Drug and Alcohol Testing

In General

A. All Prince William County School Board employees who must have a commercial driver’s license in order to perform their job responsibilities are subject to drug and alcohol testing under this regulation. Any holder of a commercial driver’s license shall be deemed to have consented to such testing as required by federal law. As used hereafter in this regulation, "driver" means an employee who operates a commercial motor vehicle for the School Division. This testing is required by federal law, and shall be performed consistently with this regulation. If, however, federal law conflicts, this regulation shall be deemed amended to conform to the federal law.

B. No drug or alcohol testing shall be performed except in accordance with federal law.

C. Drug and alcohol testing shall begin on January 1, 1995.

D. Prohibitions on the use of alcohol:

(1) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater. "Alcohol concentration," as used in this regulation, means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under the federal regulation (see "Legal Reference," on page 6 of this regulation).

(2) No driver shall report for duty or operate a commercial motor vehicle while the driver possesses alcohol.

(3) No driver shall use alcohol while performing safety-sensitive functions.

(4) No driver shall perform safety-sensitive functions within four hours after using alcohol.

(5) If a driver is required to have a post-accident test under regulation, he or she shall not use alcohol until eight hours after the accident or until the test is performed, whichever occurs first.
E. Prohibitions on the use of controlled substances:

(1) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver uses any controlled substance, except when the use is pursuant to the instructions of a physician, and the physician has advised the driver that the substance does not adversely affect the driver’s ability to safely operate a commercial motor vehicle.

(2) No driver shall report for duty, remain on duty or perform a safety-sensitive function if the driver tests positive for controlled substances, except as duly authorized by a physician as outlined in (1) above.

Testing

A. Testing shall be conducted by a contractor who shall comply with the provisions of federal law governing testing of commercial drivers. All time spent providing a breath and/or urine sample, including travel time to and from the collection site, is on-duty time.

B. Types of testing:

(1) Pre-employment: every driver hired after January 1, 1995, will be required to undergo testing for alcohol and controlled substances, unless exempted by federal regulation. The alcohol test must result in a finding of an alcohol content of less than 0.04 and the controlled substance test must indicate a verified negative result. If a new hire’s alcohol test yields a result of between 0.02 and 0.04, he or she shall not perform or continue to perform safety-sensitive functions for 24 hours following the test.

(2) Post-accident: every driver involved in an accident involving a commercial motor vehicle shall be tested if either of the following conditions apply:

a. Human life was lost, or
b. The driver receives a citation for a moving traffic violation because of the accident.
(3) **Random testing:** every driver shall be subject to random testing. The rate of random testing shall be set in accordance with federal law. The initial rate shall be 25% for alcohol testing and 50% for controlled substances testing. Due to the nature of random testing, one driver might be tested more than once before another driver is tested at all. The chance of a particular driver being tested does not go down after that driver is tested. The selection of drivers for testing shall be made by a scientifically valid method which gives each driver an equal chance of being tested each time selections are made. Random tests shall be unannounced.

(4) **Reasonable suspicion testing:**

a. It is the responsibility of a driver's supervisor to require the driver to undergo an alcohol test when the supervisor has reasonable suspicion to believe that the driver has:

   i. Reported to duty or remained on duty with an alcohol concentration of 0.02 or greater, or

   ii. Has used alcohol while performing safety-sensitive functions, or

   iii. Has used alcohol less than four hours before performing safety-sensitive functions.

b. It is the responsibility of a driver's supervisor to require the driver to undergo a controlled substances test when the supervisor has reasonable suspicion of controlled substance use by the driver while the driver is on duty or reasonable suspicion that the driver is under the influence of controlled substances while on duty.

c. No supervisor shall require a reasonable suspicion test unless the supervisor has undergone training as mandated by federal regulation. The supervisor must make specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver before requiring testing, and should make a contemporaneous written record of the reasons for requiring the test. Alcohol testing is authorized only if the observations were made during, just
before, or just after the period of the work day in which the driver performs safety-sensitive functions.

(5) Return-to-duty testing: Any driver found to have engaged in conduct prohibited by this regulation shall undergo a test before returning to duty. If the prohibited conduct involved alcohol, the driver shall take an alcohol test and shall not be allowed to return to work unless the result is less than 0.02. If the prohibited conduct involved controlled substances, the driver shall take a controlled substances test and shall not be allowed to return to work unless the result is a verified negative for controlled substances use.

(6) Follow-up testing: Each driver identified as needing assistance in resolving problems associated with alcohol misuse or controlled substances use shall undergo unannounced follow-up alcohol and/or controlled substances testing as directed by a substance abuse professional in accordance with federal regulations.

C. Handling of Test Results, Record Retention, and Confidentiality

(1) The contractor who handles the School Board’s testing program shall maintain records and provide reports to federal agencies in accordance with federal regulations.

(2) Testing records shall be maintained in a secure location with controlled access. The records shall be available to School Board personnel only if they have a legitimate need to know the contents of that information. The Director of Personnel shall make the determination of who has a legitimate need to know.

Consequences for Drivers of Engaging in Prohibited Conduct

A. Removal from safety-sensitive functions: Any driver violating any provision of this regulation or the federal regulations on alcohol and controlled substance abuse shall be removed from all safety-sensitive functions.
B. Required evaluation and testing: A driver removed from safety-sensitive functions shall not return to duty except after (i) being advised of available resources for substance abuse treatment, (ii) an evaluation by a substance abuse professional, and (iii) return-to-duty testing. If the driver is identified as needing assistance in resolving substance abuse problems, an evaluation will be made to determine whether the driver has followed any prescribed rehabilitation program and shall be subject to unannounced follow-up tests.

C. Alcohol tests between 0.02 and 0.04: A driver whose breath test reveals an alcohol concentration of 0.02 or greater but less than 0.04 shall be removed from safety-sensitive functions for 24 hours or until the start of the driver’s next regularly scheduled duty period, whichever period of time is greater. The employee may be temporarily transferred to a non-safety-sensitive position, if available, or may be required to take leave. If required to use leave, the employee may use any unused annual, personal, or restricted leave during the required absence. If the employee is required to use leave but has no annual, personal, or restricted leave, the employee must take leave without pay.

D. Refusal to undergo tests: If a driver fails to provide adequate breath for testing without a valid medical explanation after receiving notice of the requirement for breath testing, or fails to provide adequate urine for controlled substance testing without a valid medical explanation after receiving notice of the requirement for urine testing, or engages in conduct which clearly obstructs the testing process, the driver shall be removed from safety-sensitive functions and may be subject to discipline.

E. Federal and State law penalties: Any driver in violation of this regulation or the federal regulation on alcohol and controlled substance abuse may be reported to the Federal Highway Administration for possible civil or criminal proceedings and to local law enforcement authorities for possible criminal prosecution under Virginia or local law.

F. Disciplinary Action: Any driver in violation of this regulation is subject to administrative discipline up to and including dismissal, under both this regulation and Regulation 504-1, "Drug-Free and Alcohol-Free Work Place."
The following guidelines are purely as an aid to consistent administration of this policy and are not to be construed as a promise to employees nor as a limitation on the authority of the School Board. Deviation from these guidelines is authorized for any articulable circumstance which merits an increase or decrease, as the case may be, in the discipline imposed.

(1) A driver shall be terminated in any of the following circumstances:

a. If a driver is impaired in his or her driving or ability to drive during work hours by intoxication with alcohol (alcohol concentration of .04 or greater) or controlled substances;

b. If a driver fails to complete counseling under this regulation or tests positive for controlled substances in follow-up testing;

c. If a driver is required to have post-accident testing and is found to have an alcohol concentration level of .04 or greater, tests positive for controlled substances, or consumes alcohol before either the test is administered or eight hours elapse (whichever occurs first);

d. If the employee fails to provide adequate breath or urine samples for testing without a valid medical explanation; or

e. If a driver violates this policy after having received a written reprimand for a violation of this regulation on a different day.

(2) Any other violation of this regulation may result in a written reprimand and/or other discipline, such as suspension without pay.

Legal Reference:

49 CFR Part 382, et seq., "Controlled Substances and Alcohol Use and Testing"

The Director of Personnel is responsible for the monitoring and implementation of this regulation.

PRINCE WILLIAM COUNTY PUBLIC SCHOOLS