

Descriptor Term:
DRUG AND ALCOHOL TESTING

Legal References: G.S. 115C-47; 49 U.S. App. 2717; 49 C.F.R. Parts 40 & 382; The Omnibus Transportation Testing Act of 1991, 49 U.S.C. 2717, provides for alcohol and drug testing of commercial motor vehicle drivers. Regulations to implement this federal act are found in 49 C.F.R. Part 382. Regulations Found in 49 C.F.R. Part 40 on Procedures for Transportation Workplace Testing Programs also apply. G.S. 20-138.2B

Cross References:

The use of illegal drugs and misuse of legal substances by a significant segment of the American work force has major adverse effects on the welfare of all citizens and results in the loss of considerable money and productivity each year. Because the safety of its employees and the delivery of services to its students are adversely affected by alcohol and substance abuse, Catawba County Schools cannot afford to ignore this critical problem.

As an employer, Catawba County Schools is committed to provide, within its means, a healthy and safe environment; to provide the best possible services to the students; to maintain the public's confidence in its employees; and to protect the school system from the economic losses that can occur due to alcohol and drug abuse. There is no reason to believe that illegal drug use or substance abuse in the school system is greater than any other work place; nevertheless, the well-being of the students demands that the school system take the actions necessary to ensure that substance abuse and illegal drugs are absent within its work force.

The purpose of this policy is to promote and maintain a drug/alcohol free environment in the workplace and to protect employees and the public by ensuring that Catawba County School employees are fit to perform their assigned duties. Employees are expected and required to safely and effectively perform their duties throughout the workday.

The public has a right to expect that those who work for the school system are at all times both physically and mentally prepared to assume their duties. The school system provides a comprehensive Employee Assistance Program to help employees deal with personal problem which may be affecting their job performance or well being. The school system has expanded this program emphasis to include all forms of substance abuse as well.

Individuals Affected

This drug/alcohol testing policy shall apply to six groups of individuals.

1. All final candidates for employment: Drug screening
2. All final candidates for employment who may be involved in the operation of a county-owned vehicle: Drug screening
3. All employees involved in the operation of a county-owned vehicle: Drug and alcohol screening
4. Any individual(s) operating a county-owned vehicle that is involved in an accident resulting in a fatality, citation or injuries requiring medical attention: Drug and alcohol screening.
5. Any individual identified by a supervisor or principal as meeting the criteria for "reasonable suspicion" of drug or alcohol use.

6. All current employees whose job requirement involves driving a county-owned vehicle will be subject to drug and alcohol screening when selected at random.

The Board of Education shall pay for the administering of drug and/or alcohol testing for each of the above categories with the exception of category 1 and 2.

RESPONSIBILITY

The Superintendent

The Superintendent is responsible for ensuring that all Catawba County School employees adhere to this policy and in all matters relevant to it.

The Personnel Director

The Personnel Department is responsible for coordinating training pertaining to the county's drug/alcohol testing policy and for disseminating the policy to each work site. The Personnel Department shall be responsible for obtaining informed consent for substance abuse testing from all final employment candidates and for maintaining such documentation in the personnel files. Any and all information regarding suspected substance abuse shall be referred to the Personnel Director and shall be held in confidence by the Personnel Department. Any confidential information on substance abuse may be communicated by the Personnel Director to the proper authority on a need-to-know basis.

Supervisors/Principals

All supervisors/principals are responsible for ensuring that personnel attend training pertaining to Catawba County Schools' substance abuse policy and are familiar with and adhere to the new requirements of this procedure. Supervisors/Principals are also responsible for disseminating information of the school system's policies or procedures on this subject to all employees. In cooperation with the Personnel Director, Supervisors/Principals will be responsible to follow through with the proper application of the procedures, and take any disciplinary measure that may be necessary.

Employees

All Catawba County Schools' employees are responsible for knowing and adhering to the requirements of this policy. Employees are also expected to share the responsibility of ensuring that the school system's work place is a safe one, free from the dangers which are associated with the abuse of alcohol or other drugs in the work environment. Any employee having a reasonable basis to believe that another employee is illegally using, or is in possession of any controlled substance, or is intoxicated should immediately report the facts and circumstances to the supervisor/principal.

Definitions

"Medical Review Officer" is a licensed physician whose services are obtained by the county schools to whom all laboratory tests are sent and who reviews and interprets all "positive" laboratory test results.

"Employee" means, for the purpose of this policy, any person whose position results in salary payments based on the North Carolina State Salary Schedule. This definition does not include elected officials or their employees.

"Chain of Custody" is a written record of each individual who has handled or had access to any specimen which has been collected, stored, tested and retained. Chain of custody shall include the identity of each individual who has had possession and control of any specimen, as well as the dates, times and locations of such custody.

"Controlled Dangerous Substance" is any drug determined as such by the Federal Drug Administration, or any drug for which possession without a prescription is prohibited by the laws of this State.

"Final Candidate" means any person who applies to become an employee of the Catawba County School System who is a final candidate for a position.

"Impaired" means under the influence of a substance while on the job such that an employee's motor and/or sensory function (e.g., sight, hearing, balance, coordination, reaction, reflex) or judgment are adversely affected.

"Possession" means to have a controlled dangerous substance either on or in an employee's person, personal effects, motor vehicle, tools, or areas substantially entrusted to the control of the employee such as desks, files and lockers.

"Specimen" is a sample of an employee's urine or a breathalyzer obtained under the supervision of medical or authorized personnel for the purpose of determining the presence of alcohol or drugs.

"Substance" is a controlled dangerous substance, alcohol or other substance which impairs a person's normal ability and/or judgment.

"Substance Abuse" means the use of a substance without medical supervision or direction, or 'without prescription" which impairs, while on the job, a person's normal ability and/or judgment.

"Threshold Level" is the level of concentration of a drug in a specimen which will be used to decide if a specimen is positive or negative for drug use.

"Unfit for Duty" means that a supervisor has an articulated reasonable belief that an employee is impaired and would be incapable of adequately performing his or her assigned duties and responsibilities.

"Worksite" means any location at which school system employees are working.

"Reasonable Suspicion" means a belief based on specific objective facts and rational inferences drawn from those facts that an employee has consumed or is under the influence of alcohol or illegal drugs while at work.

Circumstances which constitute a basis for determining "Reasonable Suspicion" may include, but are not limited to:

- (a) Observable occurrences, such as direct observation of substance abuse and/or the physical symptoms of being under the influence of a dangerous substance.
- (b) A report of substance abuse, by an employee while at work, provided by a reliable and credible source.
- (c) A pattern of poor judgment, unexplained preventable accidents in the performance of duties, and/or of information based on specific objective facts that an employee has caused, or contributed to an accident at work while under the influence of drugs or alcohol.
- (d) Evidence that an employee is involved in the unauthorized possession, sale, solicitation or transfer of drugs while working, while on the work sites, or while operating or in possession of a county-owned vehicle.

"Catawba County Schools Employee Assistance Program" means the program of services provided to

County employees through Catawba County Counseling Services. These services include assessment, evaluation, counseling and referral to treatment and follow-up procedures,

"Approved laboratory" means a laboratory certified to perform drug screening or testing.

TESTING

When drug screening is required under the provisions of this policy, a urinalysis test will be conducted to detect the presence of drugs.

The U.S. Department of Transportation (DOT) testing requirements according to NIDA protocols will be followed.

When alcohol screening is required under this policy, a breathalyzer or approved saliva testing will be given to the individual.

The Personnel Director may also include testing for any other controlled substance as defined in North Carolina General Statute 90-87(5) or metabolite thereof.

The content level of each substance needed to determine whether an employee has consumed or is under the influence of a drug will be determined by a certified toxicologist of the approved laboratory.

Any employee found to have abused prescription drugs will be subject to the terms and conditions of this program.

APPLICANT TESTING

All final candidates for employment with the Catawba County School System are subject to the testing provisions of this program. The cost of the substance abuse testing shall be borne by the applicant.

All final candidates for employment with Catawba County will be provided with the written notification of this testing policy. The notification and consent form shall include the following information:

- (a) The reason for substance abuse testing;
- (b) The circumstances under which testing may be required;
- (c) The consequences of a positive substance abuse test result;
- (d) The consequences of refusing to undergo a substance abuse test.

Testing of final candidates will be done as part of a pre-employment requirement and as a condition of employment. All final candidates will be required to sign a consent form authorizing the substance abuse test and permitting release of the test results to Catawba County School officials with a need to know.

A job applicant who refuses to comply to a substance abuse test will be denied employment with the Catawba County School System.

The Personnel Director may, in the Director's discretion, waive substance abuse testing in cases of temporary employment or part-time employment.

INDIVIDUALS OPERATING SCHOOL SYSTEM VEHICLES, INDIVIDUALS INVOLVED IN AN ACCIDENT WHILE OPERATING A SCHOOL SYSTEM VEHICLE

Commercial motor vehicle operators employed by the board will not be impaired by alcohol or by a prescription or nonprescription drug while on duty or while operating any motor vehicle. For the purposes of this policy, an employee will be considered impaired by alcohol in all cases when testing reveals a positive

blood alcohol content. Further, no driver will be permitted to perform safety sensitive functions if evidence exists of alcohol consumption.

All individuals involved in the operation of a vehicle owned and assigned to the school system shall be required to undergo a random drug and alcohol screening procedure. In addition, any individual involved in an accident resulting in a fatality, issuance of a citation or an injury requiring medical attention while operating a system-owned vehicle shall undergo a drug test and an alcohol test immediately after the accident. The cost of the screening shall be borne by the Board of Education. DOT regulations require a drug test within 32 hours and an alcohol test within two hours of the accident.

All individuals will be required to sign a consent form authorizing a test and permitting release of the test results to Catawba County School officials.

An individual who refuses to comply with the testing requirement shall be denied approval to continue driving a system-owned vehicle. An employee who refuses to consent to a test will be subject to disciplinary action up to and including dismissal.

CURRENT EMPLOYEE TESTING FOR REASONABLE SUSPICION

Supervisors/Principals who have reasonable suspicion defined herein that an employee in his or her department is using or under the influence of drugs or alcohol which impairs the employee's ability to do the assigned job shall immediately relate to the Personnel Director those facts giving rise to the reasonable suspicion.

Before a test is administered, the supervisor/principal shall ask the employee to sign a consent form authorizing the test and permitting release of test results to the Superintendent. When a supervisor has a reasonable suspicion that an employee is impaired and, therefore, unfit for duty due to substance abuse, the supervisor must report that reasonable suspicion to the Superintendent. It is critical for a supervisor to be able to clearly articulate and document the odd or unusual behavior giving rise to his or her reasonable suspicion that an employee is impaired due to substance abuse. The supervisor should request the employee to come to a confidential area, away from the work station and other employees, and ask the employee to explain his or her behavior. Nothing in this procedure should be interpreted as preventing a supervisor from taking any immediate action necessary to ensure the safety of the employee, his or her fellow workers or the public, such as preventing the employee from continuing to operate tools or equipment in an unsafe manner.

The consent form shall also set forth the following information:

- (a) Appeal rights.
- (b) The consequences of a positive test result.
- (c) The consequences of refusing to undergo a test.

Any employee who refuses to consent to a test, when reasonable suspicion of drug or alcohol abuse has been identified and documented, will be subject to disciplinary action up to and including dismissal.

Any employee requesting delay(s) of a substance abuse test scheduled under the provisions stated in this document, or failing to appear for the test, will be considered to have refused to consent to a substance abuse test and become subject to the provisions stated above.

CONSEQUENCES OF A POSITIVE SUBSTANCE ABUSE TEST RESULT

A final candidate shall be denied employment with Catawba County Schools if his or her substance abuse test is positive. Such candidate may be considered for future employment after a one-year period.

Except as otherwise provided in this policy, an employee who has a positive substance abuse test result

will be subject to disciplinary action up to and including dismissal. When making recommendations for disciplinary action, the Superintendent will consider

- (a) the employee's work history;
- (b) job assignment;
- (c) length of employment;
- (d) current job performance;
- (e) existence of past disciplinary actions.

MANDATORY EMPLOYEE ASSISTANCE PROGRAM (EAP)

An employee permitted to continue employment and receive assistance under the Employee Assistance Program will be required to cooperate fully with the provisions of the recommended rehabilitation program.

Employees referred to the EAP for participation in a drug or alcohol rehabilitation program, who fail to enter or complete the program, will be recommended for dismissal.

Disciplinary action is not automatically suspended by an employee's participation in the EAP. Disciplinary action may be taken against an employee for performance issues or inappropriate conduct.

Those employees participating in an EAP approved drug or alcohol rehabilitation program, will be subject to unannounced substance abuse tests in accordance with the aforementioned procedures. Upon a positive substance abuse test result, the employee will be dismissed.

Those employees satisfactorily completing a drug or alcohol rehabilitation program recommended or approved by the EAP staff, will be subject to unannounced tests for two years after completion of the program. Upon a positive substance abuse test result, the employee will be dismissed.

Nothing in this section is intended to alter the confidential nature of the EAP for employees who voluntarily identify themselves as drug or alcohol users and individually request assistance from the EAP staff. Employees who have alcohol or drug abuse problems are encouraged to avail themselves of the EAP. Voluntary participation is confidential.

NOTIFICATION OF ARREST OR CONVICTION

Each school employee shall notify his or her supervisor of his or her arrest or conviction of any criminal drug statute for a violation no later than five (5) days after such arrest or conviction. It is understood that such notification shall constitute a reasonable suspicion for such employee to undergo a required drug test.

NONDISCIPLINARY SUSPENSION

An employee may be suspended with or without pay pending an investigation, hearing, or trial of that employee for a drug related offense.

COMMUNICATION AND TRAINING

The Personnel Department shall coordinate drug and alcohol free awareness training which will include communication of the contents of this testing policy. The training shall include:

- (a) Catawba County Schools' policy of maintaining a drug free workplace.
- (b) Recognizing the dangers of drug and alcohol abuse in the workplace.
- (c) Information concerning the Employee Assistance Program (EAP) and the available drug and alcohol counseling and rehabilitation available through that program.

- (d) Appropriate supervisors' responses to substance abuse in the workplace.
- (e) Drug/Alcohol Abuse Policy training for supervisors.

Select provisions of this policy are designed to ensure compliance with the Omnibus Transportation Act of 1991.