I. CALL TO ORDER
   A. Introductions

II. AGENDA
   A. Superintendent’s Announcements
   B. SEAB Report
   C. Investment Report
      1. Introduction
      2. Presentation
      3. Discussion
   D. Kindergarten Readiness
      1. Introduction
      2. Presentation
      3. Discussion
         4. Action (TBD)
   E. Permits Report
      1. Introduction
      2. Presentation
      3. Discussion
         4. Action (TBD)
   F. Policy Update
      1. Introduction
      2. Presentation
      3. Discussion
4. Action (TBD)

III. ADJOURNMENT

IV. WORK SESSION
   A. Board Engagement Follow-Up
Kindergarten Readiness

February 5, 2019
Dr. Lori Erickson, Assistant Director, Office of Early Learning
Susan Braithwaite, Supervisor K-12 Literacy
# How We Teach Literacy: Framework

## ECIPs 2010 Common Core Standards Driven

<table>
<thead>
<tr>
<th>Pre-K</th>
<th>Elementary</th>
<th>Middle</th>
<th>High School</th>
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<tbody>
<tr>
<td>Early Childhood Workshop</td>
<td>Readers and Writers Workshop</td>
<td>Universal Themes</td>
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</tr>
</tbody>
</table>

- **Student Voice, Use of Technology, Cultural Proficiency**
Pre-K Literacy
Pre-K Enrollment 2017-2018

- Pre-K Enrollment - 1865
  - 264 Students in State Funded Pre-K (Voluntary Pre-K)
  - 1336 Students in District Funded Pre-K
  - 265 ECSE Students in Pre-K Classrooms
## Assessments

<table>
<thead>
<tr>
<th>Assessment</th>
<th>Grade Levels Tested</th>
<th>Components</th>
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<tbody>
<tr>
<td>IGDI Suite</td>
<td>Pre-K</td>
<td>Concepts of Print</td>
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<td>Name Writing</td>
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Pre-K Literacy Proficiency-IGDI Suite

2017-2018 Pre-K Literacy Proficiency

F: 19%
W: 44%
S: 63%
Pre-K Literacy Proficiency - IGDI Suite

<table>
<thead>
<tr>
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<th>Full Day</th>
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<tr>
<td>Not Yet</td>
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<tr>
<td>F</td>
<td>54%</td>
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</tr>
<tr>
<td>S</td>
<td>15%</td>
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<tr>
<td>In Progress</td>
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<tr>
<td>F</td>
<td>26%</td>
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<tr>
<td>W</td>
<td>25%</td>
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<tr>
<td>S</td>
<td>17%</td>
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<tr>
<td>F</td>
<td>45%</td>
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<tr>
<td>W</td>
<td></td>
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<tr>
<td>S</td>
<td>68%</td>
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</table>
Pre-K Literacy Proficiency-IGDI Suite

Half Day (AM-PM)

- Not Yet: F (55%), W (33%), S (20%)
- In Progress: F (26%), W (23%), S (18%)
- Proficient: F (19%), W (44%), S (62%)
Pre-K Literacy Growth-IGDI

2017-2018 Pre-K Literacy Growth

- Fall-Winter
- EOY

<table>
<thead>
<tr>
<th>Type</th>
<th>Fall-Winter</th>
<th>EOY</th>
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<tbody>
<tr>
<td>Full Day</td>
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<td>48%</td>
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<td>Half Day</td>
<td>25%</td>
<td>43%</td>
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<td>Program</td>
<td>25%</td>
<td>44%</td>
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Next Steps

- Full implementation of Work Sampling System (WSS)
- Bi-weekly coaching using WSS and IGDI Suite
- Develop WIDA Early Years Framework
- Childcare Partnerships
Proficiency and Growth

District Overview
Kindergarten Enrollment

- Kindergarten Enrollment - 3124
  - Increase of 1% (44 Students)
- Special Needs Kindergarten - 364
- General Education - 2758
# Assessments

<table>
<thead>
<tr>
<th>Assessment</th>
<th>Grade Levels Tested</th>
<th>Components</th>
</tr>
</thead>
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<td>Fall:</td>
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<td>Concepts of Print</td>
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<td>Letter Name</td>
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<td></td>
<td></td>
<td>Letter Sounds</td>
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<tr>
<td></td>
<td></td>
<td>Onset Sounds</td>
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<td></td>
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<td>*Composite Score</td>
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</tbody>
</table>
Kindergarten Proficiency - FAST

- High Risk: 29.7%
- Low Risk: 43.6%
- Some Risk: 26.7%
Kindergarten Literacy Proficiency-FAST

Pre-K vs Non Pre-K

- Low Risk
- Some Risk
- High Risk

For SPPS Pre K:
- Low Risk: 41
- Some Risk: 30
- High Risk: 29

For Not SPPS Pre K:
- Low Risk: 46
- Some Risk: 24
- High Risk: 30
Deeper Look - Kindergarten FAST Data

Promising Data Suggests:

Low Risk

- **African American/Black**
  - 37% Non SPPS Pre-K
  - 46% SPPS Pre-K

- **Asian**
  - 25% Non SPPS Pre-K
  - 33% SPPS Pre-K

- **Hispanic**
  - 33% Hispanic Non SPPS Pre-K
  - 29% SPPS Pre-K
Deeper Look - Kindergarten FAST Data

Promising Data Suggests:

Some Risk

- **African American/Black**
  - 29% Non SPPS Pre-K
  - 29% SPPS Pre-K

- **Asian**
  - 26% Non SPPS Pre-K
  - 32% SPPS Pre-K

- **Hispanic**
  - 29% Hispanic Non SPPS Pre-K
  - 37% SPPS Pre-K
Deeper Look - Kindergarten FAST Data

Promising Data Suggests:

**High Risk**

- **African American/Black**
  - 34% Non SPPS Pre-K
  - 26% SPPS Pre-K

- **Asian**
  - 48% Non SPPS Pre-K
  - 35% SPPS Pre-K

- **Hispanic**
  - 38% Hispanic Non SPPS Pre-K
  - 34% SPPS Pre-K
Next Steps

- Principal PD
- Monthly Coach/Lead Meetings
- CSI/TSI Coaching
- District Focus on Small Group Instruction
Questions
Community Use of Buildings and Grounds

Policy and Procedure Update
Objective

- Overview of current Permits operation
- Introduction to Permits Committee
- Strategic input on procedure changes
The board encourages community use of school facilities and has policy (902.00) regarding aspects of access of use of facilities.

The policy addresses legal use of facilities, supervision of activities, schedule of rates, process for fee waiving and use of buildings during emergencies. Additionally, the District and the City of Saint Paul are parties in an agreement with implications for facilities/grounds access and maintenance.

SPPS administration is responsible for implementing his policy through procedures.
Did You Know?

- FY18 total number of permitted events: 151,844
  - Represents 515,061 hours of use
  - Approximately 75% of non-SPPS use are non-profits or partners
- FY18 revenue: $330,507
External Permitted Use by Site
Permits Committee

- Review policy and procedure of permit operations
- Review fee waiver and reduction applications
- Provide multiple perspectives on issues impacting community usage of building and grounds

Committee composition:
- Community Ed: Kristin Keller
- Office of Family Engagement and Community Partnerships: Heather Kilgore & Aquanetta Anderson
- Facilities: Jenna Hernandez, Tom Parent, Bruce Gill, and Jacky Olson
- Security and Emergency Management: Alex Corey
Programmatic and Business Changes Since Last Procedure Update

- Programmatic updates
  - Costs for staffing and equipment
  - Special events
  - Partnerships
  - Category refinement
  - Fee reduction/waiver
- Business process updates
  - Safety
  - Insurance/liability
Rate Structure Analysis

- Comparison with other local district space fees
- Calculated average of personnel costs
- Equipment usage fees

- **21st Century School Facility Cost Calculator**
  - Operating costs
  - Administrative costs
  - Long term debt and capital costs

- SPPS’ annual per square foot cost: $17.21
Proposed Rate Structures Changes

- Current category IV eliminated
- Current category V becomes new category IV (negotiated pricing)
- Fees adjusted to reflect more accurate true costs and better align with market conditions

<table>
<thead>
<tr>
<th>Cost by Category</th>
</tr>
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<tbody>
<tr>
<td>Current</td>
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<tr>
<td>I</td>
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<tr>
<td>Proposed</td>
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<td>I</td>
</tr>
</tbody>
</table>

31
Space fee reduction and category reclassification criteria and process development
  ○ Formal appeal process refined to eliminate ambiguity, promote consistency, and ensure fair and equitable discounts are applied

Factors considered for reduction of space fees (for Category II organizations):
  ○ Percentage of participants / families who attend SPPS or who live in Saint Paul
  ○ Availability of scholarships if a fee is charged for the activity or event
  ○ Nominal participation fee charged
  ○ Uniqueness of offering that supports District’s outreach and equity work to underserved communities

Category Reclassification
  ○ Organizations appeal their categorization to Permits Committee and provide documentation that supports a potential reclassification
Next Steps

● Discussion and feedback tonight

● SPPS Achieves Initiative 9a Work
  ○ Work with Board Policy Workgroup to:
    ■ Consider revisions to Board Policy 902.00, including the rate structure
    ■ Update SPPS Procedure 902.00.01 - Community Use Of Buildings and Grounds

● Adoption on consent agenda at future BOE meeting:
  ○ Updated rate structure
  ○ Updated Procedure 902.00.01
Questions

- Does the Board have any input on category definitions or their accompanying rate structures?

- Is the Board supportive of developing a codified rate reduction criteria for specific uses? If so, what measures do you think are pertinent?

- Any input on customer service improvements you believe the District can make for external users?

- What other input might you have for our Permits team?
Policy Update
Cedrick Baker, Chief of Staff
Committee of the Board Meeting
February 5, 2019
Drug and Alcohol Testing - Policy 416.00 and Policy 417.00

- New policy that will provide authority so that SPPS may require all employees to submit to drug and alcohol testing
- Reason for new policy:
  - Liability and safety issue
  - No current mechanism (for any employees other than drivers) to rule out or confirm someone is indeed under the influence
- Two policies:
  - 416.00 Drug and Alcohol Testing for All Employees
  - 417.00 Federally Mandated Drug Alcohol Testing for School Bus Drivers and
Federally Mandated Drug Alcohol Testing for School Bus Drivers - Policy 417.00

- SPPS already participates in these practices because it is the law:
  - Pre-Employment Testing
  - Post-Accident Testing
  - Random Testing
  - Reasonable Suspicion Testing
  - Return-To-Duty Testing
  - Follow-Up Testing

- Employees that supervise drivers receive 2 hours of training on performance indicators of probable misuse of alcohol and drugs so they are equipped to make determinations of reasonable suspicion.
Drug and Alcohol Testing for All Employees - Policy 416.00

We are removing from the policy:

1. Random Testing
   Reason: Cost and functionality

2. Job Applicant Testing
   Reason: Cost; Not consistent with purpose; many organizations moving away from this

3. During Routine Physical Examination Testing
   Reason: SPPS does not conduct routine physical exams
We are keeping in the policy:

1. **Reasonable Suspicion Testing**

   **Reason:**
   - Makes it easier for District to prove whether or not someone should be disciplined
   - Helps employees who truly have a problem get help
   - If an employee has one positive test, the District must give them an opportunity to participate in treatment before moving to termination
Drug and Alcohol Testing for Other Employees

2. Treatment Program Testing
   a. Testing may be required as part of an employee’s participation in any chemical dependency treatment under an employee benefit plan, or any chemical dependency treatment to which an employee has been referred by the District.
   b. Updated language so easier to understand, removed option to continue testing for 2 years after treatment, and consistent with other local districts
Legislative Change to Uniform Municipal Contracting Law

- Minn. Stat. § 471.345 establishes contracting requirements and dollar value thresholds that require certain procurement requirements
- Recently, the dollar value threshold increased from $100K to $175K
- Because SPPS Policy 713.00 references and incorporates Minn. Stat. § 471.345, it will also incorporate the increased threshold
- If Board takes no action, Policy 713.00 will automatically allow the District to not use advertised public bidding for projects under $175K
Questions for Board Following the Legislative Change

● **Procurement**: Does the Board want to follow the change in the law and increase the dollar value threshold that requires advertised public bidding?
  
  ○ **Option #1.** Do nothing. If the Board wants to allow the increased limit of $175K to take effect, then no policy changes are required.

  ○ **Option #2.** Amend Policy 713.00. If the Board wants to require that District policy requires advertised public bidding at a lower dollar value threshold (e.g. $100K), then the Board can amend Policy 713.00 to be more restrictive than the statute.
Questions for Board Following the Legislative Change

- **Oversight.** At what dollar value does the Board want to review contracts?

Presently, the Board reviews and approves any contract for services or the purchase of goods over $100K. The Board may maintain that review level or increase the amount that requires Board review and approval to $175K.
516.00 Medications/Medical Procedures

● Revision of the policy
  ○ Restructure of sentences
  ○ Re-wording
    ■ “Building administrator” to replace “principal” (paragraph 2)
    ■ “Needed at school” to replace “prescribed” (paragraphs 4a, 4b)

● Additions to the policy:
  ○ Purpose statement
  ○ Paragraph 5 - overnight field trips / in original, labeled container
  ○ Paragraph 10 - emergency medication

● Work Group recommendation: advance to COB
Questions
416 DRUG AND ALCOHOL TESTING FOR ALL EMPLOYEES

I. PURPOSE

A. Saint Paul Public Schools (SPPS) recognizes the significant problems created by drug and alcohol use in society in general, and the public schools in particular. SPPS further recognizes the important contribution that the public schools have in shaping the youth of today into the adults of tomorrow.

B. SPPS believes that a work environment free of drug and alcohol use will be not only safer, healthier, and more productive but also more conducive to effective learning. Therefore, to provide such an environment, the purpose of this policy is to provide authority so that SPPS may require all employees and/or job applicants to submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in federal law and Minn. Stat. §§ 181.950-181.957.

II. GENERAL STATEMENT OF POLICY

A. All school district employees and job applicants whose positions require a commercial driver’s license will be required to undergo drug and alcohol testing in accordance with federal law and the applicable provisions of this policy. SPPS also may request or require that drivers submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in Minn. Stat. §§ 181.950-181.957.

B. The school district may request or require that any SPPS employee, other than an employee or applicant whose position requires a commercial driver’s license, submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in Minn. Stat. §§ 181.950-181.957. Employees and applicants whose positions require a commercial driver’s license will be tested in accordance with federal law and Board Policy 417.00.

C. The use, possession, sale, purchase, transfer, or dispensing of any drugs not medically prescribed, including medical cannabis, regardless of whether it has been prescribed for the employee, is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of drugs which are not medically prescribed, including medical cannabis, regardless of whether it has been prescribed for the employee, is also prohibited throughout the school or work day, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of drugs which are not medically prescribed are prohibited from entering or remaining on school district property.
The use, possession, sale, purchase, transfer, or dispensing of alcohol is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of alcohol is also prohibited throughout the school or work day, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of alcohol are prohibited from entering or remaining on school district property.

Any employee who violates this section shall be subject to discipline which includes, but is not limited to, immediate suspension without pay and immediate discharge.

### III. FEDERALLY MANDATED DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

#### A. General Statement of Policy

All persons subject to commercial driver’s license requirements shall be tested for alcohol, marijuana (including medical cannabis), cocaine, amphetamines, opiates (including heroin), and phencyclidine (PCP), pursuant to federal law. Drivers who test positive for alcohol or drugs shall be subject to disciplinary action, which may include termination of employment.

#### B. Definitions

1. “Actual Knowledge” means actual knowledge by the school district that a driver has used alcohol or controlled substances based on: (a) direct observation of the employee’s use (not observation of behavior sufficient to warrant reasonable suspicion testing); (b) information provided by a previous employer; (c) a traffic citation; or (d) an employee’s admission, except when made in connection with a qualified employee self-admission program.

2. “Alcohol Screening Device” (ASD) means a breath or saliva device, other than an Evidential Breath Testing Device (EBT), that is approved by the National Highway Traffic Safety Administration and placed on its Conforming Products List for such devices.

3. “Breath Alcohol Technician” (BAT) means an individual who instructs and assists individuals in the alcohol testing process and who operates the EBT.

4. “Commercial Motor Vehicle” (CMV) includes a vehicle which is designed to transport 16 or more passengers, including the driver.

5. “Designated Employer Representative” (DER) means a designated school district representative authorized to take immediate action to remove
employees from safety-sensitive duties, to make required decisions in the testing and evaluation process, and to receive test results and other communications for the school district.

6. “Department of Transportation” (DOT) means United States Department of Transportation.

7. “Driver” is any person who operates a CMV, including full-time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers, and independent owner-operator contractors.

8. “Evidential Breath Testing Device” (EBT) means a device approved by the National Highway Traffic Safety Administration for the evidentiary testing of breath for alcohol concentration and placed on its Conforming Products List for such devices.

9. “Medical Review Officer” (MRO) means a licensed physician responsible for receiving and reviewing laboratory results generated by the school district’s drug testing program and for evaluating medical explanations for certain drug tests.

10. “Refusal to Submit” (to an alcohol or controlled substances test) means that a driver: (a) fails to appear for any test within a reasonable time, as determined by the school district, consistent with applicable DOT regulations, after being directed to do so; (b) fails to remain at the testing site until the testing process is complete; (c) fails to provide a urine specimen or an adequate amount of saliva or breath for any DOT drug or alcohol test; (d) fails to permit the observation or monitoring of the driver’s provision of a specimen in the case of a directly observed or monitored collection in a drug test; (e) fails to provide a sufficient breath specimen or sufficient amount of urine when directed and a determination has been made that no adequate medical explanation for the failure exists; (f) fails or declines to take an additional test as directed; (g) fails to undergo a medical examination or evaluation, as directed by the MRO or the DER; (h) fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational manner that disrupts the collection process, fails to wash hands after being directed to do so by the collector, fails to sign the certification on the forms); (i) fails to follow the observer’s instructions, in an observed collection, to raise the driver’s clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the driver has any type of prosthetic or other device that could be used to interfere with the collection process; (j) possesses or wears a prosthetic or other device that could be used to interfere with the collection process; (k) admits to the collector or MRO that the driver adulterated or substituted the specimen; or (l) is reported by the MRO as having a verified adulterated or substituted test result. An applicant who fails to appear for a pre-employment test, who
leaves the testing site before the pre-employment testing process commences, or who does not provide a urine specimen because he or she has left before it commences is not deemed to have refused to submit to testing.

11. “Safety-sensitive functions” are on-duty functions from the time the driver begins work or is required to be in readiness to work until relieved from work, and include such functions as driving, loading and unloading vehicles, or supervising or assisting in the loading or unloading of vehicles, servicing, repairing, obtaining assistance to repair, or remaining in attendance during the repair of a disabled vehicle.

12. “Screening Test Technician” (STT) means anyone who instructs and assists individuals in the alcohol testing process and operates an ASD.

13. “Stand Down” means to temporarily remove an employee from performing safety-sensitive functions after a laboratory reports a confirmed positive, an adulterated, or a substituted test result but before the MRO completes the verification process.

14. “Substance Abuse Professional” (SAP) means a qualified person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

C. Policy and Educational Materials

1. The school district shall provide a copy of this policy and procedures to each driver prior to the start of its alcohol and drug testing program and to each driver subsequently hired or transferred into a position requiring driving of a CMV.

2. The school district shall provide to each driver information concerning the effects of alcohol and controlled substances use on an individual’s health, work, and personal life; signs and symptoms of an alcohol or drug problem; and available methods of intervening when an alcohol or drug problem is suspected, including confrontation, referral to an employee assistance program, and/or referral to management.

3. The school district shall provide written notice to representatives of employee organizations that the information described above is available.

4. The school district shall require each driver to sign a statement certifying that he or she has received a copy of the policy and materials. This statement should be in the form of Attachment A to this policy. The school district will maintain the original signed certificate and will provide a copy to the driver if the driver so requests.
D. Alcohol and Controlled Substances Testing Program Manager

1. The program manager will coordinate the implementation, direction, and administration of the alcohol and controlled substances testing policy for bus drivers. The program manager is the principal contact for the collection site, the testing laboratory, the MRO, the BAT, the SAP, and the person submitting to the test. Employee questions concerning this policy shall be directed to the program manager.

2. The school district shall designate a program manager and provide written notice of the designation to each driver along with this policy.

E. Specific Prohibitions for Drivers

1. Alcohol Concentration. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. Drivers who test greater than 0.04 will be taken out of service and will be subject to evaluation by a professional and retesting at the driver’s expense.

2. Alcohol Possession. No driver shall be on duty or operate a CMV while the driver possesses alcohol.

3. On-Duty Use. No driver shall use alcohol while performing safety-sensitive functions.

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

5. Use Following an Accident. No driver required to take a post-accident test shall use alcohol for eight (8) hours following the accident, or until he or she undergoes a post-accident alcohol test, whichever occurs first.

6. Refusal to Submit to a Required Test. No driver shall refuse to submit to an alcohol or controlled substances test required by post-accident, random, reasonable suspicion, return-to-duty, or follow-up testing requirements. A verified adulterated or substituted drug test shall be considered a refusal to test.

7. Use of Controlled Substances. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to instructions (which have been presented to the school district) from a licensed physician who has advised the driver that the substance does not adversely affect the driver’s ability to safely operate a CMV. Controlled substance includes medical cannabis, regardless of whether the driver is
enrolled in the state registry program.

8. **Positive, Adulterated, or Substituted Test for Controlled Substance.** No driver shall report for duty, remain on duty, or perform a safety-sensitive function if the driver tests positive for controlled substances, including medical cannabis, or has adulterated or substituted a test specimen for controlled substances.

9. **General Prohibition.** Drivers are also subject to the general policies and procedures of the school district which prohibit the possession, transfer, sale, exchange, reporting to work under the influence of drugs or alcohol, and consumption of drugs or alcohol while at work or while on school district premises or operating any school district vehicle, machinery, or equipment.

**F. Other Alcohol-Related Conduct**

No driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform safety-sensitive functions for at least twenty-four (24) hours following administration of the test. The school district will not take any action under this policy other than removal from safety-sensitive functions based solely on test results showing an alcohol concentration of less than 0.04 but may take action otherwise consistent with law and policy of the school district.

**G. Prescription Drugs**

A driver shall inform his or her supervisor if at any time the driver is using a controlled substance pursuant to a physician’s prescription. The physician’s instructions shall be presented to the school district upon request. Use of a prescription drug shall be allowed if the physician has advised the driver that the prescribed drug will not adversely affect the driver’s ability to safely operate a CMV. Use of medical cannabis is prohibited notwithstanding the driver’s enrollment in the patient registry.

**H. Testing Requirements**

1. **Pre-Employment Testing**

   a. A driver applicant shall undergo testing for alcohol and controlled substances, including medical cannabis, before the first time the driver performs safety-sensitive functions for the school district.

   b. Tests shall be conducted only after the applicant has received a conditional offer of employment.

   e. In order to be hired, the applicant must test negative and must sign an agreement in the form of Attachment B to this policy, authorizing
former employers to release to the school district all information on the applicant’s alcohol tests with results of blood alcohol concentration of 0.04 or higher, or verified positive results for controlled substances, including medical cannabis, or refusals to be tested (including verified adulterated or substituted drug test results), or any other violations of DOT agency drug and alcohol testing regulations, or, if the applicant violated the testing regulations, documentation of the applicant’s successful completion of DOT return-to-duty requirements (including follow-up tests), within the preceding two (2) years.

d. The applicant also must be asked whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee, during the last two (2) years, applied for, but did not obtain, safety sensitive transportation work covered by DOT testing rules.

2. Post-Accident Testing

a. As soon as practicable following an accident involving a CMV, the school district shall test the driver for alcohol and controlled substances, including medical cannabis, if the accident involved the loss of human life or if the driver receives a citation for a moving traffic violation arising from an accident which results in bodily injury or disabling damage to a motor vehicle.

b. Drivers should be tested for alcohol use within two (2) hours and no later than eight (8) hours after the accident.

c. Drivers should be tested for controlled substances, including medical cannabis, no later than thirty-two (32) hours after the accident.

d. A driver subject to post-accident testing must remain available for testing, or shall be considered to have refused to submit to the test.

e. If a post-accident alcohol test is not administered within two (2) hours following the accident, the school district shall prepare and maintain on file a record stating the reasons the test was not promptly administered and continue to attempt to administer the alcohol test within eight (8) hours.

f. If a post-accident alcohol test is not administered within eight (8) hours following the accident or a post-accident controlled substances test is not administered within thirty-two (32) hours following the accident, the school district shall cease attempts to administer the test, and prepare and maintain on file a record stating
the reasons for not administering the test.

3. Random Testing

a. The school district shall conduct tests on a random basis at unannounced times throughout the year, as required by the federal regulations.

b. The school district shall test for alcohol at a minimum annual percentage rate of 10% of the average number of driver positions, and for controlled substances, including medical cannabis, at a minimum annual percentage of 50%.

c. The school district shall adopt a scientifically valid method for selecting drivers for testing, such as random number table or a computer-based random number generator that is matched with identifying numbers of the drivers. Each driver shall have an equal chance of being tested each time selections are made.

d. Random tests shall be unannounced. Dates for administering random tests shall be spread reasonably throughout the calendar year.

e. Drivers shall proceed immediately to the collection site upon notification of selection; provided, however, that if the driver is performing a safety sensitive function, other than driving, at the time of notification, the driver shall cease to perform the function and proceed to the collection site as soon as possible.

4. Reasonable Suspicion Testing

a. The school district shall require a driver to submit to an alcohol test and/or controlled substances, including medical cannabis, test when a supervisor or school district official, who has been trained in accordance with the regulations, has reasonable suspicion to believe that the driver has used alcohol and/or controlled substances, including medical cannabis, on duty or within four (4) hours before coming on duty. The test shall be done as soon as practicable following the observation of the behavior indicative of the use of controlled substances or alcohol.

b. The reasonable suspicion determination must be based on specific, contemporaneous, articulable observations concerning the driver’s appearance, behavior, speech, or body odors. The required observations for reasonable suspicion of a controlled substances violation may include indications of the chronic and withdrawal effects of controlled substances.
e. Alcohol testing shall be administered within two (2) hours following a determination of reasonable suspicion. If it is not done within two (2) hours, the school district shall prepare and maintain a record explaining why it was not promptly administered and continue to attempt to administer the alcohol test within eight (8) hours. If an alcohol test is not administered within eight (8) hours following the determination of reasonable suspicion, the school district shall cease attempts to administer the test and state in the record the reasons for not administering the test.

d. The supervisor or school district official who makes observations leading to a controlled substances reasonable suspicion test shall make and sign a written record of the observations within twenty-four (24) hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

5. Return-To-Duty Testing. A driver found to have violated this policy shall not return to work until an SAP has determined the employee has successfully complied with prescribed education and/or treatment and until undergoing return to duty tests indicating an alcohol concentration of less than 0.02 and a confirmed negative result for the use of controlled substances.

6. Follow-Up Testing. When an SAP has determined that a driver is in need of assistance in resolving problems with alcohol and/or controlled substances, the driver shall be subject to unannounced follow-up testing as directed by the SAP for up to sixty (60) months after completing a treatment program.

7. Refusal to Submit and Attendant Consequences

a. A driver or driver applicant may refuse to submit to drug and alcohol testing.

b. Refusal to submit to a required drug or alcohol test subjects the driver or driver applicant to the consequences specified in federal regulations as well as the civil and/or criminal penalty provisions of 49 U.S.C. § 521(b). In addition, a refusal to submit to testing establishes a presumption that the driver or driver applicant would test positive if a test were conducted and makes the driver or driver applicant subject to discipline or disqualification under this policy.

c. A driver applicant who refuses to submit to testing shall be disqualified from further consideration for the conditionally offered position.
d. An employee who refuses to submit to testing shall not be permitted to perform safety-sensitive functions and will be considered insubordinate and subject to disciplinary action, up to and including dismissal. If an employee is offered an opportunity to return to a DOT safety-sensitive duty, the employee will be evaluated by an SAP and must submit to a return to duty test prior to being considered for reassignment to safety-sensitive functions.

e. Drivers or driver applicants who refuse to submit to required testing will be required to sign Attachment C to this policy.

I. Testing Procedures

1. Drug Testing

a. Drug testing is conducted by analyzing a donor’s urine specimen. Split urine samples will be collected in accordance with federal regulations. The donor will provide a urine sample at a designated collection site. The collection site personnel will then pour the sample into two sample bottles, labeled “primary” and “split,” seal the specimen bottles, complete the chain of custody form, and prepare the specimen bottles for shipment to the testing laboratory for analysis. The specimen preparation shall be conducted in sight of the donor.

b. If the donor is unable to provide the appropriate quantity of urine, the collection site person shall instruct the individual to drink up to forty (40) ounces of fluid distributed reasonably through a period of up to three (3) hours to attempt to provide a sample. If the individual is still unable to provide a complete sample, the test shall be discontinued and the school district notified. The DER shall refer the donor for a medical evaluation to determine if the donor’s inability to provide a specimen is genuine or constitutes a refusal to test. For pre-employment testing, the school district may elect to not have a referral made, and revoke the employment offer.

c. Drug test results are reported directly to the MRO by the testing laboratory. The MRO reports the results to the DER. If the results are negative, the school district is informed and no further action is necessary. If the test result is confirmed positive, adulterated, substituted, or invalid, the MRO shall give the donor an opportunity to discuss the test result. The MRO will contact the donor directly, on a confidential basis, to determine whether the donor wishes to discuss the test result. The MRO shall notify each donor that the donor has seventy-two (72) hours from the time of notification in which to request a test of the split specimen at the donor’s expense. No split specimen testing is done for an invalid result.
d. If the donor requests an analysis of the split specimen within seventy-two (72) hours of having been informed of a confirmed positive test, the MRO shall direct, in writing, the laboratory to provide the split specimen to another Department of Health and Human Services—SAMHSA certified laboratory for analysis. If the donor has not contacted the MRO within seventy-two (72) hours, the donor may present the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the confirmed positive test, or other circumstances unavoidably prevented the donor from timely making contact. If the MRO concludes that a legitimate explanation for the donor’s failure to contact him/her within seventy-two (72) hours exists, the MRO shall direct the analysis of the split specimen. The MRO will review the confirmed positive test result to determine whether an acceptable medical reason for the positive result exists. The MRO shall confirm and report a positive test result to the DER and the employee when no legitimate medical reason for a positive test result as received from the testing laboratory exists.

e. If, after making reasonable efforts and documenting those efforts, the MRO is unable to reach the donor directly, the MRO must contact the DER who will direct the donor to contact the MRO. If the DER is unable to contact the donor, the donor will be suspended from performing safety-sensitive functions.

f. The MRO may confirm the test as a positive without having communicated directly with the donor about the test results under the following circumstances:

   (1) The donor expressly declines the opportunity to discuss the test results;

   (2) The donor has not contacted the MRO within seventy-two (72) hours of being instructed to do so by the DER; or

   (3) The MRO and the DER, after making and documenting all reasonable efforts, have not been able to contact the donor within ten (10) days of the date the confirmed test result was received from the laboratory.

2. Alcohol Testing

   a. The federal alcohol testing regulations require testing to be administered by a BAT using an EBT or an STT using an ASD. EBTs and ASDs can be used for screening tests but only EBTs can be used for confirmation tests.
b. Any test result less than 0.02 alcohol concentration is considered a “negative” test.

c. If the donor is unable to provide sufficient saliva for an ASD, the DER will immediately arrange to use an EBT. If the donor attempts and fails to provide an adequate amount of breath, the school district will direct the donor to obtain a written evaluation from a licensed physician to determine if the donor’s inability to provide a breath sample is genuine or constitutes a refusal to test.

d. If the screening test results show alcohol concentration of 0.02 or higher, a confirmatory test conducted on an EBT will be required to be performed between fifteen (15) and thirty (30) minutes after the completion of the screening test.

e. Alcohol tests are reported directly to the DER.

J. Driver/Driver Applicant Rights

1. All drivers and driver applicants subject to the controlled substances testing provisions of this policy who receive a confirmed positive test result for the use of controlled substances have the right to request, at the driver’s or driver applicant’s expense, a confirming retest of the split urine sample. If the confirming retest is negative, no adverse action will be taken against the driver, and a driver applicant will be considered for employment.

2. The school district will not discharge a driver who, for the first time, receives a confirmed positive drug or alcohol test UNLESS:

   a. The school district has first given the employee an opportunity to participate in, at the employee’s own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the school district after consultation with the SAP; and

   b. The employee refuses to participate in the recommended program, or fails to successfully complete the program as evidenced by withdrawal before its completion or by a positive test result on a confirmatory test after completion of the program.

   c. This limitation on employee discharge does not bar discharge of an employee for reasons independent of the first confirmed positive test result.
K. Testing Laboratory

The testing laboratory for controlled substances will be Concentra, Inc., 570 Asbury Street, Suite 101, Saint Paul, Minnesota, (651) 888-6540, which is a laboratory certified by the Department of Health and Human Services—SAMHSA to perform controlled substances testing pursuant to federal regulations.

L. Confidentiality of Test Results

All alcohol and controlled substances test results and required records of the drug and alcohol testing program are considered confidential information under federal law and private data on individuals as that phrase is defined in Minn. Stat. Ch. 13. Any information concerning the individual’s test results and records shall not be released without written permission of the individual, except as provided for by regulation or law.

Consistent with federal regulations, the District must report the following information to the Commercial Driver’s License Drug and Alcohol Clearinghouse: (i) a verified positive, adulterated, or substituted drug test result; (ii) an alcohol confirmation test with a concentration of 0.04 or higher; (iii) a refusal to submit to any test required by 49 CFR § 382, subpart C; (iv) the District’s actual knowledge on duty alcohol use, pre-duty alcohol use, alcohol use following an accident, and controlled substance use; (v) a SAP report of the successful completion of the return-to-duty process; (vi) a negative return-to-duty test; and (vii) the District’s report of completion of follow up testing.

M. Recordkeeping Requirements and Retention of Records

1. The school district shall keep and maintain records in accordance with the federal regulations in a secure location with controlled access.

2. The required records shall be retained for the following minimum periods:

   Basic records .................................................. 5 years

   “Basic records” includes records of: (a) alcohol test results with concentration of 0.02 or greater; (b) verified positive drug test results; (c) refusals to submit to required tests (including substituted or adulterated drug test results); (d) SAP reports; (e) all follow up tests and schedules for follow up tests; (f) calibration documentation; (g) administration of the testing programs; and (h) each annual calendar year summary.

   Information obtained from previous employers ........... 3 years

   Collection records ............................................. 2 years

   Negative and cancelled drug tests .......................... 1 year

   Alcohol tests with less than 0.02 concentration .......... 1 year
Education and training records

“Education and training records” must be maintained while the individuals perform the functions which require training and for the two (2) years after ceasing to perform those functions.

N. Training

The school district shall ensure all persons designated to supervise drivers receive training. The designated employees shall receive at least sixty (60) minutes of training on alcohol misuse and at least sixty (60) minutes of training on controlled substances use. The training shall include physical, behavioral, speech, and performance indicators of probable misuse of alcohol and use of controlled substances. The training will be used by the supervisors to make determinations of reasonable suspicion.

O. Consequences of Prohibited Conduct and Enforcement

1. Removal. The school district shall remove a driver who has engaged in prohibited conduct from safety sensitive functions. A driver shall not be permitted to return to safety sensitive functions until and unless the return-to-duty requirements of federal DOT regulations have been completed.

2. Referral, Evaluation, and Treatment

a. A driver or driver applicant who has engaged in prohibited conduct shall be provided a listing of SAPs readily available to the driver or applicant and acceptable to the school district.

b. If the school district offers a driver an opportunity to return to a DOT safety sensitive duty following a violation, the driver must be evaluated by an SAP and the driver is required to successfully comply with the SAP’s evaluation recommendations (education, treatment, follow up evaluation(s), and/or ongoing services). The school district is not required to provide an SAP evaluation or any subsequent recommended education or treatment.

e. Drivers are responsible for payment for SAP evaluations and services unless a collective bargaining agreement or employee benefit plan provides otherwise.

d. Drivers who engage in prohibited conduct also are required to comply with follow-up testing requirements.

3. Disciplinary Action

a. Any driver who refuses to submit to post-accident, random,
reasonable suspicion, or follow-up testing not only shall not perform or continue to perform safety-sensitive functions, but also may be subject to disciplinary action, which may include immediate suspension without pay and/or immediate discharge.

b. Drivers who test positive with verification of a confirmatory test or are otherwise found to be in violation of this policy or the federal regulations shall be subject to disciplinary action, which may include immediate suspension without pay and/or immediate discharge.

e. Nothing in this policy limits or restricts the right of the school district to discipline or discharge a driver for conduct which not only constitutes prohibited conduct under this policy but also violates the school district’s other rules or policies.

P. Other Testing

The school district may request or require that drivers submit to drug and alcohol testing other than that required by federal law. For example, drivers may be requested or required to undergo drug and alcohol testing on an annual basis as part of a routine physical examination. Such additional testing of drivers will be conducted only in accordance with the provisions of this policy and as provided in Minn. Stat. §§ 181.950 - 181.957. For purposes of such additional, non-mandatory testing, drivers fall within the definition of “other employees” covered by Section IV. of this policy.

III. DRUG AND ALCOHOL TESTING FOR OTHER ALL EMPLOYEES

The school district may request or require drug and alcohol testing for other school district personnel, i.e., employees who are not school bus drivers or other drivers of CMVs who are subject to federally mandated testing. The school district does not have a legal duty to request or require any employee or job applicant to undergo drug and alcohol testing as authorized in this Board policy, except for school bus drivers and other drivers of CMVs who are subject to federally mandated testing. (See Section III. of this Board Policy 417.00.) If a school bus driver is requested or required to submit to drug or alcohol testing beyond that mandated by federal law, the provisions of Section IV. of this Board Policy 416.00 will be applicable to such testing.

A. Circumstances Under Which Drug or Alcohol Testing May Be Requested or Required:

1. General Limitations

a. The school district will not request or require an employee or job applicant—whose position does not require a commercial driver’s license to undergo drug or alcohol testing, unless the testing is done
pursuant to this drug and alcohol testing policy; and is conducted by a testing laboratory which participates in one of the programs listed in Minn. Stat. § 181.953, Subd. 1.

b. The school district will not request or require an employee or job applicant whose position does not require a commercial driver’s license to undergo drug and alcohol testing on an arbitrary and capricious basis.

24. Reasonable Suspicion Testing

The school district may request or require any employee to undergo drug and alcohol testing if the school district has a reasonable suspicion that the employee:

a. is under the influence of drugs or alcohol;

b. has violated the school district’s written work rules prohibiting the use, possession, sale, or transfer of drugs or alcohol while the employee is working or while the employee is on the school district’s premises or operating the school district’s vehicles, machinery, or equipment;

c. has sustained a personal injury, as that term is defined in Minn. Stat. § 176.011, Subd. 16, or has caused another employee to sustain a personal injury; or

d. has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

35. Treatment Program Testing

Testing may be required as part of an employee’s participation in any chemical dependency treatment under an employee benefit plan, or any chemical dependency treatment to which an employee has been referred by the District.

B. No Legal Duty to Test

The school district does not have a legal duty to request or require any employee or job applicant whose position does not require a commercial driver’s license to undergo drug and alcohol testing.
C. Definitions

1. “Drug” means a controlled substance as defined in Minnesota Statute 152.01, subd. 4.

2. “Drug and alcohol testing,” “drug or alcohol testing,” and “drug or alcohol test” mean analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. § 181.953, Subd. 1, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.

3. “Other Employees” means any persons, independent contractors, or persons working for an independent contractor who perform services for the school district for compensation, either full time or part time, in whatever form, except for persons whose positions require a commercial driver’s license, and includes both professional and nonprofessional personnel. Persons whose positions require a commercial driver’s license are primarily governed by the provisions of the school district’s drug and alcohol testing policy relating to school bus drivers (Section III.). To the extent that the drug and alcohol testing of persons whose positions require a commercial driver’s license is not mandated by federal law and regulations, such testing shall be governed by Section IV. of this policy and the drivers shall fall within this definition of “other employees.”

5. “Positive test result” means a finding of the presence of drugs, alcohol, or their metabolites in the sample tested in levels at or above the threshold detection levels contained in the standards of one of the programs listed in Minn. Stat. § 181.953, Subd. 1.

6. “Reasonable suspicion” means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.

D. Right of Other Employee or Job Applicant to Refuse Drug and Alcohol Testing and Consequences of Such Refusal

1. Right of Other Employee or Job Applicant to Refuse Drug and Alcohol Testing

Any employee or job applicant whose position does not require a commercial driver’s license has the right to refuse drug and alcohol testing subject to the provisions contained in Paragraphs 2. and 3. of this Section D.
2. **Consequences of an Employee’s Refusal to Undergo Drug and Alcohol Testing**

Any employee in a position that does not require a commercial driver’s license who refuses to undergo drug and alcohol testing in the circumstances set out in the Random Testing, Reasonable Suspicion Testing, and Treatment Program Testing provisions of this policy may be subject to disciplinary action, up to and including immediate discharge.

E. **Reliability and Fairness Safeguards**

1. **Pretest Notice**

Before requesting an employee whose position does not require a commercial driver’s license to undergo drug or alcohol testing, the school district shall provide the employee with a Pretest Notice in the form of Attachment 1D to this policy on which to acknowledge that the employee has received the school district’s drug and alcohol testing policy.

2. **Notice of Test Results**

Within three (3) working days after receipt of a test result report from the testing laboratory, the school district shall inform in writing an employee who has undergone drug or alcohol testing of a negative test result on an initial screening test or of a negative or positive test result on a confirmatory test.

3. **Notice of and Right to Test Result Report**

Within three (3) working days after receipt of a test result report from the testing laboratory, the school district shall inform in writing, an employee who has undergone drug or alcohol testing of the employee’s right to request and receive from the school district a copy of the test result report on any drug or alcohol test.

4. **Notice of and Right to Explain Positive Test Result**

   a. If an employee has a positive test result on a confirmatory test, the school district shall, within three (3) working days, provide him or her with notice of the test results and, at the same time, written notice of the right to explain the results and to submit additional information.

   b. The school district may request that the employee indicate any over-the-counter or prescription medication that the individual is
currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result.

c. The employee may present verification of enrollment in the medical cannabis patient registry as part of the employee’s explanation.

d. Within three (3) working days after notice of a positive test result on a confirmatory test, an employee may submit information (in addition to any information already submitted) to the school district to explain that result.

5. Notice of and Right to Request Confirmatory Retests

a. If an employee has a positive test result on a confirmatory test, the school district shall, within three (3) working days, provide him or her with notice of the test results and, at the same time, written notice of the right to request a confirmatory retest of the original sample at his or her expense.

b. An employee may request a confirmatory retest of the original sample at his or her own expense after notice of a positive test result on a confirmatory test. Within five (5) working days after notice of the confirmatory test result, the employee shall notify the school district in writing of his or her intention to obtain a confirmatory retest. Within three (3) working days after receipt of the notice, the school district shall notify the original testing laboratory that the employee has requested the laboratory to conduct the confirmatory retest or to transfer the sample to another laboratory licensed under Minn. Stat. § 181.953, Subd. 1 to conduct the confirmatory retest. The original testing laboratory shall ensure that appropriate chain-of-custody procedures are followed during transfer of the sample to the other laboratory. The confirmatory retest must use the same drug or alcohol threshold detection levels as used in the original confirmatory test. If the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test may be taken against the employee.

6. If an employee has a positive test result on a confirmatory test, the school district, at the time of providing notice of the test results, shall also provide written notice to inform him or her of other rights provided under Sections F. or G., below, whichever is applicable.

Attachments 2E and 3F to this policy provide the Notices described in Paragraphs 2. through 6. of this Section E.

F. Discharge and Discipline of Employees Whose Positions Do Not Require a Commercial Driver's License
1. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.

2. In the case of a positive test result on a confirmatory test, the employee shall be subject to discipline which includes, but is not limited to, immediate suspension without pay and immediate discharge, pursuant to the provisions of this policy.

3. The school district may not discharge an employee for whom a positive test result on a confirmatory test was the first such result for the employee on a drug or alcohol test requested by the school district, unless the following conditions have been met:
   a. The school district has first given the employee an opportunity to participate in, at the employee’s own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the school district after consultation with a certified chemical abuse counselor or a physician trained in the diagnosis and treatment of chemical dependency; and
   b. The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion or by a positive test result on a confirmatory test after completion of the program.

4. Notwithstanding Paragraph 1., the school district may temporarily suspend the tested employee or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, provided the school district believes that it is reasonably necessary to protect the health or safety of the employee, co-employees or the public. An employee who has been suspended without pay must be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.

5. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of medical history information or the employee’s status as a patient enrolled in the medical cannabis registry program revealed to the school district, unless the employee was under an affirmative duty to provide the information before, upon, or after hire, or failing to do so would violate federal law or regulations or cause the school district to lose money or licensing-related benefit under federal law or regulations.
6. The school district may not discriminate against any employee in termination, discharge, or any term of condition of employment or otherwise penalize an employee based upon an employee registered patient’s positive drug test for cannabis components or metabolites, unless the employee used, possessed, or was impaired by medical cannabis on school district property during the hours of employment.

7. An employee must be given access to information in his or her personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process and conclusions drawn from and actions taken based on the reports or other acquired information.

H. Chain-of-Custody Procedures

The school district has established its own reliable chain-of-custody procedures to ensure proper record keeping, handling, labeling, and identification of the samples to be tested. The procedures require the following:

1. Possession of a sample must be traceable to the employee from whom the sample is collected, from the time the sample is collected through the time the sample is delivered to the laboratory;

2. The sample must always be in the possession of, must always be in view of, or must be placed in a secure area by a person authorized to handle the sample;

3. A sample must be accompanied by a written chain-of-custody record; and

4. Individuals relinquishing or accepting possession of the sample must record the time the possession of the sample was transferred and must sign and date the chain-of-custody record at the time of transfer.

I. Privacy, Confidentiality and Privilege Safeguards

1. Privacy Limitations

A laboratory may only disclose to the school district test result data regarding the presence or absence of drugs, alcohol or their metabolites in a sample tested.

2. Confidentiality Limitations

With respect to employees, test result reports and other information acquired in the drug or alcohol testing process are private data on individuals as that phrase is defined in Minn. Stat. Ch. 13, and may not be
disclosed by the school district or laboratory to another employer or to a third-party individual, governmental agency, or private organization without the written consent of the employee tested.

3. **Exceptions to Privacy and Confidentiality Disclosure Limitations**

Notwithstanding Paragraphs 1. and 2., evidence of a positive test result on a confirmatory test may be: (1) used in an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing under Minn. Stat. Ch. 43A or other applicable state or local law, or a judicial proceeding, provided that information is relevant to the hearing or proceeding; (2) disclosed to any federal agency or other unit of the United States government as required under federal law, regulation or order, or in accordance with compliance requirements of a federal government contract; and (3) disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment of the employee.

4. **Privilege**

Positive test results from the school district drug or alcohol testing program may not be used as evidence in a criminal action against the employee tested.

J. **Notice of Testing Policy to Affected Employees**

The school district shall provide written notice of this drug and alcohol testing policy to all affected employees upon adoption of the policy and to a previously non-affected employee upon transfer to an affected position under the policy. Affected employees will acknowledge receipt of this written notice in the form of Attachment 4G to this policy.

V. **POSTING**

The school district shall post notice in an appropriate and conspicuous location on its premises that it has adopted a drug and alcohol testing policy and that copies of the policy are available for inspection during regular business hours by its employees in its personnel office or other suitable locations.

**Legal References:**

Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. Ch. 43A (State Personnel Management)
Minn. Stat. § 152.22 (Medical Cannabis; Definitions)
Minn. Stat. § 152.23 (Medical Cannabis; Limitations)
Minn. Stat. § 152.32 (Protections for Registry Program Participation)
Minn. Stat. §§ 181.950-181.957 (Drug and Alcohol Testing in the Workplace)
Minn. Stat. § 221.031 (Motor Carrier Rules)
49 U.S.C. § 521(b) (Civil and Criminal Penalties for Violations)
49 C.F.R. Parts 40 and 382 (Department of Transportation Rules Implementing Omnibus Transportation Employee Testing Act of 1991)

Cross-References:

304 Records: Data Management
413 Drug-Free Workplace
413.01 Chemical Use and Abuse
414 Tobacco-Free Environment
405 Records: Personnel Records
I. PURPOSE

A. Saint Paul Public Schools (SPPS) recognizes the significant problems created by drug and alcohol use in society in general, and the public schools in particular. SPPS further recognizes the important contribution that the public schools have in shaping the youth of today into the adults of tomorrow.

B. SPPS believes that a work environment free of drug and alcohol use will be not only safer, healthier, and more productive but also more conducive to effective learning. Therefore, to provide such an environment, the purpose of this policy is to provide authority so that SPPS may require all employees to submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in Minn. Stat. §§ 181.950-181.957.

II. GENERAL STATEMENT OF POLICY

A. The school district may request or require that any SPPS employee, other than an employee or applicant whose position requires a commercial driver’s license, submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in Minn. Stat. §§ 181.950-181.957. Employees and applicants whose positions require a commercial driver’s license will be tested in accordance with federal law and Board Policy 417.00.

B. The use, possession, sale, purchase, transfer, or dispensing of any drugs not medically prescribed, including medical cannabis, regardless of whether it has been prescribed for the employee, is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of drugs which are not medically prescribed, including medical cannabis, regardless of whether it has been prescribed for the employee, is also prohibited throughout the school or workday, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of drugs which are not medically prescribed are prohibited from entering or remaining on school district property.

C. The use, possession, sale, purchase, transfer, or dispensing of alcohol is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of alcohol is also prohibited throughout the school or workday, including lunch or other breaks, whether or not the employee is on or off school district property.
day, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of alcohol are prohibited from entering or remaining on school district property.

D. Any employee who violates this section shall be subject to discipline which includes, but is not limited to, immediate suspension without pay and immediate discharge.

III. DRUG AND ALCOHOL TESTING FOR ALL EMPLOYEES

The school district may request or require drug and alcohol testing for other school district personnel, i.e., employees who are not school bus drivers or other drivers of CMVs who are subject to federally mandated testing. The school district does not have a legal duty to request or require any employee or job applicant to undergo drug and alcohol testing as authorized in Board policy, except for school bus drivers and other drivers of CMVs who are subject to federally mandated testing. (See Board Policy 417.00.) If a driver is requested or required to submit to drug or alcohol testing beyond that mandated by federal law, the provisions of Board Policy 416.00 will be applicable to such testing.

A. Circumstances Under Which Drug or Alcohol Testing May Be Requested or Required:

1. General Limitations
   a. The school district will not request or require an employee whose position does not require a commercial driver’s license to undergo drug or alcohol testing, unless the testing is done pursuant to this drug and alcohol testing policy; and is conducted by a testing laboratory which participates in one of the programs listed in Minn. Stat. § 181.953, Subd. 1.
   b. The school district will not request or require an employee whose position does not require a commercial driver’s license to undergo drug and alcohol testing on an arbitrary and capricious basis.

2. Reasonable Suspicion Testing
   The school district may request or require any employee to undergo drug and alcohol testing if the school district has a reasonable suspicion that the employee:
   a. is under the influence of drugs or alcohol;
   b. has violated the school district’s written work rules prohibiting the use, possession, sale, or transfer of drugs or alcohol while the employee is working or while the employee is on the school
district’s premises or operating the school district’s vehicles, machinery, or equipment;

c. has sustained a personal injury, as that term is defined in Minn. Stat. § 176.011, Subd. 16, or has caused another employee to sustain a personal injury; or

d. has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

3. Treatment Program Testing

Testing may be required as part of an employee’s participation in any chemical dependency treatment under an employee benefit plan, or any chemical dependency treatment to which an employee has been referred by the District.

B. No Legal Duty to Test

The school district does not have a legal duty to request or require any employee or job applicant whose position does not require a commercial driver’s license to undergo drug and alcohol testing.

C. Definitions

1. “Drug” means a controlled substance as defined in Minnesota Statute 152.01, subd. 4.

2. “Drug and alcohol testing,” “drug or alcohol testing,” and “drug or alcohol test” mean analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. § 181.953, Subd. 1, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.

3. “Other Employees” means any persons, independent contractors, or persons working for an independent contractor who perform services for the school district for compensation, either full time or part time, in whatever form, except for persons whose positions require a commercial driver’s license, and includes both professional and nonprofessional personnel. Persons whose positions require a commercial driver’s license are primarily governed by the provisions of the school district’s drug and alcohol testing policy relating to school bus drivers (Section III.). To the extent that the drug and alcohol testing of persons whose positions require a commercial driver’s license is not mandated by federal law and regulations, such testing shall be governed by Section IV. of this policy and the drivers shall fall within this definition of “other employees.”
5. “Positive test result” means a finding of the presence of drugs, alcohol, or their metabolites in the sample tested in levels at or above the threshold detection levels contained in the standards of one of the programs listed in Minn. Stat. § 181.953, Subd. 1.

6. “Reasonable suspicion” means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.

D. Right of Other Employee or Job Applicant to Refuse Drug and Alcohol Testing and Consequences of Such Refusal

1. Right of Other Employee to Refuse Drug and Alcohol Testing

Any employee whose position does not require a commercial driver’s license has the right to refuse drug and alcohol testing subject to the provisions contained in Paragraphs 2. and 3. of this Section D.

2. Consequences of an Employee’s Refusal to Undergo Drug and Alcohol Testing

Any employee in a position that does not require a commercial driver’s license who refuses to undergo drug and alcohol testing in the circumstances set out in the Reasonable Suspicion Testing and Treatment Program Testing provisions of this policy may be subject to disciplinary action, up to and including immediate discharge.

E. Reliability and Fairness Safeguards

1. Pretest Notice

Before requesting an employee whose position does not require a commercial driver’s license to undergo drug or alcohol testing, the school district shall provide the employee with a Pretest Notice in the form of Attachment 1 to this policy on which to acknowledge that the employee has received the school district’s drug and alcohol testing policy.

2. Notice of Test Results

Within three (3) working days after receipt of a test result report from the testing laboratory, the school district shall inform in writing an employee who has undergone drug or alcohol testing of a negative test result on an
initial screening test or of a negative or positive test result on a confirmatory test.

3. **Notice of and Right to Test Result Report**

   Within three (3) working days after receipt of a test result report from the testing laboratory, the school district shall inform in writing, an employee who has undergone drug or alcohol testing of the employee’s right to request and receive from the school district a copy of the test result report on any drug or alcohol test.

4. **Notice of and Right to Explain Positive Test Result**

   a. If an employee has a positive test result on a confirmatory test, the school district shall, within three (3) working days, provide him or her with notice of the test results and, at the same time, written notice of the right to explain the results and to submit additional information.

   b. The school district may request that the employee indicate any over-the-counter or prescription medication that the individual is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result.

   c. The employee may present verification of enrollment in the medical cannabis patient registry as part of the employee’s explanation.

   d. Within three (3) working days after notice of a positive test result on a confirmatory test, an employee may submit information (in addition to any information already submitted) to the school district to explain that result.

5. **Notice of and Right to RequestConfirmatory Retests**

   a. If an employee has a positive test result on a confirmatory test, the school district shall, within three (3) working days, provide him or her with notice of the test results and, at the same time, written notice of the right to request a confirmatory retest of the original sample at his or her expense.

   b. An employee may request a confirmatory retest of the original sample at his or her own expense after notice of a positive test result on a confirmatory test. Within five (5) working days after notice of the confirmatory test result, the employee shall notify the school district in writing of his or her intention to obtain a confirmatory retest. Within three (3) working days after receipt of the notice, the school district shall notify the original testing laboratory that the
employee has requested the laboratory to conduct the confirmatory retest or to transfer the sample to another laboratory licensed under Minn. Stat. § 181.953, Subd. 1 to conduct the confirmatory retest. The original testing laboratory shall ensure that appropriate chain-of-custody procedures are followed during transfer of the sample to the other laboratory. The confirmatory retest must use the same drug or alcohol threshold detection levels as used in the original confirmatory test. If the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test may be taken against the employee.

6. If an employee has a positive test result on a confirmatory test, the school district, at the time of providing notice of the test results, shall also provide written notice to inform him or her of other rights provided under Sections F. or G., below, whichever is applicable.

Attachments 2 and 3 to this policy provide the Notices described in Paragraphs 2. through 6. of this Section E.

F. Discharge and Discipline of Employees Whose Positions Do Not Require a Commercial Driver’s License

1. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.

2. In the case of a positive test result on a confirmatory test, the employee shall be subject to discipline which includes, but is not limited to, immediate suspension without pay and immediate discharge, pursuant to the provisions of this policy.

3. The school district may not discharge an employee for whom a positive test result on a confirmatory test was the first such result for the employee on a drug or alcohol test requested by the school district, unless the following conditions have been met:

   a. The school district has first given the employee an opportunity to participate in, at the employee’s own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the school district after consultation with a certified chemical abuse counselor or a physician trained in the diagnosis and treatment of chemical dependency; and

   b. The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the
program, as evidenced by withdrawal from the program before its completion or by a positive test result on a confirmatory test after completion of the program.

4. Notwithstanding Paragraph 1., the school district may temporarily suspend the tested employee or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, provided the school district believes that it is reasonably necessary to protect the health or safety of the employee, co-employees or the public. An employee who has been suspended without pay must be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.

5. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of medical history information or the employee’s status as a patient enrolled in the medical cannabis registry program revealed to the school district, unless the employee was under an affirmative duty to provide the information before, upon, or after hire, or failing to do so would violate federal law or regulations or cause the school district to lose money or licensing-related benefit under federal law or regulations.

6. The school district may not discriminate against any employee in termination, discharge, or any term of condition of employment or otherwise penalize an employee based upon an employee registered patient’s positive drug test for cannabis components or metabolites, unless the employee used, possessed, or was impaired by medical cannabis on school district property during the hours of employment.

7. An employee must be given access to information in his or her personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process and conclusions drawn from and actions taken based on the reports or other acquired information.

H. Chain-of-Custody Procedures

The school district has established its own reliable chain-of-custody procedures to ensure proper record keeping, handling, labeling, and identification of the samples to be tested. The procedures require the following:

1. Possession of a sample must be traceable to the employee from whom the sample is collected, from the time the sample is collected through the time the sample is delivered to the laboratory;

2. The sample must always be in the possession of, must always be in view of, or must be placed in a secure area by a person authorized to handle the
sample;

3. A sample must be accompanied by a written chain-of-custody record; and

4. Individuals relinquishing or accepting possession of the sample must record the time the possession of the sample was transferred and must sign and date the chain-of-custody record at the time of transfer.

I. Privacy, Confidentiality and Privilege Safeguards

1. Privacy Limitations

A laboratory may only disclose to the school district test result data regarding the presence or absence of drugs, alcohol or their metabolites in a sample tested.

2. Confidentiality Limitations

With respect to employees, test result reports and other information acquired in the drug or alcohol testing process are private data on individuals as that phrase is defined in Minn. Stat. Ch. 13, and may not be disclosed by the school district or laboratory to another employer or to a third-party individual, governmental agency, or private organization without the written consent of the employee tested.

3. Exceptions to Privacy and Confidentiality Disclosure Limitations

Notwithstanding Paragraphs 1. and 2., evidence of a positive test result on a confirmatory test may be: (1) used in an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing under Minn. Stat. Ch. 43A or other applicable state or local law, or a judicial proceeding, provided that information is relevant to the hearing or proceeding; (2) disclosed to any federal agency or other unit of the United States government as required under federal law, regulation or order, or in accordance with compliance requirements of a federal government contract; and (3) disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment of the employee.

4. Privilege

Positive test results from the school district drug or alcohol testing program may not be used as evidence in a criminal action against the employee tested.

J. Notice of Testing Policy to Affected Employees

The school district shall provide written notice of this drug and alcohol testing
policy to all affected employees upon adoption of the policy and to a previously non-affected employee upon transfer to an affected position under the policy. Affected employees will acknowledge receipt of this written notice in the form of Attachment 4 to this policy.

V. POSTING

The school district shall post notice in an appropriate and conspicuous location on its premises that it has adopted a drug and alcohol testing policy and that copies of the policy are available for inspection during regular business hours by its employees in its personnel office or other suitable locations.

Legal References:  Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. Ch. 43A (State Personnel Management)
Minn. Stat. § 152.22 (Medical Cannabis; Definitions)
Minn. Stat. § 152.23 (Medical Cannabis; Limitations)
Minn. Stat. § 152.32 (Protections for Registry Program Participation)
Minn. Stat. §§ 181.950-181.957 (Drug and Alcohol Testing in the Workplace)
Minn. Stat. § 221.031 (Motor Carrier Rules)
49 U.S.C. § 521(b) (Civil and Criminal Penalties for Violations)
49 C.F.R. Parts 40 and 382 (Department of Transportation Rules Implementing Omnibus Transportation Employee Testing Act of 1991)

Cross-References:
304 Records: Data Management
413 Drug-Free Workplace
413.01 Chemical Use and Abuse
414 Tobacco-Free Environment
405 Records: Personnel Records
**4176 DRUG AND ALCOHOL TESTING FOR DRIVERS**

I. **PURPOSE**

A. Saint Paul Public Schools (SPPS) recognizes the significant problems created by drug and alcohol use in society in general, and the public schools in particular. SPPS further recognizes the important contribution that the public schools have in shaping the youth of today into the adults of tomorrow.

B. SPPS believes that a work environment free of drug and alcohol use will be not only safer, healthier, and more productive but also more conducive to effective learning. Therefore, to provide such an environment, the purpose of this policy is to provide authority for SPPS’s implementation of the drug and alcohol testing that is required by federal law so that SPPS may require all employees, for all job applicants and employees whose positions require a commercial driver’s license and/or job applicants to submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in federal law and Minn. Stat. §§ 181.950-181.957.

II. **GENERAL STATEMENT OF POLICY**

A. All school district employees and job applicants whose positions require a commercial driver’s license will be required to undergo drug and alcohol testing in accordance with federal law and the applicable provisions of this policy. SPPS also may request or require that drivers submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in Minn. Stat. §§ 181.950-181.957.

B. The school district may request or require that any SPPS employee, other than an employee or applicant whose position requires a commercial driver’s license, submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in Minn. Stat. §§ 181.950-181.957.

C. The use, possession, sale, purchase, transfer, or dispensing of any drugs not medically prescribed, including medical cannabis, regardless of whether it has been prescribed for the employee, is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of drugs which are not medically prescribed, including medical cannabis, regardless of whether it has been prescribed for the employee, is also prohibited throughout the school or work day, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of drugs which are not medically
prescribed are prohibited from entering or remaining on school district property.

**DC.** The use, possession, sale, purchase, transfer, or dispensing of alcohol is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of alcohol is also prohibited throughout the school or workday, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of alcohol are prohibited from entering or remaining on school district property.

**ED.** Any employee who violates this section shall be subject to discipline which includes, but is not limited to, immediate suspension without pay and immediate discharge.

**III. FEDERALLY MANDATED DRUG AND ALCOHOL TESTING FOR SCHOOL BUS-DRIVERS**

A. **General Statement of Policy**

All persons subject to commercial driver’s license requirements shall be tested for alcohol, marijuana (including medical cannabis), cocaine, amphetamines, opiates (including heroin), and phencyclidine (PCP), pursuant to federal law. Drivers who test positive for alcohol or drugs shall be subject to disciplinary action, which may include termination of employment.

B. **Definitions**

1. “Actual Knowledge” means actual knowledge by the school district that a driver has used alcohol or controlled substances based on: (a) direct observation of the employee’s use (not observation of behavior sufficient to warrant reasonable suspicion testing); (b) information provided by a previous employer; (c) a traffic citation; or (d) an employee’s admission, except when made in connection with a qualified employee self-admission program.

2. “Alcohol Screening Device” (ASD) means a breath or saliva device, other than an Evidential Breath Testing Device (EBT), that is approved by the National Highway Traffic Safety Administration and placed on its Conforming Products List for such devices.

3. “Breath Alcohol Technician” (BAT) means an individual who instructs and assists individuals in the alcohol testing process and who operates the EBT.

4. “Commercial Motor Vehicle” (CMV) includes a vehicle which is designed to transport 16 or more passengers, including the driver.

5. “Designated Employer Representative” (DER) means a designated school
district representative authorized to take immediate action to remove employees from safety-sensitive duties, to make required decisions in the testing and evaluation process, and to receive test results and other communications for the school district.

6. “Department of Transportation” (DOT) means United States Department of Transportation.

7. “Driver” is any person who operates a CMV, including full-time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers, and independent owner-operator contractors.

8. “Evidential Breath Testing Device” (EBT) means a device approved by the National Highway Traffic Safety Administration for the evidentiary testing of breath for alcohol concentration and placed on its Conforming Products List for such devices.

9. “Medical Review Officer” (MRO) means a licensed physician responsible for receiving and reviewing laboratory results generated by the school district’s drug testing program and for evaluating medical explanations for certain drug tests.

10. “Refusal to Submit” (to an alcohol or controlled substances test) means that a driver: (a) fails to appear for any test within a reasonable time, as determined by the school district, consistent with applicable DOT regulations, after being directed to do so; (b) fails to remain at the testing site until the testing process is complete; (c) fails to provide a urine specimen or an adequate amount of saliva or breath for any DOT drug or alcohol test; (d) fails to permit the observation or monitoring of the driver’s provision of a specimen in the case of a directly observed or monitored collection in a drug test; (e) fails to provide a sufficient breath specimen or sufficient amount of urine when directed and a determination has been made that no adequate medical explanation for the failure exists; (f) fails or declines to take an additional test as directed; (g) fails to undergo a medical examination or evaluation, as directed by the MRO or the DER; (h) fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector, fails to sign the certification on the forms); (i) fails to follow the observer’s instructions, in an observed collection, to raise the driver’s clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the driver has any type of prosthetic or other device that could be used to interfere with the collection process; (j) possesses or wears a prosthetic or other device that could be used to interfere with the collection process; (k) admits to the collector or MRO that the driver adulterated or substituted the specimen; or (l) is reported by the MRO as having a verified adulterated or substituted test
result. An applicant who fails to appear for a pre-employment test, who leaves the testing site before the pre-employment testing process commences, or who does not provide a urine specimen because he or she has left before it commences is not deemed to have refused to submit to testing.

11. “Safety-sensitive functions” are on-duty functions from the time the driver begins work or is required to be in readiness to work until relieved from work, and include such functions as driving, loading and unloading vehicles, or supervising or assisting in the loading or unloading of vehicles, servicing, repairing, obtaining assistance to repair, or remaining in attendance during the repair of a disabled vehicle.

12. “Screening Test Technician” (STT) means anyone who instructs and assists individuals in the alcohol testing process and operates an ASD.

13. “Stand Down” means to temporarily remove an employee from performing safety-sensitive functions after a laboratory reports a confirmed positive, an adulterated, or a substituted test result but before the MRO completes the verification process.

14. “Substance Abuse Professional” (SAP) means a qualified person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

C. Policy and Educational Materials

1. The school district shall provide a copy of this policy and procedures to each driver prior to the start of its alcohol and drug testing program and to each driver subsequently hired or transferred into a position requiring driving of a CMV.

2. The school district shall provide to each driver information concerning the effects of alcohol and controlled substances use on an individual’s health, work, and personal life; signs and symptoms of an alcohol or drug problem; and available methods of intervening when an alcohol or drug problem is suspected, including confrontation, referral to an employee assistance program, and/or referral to management.

3. The school district shall provide written notice to representatives of employee organizations that the information described above is available.

4. The school district shall require each driver to sign a statement certifying that he or she has received a copy of the policy and materials. This statement should be in the form of Attachment A to this policy. The school district will maintain the original signed certificate and will provide a copy to the
driver if the driver so requests.

D. Alcohol and Controlled Substances Testing Program Manager

1. The program manager will coordinate the implementation, direction, and administration of the alcohol and controlled substances testing policy for bus drivers. The program manager is the principal contact for the collection site, the testing laboratory, the MRO, the BAT, the SAP, and the person submitting to the test. Employee questions concerning this policy shall be directed to the program manager.

2. The school district shall designate a program manager and provide written notice of the designation to each driver along with this policy.

E. Specific Prohibitions for Drivers

1. Alcohol Concentration. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. Drivers who test greater than 0.04 will be taken out of service and will be subject to evaluation by a professional and retesting at the driver’s expense.

2. Alcohol Possession. No driver shall be on duty or operate a CMV while the driver possesses alcohol.

3. On-Duty Use. No driver shall use alcohol while performing safety-sensitive functions.

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

5. Use Following an Accident. No driver required to take a post-accident test shall use alcohol for eight (8) hours following the accident, or until he or she undergoes a post-accident alcohol test, whichever occurs first.

6. Refusal to Submit to a Required Test. No driver shall refuse to submit to an alcohol or controlled substances test required by post-accident, random, reasonable suspicion, return-to-duty, or follow-up testing requirements. A verified adulterated or substituted drug test shall be considered a refusal to test.

7. Use of Controlled Substances. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to instructions (which have been presented to the school district) from a licensed physician who has advised the driver that the substance does not adversely affect the driver’s ability to safely operate a CMV. Controlled
substance includes medical cannabis, regardless of whether the driver is enrolled in the state registry program.

8. **Positive, Adulterated, or Substituted Test for Controlled Substance.** No driver shall report for duty, remain on duty, or perform a safety-sensitive function if the driver tests positive for controlled substances, including medical cannabis, or has adulterated or substituted a test specimen for controlled substances.

9. **General Prohibition.** Drivers are also subject to the general policies and procedures of the school district which prohibit the possession, transfer, sale, exchange, reporting to work under the influence of drugs or alcohol, and consumption of drugs or alcohol while at work or while on school district premises or operating any school district vehicle, machinery, or equipment.

F. **Other Alcohol-Related Conduct**

No driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform safety-sensitive functions for at least twenty-four (24) hours following administration of the test. The school district will not take any action under this policy other than removal from safety-sensitive functions based solely on test results showing an alcohol concentration of less than 0.04 but may take action otherwise consistent with law and policy of the school district.

G. **Prescription Drugs**

A driver shall inform his or her supervisor if at any time the driver is using a controlled substance pursuant to a physician’s prescription. The physician’s instructions shall be presented to the school district upon request. Use of a prescription drug shall be allowed if the physician has advised the driver that the prescribed drug will not adversely affect the driver’s ability to safely operate a CMV. Use of medical cannabis is prohibited notwithstanding the driver’s enrollment in the patient registry.

H. **Testing Requirements**

1. **Pre-Employment Testing**

   a. A driver applicant shall undergo testing for alcohol and controlled substances, including medical cannabis, before the first time the driver performs safety-sensitive functions for the school district.

   b. Tests shall be conducted only after the applicant has received a conditional offer of employment.

   c. In order to be hired, the applicant must test negative and must sign
an agreement in the form of Attachment B to this policy, authorizing
former employers to release to the school district all information on
the applicant’s alcohol tests with results of blood alcohol
concentration of 0.04 or higher, or verified positive results for
controlled substances, including medical cannabis, or refusals to be
tested (including verified adulterated or substituted drug test
results), or any other violations of DOT agency drug and alcohol
testing regulations, or, if the applicant violated the testing
regulations, documentation of the applicant’s successful completion
of DOT return-to-duty requirements (including follow-up tests),
within the preceding two (2) years.

d. The applicant also must be asked whether he or she has tested
positive, or refused to test, on any pre-employment drug or alcohol
test administered by an employer to which the employee, during the
last two (2) years, applied for, but did not obtain, safety-sensitive
transportation work covered by DOT testing rules.

2. Post-Accident Testing

a. As soon as practicable following an accident involving a CMV, the
school district shall test the driver for alcohol and controlled
substances, including medical cannabis, if the accident involved the
loss of human life or if the driver receives a citation for a moving
traffic violation arising from an accident which results in bodily
injury or disabling damage to a motor vehicle.

b. Drivers should be tested for alcohol use within two (2) hours and no
later than eight (8) hours after the accident.

c. Drivers should be tested for controlled substances, including
medical cannabis, no later than thirty-two (32) hours after the
accident.

d. A driver subject to post-accident testing must remain available for
testing, or shall be considered to have refused to submit to the test.

e. If a post-accident alcohol test is not administered within two (2)
hours following the accident, the school district shall prepare and
maintain on file a record stating the reasons the test was not
promptly administered and continue to attempt to administer the
alcohol test within eight (8) hours.

f. If a post-accident alcohol test is not administered within eight (8)
hours following the accident or a post-accident controlled
substances test is not administered within thirty-two (32) hours
following the accident, the school district shall cease attempts to
administer the test, and prepare and maintain on file a record stating the reasons for not administering the test.

3. Random Testing

a. The school district shall conduct tests on a random basis at unannounced times throughout the year, as required by the federal regulations.

b. The school district shall test for alcohol at a minimum annual percentage rate of 10% of the average number of driver positions, and for controlled substances, including medical cannabis, at a minimum annual percentage of 50%.

c. The school district shall adopt a scientifically valid method for selecting drivers for testing, such as random number table or a computer-based random number generator that is matched with identifying numbers of the drivers. Each driver shall have an equal chance of being tested each time selections are made.

d. Random tests shall be unannounced. Dates for administering random tests shall be spread reasonably throughout the calendar year.

e. Drivers shall proceed immediately to the collection site upon notification of selection; provided, however, that if the driver is performing a safety-sensitive function, other than driving, at the time of notification, the driver shall cease to perform the function and proceed to the collection site as soon as possible.

4. Reasonable Suspicion Testing

a. The school district shall require a driver to submit to an alcohol test and/or controlled substances, including medical cannabis, test when a supervisor or school district official, who has been trained in accordance with the regulations, has reasonable suspicion to believe that the driver has used alcohol and/or controlled substances, including medical cannabis, on duty or within four (4) hours before coming on duty. The test shall be done as soon as practicable following the observation of the behavior indicative of the use of controlled substances or alcohol.

b. The reasonable suspicion determination must be based on specific, contemporaneous, articulable observations concerning the driver’s appearance, behavior, speech, or body odors. The required observations for reasonable suspicion of a controlled substances violation may include indications of the chronic and withdrawal
effects of controlled substances.

c. Alcohol testing shall be administered within two (2) hours following a determination of reasonable suspicion. If it is not done within two (2) hours, the school district shall prepare and maintain a record explaining why it was not promptly administered and continue to attempt to administer the alcohol test within eight (8) hours. If an alcohol test is not administered within eight (8) hours following the determination of reasonable suspicion, the school district shall cease attempts to administer the test and state in the record the reasons for not administering the test.

d. The supervisor or school district official who makes observations leading to a controlled substances reasonable suspicion test shall make and sign a written record of the observations within twenty-four (24) hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

5. Return-To-Duty Testing. A driver found to have violated this policy shall not return to work until an SAP has determined the employee has successfully complied with prescribed education and/or treatment and until undergoing return-to-duty tests indicating an alcohol concentration of less than 0.02 and a confirmed negative result for the use of controlled substances.

6. Follow-Up Testing. When an SAP has determined that a driver is in need of assistance in resolving problems with alcohol and/or controlled substances, the driver shall be subject to unannounced follow-up testing as directed by the SAP for up to sixty (60) months after completing a treatment program.

7. Refusal to Submit and Attendant Consequences

a. A driver or driver applicant may refuse to submit to drug and alcohol testing.

b. Refusal to submit to a required drug or alcohol test subjects the driver or driver applicant to the consequences specified in federal regulations as well as the civil and/or criminal penalty provisions of 49 U.S.C. § 521(b). In addition, a refusal to submit to testing establishes a presumption that the driver or driver applicant would test positive if a test were conducted and makes the driver or driver applicant subject to discipline or disqualification under this policy.

c. A driver applicant who refuses to submit to testing shall be disqualified from further consideration for the conditionally offered position.
d. An employee who refuses to submit to testing shall not be permitted to perform safety-sensitive functions and will be considered insubordinate and subject to disciplinary action, up to and including dismissal. If an employee is offered an opportunity to return to a DOT safety-sensitive duty, the employee will be evaluated by an SAP and must submit to a return-to-duty test prior to being considered for reassignment to safety-sensitive functions.

e. Drivers or driver applicants who refuse to submit to required testing will be required to sign Attachment C to this policy.

I. Testing Procedures

1. Drug Testing

a. Drug testing is conducted by analyzing a donor’s urine specimen. Split urine samples will be collected in accordance with federal regulations. The donor will provide a urine sample at a designated collection site. The collection site personnel will then pour the sample into two sample bottles, labeled “primary” and “split,” seal the specimen bottles, complete the chain of custody form, and prepare the specimen bottles for shipment to the testing laboratory for analysis. The specimen preparation shall be conducted in sight of the donor.

b. If the donor is unable to provide the appropriate quantity of urine, the collection site person shall instruct the individual to drink up to forty (40) ounces of fluid distributed reasonably through a period of up to three (3) hours to attempt to provide a sample. If the individual is still unable to provide a complete sample, the test shall be discontinued and the school district notified. The DER shall refer the donor for a medical evaluation to determine if the donor’s inability to provide a specimen is genuine or constitutes a refusal to test. For pre-employment testing, the school district may elect to not have a referral made, and revoke the employment offer.

c. Drug test results are reported directly to the MRO by the testing laboratory. The MRO reports the results to the DER. If the results are negative, the school district is informed and no further action is necessary. If the test result is confirmed positive, adulterated, substituted, or invalid, the MRO shall give the donor an opportunity to discuss the test result. The MRO will contact the donor directly, on a confidential basis, to determine whether the donor wishes to discuss the test result. The MRO shall notify each donor that the donor has seventy-two (72) hours from the time of notification in which to request a test of the split specimen at the donor’s expense.
No split specimen testing is done for an invalid result.

d. If the donor requests an analysis of the split specimen within seventy-two (72) hours of having been informed of a confirmed positive test, the MRO shall direct, in writing, the laboratory to provide the split specimen to another Department of Health and Human Services – SAMHSA certified laboratory for analysis. If the donor has not contacted the MRO within seventy-two (72) hours, the donor may present the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the confirmed positive test, or other circumstances unavoidably prevented the donor from timely making contact. If the MRO concludes that a legitimate explanation for the donor’s failure to contact him/her within seventy-two (72) hours exists, the MRO shall direct the analysis of the split specimen. The MRO will review the confirmed positive test result to determine whether an acceptable medical reason for the positive result exists. The MRO shall confirm and report a positive test result to the DER and the employee when no legitimate medical reason for a positive test result as received from the testing laboratory exists.

e. If, after making reasonable efforts and documenting those efforts, the MRO is unable to reach the donor directly, the MRO must contact the DER who will direct the donor to contact the MRO. If the DER is unable to contact the donor, the donor will be suspended from performing safety-sensitive functions.

f. The MRO may confirm the test as a positive without having communicated directly with the donor about the test results under the following circumstances:

(1) The donor expressly declines the opportunity to discuss the test results;

(2) The donor has not contacted the MRO within seventy-two (72) hours of being instructed to do so by the DER; or

(3) The MRO and the DER, after making and documenting all reasonable efforts, have not been able to contact the donor within ten (10) days of the date the confirmed test result was received from the laboratory.

2. Alcohol Testing

a. The federal alcohol testing regulations require testing to be administered by a BAT using an EBT or an STT using an ASD. EBTs and ASDs can be used for screening tests but only EBTs can
be used for confirmation tests.

b. Any test result less than 0.02 alcohol concentration is considered a “negative” test.

c. If the donor is unable to provide sufficient saliva for an ASD, the DER will immediately arrange to use an EBT. If the donor attempts and fails to provide an adequate amount of breath, the school district will direct the donor to obtain a written evaluation from a licensed physician to determine if the donor’s inability to provide a breath sample is genuine or constitutes a refusal to test.

d. If the screening test results show alcohol concentration of 0.02 or higher, a confirmatory test conducted on an EBT will be required to be performed between fifteen (15) and thirty (30) minutes after the completion of the screening test.

e. Alcohol tests are reported directly to the DER.

J. Driver/Driver Applicant Rights

1. All drivers and driver applicants subject to the controlled substances testing provisions of this policy who receive a confirmed positive test result for the use of controlled substances have the right to request, at the driver’s or driver applicant’s expense, a confirming retest of the split urine sample. If the confirming retest is negative, no adverse action will be taken against the driver, and a driver applicant will be considered for employment.

2. The school district will not discharge a driver who, for the first time, receives a confirmed positive drug or alcohol test UNLESS:

   a. The school district has first given the employee an opportunity to participate in, at the employee’s own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the school district after consultation with the SAP; and

   b. The employee refuses to participate in the recommended program, or fails to successfully complete the program as evidenced by withdrawal before its completion or by a positive test result on a confirmatory test after completion of the program.

   c. This limitation on employee discharge does not bar discharge of an employee for reasons independent of the first confirmed positive test result.
K. Testing Laboratory

The testing laboratory for controlled substances will be Concentra, Inc., 570 Asbury Street, Suite 101, Saint Paul, Minnesota, (651) 888-6540, which is a laboratory certified by the Department of Health and Human Services – SAMHSA to perform controlled substances testing pursuant to federal regulations.

L. Confidentiality of Test Results

All alcohol and controlled substances test results and required records of the drug and alcohol testing program are considered confidential information under federal law and private data on individuals as that phrase is defined in Minn. Stat. Ch. 13. Any information concerning the individual’s test results and records shall not be released without written permission of the individual, except as provided for by regulation or law.

Consistent with federal regulations, the District must report the following information to the Commercial Driver’s License Drug and Alcohol Clearinghouse: (i) a verified positive, adulterated, or substituted drug test result; (ii) an alcohol confirmation test with a concentration of 0.04 or higher; (iii) a refusal to submit to any test required by 49 CFR § 382, subpart C; (iv) the District’s actual knowledge on duty alcohol use, pre-duty alcohol use, alcohol use following an accident, and controlled substance use; (v) a SAP report of the successful completion of the return-to-duty process; (vi) a negative return-to-duty test; and (vii) the District’s report of completion of follow-up testing.

M. Recordkeeping Requirements and Retention of Records

1. The school district shall keep and maintain records in accordance with the federal regulations in a secure location with controlled access.

2. The required records shall be retained for the following minimum periods:

   Basic records 5 years

   "Basic records" includes records of: (a) alcohol test results with concentration of 0.02 or greater; (b) verified positive drug test results; (c) refusals to submit to required tests (including substituted or adulterated drug test results); (d) SAP reports; (e) all follow-up tests and schedules for follow-up tests; (f) calibration documentation; (g) administration of the testing programs; and (h) each annual calendar year summary.

   Information obtained from previous employers 3 years
   Collection records 2 years
   Negative and cancelled drug tests 1 year
Alcohol tests with less than 0.02 concentration 1 year
Education and training records indefinite

“Education and training records” must be maintained while the individuals perform the functions which require training and for the two (2) years after ceasing to perform those functions.

N. Training

The school district shall ensure all persons designated to supervise drivers receive training. The designated employees shall receive at least sixty (60) minutes of training on alcohol misuse and at least sixty (60) minutes of training on controlled substances use. The training shall include physical, behavioral, speech, and performance indicators of probable misuse of alcohol and use of controlled substances. The training will be used by the supervisors to make determinations of reasonable suspicion.

O. Consequences of Prohibited Conduct and Enforcement

1. Removal. The school district shall remove a driver who has engaged in prohibited conduct from safety-sensitive functions. A driver shall not be permitted to return to safety-sensitive functions until and unless the return-to-duty requirements of federal DOT regulations have been completed.

2. Referral, Evaluation, and Treatment
   a. A driver or driver applicant who has engaged in prohibited conduct shall be provided a listing of SAPs readily available to the driver or applicant and acceptable to the school district.
   b. If the school district offers a driver an opportunity to return to a DOT safety-sensitive duty following a violation, the driver must be evaluated by an SAP and the driver is required to successfully comply with the SAP’s evaluation recommendations (education, treatment, follow-up evaluation(s), and/or ongoing services). The school district is not required to provide an SAP evaluation or any subsequent recommended education or treatment.
   c. Drivers are responsible for payment for SAP evaluations and services unless a collective bargaining agreement or employee benefit plan provides otherwise.
   d. Drivers who engage in prohibited conduct also are required to comply with follow-up testing requirements.

3. Disciplinary Action
a. Any driver who refuses to submit to post-accident, random, reasonable suspicion, or follow-up testing not only shall not perform or continue to perform safety-sensitive functions, but also may be subject to disciplinary action, which may include immediate suspension without pay and/or immediate discharge.

b. Drivers who test positive with verification of a confirmatory test or are otherwise found to be in violation of this policy or the federal regulations shall be subject to disciplinary action, which may include immediate suspension without pay and/or immediate discharge.

c. Nothing in this policy limits or restricts the right of the school district to discipline or discharge a driver for conduct which not only constitutes prohibited conduct under this policy but also violates the school district’s other rules or policies.

P. Other Testing

The school district may request or require that drivers submit to drug and alcohol testing other than that required by federal law. For example, drivers may be requested or required to undergo drug and alcohol testing on an annual basis as part of a routine physical examination. Such additional testing of drivers will be conducted only in accordance with the provisions of this Board policy 416.00 and as provided in Minn. Stat. §§ 181.950-181.957. For purposes of such additional, non-mandatory testing, drivers fall within the definition of “other employees” covered by Section IV. of this policy Board Policy 416.00.

IV. DRUG AND ALCOHOL TESTING FOR OTHER EMPLOYEES

The school district may request or require drug and alcohol testing for other school district personnel, i.e., employees who are not school bus drivers. The school district does not have a legal duty to request or require any employee or job applicant to undergo drug and alcohol testing as authorized in this policy, except for school bus drivers and other drivers of CMVs who are subject to federally mandated testing. (See Section III. of this policy.) If a school bus driver is requested or required to submit to drug or alcohol testing beyond that mandated by federal law, the provisions of Section IV. of this policy will be applicable to such testing.

A. Circumstances Under Which Drug or Alcohol Testing May Be Requested or Required:

1. General Limitations

   a. The school district will not request or require an employee or job applicant whose position does not require a commercial driver’s license to undergo drug or alcohol testing, unless the testing is done
pursuant to this drug and alcohol testing policy; and is conducted by a testing laboratory which participates in one of the programs listed in Minn. Stat. § 181.953, Subd. 1.

b. The school district will not request or require an employee or job applicant whose position does not require a commercial driver’s license to undergo drug and alcohol testing on an arbitrary and capricious basis.

4. Reasonable Suspicion Testing

The school district may request or require any employee to undergo drug and alcohol testing if the school district has a reasonable suspicion that the employee:

a. is under the influence of drugs or alcohol;

b. has violated the school district’s written work rules prohibiting the use, possession, sale, or transfer of drugs or alcohol while the employee is working or while the employee is on the school district’s premises or operating the school district’s vehicles, machinery, or equipment;

c. has sustained a personal injury, as that term is defined in Minn. Stat. § 176.011, Subd. 16, or has caused another employee to sustain a personal injury; or

d. has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

5. Treatment Program Testing

Testing may be required as part of an employee’s participation in any chemical dependency treatment under an employee benefit plan, or any chemical dependency treatment to which an employee has been referred by the District.

B. No Legal Duty to Test

The school district does not have a legal duty to request or require any employee or job applicant whose position does not require a commercial driver’s license to undergo drug and alcohol testing.
C. Definitions

1. “Drug” means a controlled substance as defined in Minnesota Statute 152.01, subd. 4.

2. “Drug and alcohol testing,” “drug or alcohol testing,” and “drug or alcohol test” mean analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. § 181.953, Subd. 1, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.

3. “Other Employees” means any persons, independent contractors, or persons working for an independent contractor who perform services for the school district for compensation, either full time or part time, in whatever form, except for persons whose positions require a commercial driver’s license, and includes both professional and nonprofessional personnel. Persons whose positions require a commercial driver’s license are primarily governed by the provisions of the school district’s drug and alcohol testing policy relating to school bus drivers (Section III.). To the extent that the drug and alcohol testing of persons whose positions require a commercial driver’s license is not mandated by federal law and regulations, such testing shall be governed by Section IV. of this policy and the drivers shall fall within this definition of “other employees.”

5. “Positive test result” means a finding of the presence of drugs, alcohol, or their metabolites in the sample tested in levels at or above the threshold detection levels contained in the standards of one of the programs listed in Minn. Stat. § 181.953, Subd. 1.

6. 

7. “Reasonable suspicion” means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.

D. Right of Other Employee or Job Applicant to Refuse Drug and Alcohol Testing and Consequences of Such Refusal

1. Right of Other Employee or Job Applicant to Refuse Drug and Alcohol Testing

Any employee or job applicant whose position does not require a commercial driver’s license has the right to refuse drug and alcohol testing subject to the provisions contained in Paragraphs 2. and 3. of this Section D.
2. Consequences of an Employee’s Refusal to Undergo Drug and Alcohol Testing

Any employee in a position that does not require a commercial driver’s license who refuses to undergo drug and alcohol testing in the circumstances set out in the Random Testing, Reasonable Suspicion Testing, and Treatment Program Testing provisions of this policy may be subject to disciplinary action, up to and including immediate discharge.

E. Reliability and Fairness Safeguards

1. Pretest Notice

Before requesting an employee whose position does not require a commercial driver’s license to undergo drug or alcohol testing, the school district shall provide the employee with a Pretest Notice in the form of Attachment D to this policy on which to acknowledge that the employee has received the school district’s drug and alcohol testing policy.

2. Notice of Test Results

Within three (3) working days after receipt of a test result report from the testing laboratory, the school district shall inform in writing an employee who has undergone drug or alcohol testing of a negative test result on an initial screening test or of a negative or positive test result on a confirmatory test.

3. Notice of and Right to Test Result Report

Within three (3) working days after receipt of a test result report from the testing laboratory, the school district shall inform in writing, an employee who has undergone drug or alcohol testing of the employee’s right to request and receive from the school district a copy of the test result report on any drug or alcohol test.

4. Notice of and Right to Explain Positive Test Result

a. If an employee has a positive test result on a confirmatory test, the school district shall, within three (3) working days, provide him or her with notice of the test results and, at the same time, written notice of the right to explain the results and to submit additional information.

b. The school district may request that the employee indicate any over-the-counter or prescription medication that the individual is
currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result.

c. The employee may present verification of enrollment in the medical cannabis patient registry as part of the employee's explanation.

d. Within three (3) working days after notice of a positive test result on a confirmatory test, an employee may submit information (in addition to any information already submitted) to the school district to explain that result.

5. Notice of and Right to Request Confirmatory Retests

a. If an employee has a positive test result on a confirmatory test, the school district shall, within three (3) working days, provide him or her with notice of the test results and, at the same time, written notice of the right to request a confirmatory retest of the original sample at his or her expense.

b. An employee may request a confirmatory retest of the original sample at his or her own expense after notice of a positive test result on a confirmatory test. Within five (5) working days after notice of the confirmatory test result, the employee shall notify the school district in writing of his or her intention to obtain a confirmatory retest. Within three (3) working days after receipt of the notice, the school district shall notify the original testing laboratory that the employee has requested the laboratory to conduct the confirmatory retest or to transfer the sample to another laboratory licensed under Minn. Stat. § 181.953, Subd. 1 to conduct the confirmatory retest. The original testing laboratory shall ensure that appropriate chain-of-custody procedures are followed during transfer of the sample to the other laboratory. The confirmatory retest must use the same drug or alcohol threshold detection levels as used in the original confirmatory test. If the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test may be taken against the employee.

6. If an employee has a positive test result on a confirmatory test, the school district, at the time of providing notice of the test results, shall also provide written notice to inform him or her of other rights provided under Sections F. or G., below, whichever is applicable.

Attachments E and F to this policy provide the Notices described in Paragraphs 2. through 6. of this Section E.

F. Discharge and Discipline of Employees Whose Positions Do Not Require a Commercial Driver's License
1. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.

2. In the case of a positive test result on a confirmatory test, the employee shall be subject to discipline which includes, but is not limited to, immediate suspension without pay and immediate discharge, pursuant to the provisions of this policy.

3. The school district may not discharge an employee for whom a positive test result on a confirmatory test was the first such result for the employee on a drug or alcohol test requested by the school district, unless the following conditions have been met:

   a. The school district has first given the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the school district after consultation with a certified chemical abuse counselor or a physician trained in the diagnosis and treatment of chemical dependency; and

   b. The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion or by a positive test result on a confirmatory test after completion of the program.

4. Notwithstanding Paragraph 1., the school district may temporarily suspend the tested employee or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, provided the school district believes that it is reasonably necessary to protect the health or safety of the employee, co-employees or the public. An employee who has been suspended without pay must be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.

5. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of medical history information or the employee’s status as a patient enrolled in the medical cannabis registry program revealed to the school district, unless the employee was under an affirmative duty to provide the information before, upon, or after hire, or failing to do so would violate federal law or regulations or cause the school district to lose money or licensing related benefit under federal law or regulations.
6. The school district may not discriminate against any employee in termination, discharge, or any term of condition of employment or otherwise penalize an employee based upon an employee registered patient’s positive drug test for cannabis components or metabolites, unless the employee used, possessed, or was impaired by medical cannabis on school district property during the hours of employment.

7. An employee must be given access to information in his or her personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process and conclusions drawn from and actions taken based on the reports or other acquired information.

H. Chain of Custody Procedures

The school district has established its own reliable chain of custody procedures to ensure proper record keeping, handling, labeling, and identification of the samples to be tested. The procedures require the following:

1. Possession of a sample must be traceable to the employee from whom the sample is collected, from the time the sample is collected through the time the sample is delivered to the laboratory;

2. The sample must always be in the possession of, must always be in view of, or must be placed in a secure area by a person authorized to handle the sample;

3. A sample must be accompanied by a written chain of custody record; and

4. Individuals relinquishing or accepting possession of the sample must record the time the possession of the sample was transferred and must sign and date the chain of custody record at the time of transfer.

I. Privacy, Confidentiality and Privilege Safeguards

1. Privacy Limitations

A laboratory may only disclose to the school district test result data regarding the presence or absence of drugs, alcohol or their metabolites in a sample tested.

2. Confidentiality Limitations

With respect to employees, test result reports and other information acquired in the drug or alcohol testing process are private data on individuals as that phrase is defined in Minn. Stat. Ch. 13, and may not be
disclosed by the school district or laboratory to another employer or to a third-party individual, governmental agency, or private organization without the written consent of the employee tested.

3. Exceptions to Privacy and Confidentiality Disclosure Limitations

Notwithstanding Paragraphs 1. and 2., evidence of a positive test result on a confirmatory test may be: (1) used in an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing under Minn. Stat. Ch. 43A or other applicable state or local law, or a judicial proceeding, provided that information is relevant to the hearing or proceeding; (2) disclosed to any federal agency or other unit of the United States government as required under federal law, regulation or order, or in accordance with compliance requirements of a federal government contract; and (3) disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment of the employee.

4. Privilege

Positive test results from the school district drug or alcohol testing program may not be used as evidence in a criminal action against the employee tested.

J. Notice of Testing Policy to Affected Employees

The school district shall provide written notice of this drug and alcohol testing policy to all affected employees upon adoption of the policy and to a previously non-affected employee upon transfer to an affected position under the policy. Affected employees will acknowledge receipt of this written notice in the form of Attachment G to this policy.

V. POSTING

The school district shall post notice in an appropriate and conspicuous location on its premises that it has adopted a drug and alcohol testing policy and that copies of the policy are available for inspection during regular business hours by its employees in its personnel office or other suitable locations.

Legal References:

- Minn. Stat. Ch. 43A (State Personnel Management)
- Minn. Stat. § 152.22 (Medical Cannabis; Definitions)
- Minn. Stat. § 152.23 (Medical Cannabis; Limitations)
- Minn. Stat. § 152.32 (Protections for Registry Program Participation)
- Minn. Stat. §§ 181.950-181.957 (Drug and Alcohol Testing in the Workplace)
- Minn. Stat. § 221.031 (Motor Carrier Rules)
49 U.S.C. § 521(b) (Civil and Criminal Penalties for Violations)
49 C.F.R. Parts 40 and 382 (Department of Transportation Rules Implementing Omnibus Transportation Employee Testing Act of 1991)

**Cross-References:**

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417 DRUG AND ALCOHOL TESTING FOR DRIVERS

I. PURPOSE

A. Saint Paul Public Schools (SPPS) recognizes the significant problems created by drug and alcohol use in society in general, and the public schools in particular. SPPS further recognizes the important contribution that the public schools have in shaping the youth of today into the adults of tomorrow.

B. The purpose of this policy is to outline SPPS’s implementation of the drug and alcohol testing that is required by federal law for all job applicants and employees whose positions require a commercial driver’s license.

II. GENERAL STATEMENT OF POLICY

A. All school district employees and job applicants whose positions require a commercial driver’s license will be required to undergo drug and alcohol testing in accordance with federal law and the applicable provisions of this policy. SPPS also may request or require that drivers submit to drug and alcohol testing in accordance with the provisions of Board Policy 416.00 and as provided in Minn. Stat. §§ 181.950-181.957.

B. The use, possession, sale, purchase, transfer, or dispensing of any drugs not medically prescribed, including medical cannabis, regardless of whether it has been prescribed for the employee, is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of drugs which are not medically prescribed, including medical cannabis, regardless of whether it has been prescribed for the employee, is also prohibited throughout the school or work day, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of drugs which are not medically prescribed are prohibited from entering or remaining on school district property.

C. The use, possession, sale, purchase, transfer, or dispensing of alcohol is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of alcohol is also prohibited throughout the school or work day, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of alcohol are prohibited from entering or remaining on school district property.
D. Any employee who violates this section shall be subject to discipline which includes, but is not limited to, immediate suspension without pay and immediate discharge.

III. FEDERALLY MANDATED DRUG AND ALCOHOL TESTING FOR DRIVERS

A. General Statement of Policy

All persons subject to commercial driver’s license requirements shall be tested for alcohol, marijuana (including medical cannabis), cocaine, amphetamines, opiates (including heroin), and phencyclidine (PCP), pursuant to federal law. Drivers who test positive for alcohol or drugs shall be subject to disciplinary action, which may include termination of employment.

B. Definitions

1. “Actual Knowledge” means actual knowledge by the school district that a driver has used alcohol or controlled substances based on: (a) direct observation of the employee’s use (not observation of behavior sufficient to warrant reasonable suspicion testing); (b) information provided by a previous employer; (c) a traffic citation; or (d) an employee’s admission, except when made in connection with a qualified employee self-admission program.

2. “Alcohol Screening Device” (ASD) means a breath or saliva device, other than an Evidential Breath Testing Device (EBT), that is approved by the National Highway Traffic Safety Administration and placed on its Conforming Products List for such devices.

3. “Breath Alcohol Technician” (BAT) means an individual who instructs and assists individuals in the alcohol testing process and who operates the EBT.

4. “Commercial Motor Vehicle” (CMV) includes a vehicle which is designed to transport 16 or more passengers, including the driver.

5. “Designated Employer Representative” (DER) means a designated school district representative authorized to take immediate action to remove employees from safety-sensitive duties, to make required decisions in the testing and evaluation process, and to receive test results and other communications for the school district.

6. “Department of Transportation” (DOT) means United States Department of Transportation.

7. “Driver” is any person who operates a CMV, including full-time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers,
and independent owner-operator contractors.

8. “Evidential Breath Testing Device” (EBT) means a device approved by the National Highway Traffic Safety Administration for the evidentiary testing of breath for alcohol concentration and placed on its Conforming Products List for such devices.

9. “Medical Review Officer” (MRO) means a licensed physician responsible for receiving and reviewing laboratory results generated by the school district’s drug testing program and for evaluating medical explanations for certain drug tests.

10. “Refusal to Submit” (to an alcohol or controlled substances test) means that a driver: (a) fails to appear for any test within a reasonable time, as determined by the school district, consistent with applicable DOT regulations, after being directed to do so; (b) fails to remain at the testing site until the testing process is complete; (c) fails to provide a urine specimen or an adequate amount of saliva or breath for any DOT drug or alcohol test; (d) fails to permit the observation or monitoring of the driver’s provision of a specimen in the case of a directly observed or monitored collection in a drug test; (e) fails to provide a sufficient breath specimen or sufficient amount of urine when directed and a determination has been made that no adequate medical explanation for the failure exists; (f) fails or declines to take an additional test as directed; (g) fails to undergo a medical examination or evaluation, as directed by the MRO or the DER; (h) fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector, fails to sign the certification on the forms); (i) fails to follow the observer’s instructions, in an observed collection, to raise the driver’s clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the driver has any type of prosthetic or other device that could be used to interfere with the collection process; (j) possesses or wears a prosthetic or other device that could be used to interfere with the collection process; (k) admits to the collector or MRO that the driver adulterated or substituted the specimen; or (l) is reported by the MRO as having a verified adulterated or substituted test result. An applicant who fails to appear for a pre-employment test, who leaves the testing site before the pre-employment testing process commences, or who does not provide a urine specimen because he or she has left before it commences is not deemed to have refused to submit to testing.

11. “Safety-sensitive functions” are on-duty functions from the time the driver begins work or is required to be in readiness to work until relieved from work, and include such functions as driving, loading and unloading vehicles, or supervising or assisting in the loading or unloading of vehicles,
servicing, repairing, obtaining assistance to repair, or remaining in attendance during the repair of a disabled vehicle.

12. “Screening Test Technician” (STT) means anyone who instructs and assists individuals in the alcohol testing process and operates an ASD.

13. “Stand Down” means to temporarily remove an employee from performing safety-sensitive functions after a laboratory reports a confirmed positive, an adulterated, or a substituted test result but before the MRO completes the verification process.

14. “Substance Abuse Professional” (SAP) means a qualified person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

C. Policy and Educational Materials

1. The school district shall provide a copy of this policy and procedures to each driver prior to the start of its alcohol and drug testing program and to each driver subsequently hired or transferred into a position requiring driving of a CMV.

2. The school district shall provide to each driver information concerning the effects of alcohol and controlled substances use on an individual’s health, work, and personal life; signs and symptoms of an alcohol or drug problem; and available methods of intervening when an alcohol or drug problem is suspected, including confrontation, referral to an employee assistance program, and/or referral to management.

3. The school district shall provide written notice to representatives of employee organizations that the information described above is available.

4. The school district shall require each driver to sign a statement certifying that he or she has received a copy of the policy and materials. This statement should be in the form of Attachment A to this policy. The school district will maintain the original signed certificate and will provide a copy to the driver if the driver so requests.

D. Alcohol and Controlled Substances Testing Program Manager

1. The program manager will coordinate the implementation, direction, and administration of the alcohol and controlled substances testing policy for bus drivers. The program manager is the principal contact for the collection site, the testing laboratory, the MRO, the BAT, the SAP, and the person submitting to the test. Employee questions concerning this policy shall be directed to the program manager.
2. The school district shall designate a program manager and provide written notice of the designation to each driver along with this policy.

E. Specific Prohibitions for Drivers

1. Alcohol Concentration. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. Drivers who test greater than 0.04 will be taken out of service and will be subject to evaluation by a professional and retesting at the driver’s expense.

2. Alcohol Possession. No driver shall be on duty or operate a CMV while the driver possesses alcohol.

3. On-Duty Use. No driver shall use alcohol while performing safety-sensitive functions.

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

5. Use Following an Accident. No driver required to take a post-accident test shall use alcohol for eight (8) hours following the accident, or until he or she undergoes a post-accident alcohol test, whichever occurs first.

6. Refusal to Submit to a Required Test. No driver shall refuse to submit to an alcohol or controlled substances test required by post-accident, random, reasonable suspicion, return-to-duty, or follow-up testing requirements. A verified adulterated or substituted drug test shall be considered a refusal to test.

7. Use of Controlled Substances. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to instructions (which have been presented to the school district) from a licensed physician who has advised the driver that the substance does not adversely affect the driver’s ability to safely operate a CMV. Controlled substance includes medical cannabis, regardless of whether the driver is enrolled in the state registry program.

8. Positive, Adulterated, or Substituted Test for Controlled Substance. No driver shall report for duty, remain on duty, or perform a safety-sensitive function if the driver tests positive for controlled substances, including medical cannabis, or has adulterated or substituted a test specimen for controlled substances.

9. General Prohibition. Drivers are also subject to the general policies and
procedures of the school district which prohibit the possession, transfer, sale, exchange, reporting to work under the influence of drugs or alcohol, and consumption of drugs or alcohol while at work or while on school district premises or operating any school district vehicle, machinery, or equipment.

F. Other Alcohol-Related Conduct

No driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform safety-sensitive functions for at least twenty-four (24) hours following administration of the test. The school district will not take any action under this policy other than removal from safety-sensitive functions based solely on test results showing an alcohol concentration of less than 0.04 but may take action otherwise consistent with law and policy of the school district.

G. Prescription Drugs

A driver shall inform his or her supervisor if at any time the driver is using a controlled substance pursuant to a physician’s prescription. The physician’s instructions shall be presented to the school district upon request. Use of a prescription drug shall be allowed if the physician has advised the driver that the prescribed drug will not adversely affect the driver’s ability to safely operate a CMV. Use of medical cannabis is prohibited notwithstanding the driver’s enrollment in the patient registry.

H. Testing Requirements

1. Pre-Employment Testing

   a. A driver applicant shall undergo testing for alcohol and controlled substances, including medical cannabis, before the first time the driver performs safety-sensitive functions for the school district.

   b. Tests shall be conducted only after the applicant has received a conditional offer of employment.

   c. In order to be hired, the applicant must test negative and must sign an agreement in the form of Attachment B to this policy, authorizing former employers to release to the school district all information on the applicant’s alcohol tests with results of blood alcohol concentration of 0.04 or higher, or verified positive results for controlled substances, including medical cannabis, or refusals to be tested (including verified adulterated or substituted drug test results), or any other violations of DOT agency drug and alcohol testing regulations, or, if the applicant violated the testing regulations, documentation of the applicant’s successful completion of DOT return-to-duty requirements (including follow-up tests),
within the preceding two (2) years.

d. The applicant also must be asked whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee, during the last two (2) years, applied for, but did not obtain, safety-sensitive transportation work covered by DOT testing rules.

2. Post-Accident Testing

a. As soon as practicable following an accident involving a CMV, the school district shall test the driver for alcohol and controlled substances, including medical cannabis, if the accident involved the loss of human life or if the driver receives a citation for a moving traffic violation arising from an accident which results in bodily injury or disabling damage to a motor vehicle.

b. Drivers should be tested for alcohol use within two (2) hours and no later than eight (8) hours after the accident.

c. Drivers should be tested for controlled substances, including medical cannabis, no later than thirty-two (32) hours after the accident.

d. A driver subject to post-accident testing must remain available for testing, or shall be considered to have refused to submit to the test.

e. If a post-accident alcohol test is not administered within two (2) hours following the accident, the school district shall prepare and maintain on file a record stating the reasons the test was not promptly administered and continue to attempt to administer the alcohol test within eight (8) hours.

f. If a post-accident alcohol test is not administered within eight (8) hours following the accident or a post-accident controlled substances test is not administered within thirty-two (32) hours following the accident, the school district shall cease attempts to administer the test, and prepare and maintain on file a record stating the reasons for not administering the test.

3. Random Testing

a. The school district shall conduct tests on a random basis at unannounced times throughout the year, as required by the federal regulations.

b. The school district shall test for alcohol at a minimum annual
percentage rate of 10% of the average number of driver positions, and for controlled substances, including medical cannabis, at a minimum annual percentage of 50%.

c. The school district shall adopt a scientifically valid method for selecting drivers for testing, such as random number table or a computer-based random number generator that is matched with identifying numbers of the drivers. Each driver shall have an equal chance of being tested each time selections are made.

d. Random tests shall be unannounced. Dates for administering random tests shall be spread reasonably throughout the calendar year.

e. Drivers shall proceed immediately to the collection site upon notification of selection; provided, however, that if the driver is performing a safety-sensitive function, other than driving, at the time of notification, the driver shall cease to perform the function and proceed to the collection site as soon as possible.

4. **Reasonable Suspicion Testing**

a. The school district shall require a driver to submit to an alcohol test and/or controlled substances, including medical cannabis, test when a supervisor or school district official, who has been trained in accordance with the regulations, has reasonable suspicion to believe that the driver has used alcohol and/or controlled substances, including medical cannabis, on duty or within four (4) hours before coming on duty. The test shall be done as soon as practicable following the observation of the behavior indicative of the use of controlled substances or alcohol.

b. The reasonable suspicion determination must be based on specific, contemporaneous, articulable observations concerning the driver’s appearance, behavior, speech, or body odors. The required observations for reasonable suspicion of a controlled substances violation may include indications of the chronic and withdrawal effects of controlled substances.

c. Alcohol testing shall be administered within two (2) hours following a determination of reasonable suspicion. If it is not done within two (2) hours, the school district shall prepare and maintain a record explaining why it was not promptly administered and continue to attempt to administer the alcohol test within eight (8) hours. If an alcohol test is not administered within eight (8) hours following the determination of reasonable suspicion, the school district shall cease attempts to administer the test and state in the record the reasons for
not administering the test.

d. The supervisor or school district official who makes observations leading to a controlled substances reasonable suspicion test shall make and sign a written record of the observations within twenty-four (24) hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

5. **Return-To-Duty Testing.** A driver found to have violated this policy shall not return to work until an SAP has determined the employee has successfully complied with prescribed education and/or treatment and until undergoing return-to-duty tests indicating an alcohol concentration of less than 0.02 and a confirmed negative result for the use of controlled substances.

6. **Follow-Up Testing.** When an SAP has determined that a driver is in need of assistance in resolving problems with alcohol and/or controlled substances, the driver shall be subject to unannounced follow-up testing as directed by the SAP for up to sixty (60) months after completing a treatment program.

7. **Refusal to Submit and Attendant Consequences**

   a. A driver or driver applicant may refuse to submit to drug and alcohol testing.

   b. Refusal to submit to a required drug or alcohol test subjects the driver or driver applicant to the consequences specified in federal regulations as well as the civil and/or criminal penalty provisions of 49 U.S.C. § 521(b). In addition, a refusal to submit to testing establishes a presumption that the driver or driver applicant would test positive if a test were conducted and makes the driver or driver applicant subject to discipline or disqualification under this policy.

   c. A driver applicant who refuses to submit to testing shall be disqualified from further consideration for the conditionally offered position.

   d. An employee who refuses to submit to testing shall not be permitted to perform safety-sensitive functions and will be considered insubordinate and subject to disciplinary action, up to and including dismissal. If an employee is offered an opportunity to return to a DOT safety-sensitive duty, the employee will be evaluated by an SAP and must submit to a return-to-duty test prior to being considered for reassignment to safety-sensitive functions.

   e. Drivers or driver applicants who refuse to submit to required testing
will be required to sign Attachment C to this policy.

I. Testing Procedures

1. Drug Testing

   a. Drug testing is conducted by analyzing a donor’s urine specimen. Split urine samples will be collected in accordance with federal regulations. The donor will provide a urine sample at a designated collection site. The collection site personnel will then pour the sample into two sample bottles, labeled “primary” and “split,” seal the specimen bottles, complete the chain of custody form, and prepare the specimen bottles for shipment to the testing laboratory for analysis. The specimen preparation shall be conducted in sight of the donor.

   b. If the donor is unable to provide the appropriate quantity of urine, the collection site person shall instruct the individual to drink up to forty (40) ounces of fluid distributed reasonably through a period of up to three (3) hours to attempt to provide a sample. If the individual is still unable to provide a complete sample, the test shall be discontinued and the school district notified. The DER shall refer the donor for a medical evaluation to determine if the donor’s inability to provide a specimen is genuine or constitutes a refusal to test. For pre-employment testing, the school district may elect to not have a referral made, and revoke the employment offer.

   c. Drug test results are reported directly to the MRO by the testing laboratory. The MRO reports the results to the DER. If the results are negative, the school district is informed and no further action is necessary. If the test result is confirmed positive, adulterated, substituted, or invalid, the MRO shall give the donor an opportunity to discuss the test result. The MRO will contact the donor directly, on a confidential basis, to determine whether the donor wishes to discuss the test result. The MRO shall notify each donor that the donor has seventy-two (72) hours from the time of notification in which to request a test of the split specimen at the donor’s expense. No split specimen testing is done for an invalid result.

   d. If the donor requests an analysis of the split specimen within seventy-two (72) hours of having been informed of a confirmed positive test, the MRO shall direct, in writing, the laboratory to provide the split specimen to another Department of Health and Human Services – SAMHSA certified laboratory for analysis. If the donor has not contacted the MRO within seventy-two (72) hours, the donor may present the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual
notice of the confirmed positive test, or other circumstances unavoidably prevented the donor from timely making contact. If the MRO concludes that a legitimate explanation for the donor’s failure to contact him/her within seventy-two (72) hours exists, the MRO shall direct the analysis of the split specimen. The MRO will review the confirmed positive test result to determine whether an acceptable medical reason for the positive result exists. The MRO shall confirm and report a positive test result to the DER and the employee when no legitimate medical reason for a positive test result as received from the testing laboratory exists.

e. If, after making reasonable efforts and documenting those efforts, the MRO is unable to reach the donor directly, the MRO must contact the DER who will direct the donor to contact the MRO. If the DER is unable to contact the donor, the donor will be suspended from performing safety-sensitive functions.

f. The MRO may confirm the test as a positive without having communicated directly with the donor about the test results under the following circumstances:

(1) The donor expressly declines the opportunity to discuss the test results;

(2) The donor has not contacted the MRO within seventy-two (72) hours of being instructed to do so by the DER; or

(3) The MRO and the DER, after making and documenting all reasonable efforts, have not been able to contact the donor within ten (10) days of the date the confirmed test result was received from the laboratory.

2. Alcohol Testing

a. The federal alcohol testing regulations require testing to be administered by a BAT using an EBT or an STT using an ASD. EBTs and ASDs can be used for screening tests but only EBTs can be used for confirmation tests.

b. Any test result less than 0.02 alcohol concentration is considered a “negative” test.

c. If the donor is unable to provide sufficient saliva for an ASD, the DER will immediately arrange to use an EBT. If the donor attempts and fails to provide an adequate amount of breath, the school district will direct the donor to obtain a written evaluation from a licensed physician to determine if the donor’s inability to provide a breath
sample is genuine or constitutes a refusal to test.

d. If the screening test results show alcohol concentration of 0.02 or higher, a confirmatory test conducted on an EBT will be required to be performed between fifteen (15) and thirty (30) minutes after the completion of the screening test.

e. Alcohol tests are reported directly to the DER.

J. Driver/Driver Applicant Rights

1. All drivers and driver applicants subject to the controlled substances testing provisions of this policy who receive a confirmed positive test result for the use of controlled substances have the right to request, at the driver’s or driver applicant’s expense, a confirming retest of the split urine sample. If the confirming retest is negative, no adverse action will be taken against the driver, and a driver applicant will be considered for employment.

2. The school district will not discharge a driver who, for the first time, receives a confirmed positive drug or alcohol test UNLESS:

   a. The school district has first given the employee an opportunity to participate in, at the employee’s own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the school district after consultation with the SAP; and

   b. The employee refuses to participate in the recommended program, or fails to successfully complete the program as evidenced by withdrawal before its completion or by a positive test result on a confirmatory test after completion of the program.

   c. This limitation on employee discharge does not bar discharge of an employee for reasons independent of the first confirmed positive test result.

K. Testing Laboratory

The testing laboratory for controlled substances will be Concentra, Inc., 570 Asbury Street, Suite 101, Saint Paul, Minnesota, (651) 888-6540, which is a laboratory certified by the Department of Health and Human Services – SAMHSA to perform controlled substances testing pursuant to federal regulations.

L. Confidentiality of Test Results
All alcohol and controlled substances test results and required records of the drug and alcohol testing program are considered confidential information under federal law and private data on individuals as that phrase is defined in Minn. Stat. Ch. 13. Any information concerning the individual’s test results and records shall not be released without written permission of the individual, except as provided for by regulation or law.

Consistent with federal regulations, the District must report the following information to the Commercial Driver’s License Drug and Alcohol Clearinghouse: (i) a verified positive, adulterated, or substituted drug test result; (ii) an alcohol confirmation test with a concentration of 0.04 or higher; (iii) a refusal to submit to any test required by 49 CFR § 382, subpart C; (iv) the District’s actual knowledge on duty alcohol use, pre-duty alcohol use, alcohol use following an accident, and controlled substance use; (v) a SAP report of the successful completion of the return-to-duty process; (vi) a negative return-to-duty test; and (vii) the District’s report of completion of follow-up testing.

M. Recordkeeping Requirements and Retention of Records

1. The school district shall keep and maintain records in accordance with the federal regulations in a secure location with controlled access.

2. The required records shall be retained for the following minimum periods:

   Basic records 5 years

   “Basic records” includes records of: (a) alcohol test results with concentration of 0.02 or greater; (b) verified positive drug test results; (c) refusals to submit to required tests (including substituted or adulterated drug test results); (d) SAP reports; (e) all follow-up tests and schedules for follow-up tests; (f) calibration documentation; (g) administration of the testing programs; and (h) each annual calendar year summary.

   Information obtained from previous employers 3 years
   Collection records 2 years
   Negative and cancelled drug tests 1 year
   Alcohol tests with less than 0.02 concentration 1 year
   Education and training records indefinite

   “Education and training records” must be maintained while the individuals perform the functions which require training and for the two (2) years after ceasing to perform those functions.

N. Training

The school district shall ensure all persons designated to supervise drivers receive
training. The designated employees shall receive at least sixty (60) minutes of training on alcohol misuse and at least sixty (60) minutes of training on controlled substances use. The training shall include physical, behavioral, speech, and performance indicators of probable misuse of alcohol and use of controlled substances. The training will be used by the supervisors to make determinations of reasonable suspicion.

O. Consequences of Prohibited Conduct and Enforcement

1. Removal. The school district shall remove a driver who has engaged in prohibited conduct from safety-sensitive functions. A driver shall not be permitted to return to safety-sensitive functions until and unless the return-to-duty requirements of federal DOT regulations have been completed.

2. Referral, Evaluation, and Treatment
   a. A driver or driver applicant who has engaged in prohibited conduct shall be provided a listing of SAPs readily available to the driver or applicant and acceptable to the school district.
   b. If the school district offers a driver an opportunity to return to a DOT safety-sensitive duty following a violation, the driver must be evaluated by an SAP and the driver is required to successfully comply with the SAP’s evaluation recommendations (education, treatment, follow-up evaluation(s), and/or ongoing services). The school district is not required to provide an SAP evaluation or any subsequent recommended education or treatment.
   c. Drivers are responsible for payment for SAP evaluations and services unless a collective bargaining agreement or employee benefit plan provides otherwise.
   d. Drivers who engage in prohibited conduct also are required to comply with follow-up testing requirements.

3. Disciplinary Action
   a. Any driver who refuses to submit to post-accident, random, reasonable suspicion, or follow-up testing not only shall not perform or continue to perform safety-sensitive functions, but also may be subject to disciplinary action, which may include immediate suspension without pay and/or immediate discharge.
   b. Drivers who test positive with verification of a confirmatory test or are otherwise found to be in violation of this policy or the federal regulations shall be subject to disciplinary action, which may include immediate suspension without pay and/or immediate discharge.
discharge.

c. Nothing in this policy limits or restricts the right of the school district to discipline or discharge a driver for conduct which not only constitutes prohibited conduct under this policy but also violates the school district’s other rules or policies.

P. Other Testing

The school district may request or require that drivers submit to drug and alcohol testing other than that required by federal law. For example, drivers may be requested or required to undergo drug and alcohol testing on an annual basis as part of a routine physical examination. Such additional testing of drivers will be conducted only in accordance with the provisions of Board policy 416.00 and as provided in Minn. Stat. §§ 181.950-181.957. For purposes of such additional, non-mandatory testing, drivers fall within the definition of “other employees” covered by Board Policy 416.00.

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. Ch. 43A (State Personnel Management)
Minn. Stat. § 152.22 (Medical Cannabis; Definitions)
Minn. Stat. § 152.23 (Medical Cannabis; Limitations)
Minn. Stat. § 152.32 (Protections for Registry Program Participation)
Minn. Stat. §§ 181.950-181.957 (Drug and Alcohol Testing in the Workplace)
Minn. Stat. § 221.031 (Motor Carrier Rules)
49 U.S.C. § 521(b) (Civil and Criminal Penalties for Violations)
49 C.F.R. Parts 40 and 382 (Department of Transportation Rules Implementing Omnibus Transportation Employee Testing Act of 1991)

Cross-References:

304 Records: Data Management
413 Drug-Free Workplace
413.01 Chemical Use and Abuse
414 Tobacco-Free Environment
405 Records: Personnel Records
I the undersigned employee/job applicant of Independent School District No. ___, ____________, Minnesota (“School District”) do hereby acknowledge that I have been provided a copy of the School District’s Drug and Alcohol Testing Policy.

Date: ________________________________

Signature of Employee/Job Applicant

_______________________________
Typed or Printed Name
RE: Drug and/or Alcohol Test

[Employee Name]
[Employee Address]

NOTICE OF TEST RESULTS AND VARIOUS RIGHTS

Test Results:

Independent School District No. ___, ____________________, Minnesota has received the test result report from the testing laboratory:

G Your initial screening test result was negative.
G Your confirmatory test result was negative.
G Your confirmatory test result was positive.

Test Result Report:

You have the right to request and receive from the school district a copy of the test result on any drug or alcohol test.

Right to Explain Positive Test Result:

In the case of a positive test result on a confirmatory test, you have the right to explain the results. You may, within three (3) working days after notice of a positive test result on a confirmatory test, submit information to the school district, in addition to any information already submitted, to explain that result. Attached to this Notice is a document entitled “Explanation of Positive Test Result” for this purpose.

416-2F
Right to Request Confirmatory Retests:

In the case of a positive test result on a confirmatory test, you have the right to request a confirmatory retest of the original sample at your own expense.

Within five (5) working days after notice of the confirmatory test result, you must notify the school district in writing of your intention to obtain a confirmatory retest.

Within three (3) working days after receipt of the notice, the school district shall notify the original testing laboratory that you have requested the laboratory to conduct the confirmatory retest or to transfer the sample to another laboratory licensed under Minn. Stat. § 181.953, Subd. 1 to conduct the confirmatory retest. The original testing laboratory shall ensure that appropriate chain-of-custody procedures are followed during transfer of the sample to the other laboratory. The confirmatory retest must use the same drug or alcohol threshold detection levels as used in the original confirmatory test. If the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test may be taken against you.

Other Rights:

In the case of a positive test result on a confirmatory test, you may have other rights provided under the sections detailed below.

A. Employee Discharge and Discipline

1. The school district may not discharge, discipline, discriminate against, request or require rehabilitation of an employee whose position does not require a commercial driver’s license on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.

In the case of a positive test result on a confirmatory test, the employee shall be subject to discipline which includes, but is not limited to, immediate suspension without pay and immediate discharge, pursuant to the provisions of this policy.

2. The school district may not discharge an employee whose position does not require a commercial driver’s license for whom a positive test result on a confirmatory test was the first such result for the employee on a drug or alcohol test requested by the school district, unless the following conditions have been met:

   a. The school district has first given the employee an opportunity to participate in, at the employee’s own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the school district after consultation with a certified chemical use counselor or a physician trained in the diagnosis and treatment of chemical dependency; and

   b. The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program.

416-3F
program before its completion or by a positive test result on a confirmatory test after completion of the program.

3. Notwithstanding Paragraph 1., the school district may temporarily suspend the tested employee or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, provided the school district believes that it is reasonably necessary to protect the health or safety of the employee, co-employees or the public. An employee who has been suspended without pay must be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.

4. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of medical history information revealed to the school district, unless the employee was under an affirmative duty to provide the information before, upon, or after hire.

5. An employee must be given access to information in the employee’s personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process and conclusions drawn from and actions taken based on the reports or other acquired information.

B. **Withdrawal of Applicant’s Job Offer**

If a job applicant for a position that does not require a commercial driver’s license has received a job offer made contingent on the applicant passing drug and alcohol testing, the school district may not withdraw the offer based on a positive test result from an initial screening test that has not been verified by a confirmatory test. In the case of a positive test result on a confirmatory test, the school district may withdraw the job offer.
EXPLANATION OF POSITIVE TEST RESULT

I the undersigned employee/job applicant of Independent School District No. _____, Minnesota acknowledge receipt of a Notice of Test Results and Various Rights. This includes my right to explain the positive test result on a confirmatory test.

I am currently taking or have recently taken:

G no over-the-counter or prescription medications; or
G the following over-the-counter or prescription medications:

________________________________________________________________________
________________________________________________________________________

I also offer the following information relevant to the reliability of, or explanation for, a positive test result:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Date: ______________________________

Signature of Employee/Job Applicant

Typed or Printed Name

416-5F
I have received a copy of the Drug and Alcohol Testing Policy of Independent School District No. ____, ______________, Minnesota and have read it in its entirety.

The District’s policy was provided to me:

G Upon adoption of the policy. (employee).
G Upon my hire. (job applicant/new employee).
G After receipt of my conditional job offer, before any testing if my job offer is contingent upon my passing of drug and alcohol testing. (job applicant).

Dated: __________________________
_____________________________________________
Signature of Employee/Applicant

_______________________________________________
Typed or Printed Name
— DRIVER ACKNOWLEDGMENT —

DRUG AND ALCOHOL TESTING POLICY AND MATERIALS

I have received a copy of the Drug and Alcohol Testing Policy of Independent School District No. _____, ______________, Minnesota and have read it in its entirety. I understand that I am subject to the provisions of Article III of the policy, entitled Drug and Alcohol Testing for Bus Drivers, because the position involves operating a commercial motor vehicle and requires a commercial driver’s license.

The District’s policy was provided to me:

G Upon adoption of the policy. (employee).
G Upon my hire. (job applicant/new employee).
G After receipt of my conditional job offer, before any testing if my job offer is contingent upon my passing of drug and alcohol testing. (job applicant).

I also received materials concerning the effects of alcohol and controlled substances use on an individual’s health, work, and personal life; signs and symptoms of an alcohol or drug problem; and available methods of intervening when an alcohol or drug problem is suspected.

I have been advised that the Alcohol and Controlled Substances Testing Program Manager is ___________________________ and that any questions I may have concerning the Policy should be directed to the Program Manager.

Dated: ____________________________

Signature of Employee/Applicant

________________________________

Typed or Printed Name

417-27F
— BUS DRIVER OR DRIVER APPLICANT —

AUTHORIZATION TO RELEASE INFORMATION

Section I. To be completed by the school district, signed by the bus driver, or driver applicant, and transmitted to the previous employer:

Employee Printed or Typed Name: ________________________________________________________________

Employee SS or ID Number: ______________________________________________________________

I hereby authorize release of information from my Department of Transportation regulated drug and alcohol testing records by my previous employer, listed in Section I-B, to the employer listed in Section I-A. This release is in accordance with DOT Regulation 49 CFR Part 40, Section 40.25. I understand that information to be released in Section II-A by my previous employer, is limited to the following DOT-regulated testing items:

1. Alcohol tests with a result of 0.04 or higher;
2. Verified positive drug tests;
3. Refusals to be tested;
4. Other violations of DOT agency drug and alcohol testing regulations;
5. Information obtained from previous employers of a drug and alcohol rule violation;
6. Documentation, if any, of completion of the return-to-duty process following a rule violation.

Employee Signature: __________________________________________________ Date: ____________________

Section I-A.

School District Name: ____________________________________________________________

Address: ______________________________________________________________________________________

____________________________________________________________________________________

Phone #: _______________________________________ Fax #: ____________________________

Designated Employer Representative: ______________________________________________________________

Section I-B.

Previous Employer Name: _______________________________________________________________________

Address: ______________________________________________________________________________________

____________________________________________________________________________________

Phone #: ______________________________

Designated Employer Representative (if known): _____________________________________________________

417-28F
Section II. To be completed by the previous employer and transmitted by mail or fax to the new employer:

Section II-A. In the two years prior to the date of the employee’s signature (in Section I), for DOT-regulated testing:

1. Did the employee have alcohol tests with a result of 0.04 or higher? YES ___ NO ___
2. Did the employee have verified positive drug tests? YES ___ NO ___
3. Did the employee refuse to be tested? YES ___ NO ___
4. Did the employee have other violations of DOT agency drug and alcohol testing regulations? YES ___ NO ___
5. Did a previous employer report a drug and alcohol rule violation to you? YES ___ NO ___
6. If you answered “yes” to any of the above items, did the employee complete the return-to-duty process? N/A____ YES ___ NO ___

NOTE: If you answered “yes” to item 5, you must provide the previous employer’s report. If you answered “yes” to item 6, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record).

Section II-B.

Name of person providing information in Section II-A: ________________________________________________

Title: ___________________________________________

Phone #: ________________________________________

Date: __________________________________________
I hereby refuse to submit to drug/alcohol testing by doing the following:

G Failing to appear for any test within a reasonable time, as determined by the school district, consistent with applicable DOT regulations, after being directed to do so;

G Failing to remain at the testing site until the testing process is complete;

G Failing to provide a urine specimen or an adequate amount of saliva or breath for any DOT drug or alcohol test;

G Failing to permit the observation or monitoring of any provision of a specimen in the case of a directly observed or monitored collection in a drug test;

G Failing to provide a sufficient breath specimen or sufficient amount of urine when directed and it has been determined that there was no adequate medical explanation for the failure;

G Failing or declining to take a second test as directed;

G Failing to undergo a medical examination or evaluation, as directed by the Medical Review Officer (MRO) or the Designated Employer Representative (DER);

G Failing to cooperate with any part of the testing process (e.g., refusing to empty pockets when so directed by the collector, behaving in a confrontational way that disrupts the collection process, failing to wash hands after being directed to do so by the collector, failing to sign the certification on the form;

G Failing to follow the observer’s instructions, in an observed collection, to raise the driver’s clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the driver has any type of prosthetic or other device that could be used to interfere with the collection process;

G Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process;

G Admitting to the collector or MRO that the driver adulterated or substituted the specimen; or

G Having a verified adulterated or substituted test as reported by the MRO.
[An applicant who fails to appear for a preemployment test, who leaves the testing site before the preemployment testing process commences, or who does not provide a urine specimen because he or she left before it commences, is not deemed to have refused to submit to testing.]

I recognize that my refusal subjects me to the consequences specified in federal law and regulations. It also constitutes a presumption of a positive result. I further recognize that if I am an applicant, I will be disqualified from consideration for the conditionally-offered position. If I am an employee, I will not be permitted to perform safety-sensitive functions, and will be considered insubordinate and subject to disciplinary action, up to and including dismissal. If the school district offers me an opportunity to return to a DOT safety-sensitive function, I understand I will be evaluated by a substance abuse professional, and will be required to submit to a return-to-duty test prior to being considered for reassignment to safety-sensitive functions.

Date: __________________________
Time: __________________________ Signature of Employee/Applicant

Supervisor: ______________________________ Supervisor’s Signature

Comments: ______________________________

G Employee refusal to sign

Supervisor’s Initials: _______
713.00 EQUAL OPPORTUNITY PROCUREMENT

1. The District shall maintain a centralized purchasing department with sound accounting procedures.
2. The District shall seek business and/or bids from all eligible vendors and consultants, regardless of race, creed, sex, marital status, national origin, age, color, religion, ancestry, status with regard to public assistance, sexual or affectional orientation, familial status or disability.
3. The District’s Purchasing Department shall endeavor to procure from small and protected class businesses.

PURCHASING PRACTICE

1. The Purchasing Department shall perform the administrative functions necessary to the procurement of goods and services for the Board of Education, and maintain accurate records of all transactions for audit purposes.
2. The Board of Education shall award all contracts which exceed the dollar limit specified in Minn. Stat. § 471.345 (Uniform Municipal Contracting Law) requiring solicitation by public notice, while awards under that amount shall be made by the Chief Business Officer of the District or his/her designee.
3. Any purchase or lease of goods and/or services for the District shall be made in accordance with Minn. Stat. § 471.345, Uniform Municipal Contracting Law, and Minn. Stat. § 123B.52, Independent School District, Contracts.
4. The Request for Payment form shall be used to pay the following claims:
   - For purchase of recurrent goods and services that have an established price.
   - For self-generated expenses, rent, etc.
   - For purchases which are made by administrators for the District within dollar limits as defined in the Business Affairs Procedure Manual.
     o For selected purchases that require agreement between the Chief Business Officer or his/her designee and the appropriate budget director or his/her designee prior to the purchase. When feasible, the pay voucher shall show at least two quotations or shall be identified as the only known source of supply. Date and names of agreeing parties shall be shown on the pay voucher.
     o For purchases of books registered under the copyright laws, there shall be no specified dollar limit, but such purchases shall be approved prior to payment by the Chief Business Officer or his/her designee and identified by reference to the proper enabling statute.
For payment of emergency repairs, equipment, or services without reference to dollar limits as provided for by state statutes. Paying documents for emergency repairs shall bear the signature of the Superintendent or his/her designee and reference the resolution of the Board ratifying the Superintendent’s or designee’s action.

LEGAL REFERENCES:
Minn. Stat. § 471.345 (Uniform Municipal Contracting Law)
Minn. Stat. § 123B.52

CROSS REFERENCES:
102.00, Equal Opportunity/Non-Discrimination
607.00, Textbooks and Instructional Materials
713.01, Sweatshop Free Purchasing Policy
471.345 UNIFORM MUNICIPAL CONTRACTING LAW.

Subdivision 1. Municipality defined. For purposes of this section, "municipality" means a county, town, city, school district or other municipal corporation or political subdivision of the state authorized by law to enter into contracts.

Subd. 2. Contract defined. A "contract" means an agreement entered into by a municipality for the sale or purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property.

Subd. 3. Contracts over $175,000. If the amount of the contract is estimated to exceed $175,000, sealed bids shall be solicited by public notice in the manner and subject to the requirements of the law governing contracts by the particular municipality or class thereof. With regard to repairs and maintenance of ditches, the provisions of section 103E.705, subdivisions 5, 6, and 7 apply.

Subd. 3a. Contracts over $175,000; best value alternative. As an alternative to the procurement method described in subdivision 3, municipalities may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c).

Subd. 4. Contracts exceeding $25,000 but not $175,000. If the amount of the contract is estimated to exceed $25,000 but not to exceed $175,000, the contract may be made either upon sealed bids or by direct negotiation, by obtaining two or more quotations for the purchase or sale when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof.

Subd. 4a. Contracts exceeding $25,000 but not $175,000; best value alternative. As an alternative to the procurement method described in subdivision 4, municipalities may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c).

Subd. 5. Contracts $25,000 or less. If the amount of the contract is estimated to be $25,000 or less, the contract may be made either upon quotation or in the open market, in the discretion of the governing body. If the contract is made upon quotation it shall be based, so far as practicable, on at least two quotations which shall be kept on file for a period of at least one year after their receipt. Alternatively, municipalities may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c).

Subd. 5a. County or town rental contracts. If the amount of a county or town contract for the rental of equipment is estimated to be $60,000 or less, the contract may, in the discretion of the county or town board, be made by direct negotiation by obtaining two or more quotations for the rental when possible and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations shall be kept on file for a period of at least one year after their receipt.

Subd. 5b. Water tank service contracts. (a) A municipality may, by direct negotiation or through the solicitation of requests for proposals, enter into a multiyear professional service contract for the engineering, repair, and maintenance of a water storage tank and appurtenant facilities owned, controlled, or operated by the municipality, if the contract contains:

1. a provision that the municipality is not required to make total payments in a single year that exceed the water utility charges received by the municipality for that year;
2. a provision requiring that the work performed be done under the review of a professional engineer licensed in the state of Minnesota attesting that the work will be performed in compliance with all applicable codes and engineering standards; and
3. a provision that if, at the commencement of the contract, the water tank or appurtenant facilities require engineering, repair, or service in order to bring the water tank or facilities into compliance with federal, state, or local requirements, the party contracting with the municipality is responsible for providing the engineering, repair, or service. The costs to bring the water tank or facilities into compliance must be itemized separately and charged to the municipality in payments spread over a period of not less than three years from the commencement of the contract.
If the cost of a contract for the sale or purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair, or maintenance of real or personal property entered into under this subdivision is estimated to meet the costs specified under subdivisions 3 and 3a, paragraph (a) applies but the municipality must use the procurement methods specified in subdivision 3 or 3a to contract for that portion of the work.

Subd. 6. Applicability of other laws.

The purpose of this section is to establish for all municipalities, uniform dollar limitations upon contracts which shall or may be entered into on the basis of competitive bids, quotations or purchase or sale in the open market. To the extent inconsistent with this purpose, all laws governing contracts by a particular municipality or class thereof are superseded. In all other respects such laws shall continue applicable.

Subd. 7. Minimum labor standards.

Nothing in this section shall be construed to prohibit any municipality from adopting rules, regulations, or ordinances which establish the prevailing wage rate as defined in section 177.42, as a minimum standard for wages and which establish the hours and working conditions prevailing for the largest number of workers engaged in the same class of labor within the area as a minimum standard for a contractor's employees which must be agreed to by any contractor before the contractor may be awarded any contract for the furnishing of any labor, material, supplies, or service.

Subd. 8. Procurement from economically disadvantaged persons.

For purposes of this subdivision, the following terms shall have the meanings herein ascribed to them:

(a) "Small targeted group business" means businesses designated under section 16C.16.
(b) "Business entity" means an entity organized for profit, including an individual, partnership, corporation, joint venture, association, or cooperative.

Nothing in this section shall be construed to prohibit any municipality from adopting a resolution, rule, regulation, or ordinance which on an annual basis designates and sets aside for awarding to small targeted group businesses a percentage of the value of its anticipated total procurement of goods and services, including construction, and which uses either a negotiated price or bid contract procedure in the awarding of a procurement contract under a set-aside program as allowed in this subdivision, provided that any award based on a negotiated price shall not exceed by more than five percent the municipality's estimated price for the goods and services if they were purchased on the open market and not under the set-aside program.

Subd. 9. [Repealed, 1990 c 549 s 3]

Subd. 10. Shared hospital or ambulance service purchasing.

Supplies, materials, or equipment to be used in the operation of a hospital licensed under sections 144.50 to 144.56 or an ambulance service licensed under chapter 144E that are purchased or leased under a shared service purchasing arrangement whereby more than one hospital or ambulance service purchases supplies, materials, or equipment with one or more other hospitals or ambulance services either through one of the hospitals or ambulance services or through another entity, may be purchased without regard to the competitive bidding requirements of this section, if the following conditions are met:

1. the hospital's or ambulance service's governing authority authorizes the arrangement;
2. the shared services purchasing program purchases items available from more than one source on the basis of competitive bids or competitive quotations of prices; and
3. the arrangement authorizes the hospital's or ambulance service's governing authority or its representatives to review the purchasing procedures to determine compliance with these requirements.

The shared services purchasing program may award contracts to more than one bidder if doing so does not decrease the service level or diminish the effects of competition.

Subd. 11. Fuel contracts for generation of municipal power.

Notwithstanding the amount of the contract, any contract entered into by a municipality for the purchase of fuel required for the generation of power from municipal power plants shall be governed by subdivision 4.

Subd. 12. Procurement from rehabilitation facilities.

Nothing in this section prohibits a municipality from adopting a resolution, rule, regulation, or ordinance that on an annual basis designates and sets aside for awarding to rehabilitation facilities as described in section 268A.06 a percentage of the value of its anticipated total procurement.
of goods and services, including construction, and which uses either a negotiated price or bid contract procedure in the awarding of a procurement contract under a set-aside program as allowed in this subdivision, provided that any award based on a negotiated price shall not exceed by more than five percent the municipality's estimated price for the goods and services if they were purchased on the open market and not under the set-aside program.


The following definitions apply to this subdivision.

(a) “Energy conservation measure” means a training program or facility alteration designed to reduce energy consumption or operating costs and includes:

1. Insulation of the building structure and systems within the building;
2. Storm windows and doors, caulking or weatherstripping, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;
3. Automatic energy control systems;
4. Heating, ventilating, or air conditioning system modifications or replacements;
5. Replacement or modifications of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;
6. Energy recovery systems;
7. Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;
8. Energy conservation measures that provide long-term operating cost reductions; and
9. Water metering devices that increase efficiency or accuracy of water measurement and reduce energy use.

(b) “Guaranteed energy-savings contract” means a contract for the evaluation and recommendations of energy conservation measures, and for one or more energy conservation measures. The contract must provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time, but not to exceed 20 years from the date of final installation, and the savings are guaranteed to the extent necessary to make payments for the systems.

(c) “Qualified provider” means a person or business experienced in the design, implementation, and installation of energy conservation measures. A qualified provider to whom the contract is awarded shall give a sufficient bond to the municipality for its faithful performance.

Notwithstanding any law to the contrary, a municipality may enter into a guaranteed energy-savings contract with a qualified provider to significantly reduce energy or operating costs.

Before entering into a contract under this subdivision, the municipality shall provide published notice of the meeting in which it proposes to award the contract, the names of the parties to the proposed contract, and the contract’s purpose.

Before installation of equipment, modification, or remodeling, the qualified provider shall first issue a report, summarizing estimates of all costs of installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, repairs, or debt service, and estimates of the amounts by which energy or operating costs will be reduced.

A guaranteed energy-savings contract that includes a written guarantee that savings will meet or exceed the cost of energy conservation measures is not subject to competitive bidding requirements of section 471.345 or other law or city charter. The contract is not subject to section 123B.52.
written guarantee that the energy or operating cost savings will meet or exceed the costs of the system. The guaranteed energy-savings contract may provide for payments over a period of time, not to exceed 20 years. A municipality may enter into an installment payment contract for the purchase and installation of energy conservation measures. The contract must provide for payments of not less than 1/20 of the price to be paid within two years from the date of the first operation, and the remaining costs to be paid monthly, not to exceed a 20-year term from the date of final acceptance. A municipality entering into a guaranteed energy-savings contract shall provide a copy of the contract and the report from the qualified provider to the commissioner of commerce within 30 days of the effective date of the contract. Guaranteed energy-savings contracts may extend beyond the fiscal year in which they become effective. The municipality shall include in its annual appropriations measure for each later fiscal year any amounts payable under guaranteed energy-savings contracts during the year. Failure of a municipality to make such an appropriation does not affect the validity of the guaranteed energy-savings contract or the municipality's obligations under the contracts.

Subd. 14. Damage awards. In any action brought challenging the validity of a municipal contract under this section, the court shall not award, as any part of its judgment, damages, or attorney's fees, but may award an unsuccessful bidder the costs of preparing an unsuccessful bid.

Subd. 15. Cooperative purchasing. (a) Municipalities may contract for the purchase of supplies, materials, or equipment by utilizing contracts that are available through the state's cooperative purchasing venture authorized by section 16C.11. For a contract estimated to exceed $25,000, a municipality must consider the availability, price and quality of supplies, materials, or equipment available through the state's cooperative purchasing venture before purchasing through another source. (b) If a municipality does not utilize the state's cooperative purchasing venture, a municipality may contract for the purchase of supplies, materials, or equipment without regard to the competitive bidding requirements of this section if the purchase is through a national municipal association's purchasing alliance or cooperative created by a joint powers agreement that purchases items from more than one source on the basis of competitive bids or competitive quotations.

Subd. 16. Reverse auction. Notwithstanding any other procedural requirements of this section, a municipality may contract to purchase supplies, materials, and equipment using an electronic purchasing process in which vendors compete to provide the supplies, materials, or equipment at the lowest selling price in an open and interactive environment. A municipality may not use this process to contract for services, as defined by section 16C.02, subdivision 17, or a service contract, as defined by section 16C.02, subdivision 7a. Nothing in this subdivision must be construed to prohibit a municipality from adopting a resolution, rule, regulation, or ordinance relating to minimum labor standards under subdivision 7, or procurement from economically disadvantaged persons under subdivision 8.

Subd. 17. Electronic sale of surplus supplies, materials, and equipment. Notwithstanding any other procedural requirements of this section, a municipality may contract to sell supplies, materials, and equipment which is surplus, obsolete, or unused using an electronic selling process in which purchasers compete to purchase the surplus supplies, materials, or equipment at the highest purchase price in an open and interactive environment.

Subd. 18. Electronic bidding. Notwithstanding any other procedural requirements of this section, vendors may submit bids, quotations, and proposals electronically in a form and manner required by the municipality. A municipality may allow bid, performance, or payment bonds, or other security, to be furnished electronically.

Subd. 19. Town road construction and maintenance. Notwithstanding any other procedural requirements of this section, a town may contract for the construction or maintenance of a town road by agreeing to the terms of an existing contract between a vendor and a county for road construction or maintenance on an adjoining road if the existing county contract was made in conformance with all applicable procedural requirements.

Subd. 20. Solicitations to small business enterprises or veteran-owned small businesses. A contract, as defined in subdivision 2, estimated not to exceed $250,000 may be made pursuant to the provisions of subdivision 4 provided that a business that is Minnesota Legislature - Office of the Revisor of Statutes https://www.revisor.mn.gov/statutes/cite/471.345
directly solicited is: (1) certified as a small business enterprise by a county designated
small business certification program; or (2) certified by the commissioner of
administration as a small business that is majority-owned and operated by a veteran or a
service-disabled veteran. This subdivision applies only to county boards.

History:
1969 c 934 s 1; 1973 c 123 art 5 s 7; 1973 c 226 s 1, 2; 1974 c 510 s 1; 1977 c 182 s 1-3; 1980 c 462 s 4; 1983 c 42 s 1-3; 1983 c 301 s 211; 1984 c 413 s 1; 1985 c 172 s 129; 1Sp1985 c 13 s 347; 1986 c 350 s 1, 2; 1986 c 444; 1988 c 409 s 1; 1988 c 689 art 2 s 268; 1989 c 9 s 3; 1989 c 352 s 19, 25; 1990 c 391 art 8 s 51; 1990 c 541 s 26, 29; 1990 c 549 s 1; 1992 c 380 s 4-6; 1998 c 386 art 2 s 93; 1998 c 397 art 11 s 3; 1999 c 13 s 1; 2000 c 328 s 2-4; 2002 c 358 s 1; 2Sp2003 c 10 s 1; 2004 c 278 s 10-14; 2005 c 63 s 1; 2006 c 274 s 2; 2007 c 136 art 3 s 4; 2007 c 148 art 3 s 31-33; 2008 c 207 s 4-8; 2008 c 356 s 11; 2009 c 101 art 2 s 92; 2014 c 196 art 3 s 4; 2015 c 22 s 1; 2018 c 107 s 1, 2; 2018 c 124 s 1; 2018 c 146 s 1.
## Contract Signature Authority Matrix

<table>
<thead>
<tr>
<th>Dollar Amount</th>
<th>Authorized to Bind District</th>
<th>Requires Board Agenda Item?</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Grants, Partnerships, Joint Partnerships, Collaborations and Gifts (over $5,000) require Board Approval.</td>
<td>Board Chair or Superintendent (or as designated on Board Agenda Item)</td>
<td>YES</td>
</tr>
<tr>
<td>0-$3,499.99 for Schools</td>
<td>Principal or Budget Administrator</td>
<td>No, see exception above</td>
</tr>
<tr>
<td>0 - $4999.99 for District Departments or Programs (except when Federal Funds are involved then only to $3,499.99)</td>
<td>Department Manager or Administrator</td>
<td>No, see exception above</td>
</tr>
<tr>
<td>From $3500 for Schools and $5,000 for Departments/Programs to $99,999.99 adjust ceiling threshold to $174,999.99</td>
<td>Superintendent, Chief Business or Financial Officer, Controller or Purchasing Manager</td>
<td>No, see exception above</td>
</tr>
<tr>
<td>For Goods over $100,000 adjust threshold to $175,000</td>
<td>Superintendent, Chief Business or Financial Officer, Controller or Purchasing Manager (or as designated on Board Agenda Item)</td>
<td>YES</td>
</tr>
<tr>
<td>For Services over $100,000 adjust threshold to $175,000</td>
<td>Board Chair or Superintendent (or as designated on Board Agenda Item)</td>
<td>YES</td>
</tr>
</tbody>
</table>

I would like to make this a BOE approved item in order to put more emphasis on the thresholds at which individuals may enter into contracts on behalf of the District.
<table>
<thead>
<tr>
<th>Department/Program</th>
<th>Exception</th>
<th>Dollar Amount</th>
<th>Exception</th>
<th>Dollar Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction</td>
<td>Required</td>
<td>$0-$4,999</td>
<td>Not</td>
<td>$5,000-$14,999</td>
</tr>
<tr>
<td>Non-Construction</td>
<td>Required</td>
<td>$5,000-$24,999</td>
<td>Not</td>
<td>$25,000-$34,999</td>
</tr>
<tr>
<td>Travel/Hotels</td>
<td>Required</td>
<td>$0-$4,999</td>
<td>Not</td>
<td>$5,000-$24,999</td>
</tr>
<tr>
<td>Nutrition Services</td>
<td>Required</td>
<td>$0-$4,999</td>
<td>Not</td>
<td>$5,000-$24,999</td>
</tr>
<tr>
<td>Federal Grants</td>
<td>Required</td>
<td>$0-$4,999</td>
<td>Not</td>
<td>$5,000-$24,999</td>
</tr>
</tbody>
</table>

*If a MN State Contract is available, it must be considered first - [http://www.mmm.admin.state.mn.us/process/contract/index.asp](http://www.mmm.admin.state.mn.us/process/contract/index.asp) - Access Code: 501181

**SPPS Bid Purchasing**

- Not Required
- Required if District signs contract
- Required if vendor is not in SPPS database

**SPPS Property Control**

- Not Required
- Required if use and management of the item is identified as high risk

**SPPS Request for Proposal (RFP)**

- Not Required
- Required if use of the item is identified as high risk

**SPPS Request for Bid (RFB)**

- Not Required
- Required if use of the item is identified as high risk

**SPPS Purchase Order (PO)**

- Not Required
- Required if District sings contract
- Required if PO Only (PO is contract)
- Required if PO is contract

**SPPS Contract**

- Not Required
- Required if District signs contract
- Required if PO Only (PO is contract)
- Required if PO is contract

**Spending**

- $1,000 - $4,999
- $5,000 - $14,999
- $15,000 - $24,999
- $25,000 - $99,999
- $100,000 or more

**Approval**

- Superintendent as dictated by Board
- Board of Education approval
- Purchasing Electronic Signature Authority Matrix

**Consequences**

- This would adjust to $50k-174,999.99
- These changes would still require a formal bid process, but the requirement to publicly advertise would rise to $175k
- This would adjust to >$175,000
516.00  STUDENTS: MEDICATIONS/MEDICAL PROCEDURES

PURPOSE
In order to remove health related barriers to learning, students may require medication and medical procedures that allow students access to education. Individual plans, including individual health plans, emergency care plans, Section 504 plans, and individualized education plans (IEPs) guide the care of students with health conditions and disabilities.

1. The following provisions shall be followed when administering medications or medical procedures to students at school.
2. Medications and medical procedures that must be administered during the school day in order for a student to attend school shall be administered by the school nurse or by a designee of the school administrator of the principal whom the school nurse has trained and delegated the function of medication administration or provision of medical procedures.
3. The parent or guardian will supply the medications. Medications must be supplied by the parent or guardian and brought to school in the original, labeled container. The nurse or designee will administer the medication according to the label.
4. The parent or guardian will notify the school nurse or designee school nurse shall be notified in writing by the parent or guardian when medication must be administered during the school day.
   a. For medication prescribed needed at school for a period of two weeks or longer, a written order signed by a prescribing health professional and the custodial parent or guardian is required. Such orders shall be renewed annually and whenever medication, dosage, or administration changes.
   b. For medication prescribed needed at school for a period of less than two weeks, a written request for administration signed by the custodial parent or guardian is required.
5. Medications that must be administered during an overnight field trip or outside of the school day must be in the original, labeled container with a written request from a custodial parent or guardian.
6. A student may be allowed to self-administer and/or self-carry medication. Upon written recommendation of the prescribing health professional and custodial parent or guardian and consultation of the school nurse, a student may be allowed to self-administer and/or self-carry medication.
7. A secondary student may possess and use nonprescription pain relief medication in a manner consistent with the labeling if the school nurse has received a written authorization from the custodial parent or guardian permitting the student to self-administer and self-carry the medication. Such authorizations must be renewed annually. A student’s privilege to possess and use nonprescription pain relievers may be revoked if it is determined the student is abusing the privilege.
8. Medications and medical procedures that can be administered to the student appropriately before or after school will be the responsibility of the parent(s) or guardian.
9. Controlled substances prescribed to students must always be kept in a locked cabinet and shall never be carried by a student or self-administered.

10. Emergency medication will be provided to students when provided by the family and ordered by the student’s health care provider, as part of the student’s Emergency Care Plan. Emergency medication may also be made available to students for specific conditions following a protocol developed with a medical director or advanced practice registered nurse.

LEGAL REFERENCES:
Minn. Stats. §§ 121A.22 to 121A.222

CROSS REFERENCES:
Minnesota Guidelines for Medication Administration in Schools
Revised June 2015, Division of Community and Family Health, Minnesota Department of Health.
Written in collaboration with:
Minnesota Board of Nursing
Minnesota Department of Education
Minnesota Department of Human Services

Student Health and Wellness documents
Components of Asthma Management in the School
Components of Diabetes Management in the School
Components of Anaphylaxis Management in the School
Components of ADHD Management in the School (Tara and Jennifer are updating)
Authorization for the Administration of Medication/Treatment H-25
Authorization for the Administration of Medication/Treatment Asthma, Anaphylaxis, Diabetes, Seizure H-25 AADS
Self Carry/Self Administer Medication Agreement H-76
516.00 STUDENTS: MEDICATIONS/MEDICAL PROCEDURES

PURPOSE
In order to remove health related barriers to learning, students may require medication and medical procedures that allow students access to education. Individual plans, including individual health plans, emergency care plans, Section 504 plans, and individualized education plans (IEPs) guide the care of students with health conditions and disabilities.

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3. The parent or guardian will supply the medications to school in the original, labeled container. The nurse or designee will administer the medication according to the label.
4. The parent or guardian will notify the school nurse or designee when medication must be administered during the school day.
   a. For medication needed at school for a period of two weeks or longer, a written order signed by a prescribing health professional and the custodial parent or guardian is required. Such orders shall be renewed annually and whenever medication, dosage, or administration changes.
   b. For medication needed at school for a period of less than two weeks, a written request for administration signed by the custodial parent or guardian is required.
5. Medications that must be administered during an overnight field trip or outside of the school day must be in the original, labeled container with a written request from a custodial parent or guardian.
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