



Book	Policy Manual
Section	Policies Adopted by the Board
Title	Copy of New Policy Volume 11, No. 2 - September 2019 - INDEPENDENT EDUCATIONAL EVALUATIONS
Code	po2460.03
Status	

### 2460.03 - INDEPENDENT EDUCATIONAL EVALUATIONS

Parents of a student with a disability, as defined by the Individuals with Disabilities Education Improvement Act ("IDEIA"), have the right to obtain an independent educational evaluation ("IEE") subject to the criteria set forth in this Policy. Parents have the right to an IEE at public expense if they disagree with an evaluation completed by the District. Evaluation for this purpose refers to the complete evaluation from the District, not to individual components of an evaluation. A parent is only entitled to one (1) publicly-funded IEE per evaluation with which the parent has disagreed. The parent/adult student has the right to an IEE at his or own expense at any time. The parent/adult student is not automatically entitled to have additional assessments beyond those determined necessary for an evaluation. However, if the parent/adult student is interested in additional or different assessments and the District refuses to provide them, s/he may pursue additional assessments through a due process hearing request. In addition, the District may file a due process complaint if it believes that the disputed evaluation is appropriate. (X) If the request for an IEE comes one (1) year or more from the date of completion of the District's evaluation, the District may seek to complete a reevaluation prior to granting the parents' request for an IEE. If the final decision of a hearing officer, or a court of law's decision on an appeal, is that the evaluation conducted by the District was appropriate, the parent/adult student still has the right to an IEE but at his/her own expense. A hearing officer may order an IEE at public expense if s/he determines that the evaluation conducted by the District was not appropriate.

An IEE is an evaluation conducted by a qualified person who is not a regular employee of the District. The law providing for IEEs does not impose requirements on the District to accept findings or to implement recommendations set forth in IEEs. The results of an IEE will be considered by the IEP team, along with other data, as long as the evaluation meets certain criteria.

Within five (5) days of a parent/adult student's written request for an IEE at public expense, the District may ask why s/he disagrees with the evaluation obtained by the District, but the District cannot require an explanation. Within ten (10) school days of the written request for an IEE, the District must give the parent/adult student information about where the IEE may be obtained and the agency criteria, consistent with evaluation criteria described in WV policy 2419, applicable for IEE including:

- A. The location for the evaluation;
- B. The required qualifications of the examiner; and
- C. The maximum allowable charges for specified evaluations based on reasonable and prevailing rates typically paid by the District for similar evaluations, to eliminate unreasonably excessive fees, including travel costs for necessary services not available in the community.

Except for the criteria listed above, the District may not impose other conditions or timelines if doing so would be inconsistent with the parent's/adult student's right to an IEE. Upon request, a list of qualified examiners who can conduct an IEE will be provided.

A parent/adult student may request an opportunity to demonstrate that unique circumstances justify an IEE that does not fall within the District's cost criteria. If an IEE that falls outside the District's cost criteria is justified, that IEE will be publicly funded.

G. The complete written evaluation results must be delivered directly from the evaluator to the District. Evaluation reports that have been redacted, altered from their original form, or contain incomplete or missing information are not accepted. The parent must sign a release of the parent's right to confidentiality of information and a release of any privilege regarding information related to the IEE to permit consultation and discussion between District staff and the independent examiner with regard to the IEE.

The District may request that the evaluator attend the IEP team meeting to present the results of his/her evaluation.

H. Test interpretations and conclusions stated in the written report must be directly and clearly supported by the data. Recommendations made as a result of the evaluation must be educationally relevant and realistic within an educational setting.

A parent who seeks a waiver from any of the criteria in this policy must present evidence to the IEP team that the child's unique disability requires the waiver. The Superintendent may waive application of one (1) or more of the criteria set forth above when the Superintendent determines that the individual needs of the child and unique circumstances justify such a waiver. Parents will be provided the opportunity to demonstrate these unique circumstances to the Superintendent.

The results of the IEE will be considered in making educational decisions as required by the IDEIA and/or Section 504 of the Rehabilitation Act of 1973.

In order for an IEE to be publicly-funded, the parent must disagree with an evaluation that has been conducted by the District.

Upon request, the District will provide a parent with information regarding where an IEE may be obtained. This information will differ based on the unique needs of each child and may not be an exhaustive list.

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Legal                      West Virginia Board of Education policy 2419  
34 C.F.R. 300.502



Book	Policy Manual
Section	Policies Adopted by the Board
Title	Copy of Revised Policy Volume 11, No. 2 - September 2019 - DRUG AND ALCOHOL TESTING OF CDL LICENSE HOLDERS
Code	po4162
Status	
Adopted	July 9, 2009

#### 4162 - DRUG AND ALCOHOL TESTING OF CDL LICENSE HOLDERS

The Board of Education believes that the safety of students while being transported to and from school or school activities is of utmost importance and is the primary responsibility of the driver of the school vehicle. To fulfill such a responsibility, each driver, as well as others who perform safety-sensitive functions with Board-owned and/or operated ("Board-owned") vehicles must be mentally and physically alert at all times while on duty. In addition, the Board recognizes that a drug-free and alcohol-free school and work environment is vital to workplace and school safety and to the quality of the District's educational services.

To that end, the Board has established this policy and others related to employees' health and well-being.

The Board expects all Drivers to comply with Board Policy 4122.01 on Drug-Free Workplace which prohibits the possession, use, sale, or distribution of alcohol and any controlled substance on school property at all times.

Further, the Board concurs with the Federal requirement that all Drivers should be free of any influence of alcohol or controlled substance while on duty. Therefore, participation in the alcohol and controlled substances testing program is a condition of employment for all Drivers.

#### Covered Employees

This policy covers all commercial driver's license (CDL) holders and regular and substitute bus drivers who operate a commercial motor vehicle while on duty, as well as other service employees who may drive students in District vehicles or inspect, service, and condition District vehicles.

#### Definitions

For purposes of this policy and the guidelines associated with the policy, the following definitions shall apply.

- A. The term *alcohol* means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol. This term is a volume breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test as described herein.
- B. The term *controlled substance* includes the possession or use of which is unlawful pursuant to Federal, State and local laws and regulations, and any drug that is being used illegally, such as a prescription drug that was not legally obtained or not used for its intended purposes or in its prescribed quantity. The term does not include any legally-obtained prescription drug used for its intended purpose in its prescribed quantity unless such use would impair the individual's ability to safely perform safety-sensitive functions. This term includes, but is not limited to, marijuana metabolites, cocaine metabolites, amphetamines, opiate metabolites, phencyclidine (PCP).
- C. The term *controlled substance abuse* includes excessive use of alcohol as well as prescribed drugs not being used for prescribed purposes, in a prescribed manner, or in the prescribed quantity.

- D. ( ) evaluated for assistance resources;
- E. (X) subject to discipline, up to and including discharge, in accordance with District procedures and the terms of any applicable collective bargaining agreements.

Furthermore, if during any test the lab determines that an adulterant has been added to the specimen, then:

- A. (X) the test will be considered positive and the employee shall be prohibited from driving any school vehicle and be referred to the District's Employee Assistance Program.
- B. ( ) the employee will be re-tested with an observed collection to prevent the addition of an adulterant to the specimen.

Any staff member who refuses to submit to a test shall be prohibited from performing or continuing to perform his/her safety-sensitive functions (e.g., driving any Board-owned vehicle) and shall be considered to have abandoned their position.

A staff member who voluntarily disclose that they have an addiction to alcohol or controlled substances may participate in the Employee Assistance Program, and will qualify for the receipt of medical insurance benefits for treatment of alcohol or substance abuse, including follow-up care, to the extent that such benefits are provided for or offered in the Board's health insurance package. Voluntary disclosure of an alcohol or drug addiction by a staff member will not subject the staff member to disciplinary action unless such disclosure is made after the staff member is selected to be tested or immediately prior to the selection of staff members to be tested. Nothing herein shall prevent the Board from disciplining a staff member for misconduct associated with his/her alcohol and/or drug use regardless of whether the employee has disclosed that s/he has an alcohol or drug addiction.

A staff member will be subject to disciplinary action, up to and including termination, for any of the following reasons:

- A. reports for duty or performs work while having an alcohol concentration of 0.02 or greater;
- B. reports for duty or performs work while testing positive for using a prohibited drug, or while being under the influence of a prohibited drug;
- C. refuses to submit to drug and/or alcohol testing;
- D. alters or attempts to alter or unduly influence alcohol and/or drug testing results;
- E. fails to remain readily available for post-accident testing (including notifying his/her supervisor of his/her location, if the staff member leaves the scene of the accident prior to the submission of a post-accident test unless the staff member's departure is to obtain necessary emergency medical care).

Prior to the beginning of the testing program, the District shall provide a drug-free awareness program which will inform each CDL license holder about:

- A. the dangers of illegal drug use and controlled substance and alcohol abuse;
- B. Board Policy 4122.01 - Drug-Free Work Place, Policy 4161 - Fitness for Duty, Policy 4170 - Substance Abuse, and Policy 4170.01 - Employee Assistance Program;
- C. the sanctions that may be imposed for a violation of Policy 4122.01 - Drug-Free Workplace.

It shall be the responsibility of any employee to report to the appropriate law enforcement office information received concerning a person who:

- A. sells, gives away, distributes or markets any substance or product in this State or transports such a substance or product into this State with the intent that the substance or product will be used to defeat a drug or alcohol screening test;
- B. attempts to defeat a drug or alcohol screening test by the substitution of a false sample;
- C. advertises for sale or distribution any substance or product the advertised purpose of which is to defeat a bodily fluid screening test for drugs or alcohol;

- D. information concerning prohibited conduct;
- E. the circumstances under which employees are subject to testing for alcohol and/or controlled substances;
- F. the procedures for testing for the presence of alcohol and controlled substances in order to protect the employee and the integrity of the testing process, to safeguard the validity of the test results, and to confirm the results are attributed to the correct employee, including post-accident information, procedures, and instructions required under Federal regulations;
- G. the requirement that employees must submit to alcohol and controlled substance testing as required by the regulations;
- H. an explanation of what constitutes a refusal to be tested for alcohol or controlled substances and the attendant consequences;
- I. the consequences of testing positive, including the requirements of immediate removal from safety-sensitive functions, and the procedures regarding referral, evaluation, and treatment;
- J. the consequences for a test indicating an alcohol concentration greater than 0.02 but less than 0.04;
- K. information concerning the effects of alcohol and drug misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a co-worker's); and available methods of intervening when a drug or alcohol problem is suspected (including confrontation and how to refer someone to an Employee Assistance Program or to management); and
- L. information regarding the requirement that certain personal information collected and maintained under 49 CFR 382.601 be reported to the Commercial Driver's License Drug and Alcohol Clearinghouse.

The educational materials are to be distributed to each service employee upon being hired or transferred into a covered position thereafter. Each service employee must sign a statement certifying receipt of these materials. Each employee (an organization representing Board employees) shall receive written notice of the availability of this information, and the identity of the Board's designated representative in charge of answering employee questions about the materials.

#### **Return-to-Duty (Safety-Sensitive Positions)**

Employees who are removed from performing safety-sensitive functions as a result of this policy must take and pass a return-to-duty test before returning to performing safety-sensitive functions. The return-to-duty test will not occur until after a Substance Abuse Professional (SAP) has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties.

Subject to any other legal requirements, employees who are eligible to return to performing safety-sensitive functions may not do so without the approval of the Superintendent.

West Virginia ~~State~~ Board of Education policy 4336

WV Code 60A-2-204

WV Code 60A-2-206

WV Code 60A-2-210

WV Code 60A-2-212

WV Code 60A-4-412(a)

49 C.F.R. 382.101 et seq.

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