

## **SUPPORT PERSONNEL LEAVE**

### Sick Leave

The board of education grants sick leave with full pay to all support employees. This is to give an employee financial protection in case of personal illness and to protect the welfare of the children. Any absence for illness shall be certified by the superintendent, who shall be responsible for its validity.

Support employees will accrue one (1) day of sick leave per month of employment, depending on the length of their contract, cumulative to 60 days. For example, a support employee on a ten-month contract will accrue one (1) day of sick leave per month, for a total of ten (10) days sick leave accrued over the fiscal year. Pay for sick leave for support personnel is limited to the number of hours per day for which the employee is regularly employed. For example, a bus driver who works four hours per day will be paid for a maximum of four hours of sick leave per day and that four hours will constitute one day of sick leave for that employee.

Sick leave is interpreted as the time when personal illness, accidental injury or pregnancy or personal illness in the immediate family keeps an employee from being present to conduct his/her regular daily work. Immediate family is defined as spouse, children, parents, grandchild living in the household and corresponding in-laws. This also includes dental, physical and eye examinations for employee and dependents in the immediate family. Any misuse or use of sick leave for other purposes may result in disciplinary action or termination.

Sick leave may be used for absences to attend the funeral of a spouse, child, parent, grandparent, grandchild, aunt, uncle, or corresponding in-laws.

When the employee severs connection with the district for any reason, all his/her accumulated sick leave is cancelled. If he/she is employed by another school district, his/her accumulated sick leave may be transferred to the receiving district up to sixty (60) days.

### Personal Business Leave

The district shall provide for all support personnel three (3) personal business leave days per school year. Such leave shall be limited to personal business matters that cannot be conducted after school hours or on the weekend.

Requests for personal leave shall be made in writing three days in advance of time needed.

Types of situations that may qualify as personal business are varied and numerous. The following examples serve as guidelines:

1. Family illness other than immediate family
2. Urgent business transactions
  - A. Loan closings
  - B. Other banking matters
  - C. IRS reviews
3. Legal matters
  - A. Meeting with attorney for personal, spouse or children's business
  - B. Court appearances when subpoenaed as a witness
  - C. Settling of estates
4. Miscellaneous
  - A. Attend business convention with spouse

The following examples are types of absences that will not be approved for personal business leave:

1. Pleasure trips or vacations (hunting/fishing trips included)
2. Attending school activities or sporting events
3. Seeking other employment
4. To participate in political or social activities
5. To perform service for compensation
6. Court appearances when employee is a plaintiff in a lawsuit

Any misuse of the leave policy with the district could result in loss of compensation or termination of employment.

Personal business leave is non-cumulative.

### Breastfeeding

For up to one (1) year after a child's birth, any employee who is breastfeeding her child will be provided reasonable break time each day to express breast milk for her child. The break time, if possible, shall run concurrently with any break time, paid or unpaid, already provided to the employee.

Each building administrator will designate a private area, other than a restroom, where an employee can express breast milk. The designated area shall be a space where intrusion from co-workers, students and the public can be prevented, and one where an employee who is using this area can be shielded from view.

Time required for breastfeeding breaks is considered unpaid time under the Fair Labor Standards Act. An employee may make up the time taken for such breaks by designating a lunch period as a breastfeeding break, adjusting her work schedule with the approval for her supervisor to make up the time taken for breastfeeding breaks, using personal leave for time used for breastfeeding breaks, or opting for leave without pay for time used for breastfeeding breaks.

### Military Leave

It is the policy of the district to provide leave for support employees who are a component of the armed forces in the United States including members of the National Guard, when that support employee is ordered by proper authorities to active duty or service. Military leave shall be without loss of status, efficiency rating pay or benefits during the first thirty (30) calendar days or the first thirty (30) regularly scheduled work days for support employees, or not to exceed two hundred forty (240) hours, of such leave of absence in any federal fiscal year. The district will also comply with all other rights guaranteed under state and federal law.

### Vacations

Twelve month employees under contract with the board of education will be granted an annual vacation with pay under these terms:

- Ten (10) days per year will be granted to employees prior to completion of five (5) years of continuous year-round employment. Vacation days accrue at the rate of .83333 days per month.
- Fifteen (15) days per year will be granted to employees who have completed more than five (5) but less than ten (10) years of continuous year-round employment. Vacation days accrue at the rate of 1.25 days per month.
- Eighteen (18) days per year will be granted to employees who have completed more than ten (10) but less than sixteen (16) years of continuous year-round employment. Vacation days accrue at the rate of 1.50 days per month.
- Twenty (20) days per year will be granted to employees who have completed more than sixteen (16) years of continuous year-round employment. Vacation days accrue at the rate of 1.66 days per month.

Employees eligible for a vacation shall take their vacation at a time approved by the superintendent. All vacation must be taken in the year in which it is earned.

Reference: Okla. Stat. tit. 44, § 209;  
Okla. Stat. tit. 72, § 48;  
Atty. Gen. Op. No. 73-297;  
Atty. Gen. Op. No. 76-161

**SUSPENSION, DEMOTION,  
TERMINATION OR NONREEMPLOYMENT OF SUPPORT EMPLOYEES**

1. Definitions

- A. "Support Employee" shall mean an employee of the district who provides those services, not performed by professional educators or licensed teachers, which are necessary for the efficient and satisfactory functioning of the district.
- B. "Full-time Support Employee" shall mean a support employee who regularly works the standard period of labor which is generally understood to constitute full-time employment for the type of services performed by the employee and who is employed by the district for a minimum of 172 days per year.
- C. "Suspension without pay" shall mean the temporary denial of a support employee's right to work and receive any pay and other benefits during the term of the suspension. "Suspension without pay" may be as a disciplinary measure as provided in paragraph 4.B(1), below or as a suspension pending investigation as provided in paragraph 4.B(2), below. If a final decision is made under the procedures stated below that a suspension without pay was improper, the support employee shall receive full pay and other benefits for the period of suspension.
- D. "Suspension with pay" may occur in those situations in which the superintendent or his or her designee, or a supervisor of the support employee perceives a significant hazard in keeping the support employee on the job, in which event the support employee may be asked to immediately leave the district's premises and the support employee is temporarily relieved of his or her duties pending a hearing under paragraph 4, below.
- E. "Demotion" shall mean a reduction in pay during the term of the support employee's contract. "Demotion" shall not mean a change in job description or work assignment or duties.
- F. "Termination" shall mean the discharge of the support employee from his/her employment with the district during the term of his/her contract and does not include the cessation of employment upon expiration of the support employee's contract.
- G. "Non-reemployment" shall mean the failure to offer a support employee a new contract for the next successive school year after the contract under which the support employee is presently employed has expired.

2. Policy On Suspension, Demotion, Termination Or Non-Reemployment Of Full-Time Support Employees

A full-time support employee who has been employed by the district for more than one year shall be suspended, demoted, terminated or non-reemployed during the term of his/her contract only for cause as provided in this policy. In addition to the definition of cause stated in section 3 of this policy, "cause" shall also specifically include lack of funds or lack of work. Any support employee who has been employed by the district for less than one year (12 months) is not entitled to invoke the procedures of this policy and such employee's contract can be terminated at any time without cause.

3. Cause For Suspension, Demotion, Termination Or Nonreemployment

- A. A support employee may be suspended, demoted, terminated or non-reemployed during the term of his/her contract for any of the following:
- i. Violation of any rule, regulation or requirement issued by the office of the superintendent or board of education of the district; or
  - ii. Conduct not otherwise specified in the above rules, regulations or requirements which constitutes insubordination, neglect of duty, incompetency in job performance, dishonesty, or causing or allowing damage, destruction or theft of school property.
- B. The rules, regulations and requirements referred to above and the Rules for Conduct shall be furnished to each support employee at the time of his/her initial employment. In the event these rules are updated, a copy shall be timely distributed to support employees.

4. Procedures For Suspensions Without Pay, Terminations And Demotions

- A. Any full-time support employee is subject to disciplinary action in the form of a suspension without pay, demotion or termination. Prior to instituting any such disciplinary action the full-time support employee shall receive the following hearing rights:
- i. The superintendent of schools or his or her designee shall orally advise the support employee of the cause or basis for the proposed disciplinary action;
  - ii. The superintendent of the district or his or her designee shall explain to the support employee the evidence against the support employee;
  - iii. The superintendent of the district or his or her designee shall allow the support employee an opportunity to present his or her side of the matter.

- B. After the support employee is afforded the above hearing rights the superintendent of the district or his or her designee may take any of the following actions:
  - i. Suspension without pay for ten (10) working days or less as a disciplinary measure;
  - ii. Suspension without pay pending investigation as to whether cause exists for the termination of the support employee;
  - iii. Demotion of the support employee;
  - iv. Termination of the support employee;
  - v. Conclude that no disciplinary action is appropriate.
- C. The support employee shall have the right to appeal to the board of education a suspension without pay as a disciplinary measure, a demotion or a termination as set forth in the Procedures for Appeal to the board of education in section 6 below.

5. Procedures For Non-Reemployment

Prior to being non-reemployed, a full-time support employee who has been employed by the district for more than one (1) year shall be entitled to the following hearing rights:

- A. The board of education or the superintendent of the district or his or her designee shall advise the support employee, in writing, of the board's intention to consider and act on the non-reemployment of the support employee for the subsequent fiscal year;
- B. The written notification shall set out the cause(s) for such action;
- C. The support employee shall have the right to contest his or her non-reemployment before the board of education as set forth in the Procedures for Appeal to the board of education in section 6 below.

6. Procedures For Appeal To The Board Of Education

- A. After any suspension without pay as a disciplinary measure, or prior to the effective date of any demotion, termination during the term of his/her contract or non-reemployment, the support employee shall receive notice of his/her right to a hearing before the board of education as herein provided.
- B. All notices shall be sent to the support employee by certified mail at the address of the support employee shown on the school records. If the support employee refuses to accept the notice or fails or refuses to pick up the notice after being notified by the post office to do so, then the support employee shall be deemed to have received the notice on the date that the notice was

postmarked. The postmark shall be used to determine the timeliness of the notice.

- C. A support employee who has been notified in writing of his/her suspension without pay as a disciplinary measure, demotion or termination during the term of his/her contract or non-reemployment may notify the clerk of the board of education of the district within ten (10) working days of the postmark on the notice if the support employee desires a hearing before the board of education. If the support employee fails to notify the clerk of the board of education of the district in writing within ten (10) working days of the postmark on the notice that the support employee requests a hearing, the support employee shall be deemed to have waived the right to a hearing and the suspension without pay as a disciplinary measure, demotion or termination action shall be final and, in the case of a non-reemployment, the board may take final action to non-reemploy the employee without further notice or hearing rights.
- D. Hearing before board of education:
- i. Upon timely notice as set forth above, the support employee shall be entitled to a hearing before the board of education. The hearing shall be conducted at the next, or next succeeding, regularly scheduled meeting of the board of education if the request for the hearing was received at least ten (10) days prior to the next, or next succeeding, regularly scheduled board of education meeting. At the request of the support employee or at the discretion of the board of education, the board of education shall call a special meeting to conduct the requested hearing, which special meeting shall be held no earlier than ten (10) days nor later than thirty (30) days after receipt of the support employee's request.
  - ii. At the hearing before the board of education, the support employee shall be entitled to be represented by counsel, to cross-examine witnesses presented by the district, to present witnesses on his/her behalf and to present any relevant evidence or statement which the support employee desires to offer. The hearing shall be conducted in "open" session. The hearing shall commence with a statement to the support employee of his or her rights at the hearing. Following this statement, the district administration shall present facts showing the cause for the support employee's suspension without pay as a disciplinary measure, demotion, termination or non-reemployment. The burden of proof shall be upon the district administration. The support employee shall then have the right to present his/her side of the matter. After both the district administration and the support employee have fully presented their respective positions, the board of education shall deliberate on the evidence in executive session. The board of education shall announce its findings and decision immediately in open session by individual voice vote. The decision shall be made by a majority of the board of education members present at the meeting.

- iii. As to suspension as a disciplinary measure, demotion or termination, the board of education may affirm, modify or reverse the action taken against the support employee, including increasing or decreasing the severity of the original action. As to non-reemployment, the board may reemploy or non-reemploy the employee for the subsequent fiscal year.
- iv. The decision of the board of education at the hearing shall be final and non-appealable.

7. Miscellaneous

This policy shall be effective immediately upon adoption by the board of education and shall supersede all previous policies regarding the subject matter contained herein. The board of education reserves the right to modify or amend this policy from time to time in any manner consistent with applicable law.

Nothing contained in this policy shall prevent the board of education from acting on its own volition in matters pertaining to suspension, demotion, dismissal or non-renewal of support employees.

**SUPPORT EMPLOYEE RULES FOR CONDUCT**

A support employee may be suspended, demoted, terminated or nonreemployed for violation of any of the following Rules for Conduct, as well as other standards of conduct included in school district policies:

1. Falsification of personnel or other records.
2. Unexcused failure to be at work station at starting time.
3. Leaving work station without authorization prior to lunch periods, or end of work day.
4. Abandonment of job (3 or more consecutive or non-consecutive absences in a rolling 6 month period without following the proper reporting procedures).
5. Unapproved or excessive absenteeism.
6. Chronic absenteeism for any reason.
7. Unapproved or excessive tardiness.
8. Chronic tardiness.
9. Wasting time or loitering during working hours.
10. Leaving work area during work hours, without permission, for any reason.
11. Possession of weapons on school premises<sup>1</sup> , in school district vehicles or while on duty.
12. Removing school district property or records from school district premises without proper authority.
13. Willful abuse, misuse, defacing, or destruction of school district property, including tools, equipment, or property of other employees.
14. Theft or misappropriation of property of employees or students of the school district.
15. Sabotage.

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<sup>1</sup> Support personnel with a valid handgun license pursuant to the Oklahoma Self Defense Act may possess a handgun in the school parking lot but that weapon must be stored in the employee's vehicle pursuant to Oklahoma law.

16. Distracting the attention of others.
17. Refusal to follow instructions of supervisor.
18. Refusal or failure to do work assignment.
19. Unauthorized operation of machines, tools, or equipment.
20. Threatening, intimidating, coercing or interfering with employees or supervisors.
21. Threatening, intimidating, coercing or exploiting students.
22. The making or publishing of false, vicious, or malicious statements concerning any employee or supervisor.
23. Creating a disturbance on school premises including but not limited to engaging in quarrelsome behavior and fighting.
24. Creating or contributing to unsanitary conditions.
25. Actions or omissions that jeopardize the health, safety, life, or property of self or others.
26. Practical jokes injurious to other employees, students or school district property.
27. Possession, consumption, or reporting to work under the influence of beer, alcoholic beverages (including wine), non-prescribed drugs, or controlled dangerous substances.
28. Disregard of known safety rules or common safety practices.
29. Unsafe operation of motor driven vehicles or equipment.
30. Operating machines or equipment without using the safety devices provided.
31. Gambling, lottery, or any other game of chance on school district property.
32. Unauthorized distribution of literature, written or printed matter of any description on school district property.
33. Posting or removing notices, signs, or writing in any form on bulletin boards of school district property at any time without specific authority of the administration.
34. Poor workmanship.
35. Immoral conduct or indecency including abusive and/or foul language.

36. Excessive personal calls during working hours, except for emergencies. This includes in-coming and out-going calls.
37. Walking off job.
38. Clocking in or out on another employee's time card or time sheet.
39. Smoking or using tobacco products in an unauthorized area, including the use of e-cigarettes, personal vaporizers and other similar devices, regardless of whether those devices are used with cartridges containing nicotine.
40. Refusal of job transfer, if the transfer does not result in a demotion.
41. Abuse of "breaks" (rest periods) or meal period policies.
42. Insubordination of any kind.
43. Dishonesty of any kind, including withholding pertinent information from a supervisor.
44. Wrongdoing of any kind.
45. Violation of a law or regulation.
46. Sexual harassment of an employee, a student or a third party such as a patron or vendor.
47. Violation of a policy or rule enacted to ensure orderly and proper job performance or for the safety of self or others.
48. Misuse or abuse of any school district leave policy or guidelines.
49. Any intentional act or omission which constitutes a material or substantial breach of job duties, responsibilities or obligations.
50. Any conduct which the employee knew or should have reasonably known was a violation of school rules or policies.
51. When it is in the best interest of the school district, any support personnel may be suspended, demoted, terminated or nonreemployed.
52. Because of the difficulty of retaining competent support employees on a temporary basis over an extended period of time, a support employee shall be subject to termination or nonreemployment for inability to perform the essential job requirements if the employee is unable due to illness or accidental injury to return to work for his or her regularly scheduled hours and to perform all of the essential duties of the position (with or without reasonable accommodation) within 12 work weeks or the number of work days equal to the employee's total accumulated sick leave days, whichever is longer, measured from the date of the first absence due to the condition resulting in the extended absence.

**RESIGNATION OF SUPPORT EMPLOYEES**

Support employees may submit a written resignation from employment with the district at any time. The resignation must be written, dated, signed and specify the date upon which it is effective. The resignation must be mailed to the superintendent by certified mail, return receipt requested, or delivered to the superintendent's office. An acknowledgment of receipt of hand delivered copies shall be placed on the face of the resignation.

The superintendent is authorized to accept the written resignation of any support employee and shall advise the support employee in writing that the resignation has been accepted. The superintendent shall advise the board of education of the support employee's resignation and whether he/she has accepted the resignation.

Payment of final compensation shall be processed and disbursed at the scheduled times.

**WARNER PUBLIC SCHOOLS**  
BOARD OF EDUCATION POLICY

*Employees - Support*

Adopted: April 13, 2015

**EVALUATION OF SUPPORT PERSONNEL**

An approved evaluation instrument will be used to evaluate the district support personnel on the basis of job performance as listed on their job description. A copy of the evaluation will be given to the employee and a copy will be placed in the employee's personnel file. Evaluations of support employees will be completed no later than April 1<sup>st</sup> of each year.

## **ALCOHOL AND DRUG TESTING FOR BUS DRIVERS**

### **Purpose**

The purpose of this policy is to prevent accidents and injuries resulting from alcohol or controlled substance use by drivers of commercial motor vehicles. This policy is intended to comply with the school district's mandatory obligations under regulations issued by the United States Department of Transportation ("DOT").

### **Definition of Terms**

Certain terms used in this policy have the following meaning unless the context plainly shows otherwise:

1. "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.
2. "Alcohol concentration" means the number of grams of alcohol (for example: 0.04) in 210 liters of expired deep lung air.
3. "Alcohol confirmation test" means a subsequent test using an EBT (a breath testing device), following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration.
4. "Alcohol screening device" ("ASD") means a breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration ("NHTSA") appears on the Office of Drug & Alcohol Policy & Compliance's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" because it conforms to the model specifications from NHTSA.
5. "Alcohol use" means the drinking or swallowing any beverage, mixture or preparation, including any medication, containing alcohol.
6. "BAT" means a qualified breath alcohol technician.
7. "Cancelled test" means a drug or alcohol test that has a problem identified and cannot be or has not been corrected. A cancelled test is neither a positive or a negative test.
8. "CDL" means commercial driver's license.
9. "Collection site" means a place selected by the employer where employees present themselves for the purpose of providing a urine specimen for a drug test.

10. "Confirmatory drug test" means a second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.
11. "Confirmed drug test" means a confirmatory drug test result received by a MRO from a laboratory.
12. "Controlled substance" means amphetamines, cannabinoids, cocaine, phencyclidine (PCP), opioids, or a metabolite of any of these substances.
13. "Designated employer representative" ("DER") means an employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer.
14. "Dilute specimen" means a urine specimen with creatinine and specific gravity values that are lower than expected for human urine.
15. "Driver" means: (i) a school district employee who is required to have a CDL to perform the employee's duties; (ii) employees of independent contractors who are required to have CDLs; (iii) owner-operators; (iv) leased drivers; and (v) occasional drivers.
16. "EBT" means a device that is approved by NHTSA for the evidential testing of breath at the .02 and .04 alcohol concentrations, and appears on the Office of Drug & Alcohol Policy & Compliance's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" because it conforms to the model specifications available from NHTSA.
17. "Federal Act" means the Omnibus Transportation Testing Act of 1991 and the regulations issued by the United States Department of Transportation pursuant to that Act.
18. "Oklahoma Act" means the Oklahoma Standards for Workplace Drug and Alcohol Testing Act.
19. "Initial drug test" means the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.
20. "Initial validity test" means the first test used to determine if a specimen is adulterated, diluted, or substituted.
21. "Invalid drug test" means the result reported by an HHS-certified laboratory in accordance with the criteria established by HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.
22. "Medical review officer" ("MRO") means a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

23. "Safety-sensitive function" means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.
24. "Screening Test Technician" ("STT") means a person who instructs and assists employees in the alcohol testing process and operates an ASD.
25. "Service agent" means any person or entity, other than an employee of the employer, who provides services specified under this part to employers and/or employees in connection with DOT drug and alcohol testing requirements.
26. "Split specimen" means a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.
27. "Stand-down" means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed a verified test.
28. "Substance Abuse Professional" ("SAP") means a person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.
29. "Substituted specimen" means a specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.
30. "Verified test" means a drug test result or validity testing result from a United States Department of Health and Human Services certified laboratory that has undergone review and final determination by the MRO.

### **Required Testing & Consent**

The following testing is required of all drivers:

#### *Pre-Employment Testing and Consent*

A driver must pass an alcohol and controlled substance test prior to performing a safety-sensitive function. The test will be conducted during the hiring process or immediately before the driver first performs a safety-sensitive function.

##### 1. Alcohol Testing

A driver may not commence the performance of duties unless the test shows a concentration of less than 0.04. If the test shows a concentration of between 0.02 and 0.04, no safety-sensitive duties may be performed for at least 24 hours.

A pre-employment alcohol test will not be required if:

- i. The driver has undergone an alcohol test required by the Federal Act within the previous six weeks and tested under 0.04; and
- ii. The driver provides evidence that no prior employer of the driver has any record of alcohol misuse by the driver within the previous six months.

2. Controlled Substances

The driver must receive a confirmed negative controlled substance test result from a medical officer, except that no testing is required if:

- i. The driver has participated within the previous 30 days in a drug testing program meeting the requirements of the Federal Act; and
- ii. While participating in the program, the driver either (a) was tested for controlled substances within six months prior to the date of employment application or (b) participated in a random controlled substance testing program for the 12 months prior to the date of the employment application; and
- iii. The employer ensures that no prior employer of the driver of whom the employer has knowledge has records of a violation of this part or the controlled substance use rule of another DOT agency within the previous six months.

3. Preemployment Consent

The school district shall request the driver's written consent to obtain the following information from DOT-regulated employers who have employed the driver during the two (2) years before the date of the driver's application to a position requiring safety-sensitive duties:

- i. Alcohol tests with a result of 0.04 or higher alcohol concentration;
- ii. Verified positive drug tests;
- iii. Refusals to be tested (including verified adulterated or substituted drug test results);
- iv. Other violations of DOT agency drug and alcohol testing regulations; and
- v. Documentation of the driver's successful completion of return-to-duty requirements (for those drivers who have violated a drug or alcohol regulation). If the previous employer does not have this documentation, the school district shall request that the driver produce it.

A driver may not perform safety-sensitive functions if s/he refuses to consent in writing to the release of the above information.

Drivers are responsible for furnishing the district with accurate information regarding their employment history, including accurate identification of all former DOT-regulated employers.

The school district shall maintain a written, confidential record of the information obtained or of the good faith efforts made to obtain the information. This record shall be maintained for three years from the date of the driver's first performance of safety-sensitive functions.

Prior to the driver's first performance of safety-sensitive functions, the school district shall ask the driver whether s/he has tested positive, or refused to test, on any pre-employment drug or alcohol test (1) administered by a DOT-regulated employer, (2) in connection with a position for which the driver applied, (3) involving the driver's failure to obtain safety-sensitive transportation work, and (4) over the period of two years preceding the date of the employee's application for employment with the school district. If the driver admits to a positive test or a refusal to test within the past two years, the school district shall not allow the driver to perform safety-sensitive functions until and unless the driver documents successful completion of the return-to-duty process.

4. Consequences Associated with Preemployment Testing

The school district may decline to employ an applicant who fails drug testing, provides false information, or who fails to cooperate with the district in procuring testing and test results. To the extent the applicant has been offered employment or placed in an alternate position pending the receipt of test results, the offer may be withdrawn and alternate employment terminated in accordance with the district's policies and procedures applicable to employee termination.

*Post-Accident Testing*

1. Alcohol

As soon as practical following an accident, an alcohol test will be administered to the following drivers:

- i. Each surviving driver who was performing safety-sensitive functions with respect to the vehicle, if the accident involves loss of life.
- ii. Each surviving driver who received a moving traffic violation arising from the accident within eight hours of the occurrence, if the accident involved:
  - a. bodily injury to any person that necessitated immediate medical treatment away from the scene of the accident; or

- b. at least one vehicle incurred disabling damage as a result of the accident that required the vehicle to be transported away from the scene by a tow truck or other vehicle.

If the test is not administered within two hours of the accident, the employer must prepare and maintain a record of why the test was not administered. If the test is not administered within eight hours of the accident, the driver's supervisor shall cease attempts to administer an alcohol test and shall prepare a written report explaining why a test was not given.

Drivers shall remain readily available for testing. A driver leaving the scene of an accident without a valid reason prior to submission to the test may be deemed to have refused to submit to testing.

A breath or blood alcohol test conducted by a law enforcement agency will be considered to meet these requirements if the test meets the requirements of the Federal Act and the test results are obtained by the school district.

## 2. Controlled Substances

As soon as practical following an accident, a test for controlled substances will be administered to the following drivers:

- i. Each surviving driver who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life.
- ii. Each surviving driver who received a moving traffic violation arising from the accident, if the accident involved:
  - a. bodily injury to any person that necessitated immediate medical treatment away from the scene of the accident; or
  - b. at least one vehicle incurred disabling damage as a result of the accident that required the vehicle to be transported away from the scene by a tow truck or other vehicle.

The test is to be administered within thirty-two (32) hours of the accident. If no test is made within that time period, then no test will be made and the driver's supervisor will prepare a written report stating the reasons for not administering a prompt test.

Drivers shall remain readily available for testing. A driver leaving the scene of an accident without a valid reason prior to submission to the test may be deemed to have refused to submit to testing.

A urine test for controlled substances administered by a law enforcement agency will be considered to meet these requirements if the test meets the requirements of the Federal Act and the results are obtained by the school district.

### *Random Testing*

Random alcohol and controlled substances testing of drivers will be conducted throughout the year. Selection of the drivers to be tested will be made by a scientifically valid method, such as random-number table or a computer based random-generator matched with drivers' social security numbers, payroll identification numbers or other comparable identifying numbers. Dates for administering unannounced testing shall be unpredictable and spread reasonably throughout the calendar year.

Drivers are to be tested while performing safety-sensitive functions, just before performing those functions, or just after ceasing those functions. A driver who is notified of selection for random alcohol or controlled substances testing must proceed to the test site immediately, unless the driver is performing a safety-sensitive function other than driving, in which case the driver must cease performing the safety-sensitive function and proceed to the test site as soon as possible.

The minimum annual percentage rate for random alcohol testing will be ten percent (10%) of the average number of driver positions, subject to adjustment of the percentage by the Federal Highway Administration. The minimum annual percentage rate for random testing for controlled substances will be fifty percent (50%) of the average number of driver positions.

### *Reasonable Suspicion Testing*

Alcohol and controlled substance testing will be conducted when there is reasonable suspicion to believe that a driver has violated a provision in this policy. Reasonable suspicion shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. Reasonable suspicion for controlled substance use may also be based on indications of the chronic and withdrawal effects of controlled substances.

Alcohol testing is authorized only if the observations are made during, just preceding, or just after the period of the work day that the driver is performing a safety-sensitive function. A written record must be made as to why an alcohol test was not made within two hours following a determination of reasonable suspicion of misuse. No test is to be made if eight hours passed after the determination.

Persons designated to determine whether reasonable suspicion exists shall receive at least sixty (60) minutes of training on performance indicators of probable alcohol misuse. The required observations shall be made by a supervisor who has received training in detecting the symptoms of alcohol/controlled substance misuse. The supervisor who makes the determination that reasonable suspicion exists shall not conduct the alcohol test.

A written record will be made of the observations leading to a controlled substance reasonable suspicion test. The record will be signed by the supervisor who made the observations. The record will be made within twenty four (24) hours of the observed behavior or before the test results are received, whichever is earlier.

### *Return to Duty Testing*

1. Returning after Reasonable Suspicion of Alcohol Abuse Determination

A driver suspected of being under the influence of or impaired by alcohol will not be permitted to perform a safety-sensitive function until: (i) an alcohol test shows a concentration of less than 0.02; or (ii) 24 hours have elapsed following a determination that there was reasonable suspicion to believe the driver has violated the rules in this policy against alcohol misuse.

2. Returning after Violation of Prohibitions in this policy

A driver who has engaged in conduct prohibited by this policy shall not be permitted to perform safety-sensitive functions until s/he first passes a controlled substance test and/or an alcohol test with an alcohol concentration of less than 0.02.

A driver who has violated a provision in this policy cannot again perform any safety-sensitive duties for any employer until and unless the driver completes the SAP evaluation, referral, and education/treatment process.

### *Follow-up Testing*

A driver who has been identified by a SAP as needing assistance in resolving problems with alcohol misuse or controlled substance use and who has returned to duty involving the performance of a safety-sensitive function will be subject to a minimum of six (6) unannounced follow-up alcohol and/or controlled substance tests over the following twelve (12) months. The SAP is the sole determiner of the number and frequency of follow-up tests, as well as whether the tests will be for drugs, alcohol or both. The SAP can direct additional testing during this period or for an additional period up to a maximum of sixty (60) months. The school district must carry out the SAP's follow-up testing requirements.

### **Test Procedures**

Testing methodology will comply with the requirements of the Oklahoma Act, except that the requirements of the Federal Act stated in this policy supersede the provisions of the Oklahoma Act. Alcohol testing must be conducted in a location that provides visual and aural privacy to the driver, sufficient to prevent unauthorized persons from seeing or hearing the test.

### *Alcohol Testing Procedures*

1. Initial Alcohol Screening Tests

i. Procedures for an Alcohol Screening Test Using an EBT or Non-Evidential Breath ASD

- a. When the driver enters the testing location, the BAT or STT will require the driver to provide positive identification. If the

driver requests, the BAT or STT will provide positive identification. The BAT or STT will explain the testing procedure. An individually-sealed mouthpiece is opened in the view of the driver and attached to the EBT. The driver will then blow into the mouthpiece for at least six (6) seconds or until the device indicates that an adequate amount of breath has been obtained. The BAT or STT will show the driver the displayed test result. If the EBT does not provide a printed result, the BAT or STT will record the test number, date, technician's name, location and test result in a log book. The driver will initial the log book. If the EBT provides a printed result, the result is either: (i) printed on the testing form; or (ii) affixed to the form with tamper-evident tape.

- b. If the screening test result is less than 0.02, the BAT or STT will transmit the result in a confidential manner to the school district's DER, who is designated by the board of education or the school superintendent to receive and handle alcohol test results in a confidential manner.
- c. If the breath test is 0.02 or higher, a confirmation test is required. The confirmation test must be conducted no less than fifteen (15) and no more than thirty (30) minutes after the screening test. Before a confirmation test is given, the BAT must conduct a "blank" test on the EBT to obtain a reading of 0.00. The remainder of the confirmation test is identical to the screening test for EBTs.

ii. Procedure for an Alcohol Screening Test Using Saliva ASD

- a. When the driver enters the testing location, the STT will require the driver to provide positive identification. If the driver requests, the STT will provide positive identification. The STT will explain the testing procedure. The STT will check the expiration date on the device and show it to the driver. An individually wrapped package containing the device will be opened in the presence of the driver, and the driver will be instructed to insert the device into his or her mouth and use it in the manner described by the manufacturer. If the driver chooses not to use the device, the STT must insert the device into the driver's mouth and gather saliva.
- b. If the screening test result is less than 0.02, the STT will transmit the result in a confidential manner to the school district's DER, who is designated by the board of education or the school superintendent to receive and handle alcohol test results in a confidential manner.
- c. If the test result is an alcohol concentration of 0.02 or higher, a confirmation test is required.

## 2. Alcohol Confirmation Tests

- i. All confirmation tests using an EBT. The confirmation test must occur no less than fifteen (15) minutes after the completion of the screening test and should occur no more than thirty (30) minutes after the completion of the screening test.
- ii. Before a confirmation test is given, the BAT must conduct a "blank" test on the EBT to obtain a reading of 0.00. The remainder of the confirmation test is identical to the screening test for EBTs described in section 1.i.a above.
- iii. If the confirmation test result is 0.02 or higher, the driver must sign and date the ATF. The BAT will immediately transmit the result to the DER in a confidential manner.
- iv. Refusal to take a required test has the same consequences as if the driver had tested 0.04 or more. The following constitutes a refusal to take a test: (1) failure to appear for any test within a time required to appear; (2) failure to provide an adequate amount of saliva or breath for testing without a valid medical explanation; (3) failure to cooperate with any part of the testing process; (4) failure to sign the alcohol testing form or ATF certification; (5) failure to remain at the testing site until the testing process is complete, unless the test is a pre-employment test; (6) failure to undergo a medical examination or evaluation due to insufficient breath sampling; (7) leaving the scene of an accident before being tested, except when reasonably necessary to receive medical treatment.

### *Controlled Substances Testing Procedures*

1. Procedures for Collection of Urine Specimens
  - i. All urine collections must be split specimen collections.
  - ii. The school district must direct an immediate urine collection under direct observation with no advance notice to the driver, if:
    - a. the laboratory reported to the Medical Review Officer ("MRO") that a specimen is invalid and the MRO has reported that there is not an adequate medical explanation for the result; or
    - b. the MRO reported that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed.
    - c. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the

MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation

- iii. The school district must direct a collection under direct observation of a driver if the drug test is a return-to-duty test or a follow-up test.
- iv. A driver must receive an explanation of the reasons for a directly observed collection.
- v. If a driver declines to allow a directly observed collection, that driver will be considered to have refused to test.

## 2. Procedures for Testing of Urine Specimens

- i. Testing of urine samples for controlled substances shall be performed by a laboratory certified by the federal Department of Health and Human Services (“DHHS”) under the National Laboratory Certification Program.
- ii. Controlled substance testing may only be performed for the following five drugs or classes of drugs: (a) marijuana metabolites, (b) cocaine metabolites, (c) amphetamines, (d) opiate metabolites, and (e) phencyclidine (PCP).
- iii. If the driver requests a test of a split specimen, the first laboratory will ship the unopened split specimen to a second DHHS-approved laboratory for testing. If the test of the split specimen fails to confirm the presence of a controlled substance, the entire test is cancelled.
- iv. The driver must request a split specimen test verbally or in writing within 72 hours of being notified of a verified positive drug test or refusal to test because of adulteration or substitution.
- v. If a driver does not make a request within 72 hours, the driver may present information to the MRO documenting that serious injury, illness, lack of actual notice of the verified test result, inability to contact the MRO, or other circumstances unavoidably prevented the driver from making a timely request.
- vi. If a driver makes a timely request for a split specimen test, the school district must ensure that the MRO, first laboratory and second laboratory perform the split-specimen testing functions in a timely manner. If necessary, the school district must pay for the split specimen testing and seek reimbursement from the driver.
- vii. The MRO will report split specimen test results to the DER and driver.
- viii. The laboratory will report results directly to the MRO. The laboratory will not report the results to anyone else.

- ix. When the MRO receives a confirmed positive, adulterated, substituted, or invalid test result from the laboratory, the MRO will attempt to contact the driver to determine whether the driver wants to discuss the test result. If the MRO cannot reach the driver after reasonable efforts to do so, the MRO must contact the DER but cannot tell the DER that the driver has a confirmed positive, adulterated, substituted, or invalid test result. The DER must then attempt to contact the driver. If the DER makes contact with the driver, the DER should simply direct the driver to contact the MRO immediately and inform the driver of the consequences of failing to contact the MRO within the next 72 hours. If the DER is unable to reach the driver after making three (3) attempts, spaced reasonably, over a 24-hour period, then the DER may place the driver on temporary medically unqualified status or medical leave. Documentation must be kept by the DER of any actual and/or attempted contacts with the driver, including the dates and times of the contacts. If the DER is unable to contact the driver within the 24-hour period, the DER must leave a message for the driver by voice mail, e-mail or letter to contact the MRO and inform the MRO of the date and time of this message.
- x. Confirmation testing for controlled substances will be performed in accordance with the Oklahoma Act, except when the Oklahoma Act conflicts with Federal law.
- xi. The MRO may conduct additional testing of a specimen as authorized by the DOT if doing so is necessary to verify a test result
- xii. The MRO must verify a confirmed positive test result for marijuana, cocaine, amphetamines, semi-synthetic opioids (*i.e.* hydrocodone, hydromorphone, oxycodone, and oxymorphone) and/or PCP unless the driver presents a legitimate medical explanation for the presence of the drug(s)/metabolite(s) in her or his system. In determining whether an employee's legally valid prescription consistent with the Controlled Substance Act for a substance in the categories constitutes a legitimate medical explanation, the MRO must not question whether the prescribing physician should have prescribed the substance.
- xiii. The MRO must verify a confirmed positive test result for opiates in the following circumstances:
  - a. The MRO must verify the test result positive if the laboratory confirms the presence of 6-acetylmorphine (6-AM in the specimen)
  - b. In the absence of 6-AM, if the laboratory confirms the presence of either morphine or codeine at 15,000 ng/mL or above, the MRO must verify the test result positive unless the employee presents a legitimate medical explanation for the presence of the drug(s)/metabolite(s) in her or his system.

- c. For all other opiate positive results, the MRO must verify a confirmed positive test result for opiates only if they determine that there is clinical evidence, in addition to the urine test, of unauthorized use of any opium, opiate or opium derivate.
- xiv. As part of the verification decision, the MRO must conduct a medical interview that includes reviewing the driver's medical history and any other relevant biomedical factors presented by the driver, as well as directing the driver to undergo further medical evaluation.
- xv. DOT tests must be completely separate from non-DOT tests in all respects, and DOT tests must take priority over non-DOT tests. DOT tests must be completed before a non-DOT test is begun. The results of a DOT test shall not be disregarded or changed based on the results of a non-DOT test.

### **Prohibitions**

A driver will not be permitted to report to duty or to remain on duty requiring the performance of a safety-sensitive function if:

#### *Alcohol*

- i. The driver has an alcohol concentration of 0.04 or higher as measured on a breath test.
- ii. The driver displays behavior or appearance characteristics of alcohol misuse.
- iii. The driver is under the influence of or is impaired by alcohol, as shown by behavioral, speech, and performance indicators of alcohol misuse.
- iv. The driver possesses alcohol while on duty.
- v. The driver uses alcohol during duty performance.
- vi. The driver has used alcohol within the four hours prior to performing duties.
- vii. The driver has had an accident within the last eight hours and has not taken a breath test showing clearance from prohibited alcohol levels.
- viii. The driver has refused to take a breath test for alcohol use.
- ix. The driver is taking any prescription or non-prescription medication containing alcohol, even if the driver has notified the driver's supervisor of the medication use.

#### *Controlled Substances*

- i. The driver uses any controlled substance, unless the use is pursuant to a physician's written certification stating that the use does not adversely affect the driver's ability to safely operate a motor vehicle.

- ii. A supervisor or administrative employee has actual knowledge that a driver has used a controlled substance.
- iii. The driver has a verified positive test for a controlled substance.
- iv. The driver displays behavior or appearance characteristics of controlled substance use.
- v. The driver has refused to take a controlled substance test.

#### *Refusal to Test*

A driver has refused to take an alcohol or controlled substance test if s/he:

- i. Fails to appear for any test as directed by the school district.
- ii. Fails to remain at the testing site until the testing is complete.
- iii. Fails to provide a urine specimen.
- iv. Fails to provide a sufficient amount of urine when there is no adequate medical explanation for the failure.
- v. Fails to permit a directly observed or monitored collection.
- vi. Fails or declines to take a second test the school district or collector has directed.
- vii. Fails to undergo a medical examination or evaluation as directed by the MRO as part of the verification process or as directed by the DER when the urine sample was insufficient.
- viii. Fails to cooperate with any part of the testing process (e.g. refuses to empty pockets when directed to do so, behaves in a confrontational way that disrupts the collection process).
- ix. Has a verified adulterated or substituted test result.

#### **Standing Down Employees**

Stand-down is “the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.”

- i. DOT regulations prohibit employers from standing employees down, before the MRO has completed verification of the test result.

- ii. A verified test is a drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.
- iii. The district may assign a driver non-driving duties pending the receipt of a verified test result when the district has reasonable suspicion to believe the employee is impaired.
- iv. When the district does remove an employee from service, following verification of the drug test result, it will do so consistent with the confidentiality requirements, within its control, imposed by law.

### **Referral and Treatment**

A driver who violates any of the prohibitions in this policy shall be advised of the resources available to the driver for evaluating and resolving problems associated with the misuse of alcohol or use of controlled substances, including the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs.

A driver who violates any of the prohibitions in this policy must be evaluated by a SAP who shall determine what assistance, if any, the driver needs in resolving problems associated with alcohol misuse or controlled substance use. The driver will not be permitted to perform safety-sensitive duties for any employer until and unless he or she completes the SAP evaluation, referral, and education/treatment process.

If the driver is identified as needing assistance in resolving problems associated with alcohol misuse or controlled substance use, the driver must be evaluated by a SAP to determine if the driver has properly followed the prescribed rehabilitation program. The driver must be subject to unannounced follow-up alcohol and/or controlled substance tests upon return-to-duty.

The SAP will provide a written report directly to the DER highlighting the SAP's specific recommendations for a course of education and treatment with which the driver must comply prior to returning to the performance of safety-sensitive functions. Neither the driver nor the school district shall seek a second SAP's evaluation in order to obtain another recommendation. Only the SAP who made the initial evaluation may modify his or her initial recommendations.

If the SAP recommends that the driver continue treatment, aftercare or support group services after returning to safety-sensitive duties, the school district may require the driver to participate in the recommended treatment or services as part of the return-to-duty agreement.

These requirements do not apply to drivers refusing to be tested or drivers having a preemployment test of 0.04 or more.

The school district is not required to return a driver to safety-sensitive duties just because the driver complies with the SAP's recommendations.

## **Materials**

Each driver shall receive educational materials that explain: (1) the alcohol misuse prevention requirements; (2) the school district's policies and procedures; (3) the identity of a contact person knowledgeable about the materials; (4) factual information on the effects of controlled substance use and alcohol misuse on personal life, health and safety; (5) where help can be obtained, including information regarding the school district's Employee Assistance Program; (6) categories of employees subject to testing; (7) a description of prohibited conduct and the circumstances that trigger testing; (8) testing procedures and safeguards; (9) what constitutes a refusal to submit to testing and the consequences; (10) signs and symptoms of an alcohol or controlled substance problem; (11) consequences for drivers with an alcohol test level of 0.02 or more but less than 0.04; and (12) the consequences of violating the rules in this policy. The district's staff will prepare and distribute appropriate educational materials as provided for in this section.

## **Maintenance of Records**

Upon written request, a driver is entitled to obtain copies of any school district records concerning the driver's use of alcohol or controlled substances, including test results.

The school district shall not release individual test results or medical information about a driver to third parties without the employee's specific written consent to the release of a particular piece of information to a particular person or organization. Notwithstanding this prohibition, the school district may release information pertaining to a driver's drug or alcohol test without the employee's consent in certain legal proceedings.

## **Disciplinary Action**

Employees who violate any prohibition in this policy will be subject to disciplinary measures, including employment termination. Likewise, employees whose test results are positive for alcohol or controlled substances are subject to disciplinary actions, including employment termination. The same disciplinary consequences face individuals who provide false information in connection with the testing process or who fail to cooperate with the district's efforts to fulfill its testing obligations.

## **Other Policies**

This policy does not supersede any other school district policy pertaining to alcohol misuse or controlled substance use by school district employees, except to the extent that this policy is specific to drivers performing safety-sensitive functions. To the extent permitted by federal law, this policy is to be interpreted consistent with Oklahoma's Act regarding drug and alcohol testing of personnel.

**REDUCTION IN FORCE OF  
SUPPORT PERSONNEL**

The district believes that every reasonable effort should be made to avoid a reduction in force at any level. However, if it should become necessary to reduce the number of full-time support employees due to lack of funds or lack of work in a particular area, the position or program will be the determining factor and not the individuals who occupy the position or serve the program.

An employee is considered to be a full-time employee if the number of hours worked are the number of hours customarily worked in that position and if that position is designated as a full-time position by the board.

A reduction in force may occur for lack of funds, lack of work because of a decline in enrollment, consolidation of programs or positions, elimination of positions, or other circumstances as determined by the board.

If termination of employment should become necessary, notices of such terminations will be made as set forth in the policy governing suspension, demotion, or termination of support employees found elsewhere in this manual.

Any necessary terminations shall begin by dismissing temporary, seasonal, or part-time employees within the job category affected. These employees shall be terminated at the discretion of the board or the board's designee.

If normal attrition and the release of temporary and part-time employees does not sufficiently reduce the support staff, the following items will be considered in the reduction process in the order listed:

1. Performance history;
2. Job qualification by training and experience;
3. Attendance and punctuality; and
4. In the event that two or more employees in the affected category are equal in the above factors, termination shall be made on the basis of seniority within each general job category.

Supervisors and directors shall serve at the pleasure of the board and shall not be subject to the prescribed seniority order for reductions in force. Personnel whose positions are eliminated in one category may be considered for a position in another category.

Seniority shall be defined as the total length of continuous service as a support employee within this district. Employees who are terminated and subsequently reinstated shall retain cumulative seniority for all periods worked except for the period of termination.

Demotions in position, due to a reduction in force, shall follow the same procedure as terminations.

For twelve (12) calendar months after the effective date of any termination or nonreemployment, pursuant to this policy's provisions, the board shall not replace any support personnel who have been terminated or nonreemployed in accordance with this policy without first offering the position to the former support personnel who have been terminated or nonreemployed. The board shall offer employment in the reverse order to the employees who were last terminated or nonreemployed provided the former employee is qualified for the job.