

Policy Name: Classified Employees Drug Testing

Policy Code: 8.04

Date Adopted: R/A 5/21/12

The safety and security of the Wynne School District employees and students will be maintained as a high priority. The influence or use of drugs, including alcohol, is capable of threatening the safety of students and cannot be tolerated. The Wynne School District is committed to providing a drug free work environment for the safety of students and employees.

Each person hired for a position which allows or requires that the employee operate any type of motor vehicle which is owned, leased or otherwise operated by, or for the benefit of the District, and is operated for the transportation of children to or from school or school sponsored activity shall undergo a physical examination, including a drug test. Each person's initial employment for a job entailing a safety sensitive function is conditioned upon the district receiving a negative drug test result for that employee. The offer of employment is also conditioned upon the employee's signing an authorization for the request for information by the district from the Commercial Driver Alcohol and Drug Testing Database.

Definitions:

1. Abuse and/or untimely use of alcohol – having an alcohol concentration in the blood or breath of 0.04 percent or greater or having an alcohol concentration in the blood or breath in any amount or degree when coupled with impairment of the employee's ability to safely, properly and effectively perform his assigned duties.
2. Drug – any substance (other than alcohol) that has mind or function-altering effects on a human subject, specifically including any psychoactive substance and including but not limited to, controlled substances.
3. Controlled substance – includes all substances listed in Federal Regulations pertaining to school bus drivers and may be revised from time to time.
4. Abuse and/or Untimely Use of Controlled Substances and/or Drugs – testing positive for the presence of any controlled substances in the body in any amount or degree, when coupled with impairment of the employee's ability to safely, properly, and effectively perform his/her assigned duties, or testing positive for the presence of any drugs in the body at or above the lowest cutoff level as established by the analytical methods used by the testing laboratory as approved by the District.
5. Work day – the time beginning when an employee reports for work until the employee finishes work and leaves district property (including any rest and lunch breaks) or any time an employee is traveling on district business.

Job Applicant Testing:

All applicants for jobs covered by this program will be required to undergo drug and/or alcohol screening prior to their employment. The applicant will pay the cost of the test. Confirmed presence of alcohol, illegal drugs or a controlled substance, without adequate explanation, will result in the applicant not being eligible for employment. Fifty percent (50%) of employees with a CDL will be random tested annually. Other testing will be: Pre-employment, Post Accident, Reasonable Suspicion, Receiving a citation for a moving Traffic violation and Return to Work.

Random Employee Testing:

To maintain the district's priority of assuring the safety, health, and well being of students, employees, and the traveling public, the district retains the right to randomly test for alcohol and illegal drugs on all employees who are covered by this program. The district retains the right to test all drivers at anytime. Employees with commercial drivers license (CDL) will be drug and alcohol tested for the following: marijuana, cocaine, heroin, hallucinogens, stimulants, and alcohol. A confirmed positive test, without adequate explanation, will result in termination.

Employee Testing for Cause:

The drug program facilitator or a district administrator who has reasonable suspicion that an employee under his supervision is guilty of abuse and/or untimely use of alcohol and abuse and/or untimely use of controlled substances and/or drugs may require the employee to undergo a drug and/or alcohol test. Reasonable suspicion may be based, among other things, on an employee's observed behavior which is indicative of drug or alcohol use, reports from a reliable source of suspected drug used or possession or use of drugs and/or alcohol.

The drug program facilitator or the employee's immediate supervisor will implement the following process in cases where he reasonably suspects abuse and/or untimely use of alcohol or abuse and/or untimely use of controlled substances and/or drugs.

1. Solicit an explanation from the employee for any behavior which creates a reasonable suspicion of a violation of this program.
2. If the employee cannot satisfactorily explain the behavior, the supervisor may request the employee to undergo a drug and/or alcohol test.
3. A confirmed positive test, without an adequate explanation, will result in termination.

Employee Accident-Related Testing:

The district will require an employee to immediately undergo drug and/or alcohol testing when involved in an accident in which the employee is considered at fault, or which results in personal injury or property damage estimated to be in excess of Arkansas Code Annotated 27-19-706 (\$500) while operating a vehicle owned, leased, or rented by the district. No driver required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first. No driver shall refuse to submit to an alcohol or drug test. A confirmed positive test, without an adequate explanation, will result in termination.

Employees Refusal:

Refusal to submit to an alcohol or controlled substance test means that the driver

- * Failed to appear for any test within a reasonable period of time as determined by the employer;
- * Failed to remain at the testing site until the testing process was completed;
- * Failed to provide a urine specimen for any required drug test;
- * Failed to provide a sufficient amount of urine without an adequate medical reason for the failure;
- * Failed to undergo a medical examination as directed by the Medical Review Officer as part of the verification process for the previous listed reason;
- * Failed or declined to submit to a second test that the employer or collector has directed the driver to take;
- * Failed to cooperate with any of the testing process; and/or
- * Adulterated or substituted a test result as reported by the Medical Review Officer.

Refusal to take the test immediately, or failure to cooperate fully as requested during the testing procedure will be considered as being an act of insubordination and will result in termination.

Testing Time for Employees:

All employees who are subject to drug and/or alcohol testing will be tested during the work day at a time designated by the drug program facilitator or a district administrator,

except in such cases as this policy requires employees to be tested for cause or as a result of an accident, where upon the drug program facilitator or a district administrator may conduct testing at any time. Job applicants will receive no compensation for testing.

Use of Authorized Drugs:

Prior to the start of their work, employees must report their use of any prescription and/or over-the-counter drugs which may impair job performance or safety of others to their department head or drug program facilitator. It is the employee's responsibility to determine from his physician whether or not the prescribed drug would impair his job performance. When reporting such use, the employee must present the drug container with prescription and/or the full label on it. All prescriptions are subject to verification by the district. Each employee must provide medical authorization when requested. Failure to do so may be grounds for discharge. Employees reporting their use of authorized drugs may be temporarily reassigned to an existing vacant position or be required to take leave with or without pay until the use is discontinued. Each instance will be evaluated on its individual merits. Paid leave may be charged to sick leave and/or current vacation time if either is available.

Explanation and Reconfirmation:

Both applicants and employees may provide a written explanation for their positive test results and request reconfirmation of their original sample at their own expense.

Employees Notification:

All employees and job applicants will be advised of the district drug testing program. Notice of the program will be posted on employee bulletin boards and copies of the program will be made available to job applicants and employees to review.

Employees Procedural Guidelines for Job Suspension:

The school must inform the employee, in writing, of the charges against him/her and of the evidence to support the charges. The school must give the employee an opportunity to deny the charges and present his/her side of the story.

Employees Procedural Guidelines for Job Termination:

The employee must be notified, in writing, of the specific charges against him/her which, if proven, would justify employee job termination. The employee should be given the names of the witness against him/her and an oral or written report on the facts to which each witness will testify. The employee should have the opportunity to present his/her own defense witnesses or testimony on his/her own behalf.

Employees Appeal:

Any employee may appeal his discharge or other disciplinary action taken under this policy. Any employee may appeal his discharge or any other disciplinary action to the extent and in the manner such appeal is authorized by Board policy or appropriate law.

Employee Assistance:

Employees who have an alcohol, drug, or controlled substance problem are encouraged to seek assistance. All supervisors, the director of transportation, the superintendent or his designees are available for assistance. The Wynne Public Schools will not assume any expenses incurred in counseling or attendance in a drug/alcohol program.

Confidentiality:

The district realizes the legal need or strict confidentiality as it relates to test results. Confidentiality applies to all information relating to the employee drug testing, result and treatment, and no person other than necessary management will have access to drug testing results. An employee may waive the confidentiality of the drug test. To waive confidentiality of the drug screening test, one must give a written letter or authorization to the district.

Record Maintenance:

It will be the responsibility of the superintendent or his designee to see that all drug and/or alcohol test records resulting from the testing of district employees for drug and/or alcohol abuse are properly stored. All such records will be maintained for a period of not less than five (5) years.

Notes: You are required to give drivers a copy of the procedures that will be used in the testing for drugs and alcohol.

You are required to provide your drivers the name of the person you have designated to answer your drivers questions about the materials you give them regarding drug and alcohol testing.

You are also required to give your employees "information pertaining to the effects of alcohol and controlled substance use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a co-worker's); 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.

Give a copy of this policy to your drivers.

Have your drivers sign an acknowledgement that they have received all of the information contained in this policy and these footnotes.

¹ You have the option of also requiring an alcohol test, but you may not selectively require it, i.e. if you require it for one prospective employee you must require it for all prospective employees.

² While A.C.A. § 6-19-108(e) permits a district to hire a Classified bus driver in an emergency situation, 49CFR382.301 forbids a first time driver (employee) from performing any safety sensitive functions prior to the district receiving a negative drug test for the employee. Therefore, ASBA advises not hiring a bus driver under A.C.A. § 6-19-108(e) until he/she has had a negative drug/alcohol test.

³ While the provisions for fines contained in 27-23-209 do not apply to school districts, school districts are still required to comply with this law. It is for this reason, along with simple prudence in not hiring a person who receives a positive drug/alcohol test, that this language is included. The request for information required by the state is in addition to the federal requirement (49CFR40.25(a)(b) that you request drug and alcohol test results from any U.S. Department of Transportation regulated employers who have employed the employee during any period during the two years prior to the date of the employee's application.

⁴ Employers are required to report to the Office of Driver Services of the Revenue Division of the Department of Finance and Administration within three (3) business days the results of an alcohol test if it was performed due to cause or as part of random testing and the results were positive or the employee refused to provide a specimen for testing.

The drivers covered under this policy are those who operate a vehicle as outlined in the first paragraph, "Scope of Policy." Federal law requires you to remove them from safety-sensitive functions when a drug or alcohol related problem exists, but the law does not enter into the realm of dismissing them from other , non-driving duties.

Legal Reference: **A.C.A. § 6-19-108**
 A.C.A. § 27-23-201 et seq.
 49 C.F.R. § 382-101 – 605
 49 C.F.R. § part 40
 Arkansas Division of Academic Facilities and Transportation Rules Governing
 Maintenance and Operations of Arkansas Public School Buses and Physical
 Examinations of School Bus Drivers