

FREDERICK COUNTY PUBLIC SCHOOLS		Reg. No. 300-40
Subject:	DRUG AND ALCOHOL TESTING DRIVERS OF CDL and FCPS VEHICLES	Date of Issue: 6/30/93
Preparing Office:	Office of the Superintendent	Effective Date: 7/1/09

I. Policy

II. Procedure

A. Overview

Federal Law FMCSR49CFR, Part 382 and Maryland law requires each school system to administer a drug and alcohol testing program for operators or potential operators of a commercial motor vehicle with a gross vehicle weight rating of 26,000 lbs. or higher, for operators of vehicles transporting 16 or more persons or operators of a vehicle requiring hazardous material placards to be displayed.

The Board of Education of Frederick County has expanded the post-accident and reasonable-cause drug and alcohol testing to include all drivers of Frederick County Public Schools (FCPS) vehicles.

For purposes of this program, the term "drug" includes a substance that is unlawful to possess under either the Federal Controlled Substances Act or state law.

Possession of a valid prescription or over-the-counter drug for medical reasons does not constitute a regulation violation. While over-the-counter drugs and prescribed medicines will not violate this regulation, they may affect a driver's ability to function on the job and thus may temporarily disqualify the individual from operating a school vehicle. Any substance that could adversely affect one's ability to function on the job may temporarily disqualify the individual from operating a vehicle.

B. Administration of Program

1. Test Occurrences

Drivers shall be subject to drug and alcohol testing in the following circumstances:

- All applicants for CDL driver positions will be tested prior to employment;
- All CDL drivers shall be subject to random testing;
- All drivers of FCPS vehicles shall be tested after any accident which results in personal injury or where any vehicle requires towing or winching; and
- All drivers of FCPS vehicles shall be tested whenever there is a reasonable cause to suspect that the driver may have used drugs or alcohol.

All testing will be performed by a certified laboratory with trained technicians.

The state and federal drug-testing law provided that: "A CDL vehicle driver may not be given more than two (2) hours notification of the drug test. A driver who fails to take a drug test within two (2) hours of notification is permanently disqualified from operating a CDL vehicle unless the manager of transportation determines and documents in writing that the driver had good and sufficient reason not to take the test within two (2) hours. In this case, the driver may not operate a CDL vehicle until the driver has passed a drug test, which is to be administered at a time determined by the manager of transportation."

Any driver of a FCPS vehicle who refuses a drug test authorized under this regulation will be presumed to have used illegal drugs or alcohol in violation of this regulation and will be subject to discharge. Moreover, such refusal will constitute insubordination and will serve as further grounds for discharge.

- a. **Pre-employment Testing:** All applicants for CDL driver positions in the Frederick County Public School system are required to undergo a pre-employment physical examination. In addition to the physical examination, applicants will be required to submit a urine sample which will be tested for the presence of drugs.
- b. **Random Testing:** All Frederick County Public School system CDL drivers will be subject to testing through random selection. Each CDL driver who is selected will be required to submit a urine sample which will be tested for the presence of drugs. Random tests will occur during five (5) designated times during the year. At each designated time, ten percent (10%) of the total number of drivers will be tested. This will result in fifty percent (50%) of the total number of drivers being tested for drugs per year. For alcohol, ten percent (10%) of the total drivers will be tested. All drivers will be in the random selection pool for each designated time. The five (5) designated times are: July-October, November-December, January-February, March-April, and May-June.

NOTE: The above percentages may, from time to time, be adjusted by federal law. This section of the regulation will also be adjusted.

- c. **Post-Accident Testing:** Following an accident or incident, as defined below, involving a CDL vehicle or CDL vehicle driver or the driver of a FCPS vehicle, the Frederick County Public School system will require the driver to submit to a urine test and/or a breathalyzer test. In addition, the Frederick County Public School system may rely on any test which the police or any other investigative authority shall perform.

An "accident or incident" includes any occurrence that results in:

- Personal injury to any occupants of the vehicle, another vehicle or pedestrian.
- Disabling damage to the commercial vehicle or another vehicle that would require those vehicles to be towed or winched.

Post-accident testing must be completed as soon as possible after the accident. Testing should occur within four (4) hours after the accident, and must be completed within twenty-four (24) hours after the accident. If alcohol use is suspected, the driver must take a breath test within two (2) hours. The driver of the CDL or FCPS vehicle is prohibited from consuming alcohol for eight (8) hours after the accident or until a breathalyzer test has been administered, whichever is sooner.

Following the accident, the driver will go to an approved certified lab collection center in order to have the urine and/or breathalyzer test, and/or other appropriate tests. If the employee requires hospital care, the school system will make arrangements to assure that the appropriate tests are performed at the hospital.

The school bus driver will not be tested if the school bus is struck by another vehicle and neither the driver nor students are on the bus.

- d. **Reasonable Cause Testing:** Frederick County Public School drivers will be required to submit to a urine test for drugs and/or a breathalyzer test for alcohol whenever the Frederick County Public School system has reasonable cause to suspect that the driver may have used drugs or alcohol in violation of this regulation. Reasonable cause includes any fact, physical sign, symptom, act, appearance, conduct, or behavior which leads the observer to reasonably suspect that the driver may have used drugs or alcohol. Any act, appearance, or conduct which is indicative of drug use will satisfy reasonable cause. For example, reasonable cause may be based upon such physical signs as: odor of alcohol on breath, slurred speech, dilated pupils, inability to walk, lack of coordination, incoherence, tremors, convulsions, paranoia, etc.

Only one administrator need witness the conduct or event to support an order to test. An administrator can use information supplied by others in making his determination that reasonable cause exists.

Frederick County Public Schools will provide training for supervisors in the detection of drug and alcohol impairment.

2. Drugs to be Tested

The purpose of the drug testing program is to identify the use of any drug which affects a driver's ability to function on the job. A detectable amount in a driver's system of any illegal drug or prescription medication, except when prescribed by a physician, is a violation of the regulation. The presence of alcohol may be tested in case of reasonable cause. While over-the-counter drugs and prescribed medicines will not violate this regulation, they may affect a driver's ability to function on the job and thus may temporarily disqualify the individual from operating a school vehicle.

"A detectable amount" of drugs shall be defined as the cut-off levels set forth in the United States Department of Transportation (DOT) regulations. These levels represent the amount which can be scientifically measured to assure an accurate result.

Random and pre-employment testing will test for cannabinoids, cocaine, opiates, phencyclidine and amphetamines. The school system will notify drivers if this list for pre-employment and random tests is expanded to include other drugs. Presence of these drugs at the indicated levels shall be conclusive proof of a violation of this regulation.

Drug:	Quantity:Screen/Confirmation (ng/ml)
Amphetamines.....	1000/500
Cannabinoids.....	100/15
Cocaine.....	300/150
Opiates.....	300/300
Phencyclidine.....	25/25

The school system retains the right to test for any other illegal drug or other substance which impairs one's ability to function on the job. Such testing may occur, for example, as the result of an accident or based on reasonable cause.

Any FCPS vehicle driver taking over-the-counter or prescribed medication are responsible for knowing the effects of that medication on their duties. Drivers may not drive or perform other duties under the influence of any prescription or over-the-counter drug that could adversely impair their ability to function on the job. Drivers must report to the transportation manager 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.

Drivers may not report to work or be on Frederick County Public School system property while impaired by alcohol.

3. Drug Testing Procedure

When this program requires that a driver be tested for drugs, then the driver will go to an approved collection facility for the purpose of collecting the sample.

Once at the collection facility, the driver will be required to provide a urine sample. The employee will not be directly observed while providing the urine sample but collection facility personnel will take appropriate steps to assure that the sample remains unadulterated. The collection facility and 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 Frederick County Public School system may adopt an inference of driver drug or alcohol 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. After the employee has provided the sample, 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 Frederick County Public School system and the operator to report the negative laboratory findings.

A quantitative confirmation test will be performed on all samples that screen positive. In the case of confirmed positive tests, the MRO will contact the operator to determine whether the use of valid prescription or non-prescription drugs could explain the 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, the MRO shall contact the laboratory and the test results shall be reported as negative to the Frederick County Public School system and the employee. If the MRO's investigation does not reveal a valid reason for the test results or the investigation reveals a valid reason for the test results but the MRO does not certify the driver as fit for duty, then the MRO will report the test results as positive to the Frederick County Public School system. The MRO will determine whether the driver is fit for duty based on the type and concentration of drug in the driver's system.

Refusal to submit to drug testing at any stage of testing will result in termination.

4. Alcohol Testing Procedures

The DOT regulation requires that a process called breath analysis be performed to determine if alcohol is present in the body, and if so, in what concentration. The alcohol testing does not involve an MRO since the results are obtained immediately from a computerized instrument known as a breathalyzer.

- a. To take an alcohol breath test, the driver will be required to blow into a tube connected to the breathalyzer. Breath travels through the breathalyzer and will be analyzed by its computer. Within minutes the computer will analyze the breath sample and provide the operator with a read-out as to what alcohol concentration, if any, is in the sample.
- b. If the breathalyzer indicates a blood alcohol concentration of 0.02 or higher, the driver will be asked to take a second breathalyzer test. The first test is called a screening test. The second test is referred to as a confirmation test. A confirmation test, in most circumstances, will only be administered if the screening test indicated a blood alcohol concentration of 0.02 or higher.
- c. If the confirmation test confirms a blood alcohol concentration level of 0.02 or higher, the driver is permanently disqualified from operating a vehicle in the Frederick County Public School system.

5. Prohibited Conduct for Drivers Regarding Alcohol Use

A driver may not:

- a. Have an alcohol concentration test result of 0.02 or greater on a test required under this regulation.
- b. Possess alcohol on his/her person, or in his/her vehicle while on duty.
- c. Use alcohol while performing safety-sensitive functions.
- d. Use alcohol within four (4) hours prior to performing safety-sensitive functions.
- e. Use alcohol within eight (8) hours following an accident requiring a post-accident alcohol test, or until the driver undergoes the post-accident alcohol test, whichever occurs first.
- f. Refuse to submit to an alcohol test required by this regulation.

6. Positive Test Results/Consequences

- a. **Pre-employment Testing:** A CDL driving applicant who tests positive for drugs during the pre-employment drug test or who refuses to take the test will not be hired. A quantitative confirmation test will be performed on all samples that screen positive.
- b. **Random Testing:** CDL drivers may be tested for drug and alcohol use in accordance with the random schedule.

If the drug test is positive, the laboratory will perform a quantitative confirmation test on the same sample. If the confirmation test is negative, then no action will be taken against the driver. If the confirmation test is positive, and the MRO certifies that there is no valid reason for the test results, then the result will be reported to the support personnel officer, or in his/her absence, to the executive director of human resources and the driver shall be terminated.

For an alcohol test, if the breathalyzer indicates a breath alcohol reading of less than 0.02 it will be reported as a negative result. However, if the breath alcohol reading is 0.02 or higher, a confirmation test will be administered. If the result of the confirmation test is 0.02 or greater, the driver will be permanently disqualified from driving.

If a driver must miss a field trip due to a randomly scheduled test, the transportation department will attempt to schedule another unassigned field trip of approximate equal length as soon as possible to that driver.

- c. **"Reasonable Cause" Testing:** Drivers of FCPS vehicles may be tested for drugs when an administrator has reasonable cause to believe that the driver may have used drugs or alcohol. If that drug test result is positive, the laboratory will perform a quantitative confirmation test on the same sample. If the confirmation test is negative, then no discipline will be imposed, unless performance was otherwise unacceptable. If the confirmation test is positive and the MRO certifies that there is no valid reason for the test result, then the results will be reported to the support personnel officer or, in his/her absence, to the executive director of human resources and the driver will be appropriately disciplined.

For an alcohol test, if the breathalyzer indicates a blood alcohol reading of less than 0.02 it will be reported as a negative result. However, if the breath alcohol reading is 0.02 or higher, a confirmation test will be administered. If the result of the confirmation test is 0.02 or greater, the driver will be appropriately disciplined.

- d. **Post Accident Testing:** Drivers shall be tested for drugs after an accident or incident where there is personal injury or when any vehicle requires towing or winching. If that test is positive, the laboratory will perform a quantitative confirmation test on the same sample. If the confirmation test is negative, the driver shall be subject to discipline under normal standards. If the confirmation test is positive and the MRO certifies that there is no valid reason for the test results, then the results will be reported to the support personnel officer or, in his/her absence, to the executive director of human resources and the driver will be appropriately disciplined.

For an alcohol test, if the breathalyzer indicates a breath alcohol reading of less than 0.02 it will be reported as a negative result. However, if the breath alcohol reading is 0.02 or higher, a confirmation test will be administered. If the result of the confirmation test is 0.02 or greater, the driver will be appropriately disciplined.

- e. **Notice:** Each individual who tests positive for drugs will be notified of the test results by the MRO. If the results are positive for alcohol, the driver will be notified by the support personnel officer. In addition, the individual will receive a copy of the lab test result, a copy of the Frederick County Public School system drug and alcohol testing regulation and procedures, and a written notice of any disciplinary action. The individual will be informed of his/her rights to request independent testing of the same sample at a certified lab at his/her own expense. An individual desiring to appeal the positive result must file the appeal with the MRO within 72 hours after being notified by a board of education representative of the positive results. School holidays and weekends are excluded in the calculation of the 72 hour period. Leave time by the individual, such as personal leave, sick leave, etc., are not excluded.

- f. **Refusal to Test:** The refusal to submit to drug/alcohol testing at any stage of testing will result in termination. Additionally, the failure to follow this regulation or its guidelines, to sign and follow all related forms, to cooperate with the testing labs or medical review officer, or to follow testing protocols will result in disciplinary action up to and including immediate termination.
- g. **Disclosure:** Positive test results will be reported to the Maryland State Department of Education Clearinghouse. The driver's name, social security number, driver's license 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 pupil transportation supervisor who requests the information.

7. Reimbursement for Driver-Obtained Second Test Proven Negative

If a driver, not a driver applicant, exercises his/her right to have a second drug test performed on his confirmed positive sample and if, as a result, the driver's sample is finally determined to be confirmed negative, the school system will reimburse the driver for the actual fees which were paid to the MRO, the board's testing lab, and the driver's lab of choice to obtain the second test. Additionally, in such instances, the school system will pay for any lost wages sustained by the driver, if he/she was suspended without pay and/or terminated as a result of the initial confirmed positive report.

8. Drug Testing Program Not a Waiver of Any Rights

This regulation is not intended to and shall not constitute a waiver of any rights possessed by Frederick County Public Schools derived from any source whatsoever. Nothing in this regulation shall be construed as limiting the school system's rights to take administrative or disciplinary action up to and including discharge for involvement with drugs or alcohol not specifically addressed in this regulation. Nothing in this regulation shall limit the rights of the school system as derived from existing law, rules and regulations, manuals, handbooks, and statements of policy and regulation, bulletins, memoranda, and directives, local customs and practices, labor contract provisions, and customs or practices under past or present labor contracts. The school system expressly reserves all such rights and any other rights derived from any other source whatsoever. The school system may modify this regulation from time to time, including when there are changes in applicable federal or state laws.

Approved:

original signed by

Linda D. Burgee
Superintendent

**FREDERICK COUNTY PUBLIC SCHOOLS
BUS DRIVER DRUG AND ALCOHOL TESTING PROGRAM**

The Drug Testing Program has four (4) components which will be implemented under the following conditions:

- Pre-employment..... For all new driver applicants
- Post-accident..... After any accident involving personal injury or requiring towing or winching
- Reasonable Cause..... Based upon reasonable suspicion
- Random Testing..... July-October, November-December, January-February, March-April, May-June

PRE-EMPLOYMENT TESTING

This process is handled by staff of the pupil transportation department. When a prospective employee completes all the preliminary paperwork and a personal interview with transportation staff, the applicant is given instructions prior to the drug test. Specimen collection for the drug test must be completed within two (2) hours. The applicant will not be put into behind-the-wheel training until the results from both the physical and the drug test are known.

POST-ACCIDENT TESTING

Post-accident testing must be completed as soon as possible after the accident. Testing should occur within four (4) hours after the accident, and must be completed within twenty-four (24) hours after the accident. If alcohol use is suspected, the driver must take a breath test within two (2) hours. The driver is prohibited from consuming alcohol for eight (8) hours after the accident or until a breathalyzer test has been administered, whichever is sooner.

REASONABLE CAUSE TESTING

When possible, the conduct or event giving rise to the reasonable cause should be witnessed by two (2) administrators. In an emergency or if only one (1) administrator is available, then only one (1) administrator need witness the conduct or event in order to support an order to test. Under this provision, any of the pupil transportation administrators are empowered to require a FCPS vehicle operator to submit to a drug/alcohol test if they feel there is reasonable cause. An administrator can use information supplied by others in making the decision that reasonable cause exists. Refusal to take a drug/alcohol test may result in dismissal, and the operator will be advised of that fact. If he/she still refuses to be tested, then the operator is not to be allowed to drive a CDL or FCPS vehicle and is immediately referred for appropriate action. Specimen collection must be completed within two (2) hours. Alcohol testing may be required immediately.

TYPE OF TESTS PERFORMED

- Pre-employment..... Urine Drug Test
- Post-accident..... Urine Drug Test and/or Breathalyzer Alcohol Test
- Reasonable cause..... Urine Drug Test and/or Breathalyzer Alcohol Test
- Random..... Urine Drug Test and/or Breathalyzer Alcohol Test

POSITIVE RESULTS (USDOT DRUGS) AFTER MEDICAL REVIEW OFFICER (MRO) REVIEW

- Pre-employment..... No job offer
- Post-accident..... Permanently disqualified from driving a FCPS vehicle
- Reasonable cause..... Permanently disqualified from driving a FCPS vehicle
- Random..... Permanently disqualified from driving a CDL vehicle

ALCOHOL TEST RESULTS OF 0.02 OR HIGHER

- Post-accident..... Permanently disqualified from driving a FCPS vehicle
- Reasonable cause..... Permanently disqualified from driving a FCPS vehicle
- Random..... Permanently disqualified from driving a CDL vehicle

FREDERICK COUNTY PUBLIC SCHOOLS
NOTICE
TO
BUS OPERATOR APPLICANTS

FREDERICK COUNTY PUBLIC SCHOOLS prohibit the use, possession, purchase, sale, distribution and being under the influence or impaired by drugs or alcohol on school property during school hours or while on school business.

PRE-EMPLOYMENT DRUG TEST REQUIRED

AS PART OF THEIR PRE-EMPLOYMENT PHYSICAL EXAMINATION, CDL OPERATOR CANDIDATES ARE REQUIRED TO COMPLETE A DRUG TEST. ANY APPLICANT WHO TESTS POSITIVE FOR PROHIBITED DRUGS OR WHO REFUSES TO TAKE THE TEST WILL NOT BE HIRED.

POST-EMPLOYMENT TESTING REQUIRED

If you are hired as a CDL driver to operate for Frederick County Public Schools, you will be subject to drug and alcohol testing at random scheduling, after any accident involving personal injury or when a vehicle requires towing or winching, and whenever there is reasonable cause to suspect that you may have used drugs or alcohol.

REVISED AND EFFECTIVE September 1, 1998

FREDERICK COUNTY PUBLIC SCHOOLS

BUS OPERATOR APPLICANT FORM

Applicant Name _____

Last 4 digits of SSN: _____

Frederick County Public Schools' bus operators must drive according to state laws and the United States Department of Transportation's rules. Bus drivers are responsible for the appearance of their buses and must check the gas, oil, water levels, as well as conduct a commercial driver's license (CDL) walk-around inspection before driving and report all mechanical problems. Drivers must fill out reports about accidents and make sure that students behave properly. If you are not sure that you can do these things, please discuss your concerns with the person who conducts your interview.

You should already have an application on file with a motor vehicle administration report showing five (5) years of good driving (no points) and at least two (2) references from your most recent employers. Next, you will be interviewed.

If you are considered for employment, you will complete a pre-employment physical examination and undergo a drug test. **IF YOU TEST POSITIVE FOR PROHIBITED DRUGS, OR IF YOU REFUSE TO TAKE THE DRUG TEST, OR IF YOU DO NOT MEET MARYLAND'S MEDICAL REQUIREMENTS FOR DRIVING A BUS, YOU WILL NOT BE EMPLOYED.** You can discuss the medical requirements with the person conducting your interview.

After these examinations, you will attend training classes that prepare you to take the state's written examination for a Class B license. If you pass the written test, you will receive on-the-road training. Once you meet all of the state's requirements, you can work as a school bus operator.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE INFORMATION AND HAVE RECEIVED THE DRUG AND ALCOHOL TESTING REGULATION AND PROCEDURES.

Signature

Date

AVAILABILITY

(Please check the days and times you can work)

I CAN WORK: Monday Tuesday Wednesday Thursday Friday

I CAN WORK: 2 hours 4 hours more than 4 hours EACH DAY

FREDERICK COUNTY PUBLIC SCHOOLS
DRUG AND ALCOHOL TEST CONSENT AND RELEASE
PRE-EMPLOYMENT/RANDOM/POST-ACCIDENT/REASONABLE CAUSE

DATE _____ TIME _____

Having been advised that a pre-employment, random, post-accident, and reasonable cause drug and alcohol test is a condition of employment, and that I must not test positive for alcohol or controlled substances in order to be physically qualified for employment or continued employment with the Frederick County Public School system, I, _____, hereby consent to the submission of my urine specimen to the certified laboratory designated by the Frederick County Public School system and to analysis of the specimen for controlled substances. Once employed, an alcohol breathalyzer test will also be required. I hereby further agree to waive any physician/patient privilege that may otherwise exist with respect to confidentiality for the results of this drug test. The Frederick County Public School system will use such information consistent with this regulation and applicable statutory provisions.

I understand that refusal to submit to any test as described above by this regulation or refusal to authorize the release of the results is grounds for the Frederick County Public School system's refusal to hire me or to terminate me.

I understand that a confirmed positive test result is grounds for the Frederick County Public School system to refuse to hire me or to permanently disqualify me from driving a CDL vehicle. I authorize the disclosure of positive test results and identifying personal information to the Maryland State Department of Education Clearinghouse and re-disclosure to other local school systems in Maryland under the conditions outlined in this regulation.

I hereby release Frederick County Public Schools, the State of Maryland, and their agents from any and all liability arising from the disclosure for use consistent with this regulation and applicable statutory requirements of the information derived from or contained in my test results.

Applicant Signature

Last 4 Digits of SSN

Applicant Name (printed)

Witness Signature