TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL TESTING 6.111* OPTION 2

I. This policy is intended to deter the use of drugs and alcohol in the workplace by establishing standard procedures for drug and alcohol testing for all employees who are required to hold a Commercial Driver's License (CDL).

II. Employers of persons performing safety sensitive functions and holding a Commercial Driver's License (CDL) are required to implement a drug and alcohol testing program pursuant to the Omnibus Transportation Employee Testing Act of 1991 (OTETA), (Pub. L. 102-143, Title V), regulations of the Federal Highway Administration (FHWA) at 49 CFR Parts 40 and 382, and 1012.45, Florida Statutes.

III. Definitions as Used in This Policy

A. *Prohibited Substances* or *Drugs* means any illegal drug or substance as identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 USC §812) and by regulations at 21 CFR §§1308.11-15, including, but not limited to, marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine. Prohibited use includes both use of any illegal drug, and misuse of legally prescribed or obtained prescription drugs.

B. *Alcohol Use* means the consumption of any beverage, mixture or preparation containing alcohol, including any medication or product.

C. *Covered Employees* means those School Board employees who are required to hold a commercial drivers' license as a condition of employment and in which a driver operates:

1. a vehicle designed to carry 16 or more passengers,

2. a vehicle which weighs more than 26,000 pounds, or

3. a vehicle which carries a placard indicating hazardous cargo.

D. *Program Manager* means the staff person designated by the Superintendent as OTETA program manager.

E. *Safety-sensitive function* or *safety-sensitive position* means all job responsibilities of a covered employee from the time he or she begins to

work or is required to be in readiness for work until the time he or she is relieved from work.

F. *Medical Review Officer* or *MRO* means a physician with knowledge of substance abuse disorders and who has appropriate medical training to interpret and evaluate laboratory positive drug test results in a confidential manner, in conjunction with or without an individual medical history and any other relevant biomedical information, to determine alternative medical explanations for positive drug test results.

IV. Treatment and Notice Requirements

A. Notice to Affected Employees - The Board will inform all covered employees prior to conducting drug and alcohol testing and provide the reasons for conducting the test(s). The Board will provide written notice of the required testing to covered employees.

B. Education and Training - The Board will provide educational materials that explain the requirements of the program and its policies and procedures with respect to meeting the requirements.

C. Treatment Information - Each covered employee who engages in prohibited conduct shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs to resolve problems associated with use of prohibited drugs or alcohol misuse. The employee is responsible for all costs associated with evaluation and/or treatment.

D. Self-referral - An employee with a substance abuse problem may refer himself/herself to the Employee Assistance Program via the program manager at any time prior to receiving notice of a required alcohol or drug test. Such an employee will be granted a leave and be required to successfully complete a rehabilitation program prior to returning to a safety-sensitive position.

V. Prohibited Conduct

A. Prohibited Substance or Drugs - No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance. The employee must provide advance notice to the supervisor of the use of prescribed therapeutic drugs that cause symptoms such as drowsiness and excitedness.

B. The possession of a medical marijuana card does not allow for the possession, use, or storage of marijuana anywhere on District property. It remains unacceptable for any safety-sensitive employee, subject to random drug testing, to use marijuana. Cannabis (marijuana) consumption remains completely barred for District employees in roles where safety is a primary concern (safety sensitive positions), even with a medical marijuana card.

C. Alcohol - No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having a blood alcohol concentration (BAC) of .02 or greater. The use of alcohol is prohibited during the duty day, and for four hours prior to reporting for duty. The consumption of alcohol is also prohibited for up to eight hours, or until tested, following an accident as described in post-accident testing below. While operating a vehicle, covered employees may not have any item in their possession which contains alcohol, unless that item is a part of the vehicle's official inventory. Alcohol-free medications are available, and covered employees should advise their physicians of the need for such substitutes.

D. Refusal to Test - No employee shall refuse to submit to a required test, delay reporting for a test, or attempt to adulterate test results. Any of the above shall be considered a positive test, in accordance with FHWA regulations, and a violation of this policy.

E. Medical Review Officer Contact - No employee may refuse to contact the MRO. All initial positive drug tests must be reviewed and confirmed by an MRO. The results are discussed with the employee prior to being reported to the district. If the MRO is unable to contact the employee, the program manager will be notified. When the employee is contacted by the program manager or a designee, the employee must call the MRO immediately.

VI. Consequences of Engaging in Prohibited Conduct

A. Removal from Work - Covered employees with a confirmed positive test for alcohol or controlled substances are in violation of Board policy and will immediately be removed from safety-sensitive positions, placed on leave without pay, and provided a list of substance abuse professionals (SAP). Upon submission of a written substance abuse treatment plan from a SAP, licensed physician or counselor and enrollment in an out-patient or in-patient treatment program, the employee may be granted paid leave, if accrued leave is available, after entering into a rehabilitation contract with the Board.

Failure to contact the MRO upon notification shall be considered a violation of this policy. The employee shall be removed from the safety-sensitive position and shall be subject to disciplinary action up to and including termination.

B. Rehabilitation Program, Return-to-Duty Test - Prior to returning to work, the employee must provide written documentation of an evaluation by a SAP; the successful completion of a rehabilitation program, if recommended by the SAP; and a negative return-to-duty, alcohol and/or drug test.

C. Stand-down from Work - An employee with a BAC of .02 or higher shall be immediately removed from the safety-sensitive position for a minimum of twenty-four (24) hours and placed on leave without pay. Prior to returning to work, the employee must have a negative return-to-duty alcohol test.

D. Recommendation for Termination - Termination of employment will be recommended for any employee who:

1. fails to be evaluated by a SAP or fails to successfully complete a substance abuse rehabilitation program; or

2. has a second positive test for alcohol and/or controlled or illegal substances; or

3. fails to submit to any required alcohol or drug test.

VII. Testing, Analysis, and Results

A. The Board intends to comply with all alcohol and controlled-substance testing procedures contained in 49 CFR Parts 382, 392, and 395. The School Board recognizes the need to protect individual dignity, privacy, and confidentiality in the alcohol and drug testing program. Specimen analysis shall be conducted in a manner to assure a high degree of accuracy and reliability, using laboratory facilities which are certified by the U.S. Department of Health and Human Services and the Florida Agency for Health Care Administration.

B. The following are conditions upon which testing may be conducted as required by federal regulations or when circumstances warrant:

1. Pre-Employment Testing - All applicants for employment for positions requiring a Commercial Driver's License (CDL) shall undergo testing prior to employment except as otherwise specified pursuant to 49 CFR §382.301(c). Written documentation must be provided by the candidate for employment to substantiate any exception.

2. Reasonable Suspicion Testing - A supervisor or designee outside the bargaining unit who has been trained in accordance with the requirements of FHWA regulations shall require a driver to submit to an alcohol or drug test when the supervisor or designee has reasonable suspicion to believe that a driver has violated the prohibitions contained in the FHWA regulations and this policy.

   Reasonable suspicion must be based on documented objective facts and circumstances which are consistent with the long- and short-term effects of alcohol or substance abuse, including, but not limited to, physical signs and symptoms, appearance, behavior, speech and/or body odor.

3. Post-Accident Testing - Alcohol or drug testing will be administered following an accident when the driver was performing a safety-sensitive function. For this purpose, *accident* is defined by the FHWA to include at least one of the following criteria:

   a. loss of human life;

   b. driver received a citation from a law enforcement officer and either a driver or passenger received immediate medical treatment away from the scene of the accident; or

   c. one of the vehicles involved was to be towed from the scene of the accident due to operational impairment.

   Such testing must be conducted within the time limits set forth in the FHWA regulation.

4. Random Testing - All covered employees shall be subject to random, unannounced drug and alcohol testing. The annual random rate for alcohol testing shall be twenty-five percent (25%) of the covered employees. The annual random rate for controlled substance testing shall be fifty percent (50%) of the covered employees.

Alcohol testing shall take place before, during, or after driving, and within reasonable proximity to driving. When an employee tests positive for alcohol, a second test shall be performed no less than fifteen (15) minutes and not more than twenty (20) minutes later. The results of the second test shall be controlled.

Drug testing may take place at any time during the Board's regular work day.

5. Return to Duty Testing - All employees who previously tested positive on a drug or alcohol test must submit to a return-to-duty test and test negative prior to returning to duty.

6. Follow-up Testing - Unannounced follow-up alcohol and/or controlled substance testing as directed by a SAP in accordance with FHWA regulations shall occur when it is determined that a covered employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of drugs. The number and frequency of follow-up testing shall be determined by the SAP, with a minimum of six (6) tests within a year.

7. Split Sample Test - An employee who tests positive for a controlled substance may request that a test of the split sample be conducted. The second test will be conducted by a different laboratory, as selected by the employee from a list provided by the Board. The employee shall be responsible for pre-payment of the second test by certified check or money order. However, in the event the second test is negative, the Board will reimburse the employee. If performed, the second test shall be controlling.

C. All drug testing with the exception of employee requested tests, shall be at the expense of the School Board.

STATUTORY AUTHORITY: **1001.41, 1012.22, 1012.23, F.S.**

LAW(S) IMPLEMENTED: **112.0455, 440.102, 1001.43, 1012.45, F.S.**
49 CFR Part 40, DOT, 49 CFR Parts 382 AND 391,
FEDERAL HIGHWAY ADMINISTRATION

HISTORY: **ADOPTED: _____**
REVISION DATE(S): _____
FORMERLY: