

ALCOHOL, ILLEGAL DRUGS, AND OTHER CONTROLLED SUBSTANCES SCREENING

Purpose

This policy provides guidelines for the detection and deterrence of the use of alcohol, illegal drugs, and other controlled substances which could impair an employee's ability to perform the duties of his or her particular job in a safe and orderly manner. Any refusal or failure to cooperate fully with the administration of any test, any behavior which makes testing more difficult or prevents administration or completion of the test or in any manner alters or attempts to alter the test result will be treated as a refusal to cooperate. **All persons covered by this policy are advised that violations, including refusal to cooperate, shall result in termination or not being hired.** A copy of this policy shall be made available to all employees of the Portsmouth Public School Division through their respective departments or others and to all newly hired employees through the Employee Orientation Program. This policy complies with the Federal Drug-Free Workplace Act of 1988 and the Federal Highway Administration/DOT drug and alcohol testing rules for persons required to have a commercial driver's license (CDL).

Policy

In order to ensure an alcohol-free, drug-free, and controlled substance-free workplace, the Portsmouth Public School Division establishes this policy to detect, through scientifically acceptable tests administered by a certified individual or by a competent independent laboratory, the presence of alcohol and/or illegal drugs and controlled substances. A positive test for alcohol is defined as a breath-alcohol concentration of 0.04 percent or greater as indicated by an alcohol-breath test for employees or applicants. All employees of the Portsmouth Public School Division are subject to be tested as part of a "fit-for-duty" examination whenever reasonable suspicion of drug and/or alcohol use on the job is indicated. Portsmouth Public School Division employees holding "safety-sensitive positions" will be subject to random drug and alcohol testing. At the discretion of the Division Superintendent, this policy may be expanded to cover applicants for other positions in which the work performed may affect the health and safety of Portsmouth Public School Division employees or students. The Portsmouth Public School Division reserves the right to search, without employees' consent, all areas of property which the school division maintains. All School Board vehicles are subject to search by appropriate supervisory personnel. Violations of this policy shall be cause for termination.

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Prohibitions

Portsmouth Public School Division employees who report for duty while having an alcohol concentration of 0.04 or greater shall be terminated. Employees whose tests indicate an alcohol concentration of at least 0.02 or 0.03 shall not be allowed to remain at work, but will be paid for the remainder of their shift. By Federal Highway Administration rules, CDL drivers must not be allowed to drive for 24 hours. Such employees must be retested before being allowed to return to work.

No supervisor having actual knowledge that an employee having an alcohol concentration of 0.04 or greater shall permit the employee to perform work.

No employee shall have in his/her possession any container of alcohol, illegal drugs, or any other controlled substances while on duty.

No Portsmouth Public School Division employee shall use alcohol, illegal drugs, or other controlled substances while on duty.

No Portsmouth Public School Division employee shall refuse to submit to a postaccident alcohol or controlled substances test, a fit-for-duty test, or a random alcohol or controlled substance test.

No Portsmouth Public School Division employee required to take a postaccident fit-for-duty examination shall use alcohol for eight hours following the accident or until he/she undergoes a postaccident alcohol test, whichever occurs first.

No employee shall report for duty or remain on duty when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to perform his/her job duties safely.

Definitions

Words or phrases used in this policy include the following:

- **Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low-molecular weight alcohols, including methyl and isopropyl alcohol.
- **Alcohol concentration (or content)** 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.
- **Alcohol use** means the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

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- **Controlled substances** mean those substances identified in Schedules I through VI of the Drug Control Act of Virginia which is set out at 54.1-3400 et seq. of the *Code of Virginia*, 1950, as amended.
- **MRO-Medical Review Officer** is a licensed physician with knowledge of substance disorders.
- **Safety-sensitive positions** are defined as follows:
 1. All personnel whose work involves the operation of a vehicle or vehicular equipment on more than an occasional or intermittent basis, in order to carry out Portsmouth City Public School Division business
 2. All personnel whose work involves hazardous or potentially hazardous functions or requires the use of hazardous or potentially hazardous equipment and could cause injury to the public
 3. All personnel requiring a CDL

Particular positions meeting the above criteria shall be determined "safety sensitive" by the Director of Human Resources, based upon all available position information

- I. Safety-sensitive positions include the following:
 - a. Crossing guards
 - b. Security guards
 - c. Maintenance workers
 - d. School nurses
 - e. Bus monitors
 - f. CDL bus drivers
 - g. Any driver of a Portsmouth Public School Division vehicle

Reasons for Testing

A. Employment

All applicants, both internal and external, for "safety-sensitive positions" will be required to submit to a drug/alcohol screening, and in the case of current employees, as a condition of being transferred or promoted to a "safety-sensitive position(s)."

Should the applicant test positive for alcohol, illegal drug(s), or controlled substances, and the test is confirmed, his/her application for employment, transfer, or promotion with the Portsmouth Public School Division shall not be processed any further. **External applicants shall be denied employment; internal Portsmouth Public School Division applicants shall be terminated.**

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B. Special Regulation for CDL

Contracting personnel shall obtain and review the following information from any employer(s) for which the applicant performed safety-sensitive functions in the previous two years. This information must be obtained and reviewed prior to the applicant beginning employment with the Portsmouth Public School Division. The information obtained must include the following:

- Information on the driver's alcohol test in which a breath-alcohol concentration of 0.04 or greater was indicated
- Information on the driver's controlled substances test in which a positive result was indicated
- Any refusal to submit to a required alcohol or controlled substances test

The contracting personnel must provide to each of the prospective employee's previous employers of the past two years written authorization from the prospective employee for release of the required information. The release of this information may take the form of personal interviews, telephone interviews, letters, or any other method that ensures confidentiality. The contracting officials must maintain a written confidential record with respect to each past employer contacted. Forms for use in complying with this requirement may be obtained from the Human Resources Office.

C. Fit for Duty Testing

Portsmouth Public School Division employees shall be required to participate in a "fit-for-duty" examination when a supervisor has a reasonable suspicion that the employee may be impaired, as exhibited by his/her work performance and/or behavior. The supervisor **must note in writing the specific behavior exhibited by the employee.** The attached form must be completed by the supervisor with a copy for the employee, the Human Resources Office, and the collection site for the MRO at the time of testing. Examples of unusual behavior include, but are not necessarily limited to, the following:

1. A pattern of abnormal or erratic behavior (e.g., hyperactivity, unexplained mood swings, paranoia, hallucinations)
2. Information provided by a reasonably reliable and credible source
3. Direct observation of alcohol use on the job, during breaks, or at lunch, and any observation of drug and/or controlled substance use
4. Possession of drugs or drug paraphernalia

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5. Presence of the physical symptoms of drugs or alcohol (e.g., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes, needle marks/scar tracks on arms, etc., unusual perspiration or shakes, unusual drowsiness, or sluggishness)
6. Prolonged or frequent sick leave or absenteeism
7. Unusual behavior which reasonably tends to indicate that the employee may be under the influence of drugs, a controlled substance, or alcohol
8. Involvement in a work-related accident (see the section below for CDL.)

D. CDL Postaccident Testing

These alcohol and controlled substance tests are conducted as soon as practicable. CDL Postaccident testing shall be conducted following an accident involving a commercial motor vehicle such as the following:

All accidents that involve a fatality, even if the driver is not cited for a moving violation

When the driver receives a citation for a moving traffic violation arising from the accident

An **accident** is defined as an incident involving a commercial motor vehicle in which there is either a fatality (an injury treated requires treatment away from the scene or a vehicle is required to be towed from the scene).

Alcohol test must be administered within two hours following the accident, if required. If unable to test within this time frame, Portsmouth Public School Division personnel shall prepare and maintain on file a record stating the reason that the test was not promptly administered. If a test required under this section is not administered within eight hours following the accident, Portsmouth Public School Division personnel shall cease attempts to administer an alcohol test and shall prepare and maintain same record.

Controlled substances test, if required, must be administered within 32 hours following the accident. If unable to test within this time frame, Portsmouth Public School Division personnel shall cease attempts to administer a controlled substance test and prepare and maintain on file a record stating the reasons the test was not properly administered.

A driver who is seriously injured and cannot provide a specimen at the time of the accident shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were any controlled substances in his/her system.

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A driver who is subject to postaccident testing must remain available, or the Portsmouth Public School Division will consider the driver to have refused to submit to testing. Refusal to submit to drug testing shall result in termination of the employee.

An employee suspected of being impaired will be transported to and from the collection site either by the supervisor or the supervisor's designee. No Portsmouth Public School Division employee shall be allowed to transport himself/herself for a fit-for-duty test.

Before a "fit-for-duty" examination may be required, **at least one additional supervisor at an equal or higher level will observe the employee and the objective facts supporting a contention of reasonable suspicion** in instances of 1, 3, 5, and 7 above. Provisions will be made for this examination of shift employees during nonregular working hours.

Supervisors may not accept medical information about an employee. It shall be the responsibility of any employee who is taking medication, whether prescription or nonprescription, however, to inform his/her supervisor of any potential side effects which could impair the employee's ability to perform his/her job duties. Such information should be supplied directly to the medical review officer.

Section heads are responsible for insuring that supervisors making the required observations for alcohol and/or controlled substances reasonable suspicion testing have received the required training on alcohol and controlled substances use and misuse (two hours). This training is available through the EAP Program.

E. Unannounced Random Testing

All employees of the Portsmouth Public School Division whose job requires a CDL or whose job title falls within the "safety-sensitive position" or required to hold a CDL (list of positions will be maintained by Human Resources staff) shall be required to participate in unannounced random drug/alcohol testing.

The random selection procedure will be computer generated using the social security number of employees in "safety-sensitive positions." All holders of CDL will be placed in a separate random testing group and at least 50 percent tested each 12-month period.

An employee may be randomly picked more than once or not picked at all during a 12-month period.

Any employee who is subject to random testing must report to the testing site immediately and no later than two hours of notification. An employee who is subject to random testing on a day that he/she is not at work will not be required to report for testing on the day that he/she returns, but is subject to be called randomly at a later date. The department head will designate a person to accompany the employee to the testing site, when appropriate. **Failure to report shall result in termination.**

D. Testing Procedures

An independent laboratory certified and monitored by Substance Abuse, Mental Health Services Administration (SAMHSA), approved by the U.S. Department of Health and Human Services to do workplace drug testing will set up a site for both the collection of urine sample and the administration of the alcohol-breath test under controlled conditions established by the independent laboratory, and approved by the Portsmouth Public School Division. Employees are required to comply with the "chain-of-custody" procedure of the laboratory and must produce a picture identification and any other requirement of the laboratory.

F. Drugs/Controlled Substances Screening

The laboratory will test for the presence of alcohol, drugs, and controlled substances. The cut-off levels for drugs and controlled substances are as follows:

	<u>Screen Cutoff Immunoassay</u>	<u>Confirmation GC/MS Cutoff</u>
Marijuana	50 ng./ml.	15 ng./ml.
Cocaine	300 ng./ml.	150 ng./ml.
Opiates	300 ng./ml.	300 ng./ml.
Amphetamines	1000 ng./ml.	500 ng./ml.
Phencyclidine (PCP)	25 ng./ml.	25 ng./ml.

These cutoff levels are subject to change by the U.S. Department of Health and Human Services.

Each specimen will be sealed immediately in the specimen container by the collection agent who will then complete the appropriate record form for each specimen.

The employee is to watch the entire process to ensure conformity with procedure and to ensure that the specimen was not mishandled.

If the employee who is to provide the urine sample is unable to provide a sufficient sample for testing, the employee will remain at the collection site until he/she is able to provide a sufficient urine sample. A sample that contains less than 45 mls. is an insufficient sample and will be considered unacceptable. Likewise, the temperature of the sample is to be checked immediately and must fall within prescribed limits in order to be considered acceptable. The acceptable temperature range is 32-38 degrees Celsius or 90-100 degrees Fahrenheit.

The independent laboratory will be responsible for ensuring that the specimen follows the chain of custody and will make available documentation of same upon request.

Should the test for drugs or other controlled substances using confirmation by GC/MS test reveal a positive result, the applicant/employee may request that an independent laboratory, meeting College of American Pathologists (CAP) and Medicare standards, test the sample. (For CDL Driver guidelines, see the SPECIAL REGULATIONS section.) It will be the responsibility of the applicant/employee to notify the school division in writing via the MRO of such request. It will be the responsibility of the employee to locate a qualified laboratory to conduct the second test of the split sample.

The applicant/employee will be responsible for providing the Portsmouth Public School Division with the test results in writing from the approved laboratory. The cost inherent in transferring the sample and the independent laboratory testing cost will be borne by the applicant/employee.

Should the Portsmouth Public School Division contracted laboratory and the employee's independent laboratory have conflicting results, the Division Superintendent or his designee will decide which laboratory results take precedence. In no case will the Portsmouth Public School Division bear any financial responsibility for costs associated with the independent laboratory testing.

Applicants and employees will have an opportunity to obtain their results in writing by signing a statement at the time of the test.

Alcohol Screening

The test for alcohol level will be an evidential breath test given using a Breathalyzer. In cases requiring confirmation of alcohol level, the evidential breath test will be repeated after waiting 15 minutes following the initial test. The result of the alcohol test is available immediately and will be shared with the applicant/employee and the person accompanying the individual to the test site.

There is no provision for such retesting as a result of alcohol.

Confidentiality / Notification

Individuals tested for drugs and controlled substances will be identified by their social security number, alcohol test by names and social security number. Section heads will practice confidentiality when notified of a positive test result. Information regarding positive test results will be treated in a strictly confidential manner and shall be divulged on a "need-to-know" basis. Anyone who inappropriately divulges such information shall be subject to appropriate disciplinary action under the *Portsmouth Public School Division's Standards of Conduct*.

Special Regulations

Testing of CDL Drivers for illegal drugs or controlled substances

When a specimen of urine is taken for the purpose of determining whether the employee has used drugs or other controlled substances, two samples shall be taken. One specimen shall be tested, while the other is held by the laboratory in a proper and secure manner to preserve the specimen.

Should the first specimen test positive, the employee shall have the right to require the second specimen to be sent to a laboratory of his/her choice for independent testing in accordance with the procedures set forth in Section 18.2-268.1 of the *Code of Virginia*.

For CDL, should the second test reveal a negative result, the test will be considered negative.

Results of controlled substances testing will be received by the MRO who shall review the results and contact the employee via the section head or designee of positive or suspicious negative results.

Employee Assistance Program

In accordance with the Federal Drug-Free Workplace Act of 1988, the Employee Assistance

Program (EAP) is available to assist those employees who voluntarily seek help for substance abuse problems. Provision is also made in the EAP for mandatory referral when circumstances warrant. EAP assistance could include outpatient or inpatient rehabilitation services.

Organizational units are required to provide any CDL employee testing positive under this policy with a referral to the Employee Assistance Program. There is also available a list of resources which can provide assistance to individuals with substance abuse problems. This list is available in the Human Resource Office and has been distributed to each department or office for posting. This is a requirement of the U.S. Department of Transportation/Federal Highway Administration.

Disciplinary Actions

1. Employees requested to submit to a urinalysis or an evidential breath test **must be informed of the reason, i.e., facts giving rise to a reasonable suspicion for which the sample is being requested or that the request is part of the random testing process. Further, they will be informed that if the test shows positive results, the employee shall be terminated.**

Refusal to submit immediately to a drug/alcohol analysis when directed by a supervisor will result in termination.

2. In compliance with the Federal Drug-Free Workplace Act of 1988, employees are required to notify their immediate supervisors within five days of any criminal drug conviction stemming from a workplace violation.
3. Supervisors who fail to take appropriate action in accordance with this policy will be subject to disciplinary action.

Severability

The provisions of this policy are severable, and if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Collection Sites

The **primary** collection site that should be used in all cases during regular working hours will be **Bon Secours MedCare - Cradock** at the following address:
4700 George Washington Highway
Portsmouth, Virginia 23702

After 7:00 p.m. and on weekends, Maryview Hospital Emergency Room will be used as the collection site.

Adopted: July 6, 2006