

JAY SCHOOL DEPARTMENT
NEPN/NSBA Code: GBEE

ALCOHOL AND DRUG POLICY AND TESTING PROCEDURES

1. **PURPOSE**

The Jay School Department is committed to a drug and alcohol free workplace. In order to ensure the safety of its employees and the general public, as well as to comply with 49 CFR Part 382 and other pertinent federal laws, the School Committee has adopted this employment policy.

The Committee takes pride in its employees who perform critical duties in a truly effective manner with safety foremost in their minds. This policy strengthens the commitment to a safe workplace.

2. **PROGRAM ADMINISTRATOR**

The Superintendent of Schools is designated by the Jay School Department as the Alcohol/Drug Testing Program Administrator. The Program Administrator is responsible for answering questions from drivers, employees or the public in general. The Program Administrator will maintain the confidentiality of all information relating to drug and alcohol testing. The Program Administrator may provide such information as necessary to enable the appropriate supervisor to take the appropriate action to ensure compliance with this policy. In addition to his/her duties under this policy, the Program Administrator is also responsible for compliance with the Program Administrator Guidelines.

3. **SCOPE OF POLICY**

This policy applies to all regular full-time, part-time, seasonal, on-call and temporary employees who are required to hold a Commercial Driver's License (CDL) for their position. All applicants for employment positions requiring a CDL are required to pass a drug test as prerequisite of employment, prior to final hiring. Any applicant who fails a drug test shall not be hired, although may re-apply for employment in the future.

Any person who was employed on a part-time or on-call basis for the School Department at least once during 1995 and is employed at least once annually thereafter shall be considered a continuing employee for purposes of this policy and is not subject to pre-employment testing prior to recommencing work. However, such employees are subject to all other provisions of this policy.

All covered employees shall receive a copy of this policy, as well as educational materials on alcohol and substance abuse.

4. COMPLIANCE WITH REGULATIONS

All CDL employees subject to alcohol and drug testing must be in compliance with this policy at all times while working for the School Department. This includes all time spent operating commercial vehicles, as well as time spent maintaining or repairing those vehicles.

NOTE REGARDING INDEPENDENT CONTRACTORS: Independent contractors and their employees who must hold a CDL for the contracted activity are subject to the requirements of 49 CFR Part 382 and are responsible for compliance with that and related laws. The School Department will not provide or pay for tests, evaluations or rehabilitation for independent contractors or their employees. The School Department shall make compliance with the law a condition of any contract which requires a CDL driver.

5. SUBSTANCE TESTED

When drug and alcohol screening is required by this policy, a breath test and/or urine test will be given to detect the following:

1. Alcohol
2. Marijuana
3. Cocaine
4. Amphetamines
5. Phencyclidine (PCP)
6. Opiates

6. PRESCRIPTION DRUG USE

Employees covered by this policy may use prescription drugs and "over the counter" medications provided that:

1. The prescription drugs or their generic equivalent have been prescribed to the employee within the past 12 months by an authorized medical practitioner.
2. The employee does not consume prescribed drugs more often than as prescribed by the employee's physician.
3. Any employee who has been informed that the medication could cause adverse side effects while working shall inform his/her supervisor prior to using these substances. The School Department at all times reserves the right to have a licensed physician determine if use of a prescription drug or medication by an employee produces an adverse affect. If such a finding is made, the School Department may notify the employee's doctor

(with employee's permission) to determine if other medications are available which would not seriously affect the employee's ability to work safely. If an appropriate substitute is not available, the School Department may limit or suspend the employee's work activities to non-safety sensitive duties.

7. TESTS REQUIRED

All employees subject to this policy shall be tested for alcohol and/or controlled substances in the following circumstances:

1. Pre-employment. Drug test will be conducted when an offer is made to hire an employee for a CDL position. The offer for employment is contingent on the applicant passing these tests. This includes existing employees who are applying for CDL positions.
2. Random. Drug and alcohol tests will be conducted on a random, unannounced basis. The number of annual drug tests shall equal 50% of the number of CDL required positions while the number of annual alcohol tests shall equal 25% of the CDL required positions. The School Department has entered into an agreement with a third part administrator (TPA) to randomly select the CDL employees for testing and then notify the Program Administrator of the person or persons chosen.
3. Post-accident. As soon as is practicable after an accident, the employee shall be tested for alcohol and drugs if: (a) the accident involved the loss of human life; or (b) the employee received a citation for a moving traffic violation arising from the accident.
4. Reasonable suspicion. All employees who exhibit to a trained supervisor signs and symptoms of alcohol and/or drug abuse while on the job, prior to reporting to work, or just after work will be required to submit to an alcohol and/or drug test. The supervisor shall document the specific facts, symptoms or observations by completing a "Reasonable Suspicion Record" form.
5. Return-to-duty. An employee who engaged in conduct prohibited by Section 9 must submit to an alcohol test and drug test to return to duty. The results of a drug test must be negative to return to duty, and the results of an alcohol test must be less than 0.02 to duty.
6. Follow-up. An employee who previously tested positive and has returned to duty must submit to a combination of at least six (6) alcohol and drug tests during the first year after returning to work. Follow-up tests

will be unannounced and may continue for up to sixty (60) months after returning to work, not to exceed twelve (12) a year.

8. TESTING PROCEDURES

Drug Testing: Drug testing is accomplished by analyzing the employee's urine specimen (urinalysis). Specimens will be collected at an off-site facility selected by the School Department. Once the employee provide a urine specimen, it is sealed and labeled by a certified/authorized agent of the testing facility. A chain of custody document is completed in the presence of the employee, and the specimen is shipped to a laboratory which is certified/authorized agent of the testing facility. A chain of custody document is completed in the presence of the employee, and the specimen is shipped to a laboratory which is certified in accordance with DHHS guidelines or equivalent guidelines.

All urinalysis procedures are required to include split-specimen techniques. Each urine sample is sub-divided into two containers and labeled as primary and split specimens. Both specimens are forwarded to the laboratory. Only the primary specimen is used in the urinalysis. In the event of a confirmed positive result, the split specimen may be used for a second confirmation test if required by the employee.

During testing an initial screening test is performed. If the test is positive for one or more drugs, a confirmation test will be performed for each individual drug using gas chromatography/mass spectrometry (GC/MS) analysis. This test ensures that over the counter medications are not reported as positive results.

If the analysis of the primary specimen results in a confirmed positive test, the employee may within 72 hours request that the split specimen also be tested at a certified laboratory of his choice. The second test is at the employee's expense unless the test result is negative, in which case the School Department will reimburse the employee.

All test results are reviewed by a Medical Review Officer (MRO) prior to results being reported to the School Department. In the event of a positive test result, the MRO will first attempt to contact the employee and conduct an interview to determine if there are any alternative legitimate reasons for the positive results (such as over-the-counter or prescription medications.) If the MRO determines there is a legitimate explanation for the presence of drugs, the result will be reported as negative. If the MRO is unable to contact the employee, then the employer will be contacted and requested to advise the employee to contact the MRO. Urine samples shall be provided in a private test room, stall or similar enclosure

so that employees and applicants may not be viewed while providing the sample. Employees and applicants may be required to disrobe and will be given hospital gowns to wear while they are providing test samples in order to ensure that there is no tampering. Street clothes, bags, briefcases, purses, and other containers may not be carried into the test area. The water in the commode, if any shall be colored with dye to protect against dilution of test samples. An applicant or employee may waive the right to privacy and provide the urine sample in the presence of a witness (of the same gender) and not be required to disrobe and wear a hospital gown.

Alcohol Testing: Alcohol testing will be conducted using an evidential breath testing (ECT) device. The breath test must be performed by a certified Breath Alcohol Technician (BAT) trained in the use of EBT and alcohol testing procedures. Under certain circumstances, post-accident tests conducted by law enforcement personnel or medical personnel will be acceptable.

Two (2) breath tests are required to determine if an individual is over the alcohol concentration limit permitted. Any result of less than 0.02 concentration is considered a negative result. A confirmed test of 0.02 or greater is considered a positive result.

9. **PROHIBITED CONDUCT**

CDL employees shall not:

- 1) Report to work and/or remain on duty with an alcohol concentration of 0.04 or greater;
- 2) Possess any alcohol while on duty;
- 3) Use any alcohol while on duty;
- 4) Use any alcohol within four (4) hours before going on duty;
- 5) Use any alcohol within eight (8) hours after an accident for which the CDL employee must be tested for alcohol concentration.
- 6) Refuse to submit to the following alcohol and/or controlled substance tests: random test, reasonable suspicion test, post-accident test, or follow-up test;
- 7) Report to or remain on duty when using any controlled substance, except when used under a physician's orders and when the physician has informed the CDL employee in writing that the use will not affect the safe operations of a commercial vehicle. In the case of a written warning by the physician, the employee shall

report this to his/her supervisor immediately;

- 8) Report to or remain on duty if the employee test positive for controlled substances.

Failure to comply with these rules is a violation of this policy and may result in disciplinary action and shall result in referral to a substance abuse professional.

10. **REFUSAL TO TEST**

An employee's failure to submit to testing may result in disciplinary action up to and including dismissal, and is also grounds for referral to substance abuse professional. Failure to submit to a test by an applicant will result in denial of employment. Specifically, the following circumstances may be considered a refusal to test:

- 1) Failure to report the designated testing area immediately after being notified to submit to an alcohol or drug test.
- 2) Failure to accurately provide a sufficient sample to be tested, either breath or urine as the case may be, unless medically determined to be unable to do so.
- 3) Engaging in conduct that clearly obstructs or delays the testing process.

11. **ALCOHOL CONCENTRATION OF 0.02 OR GREATER BUT LESS THAN 0.04**

Provided that the employee has not violated Section 9, any employee whose alcohol test results in a concentration of 0.02 or greater but less than 0.04 shall not be permitted to perform any safety-sensitive function for at least 24 hours following the test. The employee will not be paid for work-time lost as a result of this section unless he/she works in another capacity for the School Department during that time period. The employee will not be required to undergo evaluation by a substance abuse professional if the test result is 0.02 or greater but less than 0.04, nor will a return-to-duty test be required unless there is reasonable suspicion that the employee is still under the influence of alcohol or drugs.

NOTE: This Section applies only in limited situations. For example, if an employee last consumed alcohol more than four hours before work, but still has a blood/alcohol level of .03 when he/she shows up for work, he/she is not in violation of Section 9 but is subject to the Section.

12. **NOTICE AND CONSENT**

Before a drug or alcohol test is administered, employees and job applicants will be asked to sign a consent form

authorizing the test and permitting the release of test results to those officials with a need to know. The chemical screen consent form shall provide space to indicate current or recent use of prescription and over-the-counter medication.

All recruitment announcements for an CDL position, including in-house recruitment and promotion, will disclose that a drug screening test will required of the applicant.

13. CONSEQUENCES OF VIOLATION OF THIS POLICY

1. Any employee who violates Sections 9 or 10 of this policy shall be immediately removed from the safety-sensitive function and will be advised by the School Department of the resources available for evaluating and resolving drug and alcohol abuse problems. The employee is required to be evaluated by a substance abuse professional. All evaluation and rehabilitation shall be at the employee's cost unless otherwise agreed by the School Department. An employee shall not be allowed to return to the safety-sensitive function until he/she has a return-to-duty alcohol test result of less than 0.02 or a return-to-duty drug test with a verified negative result.
2. In addition, any employee who violates Sections 9 or 10 of this policy may be subject to disciplinary action up to and including dismissal. Before discipline, re-assignment or dismissal is imposed following a confirmed positive drug test, the employee shall have the opportunity to participate for up to six months in a rehabilitation program. The employee is responsible for all costs associated with the rehabilitation program unless otherwise agreed by the School Department. Factors to be considered in determining the appropriate disciplinary response include, but are not limited to the following: Employee's work history, length of employment, current job performance and existence of past disciplinary action. Disciplinary action is imposed by School Department policy; it is not required by federal law.
***Under State law, if part of all the costs of drug abuse rehabilitation are covered by a group health insurance plan which includes the employee in question then such insurance may be used by the employee for that purpose, see 26 M.R.S.A. 685 as amended by 1995 PI c. 344.**
3. Further grounds for discipline or dismissal under School Department policy include, but are not limited to:
 - a) Refusal to submit to a rehabilitation program after testing positive.

b) Failure within 6 months to successfully complete a rehabilitation program after commencing the program, or failure to pass a return-to-duty drug alcohol test.

c) Evidence that the employee has substituted, a adulterated, diluted or otherwise tampered with his/her urine sample.

d) Failure to contact a substance abuse professional within five (5) regular working days after being notified of a confirmed (MRO certified) positive test for the improper use of alcohol or unauthorized substances.

4. During the period the School Department is awaiting an employee's test result for a post-accident test, reasonable suspicion test, or return-to-duty test, the School Department may transfer the employee to another position with or without a reduction in pay or benefits. The School Department also reserves the right to place an employee on unpaid suspension to reduce any possible safety hazard. A determination as to whether an employee is placed in another position or placed on paid or unpaid suspension may be based on, but is not limited to: who is responsible for and/or the severity of the accident, if applicable; the employee's work history; length of employment; current job performance and the existence of past disciplinary actions. Action taken by the School Department under the subsection is a matter of School Department policy, and is not imposed by federal law.

14. **EMPLOYEE/APPLICANT RIGHTS AND RESPONSIBILITIES**

1. In the event of a confirmed positive test result, employees and job applicants shall have the opportunity to present an alternative explanation for the test result by contacting the Medical Review Officer (MRO). This shall be done within 72 hours after notification of the confirmed result. No further action will be taken if there is a justified explanation, or there is a reasonable doubt as to the accuracy of the result or chain of custody of the sample.

2. Any employee with a positive test result may upon written request to the Program Administrator have the right to any information relating to the test result and procedures. A job applicant may request information concerning the test result within 60 days after the decision on his/her employment application.

3. Upon successfully completing a rehabilitation program within six months after it commences and upon passing a return-to-duty drug test, the employee is entitled to

return to his/her previous job with full pay (but not back pay) and accrued benefits, unless conditions unrelated to the employee's previous test make the employee's return impossible or inappropriate. The rehabilitation or treatment provider in consultation with the Program Administrator shall determine whether the employee has successfully completed in the rehabilitation program. The School Department is not required to hold the employee's job open for more than six months after the employee commences a rehabilitation program. The employee may apply accrued vacation and sick leave, if any, against any time period where he or she is unavailable for work due to drug abuse rehabilitation.

15. CONFIDENTIALITY OF INFORMATION

Unless the employee or applicant consents, all information acquired by the School Department in connection with the testing processes is confidential and may not be released to any person other than to the employee or applicant who is tested, the Program Administrator officials with a need to know and the rehabilitation provider. The foregoing shall not prevent the release of information that is required or permitted by state or federal law, or the use of information in any grievance procedure, administrative hearing or lawsuit relating to the imposition of the test or the use of the test results.

16. DOCUMENTS PROVIDED

The School Department will provide each person subject to this policy a copy of the policy. The School Department will also provide printed material which describes the effects of alcohol and/or controlled substances on the individual's health, work and personal life, as well as information on the signs and symptoms of alcohol or controlled substances and methods of treatment or intervention for drug and alcohol abuse.

17. SEVERABILITY

In the event that a Court find that any provision of this policy is void or unenforceable, the remaining provisions shall continue in full force and effect.

Adopted: DECEMBER 7, 1995, DECEMBER 4, 1997

ALCOHOL AND DRUG POLICY

Pre-Employment Urinalysis Consent Form

The Jay School Department has a strong commitment to the health, safety and welfare of its employees, their families, its customers, and the public at large. Therefore the School Department seeks to hire and employ workers requiring a Commercial Driver's License (CDL) who are free of illegal and abused drugs and protect employees, their families and the public from the adverse effects of drug abuse. The School Department requires the final applicant selected for a position requiring a CDL to undergo a Drug Test to detect the presence of controlled substances in the body.

Any applicant with a positive pre-employment test may be denied employment by reason of the positive test. Also, any applicant refusing to be tested will be denied employment.

I UNDERSTAND THAT AS REQUIRED BY TITLE 49, CODE OF FEDERAL REGULATION, ALL APPLICANTS FOR POSITIONS REQUIRING A COMMERCIAL DRIVER'S LICENSE MUST BE TESTED FOR THE USE OF CONTROLLED SUBSTANCES AS A PRE-CONDITION FOR EMPLOYMENT.

I CONSENT TO URINE SAMPLE COLLECTION AND TESTING FOR CONTROLLED SUBSTANCES

I UNDERSTAND THAT A POSITIVE TEST RESULT FOR CONTROLLED SUBSTANCES WILL RENDER ME UNQUALIFIED TO OPERATE A COMMERCIAL MOTOR VEHICLE AND RESULT IN MY BEING DENIED EMPLOYMENT WITH THE SCHOOL DEPARTMENT.

THE MEDICAL REVIEW OFFICER CONTRACTED BY THE SCHOOL DEPARTMENT WILL MAINTAIN THE RESULTS OF MY TEST. NEGATIVE AND POSITIVE RESULTS WILL BE REPORTED TO THE SCHOOL DEPARTMENT. IF THE RESULTS ARE POSITIVE, THE CONTROLLED SUBSTANCE WILL BE IDENTIFIED. THE RESULTS WILL NOT BE RELEASED TO OTHER PARTIES WITHOUT MY WRITTEN CONSENT EXCEPT AS PROVIDED BY LAW.

I UNDERSTAND THE ABOVE CONDITIONS AND HEREBY AGREE TO COMPLY WITH THEM.

Applicant's Name (Please Print)

Date

Applicant's Signature

Soc. Sec. #

ALCOHOL AND DRUG POLICY

Employee Breath Test & Urinalysis Consent Form

The Jay School Department has a strong commitment to the health, safety and welfare of its, their families, its customers, and the public at large. Use and misuse of alcohol or drugs, whether prescribed or illegal, impairs the ability of employee to perform assigned duties, particularly those requiring a Commercial Driver's License (CDL), and may endanger the employee, co-workers, the public, the School Department, and public and private property. The School Department seeks to prevent employees from using alcohol and drugs when the use of such is illegal, or in any way endangers the public. The School Department also wants to provide appropriate and reasonable assistance to employees who use or misuse impairs their ability to perform their duties.

Under Title 49, CFR, the School Department may require a current employee whose position requires a CDL to undergo drug and alcohol testing consisting of random testing; post-accident testing; reasonable suspicion testing; return-to-work testing; and follow-up testing. Refusal to be tested may subject an employee to disciplinary action and possible termination, as well as referral to a substance abuse professional.

I UNDERSTAND THAT AS REQUIRED BY TITLE 49, CODE OF FEDERAL REGULATIONS, ALL EMPLOYEES IN POSITIONS REQUIRING A COMMERCIAL DRIVER'S LICENSE MUST BE SUBJECT TO TESTING FOR THE USE OF ALCOHOL AND CONTROLLED SUBSTANCES AS A CONDITION OF CONTINUED EMPLOYMENT.

I CONSENT TO BREATH TESTS AND URINE SAMPLE COLLECTION AND TESTING FOR CONTROLLED SUBSTANCES.

I UNDERSTAND THAT A POSITIVE TEST RESULT FOR CONTROLLED SUBSTANCES WILL RENDER ME UNQUALIFIED TO OPERATE A COMMERCIAL MOTOR VEHICLE AND MAY RESULT IN DISCIPLINARY ACTION.

THE MEDICAL REVIEW OFFICER CONTRACTED BY THE SCHOOL DEPARTMENT WILL MAINTAIN THE RESULTS OF MY TEST. NEGATIVE OR POSITIVE RESULTS WILL BE REPORTED TO THE SCHOOL DEPARTMENT. IF THE RESULTS ARE POSITIVE, THE CONTROLLED SUBSTANCE WILL BE IDENTIFIED. THE RESULTS WILL NOT BE RELEASED TO OTHER PARTIES WITHOUT MY WRITTEN CONSENT EXCEPT AS PROVIDED BY LAW.

I UNDERSTAND THE ABOVE CONDITIONS AND HEREBY AGREE TO COMPLY WITH THEM.

Employee's Name (please print)

Date

Employee's Signature

Soc. Sec. #

CERTIFICATE OF RECEIPT

I hereby acknowledge that I have received a copy of the "Alcohol and Drug Testing Policy and Procedures: and an educational information packed concerning the effects of alcohol and controlled substances use.

Date: _____

Employee's Signature

Employee's printed name and Soc. Sec. #

NOTE: The original of this Certificate must be retained by the Employer, and a copy must be given to the Employee.