POLICY 416.1  FEDERALLY MANDATED DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

I. PURPOSE

Federal law requires that school bus drivers be subject to drug and alcohol testing. In order for the school district to request or require that drivers submit to drug and alcohol testing, the District must implement a drug testing policy in accordance with the provisions of Minn. State 181.950 through 181.957. The policy and accompanying attachments fulfill the policy requirements for testing drivers for drugs and alcohol.

II. GENERAL STATEMENT OF POLICY

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

III. DEFINITIONS

A. "Breath Alcohol Technician" (BAT) means an individual who instructs and assists individuals in the alcohol testing process and who operates the Evidential Breath Testing Device (EBT).

B. "Commercial motor vehicle" (CMV) includes a vehicle, which is designed to transport 16 or more passengers, including the driver.

C. "Driver" includes full-time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers, and independent owner-operator contractors.

D. "Evidential Breath Testing Device" (EBT) means an EBT approved by the National Highway Traffic Safety Administration for the evidentiary testing of breath for alcohol concentration.

E. "Medical Review Officer" (MRO) means a licensed physical responsible for receiving laboratory results generated by the school district’s drug testing program who has knowledge of substance abuse disorders and appropriate medical knowledge and training to interpret and evaluate an individual’s positive test result together with that individual’s medical history and any other biomedical information.
F. "Safety-sensitive functions" are on-duty functions from the time the driver begins work or is required to be in readiness to work until relieved from work, and include such functions as driving, loading and unloading vehicles, or supervising or assisting in the loading or unloading of vehicles, servicing, repairing, obtaining assistance to repair, or remaining in attendance during the repair of a disabled vehicle.

G. "Screening Test Technician" (STT) means anyone meeting the requirements for BAT who may act as an STT, provided that the individual has demonstrated proficiency in the operation of non-evidential screening devices (approved for use in lieu of EBTs to perform screening tests).

H. "Substance Abuse Professional" (SAP) means a licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, or employee assistance professional; or an addition counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or the International Certification Reciprocity Consortium / Alcohol & Other Drug Abuse). All must have knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

IV. POLICY AND EDUCATIONAL MATERIALS

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

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

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

D. The school district shall require each driver to sign a statement in the form of Attachment A certifying that he or she has received a copy of the policy and materials. The school district will maintain the original signed certificate and will provide a copy to the driver if the driver so requests.
V. ALCOHOL AND CONTROLLED SUBSTANCES TESTING PROGRAM MANAGER

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

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

VI. SPECIFIC PROHIBITIONS FOR DRIVERS

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

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

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

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

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

E. Refusal to Submit to a Required Test. No driver shall refuse to submit to an alcohol or controlled substances test required by post-accident, random, reasonable suspicion, return-to-duty, or follow-up testing requirements.

G. Use of Controlled Substances. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to instructions (which have been presented to the school district) from a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a CMV.
H. Positive Test for Controlled Substance. No driver shall report for duty, remain on duty, or perform a safety-sensitive function if the driver tests positive for controlled substances.

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

VII. OTHER ALCOHOL-RELATED CONDUCT

No driver found to have an alcohol concentration of 0.02 or greater but less than .04 should perform safety-sensitive functions for at least 24 hours. The school district will not take any action under this policy other than removal from safety-sensitive functions based solely on test results showing an alcohol concentration of less than .04.

VIII. PRESCRIPTION DRUGS

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

IX. TESTING REQUIREMENTS

A. Pre-Employment Testing

1. A driver applicant shall undergo testing for controlled substances before the first time the driver performs safety-sensitive functions for the school district.

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

3. In order to be hired, the applicant must test negative and must sign an agreement in the form of Attachment B, authorizing former employers to release to the school district all information on the applicant's alcohol tests with results of blood alcohol concentration of 0.04 or greater, or positive results for controlled substances, or refusals to be tested, and any SAP referrals, within the preceding two (2) years.
B. Post-Accident Testing

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

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

3. Drivers should be tested for controlled substances no later than thirty-two (32) hours after the accident.

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

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

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

C. Random Testing

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

2. The school district shall test for alcohol at a minimum annual percentage rate of 25% of the average number of driver positions, and for controlled substances, at a minimum annual percentage of 50%.

3. The school district shall adopt a scientifically valid method for selecting drivers for testing.

4. Drivers shall proceed immediately to the collection site upon notification of selection.
D. Reasonable Suspicion Testing

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

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

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

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

E. Return-To-Duty Testing. A driver found to have violated this policy should not return to work until undergoing return-to-duty tests indicating an alcohol concentration of less than 0.02 and a confirmed negative result for the use of controlled substances.

F. Follow-Up Testing. When a SAP has determined that a driver is in need of assistance in resolving problems with alcohol and/or controlled substances, he driver shall be subject to unannounced follow-up testing as directed by the SAP for up to sixty (60) months after completing a treatment program.
G. Consent to Testing. Each driver and driver applicant tested under this policy will be requested to sign a consent form in the form of Attachment C at the specimen collection site, which authorizes the taking of the sample and the release of the results to the proper authority.

H. Right to Refuse and Consequence

1. A driver or driver applicant has the right to refuse to undergo drug and alcohol testing.

2. Refusal to submit to testing means the employee or applicant (1) fails to provide adequate breath for testing without a valid medical explanation after he/she received notice to report for the test; (2) fails to provide adequate urine for a controlled substances test without a valid medical explanation after he/she has received notices to report for the test; or (3) engages in conduct that clearly obstructs the testing process.

3. Refusal to submit to testing will establish a presumption that the driver or driver applicant would test positive if a test were conducted and, therefore, the driver or driver applicant is subject to discipline or disqualification under this policy.

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

5. An employee who refuses to submit to testing shall not be permitted to perform safety-sensitive functions and will be considered insubordinate and subject to disciplinary action, up to and including dismissal. The employee will be evaluated by a SAP and must submit to a return-to-duty test prior to being reassigned to safety-sensitive functions.

6. Drivers or driver applicants who refuse to submit to required testing will be required to sign Attachment D.

X. TESTING PROCEDURES

A. Controlled Substances Testing

1. Controlled substances testing are conducted by analyzing a donor's urine specimen. Split urine samples will be collected in accordance with federal regulations. The donor will provide a urine sample at a designated collection site. The collection site personnel will then pour the sample into two sample bottles, labeled "primary" and "split," seal the specimen bottles, complete the chain of custody form, and prepare the specimen bottles for shipment to the testing laboratory for analysis. The specimen preparation shall be conducted in sight of the donor.
2. If the donor is unable to provide the appropriate quantity of urine, the collection site person shall instruct the individual to drink not more than 24 ounces of fluid and, after a period of not more than two (2) hours, again attempt to provide a sample. If the individual is still unable to provide a complete sample, the test shall be discontinued and the school district notified. The MRO shall refer the donor for a medical evaluation to determine if the donor’s inability to provide a specimen is genuine or constitutes a refusal to test. For pre-employment testing, the school district may elect to not have a referral made, and revoke the employment offer.

3. Drug test results are reported directly to the MRO by the testing laboratory. The MRO reports the results to the school district. If the results are negative, the school district is informed and no further action is necessary. If the test result is confirmed positive, the MRO shall give the donor an opportunity to discuss the test result. The MRO will contact the donor directly, on a confidential basis, to determine whether the donor wishes to discuss the test result. The MRO shall notify each donor that the donor has 72 hours in which to request a test of the split specimen at the donor's expense.

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

5. If, after making reasonable efforts and documenting those efforts, the MRO is unable to reach the donor directly, the MRO must contact the school district who will direct the donor to contact the MRO. If the school district is unable to contact the donor, the donor will be suspended from performing safety-sensitive functions.
6. The MRO may confirm the test as a positive without having communicated directly with the donor about the test results under the following circumstances:
   a. The donor expressly declines the opportunity to discuss the test results; or
   b. The donor has not contacted the MRO within five (5) days of being instructed to do so by the school district.

B. Alcohol Testing

1. The federal alcohol test rules require breath testing to be administered by a BAT using an EBT. Two (2) breath tests are required to determine if a person has a prohibited alcohol concentration.

2. Any result less than 0.02 breath alcohol concentration (BAC) is considered a "negative" test. If the alcohol concentration is 0.02 or greater, a second confirmatory test is required to be performed.

3. If the donor attempts and fails to provide an adequate amount of breath, the school district will direct the donor to obtain a written evaluation from a licensed physician to determine if the donor’s inability to provide a breath sample is genuine or constitutes a refusal to test.

4. For initial screening tests, non-evidential test devices are approved. The school district may use these devices for screening purposes, and the STT will perform the test. If the device shows alcohol concentration of greater than 0.02, a confirmatory test conducted on an EBT will be required within 15-20 minutes.

5. Alcohol tests are reported directly to the school district’s testing program manager.

XI. DRIVER/DRIVER APPLICANT RIGHTS

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

B. The school district will not discharge a driver who, for the first time, receives a confirmed positive drug or alcohol test UNLESS:
1. The employee refuses to meet with the SAP for the purpose of an 
evaluation for alcohol and/or controlled substances use/abuse and 
recommendations for an educational/counseling or treatment 
programs;

2. The employee fails to enter the recommended program, or fails to 
successfully complete the program; or

3. The employee fails a return-to-duty test for alcohol or controlled 
substances following the evaluation or successful completion of the 
recommended program, or the subsequent unannounced follow-up 
alcohol and controlled substances testing.

XII. TESTING LABORATORY

The testing laboratory for controlled substances will be [name, address, telephone number], 
which is a laboratory certified by the Department of Health and Human Services-SAMHSA to 
perform controlled substances testing pursuant to federal regulations.

XIII. CONFIDENTIALITY OF TEST RESULTS

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

XIV. RECORDKEEPING REQUIREMENTS AND RETENTION OF RECORDS

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

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

1. Basic records 5 years
2. Collection and training records 2 years
3. Negative and cancelled controlled substances tests 1 year
4. Alcohol tests with less than 0.02 concentration 1 year

C. The school district shall also maintain an annual calendar year summary of the results 
of required testing.
XV. TRAINING

The school district shall designate certain employees to make determinations of reasonable suspicion. The designated employees shall receive at least 60 minutes of training on alcohol misuse and at least 60 minutes of training on controlled substances use. The training shall include physical, behavioral, speech, and performance indicators of probable misuse of alcohol and use of controlled substances.

XVI. CONSEQUENCES OF PROHIBITED CONDUCT AND ENFORCEMENT

A. Removal. The school district shall remove a driver who has engaged in prohibited conduct from safety-sensitive functions.

B. Referral, Evaluation, and Treatment

1. A driver who has engaged in prohibited conduct:
   a. Shall be advised of resources available for evaluating and resolving problems associated with misuse of alcohol and drugs.
   b. Shall be evaluated by a SAP, who shall determine what assistance, if any, the driver needs.
   c. Must undergo return-to-work testing before returning to duty.

2. If the driver is identified as needing assistance for resolving drug/alcohol problems and is referred to rehabilitation, the SAP will evaluate him or her to determine that the driver has followed the rehabilitation program. The driver will be subject to unannounced follow-up testing.

3. The requirements of this paragraph regarding Referral, Evaluation, and Treatment do not apply to driver applicants who refuse to submit to a required test or who have a confirmed positive test result for substances or for alcohol with a concentration of 0.04 or greater.

C. Disciplinary Action

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

2. Drivers who test positive with verification of a confirmatory test or are otherwise found to be in violation of this policy shall be subject to disciplinary action, which may include immediate suspension without pay and/or immediate discharge.
3. Nothing in this policy limits or restricts the right of the school district to discipline or discharge a driver for conduct, which not only constitutes prohibited conduct under this policy but also violates the school district's other rules or policies.

XVII. OTHER TESTING

The school district may request or require that drivers submit to drug and alcohol testing other than that required by federal law. For example, drivers may be requested or required to undergo drug and alcohol testing on an annual basis as part of a routine physical examination. Such additional testing of drivers will be conducted only in accordance with the provisions of this policy and as provided in Minn. Stat. 181.950 through 181.957. For purposes of such additional, non-mandatory testing, drivers fall within the definition of "other employees" covered by Section IV of this policy.
I have received a copy of the Drug and Alcohol Testing Policy of Independent School District 271, Bloomington, Minnesota and have read it in its entirety. I understand that I am subject to the provisions of the Federally Mandated Drug and Alcohol Testing for School Bus Drivers, because the position involves operating a commercial motor vehicle and requires a commercial driver's license.

The District's policy was provided to me:

Upon my hire. (job applicant/new employee).

After receipt of my conditional job offer, before any testing if my job offer is contingent upon my passing of drug and alcohol testing. (job applicant).

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

Date

Signature of Employee/Applicant

(Please Print Name)
BUS DRIVER OR DRIVER APPLICANT

AUTHORIZATION TO RELEASE INFORMATION

I authorize all my previous employers and other contracting entities for whom I worked to provide to Independent School District 271, Bloomington, Minnesota, all records and information on any of the following within the two-year period preceding this release:

a. my alcohol tests, which showed a concentration result of 0.04 or greater;

b. my drug tests, which showed a positive test result;

c. my refusals to take a drug/alcohol test; and/or

d. referrals to a substance abuse professional.

I release any of my prior employers and other contracting entities and their directors, officers, agents, and employees from all causes of action, claims, or debts, which my heirs or I may have as a result of providing this information.

I realize that if I refuse to execute this release and give Independent School District 271 the opportunity to obtain this information, I may not be employed or, if employed, I will not be allowed to perform any safety-sensitive functions after fourteen (14) days from the time this information is requested and not provided by my former employers and other contracting entities, and my employment will be terminated.

Date

Signature of Employee/Applicant

(Please Print Name)
BUS DRIVER OR DRIVER APPLICANT

DRUG AND ALCOHOL TEST CONSENT, RELEASE AND ACKNOWLEDGMENT

Date: ____________________________ Time: ____________________________

I hereby authorize ____________________________

(hospital or clinic)

its physicians, nurses, and technicians, to withdraw specimens of my urine/breath for the purpose of determining the presence of alcohol or of controlled substances therein and to further determine the content thereof. I understand and agree that the result of this test will be disclosed to Independent School District 271, Bloomington, Minnesota, and hereby release (hospital or clinic) and any employees and/or agents thereof from any and all claims or causes of action resulting from the disclosure of these results. I hereby further agree to waive any physician-patient privilege that may otherwise exist with respect to the confidentiality of the results of these tests.

I further acknowledge that I have had the opportunity to review and read the drug and alcohol testing policy of Independent School District 271, and understand that this procedure is in conformance with that policy.

I am using the following medications:

Dated: ____________________________ Signature of Patient/Employee/Applicant: ____________________________

(Please Print Name)

Witness: ____________________________ Supervisor (Optional): ____________________________
ATTACHMENT D

BUS DRIVER OR DRIVER APPLICANT

REFUSAL TO SUBMIT TO TESTING

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

Failing to provide adequate breath for testing without a valid medical explanation after I received notice to report for the test; or

Failing to provide adequate urine for a controlled substances test without a valid medical explanation after I received notice to report for the test; or

Engaging in conduct that clearly obstructs the testing process.

I recognize that this refusal constitutes a presumption of a positive result. I further recognize that if I am an applicant, I will be disqualified from consideration for the conditionally offered position. If I am an employee, I will not be permitted to perform safety-sensitive functions, will be considered insubordinate and subject to disciplinary action, up to and including dismissal, will be evaluated by a substance abuse professional, and will be required to submit to a return-to-duty test prior to being re-assigned to safety-sensitive functions.

Date

Time

Signature of Employee/Applicant Supervisor

(Please Print Name) Supervisor's Signature

Comments:

Employee refusal to sign Supervisor's Initials:
PRETEST NOTICE

I the undersigned employee/job applicant of Independent School District 271, Bloomington, Minnesota ("School District") do hereby acknowledge that I have been provided a copy of the School District's Drug and Alcohol Testing Policy.

Date               Signature of Employee/Job Applicant

(Please Print Name)
NOTICE OF TEST RESULTS AND VARIOUS RIGHTS

Test Results:

Independent School District 271, Bloomington, Minnesota has received the test result report from the testing laboratory:

Your initial screening test result was negative.

Your confirmatory test result was negative.

Your confirmatory test result was positive.

Test Result Report:

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

Right to Explain Positive Test Result:

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

Right to Request Confirmatory Retests:

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

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

A. Employee Discharge and Discipline

1. The school district may not discharge, discipline, and discriminate against, request or require rehabilitation of an employee whose position does not require a commercial driver's license on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test. In the case of a positive test result on a confirmatory test, the employee shall be subject to discipline, which includes, but is not limited to,

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

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

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

   c. Notwithstanding paragraph 1, the school district may temporarily requested, the confirmatory retest, provided the school district believes that it is reasonably necessary to protect the health or safety of the employee, co-employees or the public. An employee who has been suspended without pay must be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.

   d. The school district may not discharge, discipline, discriminate against, was under an affirmative duty to provide the information before, upon, or after hire.

   e. An employee must be given access to information in the employee's personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process and conclusions drawn from and actions taken based on the reports or other acquired information.
B. Withdrawal of Applicant's Job Offer

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

I, the undersigned employee/job applicant of Independent School District 271, Bloomington, Minnesota, acknowledge receipt of a Notice of Test Results and Various Rights. This includes my right to explain the positive test result on a confirmatory test.

I am currently taking or have recently taken:

no over-the-counter or prescription medications; or

the following over-the-counter or prescription medications:

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

Date

Signature of Employee/Job Applicant

(Please Print Name)
I have received a copy of the Drug and Alcohol Testing Policy of Independent School District 271, Bloomington, Minnesota and have read it in its entirety.

The District's policy was provided to me:

Upon my hire. (job applicant/new employee).

After receipt of my conditional job offer, before any testing if my job offer is contingent upon my passing of drug and alcohol testing. (job applicant).

Dated _______________________________ Signature of Employee/Applicant

(Please Print Name)