

NORTHERN WESTMORELAND CAREER AND TECHNOLOGY CENTER

No. 810.1

SECTION: OPERATIONS

TITLE: DRUG/ALCOHOL TESTING –
COVERED DRIVERS

ADOPTED: October 20, 2011

REVISED:

Purpose

The Joint Operating Committee recognizes that the use and abuse of drugs and alcohol is a serious problem that may be present in the workplace. **The Joint Operating Committee recognizes that an employee must be fit to operate a school bus and commercial motor vehicle to ensure the health and safety of students being transported.** The Joint Operating Committee also recognizes that an employee impaired by drugs or alcohol who operates school vehicles or transports students poses significant risks to the safety of students and others.

Definitions

The following words and phrases, when used in this policy, shall have the meaning given to them in this section:

A covered driver shall mean any center employee who drives, ~~or~~ operates **or is in the actual physical control or movement of a school bus or a commercial motor vehicle owned, leased or operated by the center.** ~~a motor vehicle with a gross vehicle weight rating of 26,001 or more pounds or is designed to transport sixteen (16) or more passengers, including the driver; or any other center employee who is regularly assigned to drive a school vehicle of any size or kind.~~ The term includes drivers and mechanics who operate such vehicles, including full-time, regularly employed individuals; ~~casual, intermittent or occasional individuals;~~ and leased drivers and independent owner-operator contractors who are either directly employed by or under lease to the center or who operate a bus **or commercial motor vehicle** owned or leased by the center.

Commercial motor vehicle - a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

- 1. Has a gross combination weight rating or gross combination weight of 26,001 or more pounds, whichever is greater, inclusive of towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, whichever is greater;**

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2. Has a gross vehicle weight rating or gross vehicle weight of 26,001 or more pounds, whichever is greater;
3. Is designed to transport sixteen (16) or more passengers, including the driver; or
4. Is transporting hazardous materials and is required to be placarded.

Driving - operating a commercial motor vehicle or motor carrier vehicle on a highway, with the motor running, including while the commercial motor vehicle or motor carrier vehicle is temporarily stationary because of traffic, a traffic control device or other momentary delay. The term does not include operating a commercial motor vehicle or motor carrier vehicle with or without the motor running if the driver moved the vehicle to the side of or off of a highway and halted in a location where the vehicle can safely remain stationary.

Electronic device - an electronic device includes, but is not limited to, a cellular telephone, personal digital assistant, pager, computer or any other device used to input, write, send, receive or read text.

Mobile telephone - a mobile communication device which uses a commercial mobile radio service.

Safety-sensitive functions include all on-duty functions performed from the time a driver begins work or is required to be ready to work until the driver is relieved from work and all responsibility for performing work. It includes driving; waiting to be dispatched; inspecting and servicing equipment; supervising, performing or assisting in loading and unloading; repairing or obtaining and waiting for help with a disabled vehicle; and performing other requirements related to accidents.

School bus means a motor vehicle that is designed to carry eleven (11) passengers or more, including the driver, and is used for the transportation of preprimary, primary or secondary school students to or from public, private or parochial schools or events related to such schools or school-related activities.

Texting - manually entering alphanumeric text into or reading text from an electronic device. The following shall apply:

1. The term includes, but is not limited to, short message service, emailing, instant messaging, a command or request to access an Internet web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone or engaging in any other form of electronic text retrieval or entry, for present or future communication.
2. The term does not include:
 - a. Inputting, selecting or reading information on a global positioning system or navigation system.
 - b. Pressing a single button to initiate or terminate a voice communication using a mobile telephone.
 - c. Using a device capable of performing multiple functions, including, but not limited to, fleet management systems, dispatching devices, citizens band radios and music players, for a purpose that is not prohibited by law.

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Use a handheld mobile telephone or other electronic device –

1. Using at least one (1) hand to hold a mobile telephone to conduct a voice communication.
2. Dialing or answering a mobile telephone by pressing more than a single button.
3. Reaching for a mobile telephone in a manner that requires a driver to maneuver so that the driver is no longer in a seated driving position, restrained by a seat belt.

Authority

~~The Joint Operating Committee establishes that transportation companies contracted by the Joint Operating Committee shall provide a program of drug and alcohol testing for covered drivers. A statement ensuring such program shall be included in the contracted agreement.~~

The Joint Operating Committee shall implement a drug use and alcohol misuse prevention program for employees who are required to hold a commercial driver's license and who perform safety-sensitive functions in accordance with federal and state laws and regulations.

All contracted transportation providers shall implement a drug use and alcohol misuse prevention program in accordance with federal law and regulations.

Covered drivers shall observe all state and federal laws and Pennsylvania Department of Transportation regulations governing traffic safety and school bus and commercial motor vehicle operation.

The Joint Operating Committee prohibits covered drivers from texting and from using a handheld mobile telephone or other electronic device while driving a school bus or commercial motor vehicle except when it is necessary to communicate with law enforcement officials or other emergency services.

Delegation of Responsibility

The Administrative Director or designee shall develop administrative regulations to implement this policy and the requirements of law, which include the following components:

1. Selecting and contracting with a qualified medical review officer, substance abuse professional, a certified laboratory and other service agents as necessary.
2. Establishment of procedures for required testing of covered drivers.
3. Maintenance of the confidentiality of all aspects of the testing process.
4. Delegation of responsibility for monitoring employee compliance with the provisions of Joint Operating Committee policy and administrative regulations, including but not limited to, an annual query of the Federal Motor Carrier Safety Administration's Commercial Driver's License Drug and Alcohol Clearinghouse.

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5. Designation of an employee responsible for receiving and handling results of drug and alcohol tests.
6. Implementation of procedures for the query, preparation, maintenance, reporting, retention and disclosure of records, as required by law.
7. Distribution to affected employees of information and materials relevant to Joint Operating Committee policies and administrative regulations regarding drug and alcohol testing.
8. Distribution to affected employees of information and materials relevant to individuals or organizations that can provide counseling and treatment for drug and/or alcohol problems.

The Administrative Director or designee shall provide each driver, upon hire or transfer, with:

1. This policy and its accompanying administrative regulations; and
2. Educational materials that explain the state and federal requirements related to misuse of alcohol and use of controlled substances.

The Administrative Director or designee shall also provide notice to representatives of employee organizations of the availability of this information.

The Joint Operating Committee designates the Administrative Director to be the contact person for questions about the drug use and alcohol misuse program.

Guidelines

Employment Requirements

All covered drivers shall comply with the requirements for background checks/certifications and employment history reviews in accordance with applicable law, Joint Operating Committee policy and administrative regulations. These requirements are addressed separately in Joint Operating Committee policy 304 for drivers employed by the center and Joint Operating Committee policy 818 for drivers employed by an independent contractor

Prior to employment by the center as a covered driver or transfer to a covered driver position, the center shall obtain the following information in accordance with federal and state laws and regulations:

1. Alcohol and drug testing information from previous U.S. Department of Transportation-regulated employers during the past three (3) years with the covered driver's written consent.
2. Commercial motor vehicle employment information for the past ten (10) years.

Additional Documentation -

Prior to employment by the center as a covered driver or transfer to a covered driver position, and at least once each school year, the Administrative Director or designee shall:

1. Obtain a copy of a valid commercial driver's license indicating the appropriate endorsements from the covered driver;
2. Obtain a copy of a Commonwealth of Pennsylvania School Bus Driver's Physical Examination Form from the covered school bus driver;

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3. Obtain a copy of a current Pennsylvania School Bus Endorsement card from the covered school bus driver;
4. Review each covered driver's driving record to determine whether the driver meets the minimum requirements for safe driving and is not disqualified to operate a commercial motor vehicle.

Prior to employment by the center as a covered driver or transfer to a covered driver position, and every two (2) years, the Administrative Director or designee shall obtain a valid Medical Examiner's Certificate, if applicable.

Reporting Requirements -

Covered drivers shall report misconduct in accordance with Joint Operating Committee policy 317 for drivers employed by the center and Joint Operating Committee policy 818 for drivers employed by an independent contractor.

Covered drivers using controlled substances prescribed for therapeutic purposes by a licensed medical practitioner shall submit the practitioner's written statement that the prescribed substance will not adversely affect the employee's ability to safely operate a school bus or commercial motor vehicle.

Covered drivers shall also inform their supervisors of any use of drug(s) or medication(s) for which the packaging includes warnings that, "marked drowsiness may occur and/or be careful when driving a motor vehicle or operating machinery."

A covered driver arrested, charged with or issued a citation for violating a federal or state law or local ordinance relating to motor vehicle traffic control in this or any other state or any federal, provincial, territorial or municipal law relating to motor vehicle traffic control in Canada, other than parking violations, shall notify the Administrative Director or designee and the contract carrier in writing before the end of the next business day following the driver's arrest, charge or receipt of citation. Notice is required no matter what type of vehicle the driver was driving.

An employee who has provided timely notification of an arrest, citation or charge shall not be terminated or otherwise disciplined by the center or the contract carrier based solely on the allegations underlying the arrest, citation or charge reported by the employee. Termination or other disciplinary action based on the underlying misconduct may be taken only where there has been a conviction of the violation, or where there is independent evidence of the underlying misconduct warranting termination or other discipline. This shall not preclude suspension, reassignment or other action pending resolution of the charges reported by the employee, nor disciplinary action up to and including termination for failure to provide timely notice of an arrest, citation or charge.

A covered driver who is convicted of violating a federal or state law or local ordinance relating to motor vehicle traffic control in this or any other state or any federal, provincial, territorial or municipal law relating to motor vehicle traffic control in Canada, other than parking violations, shall notify the Administrative Director or designee

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and the contract carrier in writing of the conviction within fifteen (15) days of the date of conviction. Notice is required no matter what type of vehicle the driver was driving.

Any covered driver whose operating privilege is suspended, revoked or canceled by any state, who loses the privilege to drive a school bus or commercial motor vehicle in any state for any period, or who is disqualified from driving a school bus or commercial motor vehicle for any period, shall notify the Administrative Director or designee and the contract carrier immediately upon reporting to work for the next scheduled shift following the notice of the suspension, revocation, cancellation, loss or disqualification.

Failure to comply with the reporting requirements may result in disciplinary action, up to and including termination, in accordance with applicable law, regulations and Joint Operating Committee policy.

Controlled Substances and Alcohol

Drug and Alcohol Testing -

The center shall require covered drivers to submit to the following drug and alcohol tests in accordance with state and federal laws and regulations: pre-employment, random, post-accident, reasonable suspicion, return-to-work and follow-up.

Prohibited Conduct -

Covered drivers shall not use medical marijuana products.

Covered drivers shall not ingest hemp products or otherwise use hemp products in a way that may result in absorption of hemp or hemp residue into the body

A covered driver shall not report for duty, drive, operate or be in the actual physical control of the movement of a school bus or commercial motor vehicle under the following circumstances:

1. While using or while having any amount of alcohol present in the body, including medications containing alcohol.
2. While under the influence of a controlled substance or combination of controlled substances, or the combined influence of alcohol and a controlled substance or substances.
3. After consuming alcohol or a controlled substance within the previous eight (8) hours for school bus drivers and within the previous four (4) hours for commercial motor vehicle drivers.

An exception shall be made for therapeutic use of prescribed controlled substances used by a covered driver when the driver has submitted in advance a licensed medical practitioner's written statement that the prescribed substance will not adversely affect the driver's ability to safely operate a school bus or commercial motor vehicle.

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A covered driver required to take a post-accident test shall not use alcohol for eight (8) hours following the accident, or until the driver undergoes a post-accident test, whichever occurs first.

A covered driver shall not refuse to submit to a required test for drugs or alcohol.

Consequences/Discipline -

The center shall remove a covered driver from performing safety-sensitive functions under the following circumstances:

1. A verified positive drug test result;
2. A verified adulterated or substituted drug test result;
3. An alcohol test result of 0.04 or higher; or
4. A refusal to submit to a post-accident, random, reasonable suspicion, return-to-duty or follow-up test.

The center shall place a school bus driver who drives, operates or is in physical control of a school bus out of service for thirty (30) days if the school bus driver has any detectable amount of alcohol in their system.

The center shall remove a commercial motor vehicle driver who is tested and is found to have an alcohol concentration of 0.02 or greater but less than 0.04 until the start of the driver's next regularly scheduled duty period that is at least twenty-four (24) hours following administration of the test.

A covered driver employed by the center who violates Joint Operating Committee policy or administrative regulations and tests positive for drugs or alcohol shall be subject to disciplinary action, up to and including termination, and shall be provided with a list of qualified substance abuse professionals.

Consistent with contractual and legal requirements, a determination shall be made as to the appropriate disciplinary action for a covered driver who violates Joint Operating Committee policy or administrative regulations. Nothing in this policy shall limit the Joint Operating Committee's authority to impose discipline, including discharge.

If the center permits a covered driver who has been removed from performing safety-sensitive functions to return to a safety-sensitive function, the center shall ensure that the covered driver has been evaluated by a qualified substance abuse professional and has successfully completed the return-to-duty process before returning to a safety-sensitive function.

Maintenance of Records

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The center shall maintain records of its drug use and alcohol misuse prevention program in compliance with federal regulations, and in accordance with the center's records retention schedule.

Drug and alcohol records shall be confidential, and shall only be released in accordance with applicable law.

Statistical records and reports shall be maintained and made available to the Federal Highway Administration for inspection or audit in accordance with federal regulations.

Acknowledgment of Receipt

Each covered driver shall sign a statement certifying that they have received a copy of this policy and its accompanying administrative regulations.

The center shall keep the original signed statement in the personnel file of the covered driver employed by the center and provide a copy to the driver.

Training

Covered drivers shall attend orientation and training sessions, as appropriate to the nature of their service. When training is provided for other center (school) employees relating to the legal obligations of employers and educational institutions, consideration shall be given to which covered drivers should also receive that training.

The center shall ensure that employees who supervise covered drivers receive at least sixty(60) minutes of training on alcohol misuse and at least sixty (60) minutes of training on controlled substances use. Such training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and drug use.

NOTES:

The Department of Transportation's Drug and Alcohol Testing Regulation – 49 CFR Part 40, at 40.151(e)– does not authorize “medical marijuana” under a state law to be a valid medical explanation for a transportation employee's positive drug test result.

Qualifications of bus drivers – 1361, 1365, Title 67 Sec. 71.1 et seq.

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Legal

49 CFR 382.107
49 CFR 392.80
75 Pa. C.S.A 1621
75 Pa. C.S.A. 1622
75 Pa. C.S.A. 102
49 CFR Part 382
49 CFR Part 40
49 U.S.C. 31306

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67 Pa Code 229.14
Pol 818
49 CFR 392.82
75 Pa. C.S.A. 3316
49 CFR Part 40.15
49 CFR Part 382.105
49 CFR Part 382.701
49 CFR Part 40.3
49 CFR Part 382.401
49 CFR Part 382.601
23 Pa. C.S.A. 6344
23 Pa. C.S.A. 6344.3
24 P.S. 111
24 P.S. 111.1
Pol. 304
49 CFR Part 382.413
49 CFR Part 382.703
49 CFR Part 40.25
49 U.S.C. 31303
75 Pa. C.S.A. 1604
75 Pa. C.S.A. 1606
67 Pa. Code 71.3
49 CFR Part 391.25
49 U.S.C. 31304
49 CFR Part 391.41
Pol. 317
49 CFR Part 382.213
75 Pa. C.S.A. 1613
49 CFR Part 382.205
75 Pa. C.S.A. 1612
75 Pa. C.S.A. 1603
75 Pa. C.S.A. 3802
49 CFR Part 382.207
49 CFR Part 382.211
49 CFR Part 40.191
49 CFR Part 382.215
49 CFR Part 40.23
49 CFR Part 382.201
49 CFR Part 382.505
49 CFR Part 40.289
49 CFR Part 382.705
49 CFR Part 40.333
Pol. 800
49 CFR Part 382.405
49 CFR Part 382.723
49 CFR Part 40.321
49 CFR Part 382.403

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24 P.S. 1517

49 CFR Part 382.603

24 P.S. 1850.1

75 Pa. C.S.A. 1601 et seq

Pol 351