and document why it was not possible to perform it. Post accident alcohol tests must be performed as soon as possible but within 8 hours after the accident
  - D. If a test is not administered within 8 hours following the accident, the supervisor shall cease any attempt to administer the test and document why it was not possible to perform it. A determination to request a blood alcohol test when an EBT alcohol test cannot be administered will be made by the Transportation Manager (designee).
  - E. A driver in violation of the post accident testing provisions of this Program deemed to have refused to be tested, shall be disqualified, shall lose their driver certification, and shall be discharged as a Talbot County Board of Education employee

- F. A breath or blood test for the use of alcohol and a urine test for the use of drugs administered by on-site police or public safety officials, under separate authority, may be obtained and used as a substitute for the TCBOE test. TCBOE may use the result(s) rather requiring an driver to submit to another test.
- G. If a driver is involved in an accident at a time when none of the approved collection locations are open for business, Maryland Medical Laboratory shall be called to request that a phlebotomist be sent to whatever location specified to draw the drug test sample and administer the alcohol test. The 24 hour phone number is 1-410-522-9235 and the after hours pager is 410-270-0700. You must identify yourself as a Maryland Medical Lab client, and ask for a phlebotomist to respond to the address you specify in order to collect the specimens. This arrangement is for use only when there is no regular or emergency site available. This process is also to be used when a driver is injured in the bus accident and transported to a hospital for medical attention. This information is important to the hospital personnel so that they can make a decision about what type of treatment to begin on that driver pending the drug test. Obviously when there is serious injury, the individual's well being is the first consideration.
- H. A driver will be tested whenever there is reasonable cause to suspect that driver may have used drugs or alcohol. Reasonable suspicion arises from specific personal observations that a supervisor can articulate concerning the appearance, behavior, job performance, speech or activities of a driver or upon receipt of reliable information that he/she may be using a chemical substance or alcohol. It may also arise from receipt of reliable information that a driver is involved in the improper use, sale, manufacture, purchase, transfer or possession of chemical substances on TCBOE property or during the performance of TCBOE business.

When possible, the conduct or event giving rise to the reasonable cause should be witnessed by two administrators. Tests for reasonable suspicion will be performed as soon as possible after a determination to test.

The driver required to submit to a drug or alcohol test for reasonable suspicion will be immediately transported to a collection/ testing site by a supervisor. If the driver refuses to be transported and leaves the premises driving a vehicle, the supervisor will notify the proper law enforcement authority that he/she has reason to believe the driver may have used a controlled substance or alcohol, is driving, and may pose a potential danger to the safety of himself/herself or others.

- I. Failure to comply with an order for testing shall be deemed as a refusal to be tested and will result in suspension of certification status and termination.

#### **IV. SUBSTANCES TO BE TESTED**

- A. Under this Program applicants and drivers will be routinely tested for the substances listed below. TCBOE reserves the right to test for additional substances when there is reason to believe such substances may have been

used/abused and the supervisor reasonably believes that the condition would impair the driver's ability to perform safety sensitive functions or otherwise pose a danger to himself / herself or to others.

<u>DRUGS:</u>	<u>QUANTITY:</u> <u>Screen/Confirmation</u> <u>(ng/ml)</u>
Cocaine	300/150
Opiates	300/300
Phencyclidine (PCP)	25/25
Cannabinoids (Marijuana)	
Amphetamines	1000/500
Alcohol	02 or higher

Presence of these drugs or alcohol at the indicated levels shall be conclusive proof of a violation of this policy.

- B. The threshold levels (screening and confirmation) for the above have been established by Regulations, 49 CFR Part 40, and this Program adopts, by reference, these threshold levels for testing purposes as published and including any subsequent amendments unless otherwise provided.
- C. The mere possession of a valid prescription or over-the-counter drug for medical reasons does not constitute a policy violation. In addition, the use of such a drug also will not constitute a policy violation, as long as the drug does not affect the driver's ability to function on the job. Legally prescribed medications must be written ONLY for the applicant or the driver using or possessing the prescribed medication. Any applicant or driver taking a medication prescribed for another person will be in violation of this policy.
- D. Bus drivers taking over-the-counter or prescribed medication are responsible for knowing the effects of that medication on their duties. Bus drivers may not drive or perform other duties under the influence of any prescription or over-the-counter drug that could impair their ability to function on the job. Drivers must report to the Supervisor of Transportation if they are using any medication that may have such an effect. A driver who is taking medication which adversely affects his/her performance will be removed from driving service temporarily and may only return when a physician has examined the driver and declared him/her fit to drive.

**V. DRUG AND ALCOHOL TESTING PROCEDURE**

- A. When this program requires that a bus driver be tested for drugs or alcohol he/she will be required to go to an approved testing facility.
- B. When a driver is sent for a drug/alcohol test for reasonable cause, the driver will be taken to an approved testing facility by an administrator.

- C. Once at the testing facility, the driver will be required to provide a urine or blood and/or breathalyzer sample. In addition, the driver will be a required to produce photo identification.
- D. The employee will not be directly observed while providing the urine sample but laboratory personnel will take appropriate steps to assure that the sample remains unadulterated. The laboratory will follow all DOT and National Institute of Drug Abuse (NIDA) procedures. If the technician determines that a first sample was adulterated, then the TCBOE may adopt an inference of driver drug use. The technician will request that the employee submit a second sample, and appropriate steps, including direct observation, may be taken to assure that a proper sample has been submitted.
- E. After the employee has provided the sample, the collection facility and the laboratory will comply with appropriate chain of custody procedures and will certify that the employee has actually provided the specimen submitted for testing. Results will be reported to the approved Medical Review Officer (MRO). In the case of negative test results, the MRO will contact the TCBOE and the driver to report the negative laboratory finding.
- F. A Gas Chromatography/Mass Spectrometry (GC/MS) confirmation test will be performed on all samples that screen positive. In the case of confirmed positive tests, the MRO will contact the driver to determine whether the use of valid prescription or nonprescription drugs could explain the positive tests. All communications with the MRO will remain confidential. If the MRO's investigation reveals a valid reason for the test results, and the MRO determines that the driver is fit for duty, then the MRO shall contact the laboratory and the test results shall be reported as negative to the TCBOE and the employee. If the MRO's investigation does not reveal a valid reason for the test results, then the MRO will report the test results as positive to the TCBOE. If the MRO's investigation reveals a valid reason for the positive test result, but in his/her medical judgment, he/she determines the driver as not fit for duty, he/she will report the test as negative with a statement that the driver is not medically qualified. The MRO will determine whether the driver is fit for duty based on the type and concentration of drug in the drivers system and medical history.

Each driver who is tested positive will be notified of the test result by the MRO and the Transportation Manager. In addition, the driver will receive a copy of the lab results, and a written notice of any disciplinary action. Each driver who tests positive has the right to request an independent test of the SAME specimen, by a certified N.I.D.A. laboratory, at their own expense.

- G. Alcohol testing will be performed using an evidential breath testing (EBT) device, unless otherwise authorized under DOT. The TCBOE reserves the right to require blood alcohol testing for reasonable suspicion or post accident, under its own authority, when an EBT device is not available for testing. Breath alcohol testing

will be performed by breath alcohol technicians (BATs), who have complied with the training and certification requirements of 49 CFR Part 40.51.

All testing will be performed in accordance with 49 CFR Part 40 Regulations unless otherwise provided.

## **VI. POSITIVE TEST RESULTS/CONSEQUENCES**

- A. The following provisions are adopted under the independent authority of the TCBOE, unless otherwise provided, and apply to all applicants, trainees, contracted drivers and county-employed drivers.
1. An applicant or trainee will be denied employment and not be certified if he/she:
  2. has a verified positive drug test result, or
  3. fails to comply with this Program.
  4. A driver will be disqualified, certification status will be suspended for a minimum of 10 years, and a county-employed driver will be discharged for misconduct if he/she:
  5. has a verified positive drug test result, or has an alcohol test result with an alcohol concentration level of 0.02 or greater
  6. A driver's refusal to submit to a chemical substance or alcohol test without a valid medical explanation, after receiving notice of the requirement to be tested shall create a rebuttal presumption that a chemical substance or alcohol was present. This will result in denial of certification or employment as a school bus driver for a minimum of 10 years.
  7. Failure to have the drug/alcohol test within the regulated time frames, may result in immediate termination of employment.
- B. Positive test results will be reported to the Maryland State Department of number and positive test results will be reported to the Maryland State Department of Education for those drugs that meet the United States Department of Transportation's standards. The clearinghouse will confirm the positive test result to any Maryland public school student transportation manager who requests the information.

All return to duty and follow up testing must comply with 49 CFR Part 40.

## **VII. DRUG/ALCOHOL ASSISTANCE SERVICES**

TCBOE supports the concept of drug/alcohol assistance services which provides pretreatment evaluation and counseling, information, referrals, and follow-up services concerning drug and/or alcohol dependency. TCBOE provides a comprehensive

Employee Assistance Program free of charge to all employees and their dependents All discussions with the drug/alcohol assistance services are completely confidential. The TCBOE encourages bus drivers to take advantage of these resources.

**VIII. CONSENT TO TESTING**

A. Applicants, trainees and drivers are provided the information listed below.

The DRUG AND ALCOHOL Testing SCHOOL BUS DRIVERS policy, ADMINISTRATIVE PROCEDURES FOR BUS DRIVERS DRUG AND ALCOHOL TESTING and 49 CFR Part 382 et al, U.S. Department of Transportation, Federal Highway Administration, and testing procedures required in 49 CFR Part 40 were provided.

B. All applicants, trainees or operators must consent to be tested for chemical substances and alcohol, and authorize the Transportation Manager/designee to receive test results.

**IX. DRUG TESTING PROGRAM NOT A WAIVER OF ANY RIGHTS.**

The purpose of this testing procedure is to familiarize TCBOE bus drivers with the new drug and alcohol testing program. This procedure is not intended to and shall not constitute a waiver of any rights possessed by Talbot County Public Schools derived from any source whatsoever. Nothing in this procedure shall be construed as limiting TCBOE's rights to take administrative or disciplinary action up to and including discharge for involvement with drugs or alcohol not specifically addressed in this statement.

Nothing in this statement shall limit the rights of the TCBOE as derived from existing law; rules and regulations; manuals, and books, and statements of policy; labor contract provisions; and customs or practices under past or present labor contracts and any other rights derived from any other source whatsoever. The TCBOE may modify this statement from time to time, including when there are changes in applicable federal or state laws.

**-END-**