

5.2 GENERAL HIRING AND EMPLOYMENT PRACTICE

Erie County Board of Mental Retardation and Developmental Disabilities is an equal opportunity employer. It is the policy of the Board to provide equal employment opportunity to employees and candidates for employment. Accordingly, there shall be no discrimination against any employee or candidate for employment due to race, religion, color, national origin or ancestry, age, sex, physical or mental disability, or other unlawful bias. This statement is applicable to policies governing recruitment, selection, promotion, termination, training, transfer, compensation, and all other terms and conditions of employment.

Compliance with this policy is the personal responsibility of all personnel especially those whose duties are related to the hiring of new employees and the status or tenure of current employees. Further, as an Equal Opportunity Employer, the Board will cooperate fully in the implementation of applicable laws in accordance with the Civil Rights Act of 1964 and 1991, the Age Discrimination in Employment Act, the Older Workers' Benefit Protection Act, the Rehabilitation Act, the American Disabilities Act; and similar Ohio laws and executive orders. A violation of this section by any person charged with the duty of appointing, promoting, or grading any employee may be considered justification for his/her dismissal.

5.2.1 Notification of Available Positions

All open positions shall be posted in a manner to encourage application from any potential candidate. Such postings shall include notices in program facilities and may include notices to universities, local newspapers, state associations, the Ohio Department of Education, and the Ohio Department of MR/DD.

Each job posting or notice of vacancy shall specify the title, nature of the job, the required qualifications, and method of application.

Positions shall be posted for a minimum of two (2) weeks.

5.2.2 Applications

An application must be properly completed and submitted before any applicant will be considered for new employment. Current employees must submit a letter of intent and an updated application or resume to the Human Resource Office.

Standard application forms are available on-line, from the board's human resources office, or from the Erie County Human Resources Department.

Applications shall be kept in the active file for a period of one (1) year. EEOC requires applications be kept on file for two (2) years.

Falsification of information on the application will nullify the application and will result in dismissal if falsification, is verified after employment.

5.2.3 Citizenship and Naturalization

To be eligible for employment with the Board, the applicant must be a citizen of the United States or a legal resident with authorization to work in this country.

5.2.4 Evaluation of Applications/Background Investigations

Applicants shall be evaluated according to how well their qualifications meet the requirements of the position. Not all applicants will be interviewed for each vacancy. Applicants must submit to reference checks, interviews, background checks, validated performance tests, and/or other job related screening procedures.

An applicant shall be required to provide any information requested such as transcripts, licenses, and certificates. In addition the applicant will undergo any examinations necessary to demonstrate job related qualifications for the position sought. All applicants will be subject to drug testing and physical examination after a conditional offer of employment. These tests must be completed and results submitted to the human resources coordinator prior to the first day of employment.

The Board seeks to hire and keep qualified individuals who have the goals of the agency in their interest. The Board will not employ or continue to employ any individual who has been convicted or plead guilty to any offense which relates in any way to the duties of a position authorized by the Board, whether or not such offense occurred during work time or on work premises. This policy allows the Board to conduct appropriate background investigations of applicants and employees as described below.

Investigations/Criminal Background Checks

All applicants for employment with the Board shall undergo an initial background check in order to determine the fitness of the applicant to provide services to the enrollees or perform other duties for the Board. This background check shall include but not be limited to a request for information regarding any prior criminal convictions or pleas of guilty by the applicant. (Reference: R.C. 5126.28)

Each individual applying for employment and or being recalled and re-employed after a layoff shall be notified at the initial interview that a background check shall be conducted on each individual who is under final consideration including a set of impressions of the applicant's fingerprints for a criminal records check and a certified abstract of the applicant's record of convictions for violations of motor vehicle laws if the applicant will be required to transport clients or to operate a Board vehicle for any other purpose. At the time of initial application, the Board will notify the applicant of any fees the applicant will incur for the costs in obtaining a criminal records check, fingerprint impressions, or an abstract and that unless the fee is paid the applicant will not be employed by the Board. The applicant shall be required to sign an authorization for release of information from his present or previous employer(s) and for criminal convictions from law enforcement agencies in any community in which the applicant has resided, the Bureau of Criminal Identification and Investigation (BCI) and any other state or federal agency. In addition, the Board shall request the Registrar of Motor Vehicles to supply a certified abstract regarding the record of convictions for violations of motor vehicle laws of each

applicant and a sheriff's check for Erie County and the county the applicant resides in at the time of the application.

When the initial interview is completed and the applicant is under final consideration for final offer of employment, the Superintendent or his designee shall initiate the following procedures for the background check.

- A. Contact the applicant's present or previous employer(s) regarding the individual's work habits and reasons for leaving employment.
- B. Request information pertaining to any criminal convictions or any pleas of guilty by the applicant. This information shall be requested from the law enforcement agency which has jurisdiction in the applicant's current and/or last area of residence and/or from the BCI and\ any other state or federal agency.
- C. Contact personal references submitted by the applicant for information concerning the individual.
- D. Arrange for the applicant to be fingerprinted by the Erie County Board of MRDD Human Resource and have the fingerprints forwarded to the BCI, or, at the discretion of the Superintendent, any other state or federal agency. It shall be accompanied with a notarized request authorized by the applicant for a report on the criminal record of the applicant. Information shall not be requested on arrests in those cases where there was no conviction or guilty plea. An applicant's refusal to be fingerprinted or to sign and have notarized the request form shall result in no further consideration of his/her application. (Note: The Superintendent may request that the regulating state or federal agency supply the Board with a written report of any information pertaining to the employee's criminal record that the agency obtains in the course of conducting an investigation or in the process of renewing the employee's license or other credentials.)
- E. Request a driver's abstract for all applicants.
- F. Review the findings of the background check(s) and consider them along with other factors in the decision to employ or retain an individual. The applicant shall not be appointed to fill a position in either classified or unclassified service of the Board if the background check discloses information that he or she has:
 1. Displayed work performance patterns which, in the judgment of the Superintendent or designee, would prevent him/her from performing the essential functions of the position being filled;
 2. Been dismissed for good cause from any branch of public service if the reason for dismissal bears a direct and substantial relationship to the position being filled;
 3. A driving record unacceptable to the Board or Board's insurance carrier for those applicants who are seeking a position in which driving is an essential component of the duties of the position,
 4. Per O.R.C. § 5126.28, been convicted of or plead guilty to the violation of any of the following:
 - a. Any offense listed in R. C. 5126.28(E)(1)
 - b. Any felony which bears a direct and substantial relationship to the duties and responsibilities of the position being filled.
 - c. A violation of an existing or former law of this state, any other state, or the United States, if the offense is substantially equivalent to any of the offenses described in (F)(4)(a) or (F)(4)(b) of this policy.

- G. The Board will consider the following factors in determining if the offense bears a direct and substantial relationship to the position being filled:
1. The essential functions of the position being filled;
 2. Whether the position being filled provides an opportunity for the commission of similar offenses;
 3. Whether the circumstances leading to the offense will reoccur;
 4. Whether the individual has committed other offenses following the conviction or the individual's conduct since the conviction makes it likely that the individual will commit other offenses;
 5. The number of offenses and the circumstances of each offense;
 6. The time elapsed since conviction;
 7. The individual's complete employment history;
 8. The individual's efforts at rehabilitation; and
 9. Whether employment of the individual may increase the likelihood that the Board will incur liability.
- H. The Board shall, prior to employing an applicant, require the applicant to submit a statement that the applicant has not been convicted of or pleaded guilty to any of the offenses described in (F)(4) of this policy. All employees will be required to sign an agreement stating that the applicant will notify the Superintendent within 5 calendar days if, while employed by the Board, the person is ever formally charged for any of the offenses described in (F)(4) of this policy and that failure to report such charges may result in dismissal from Board employment. (Reference: R.C. 5126.28 (F)). Attachment #1 (rule) Attachment #2 (form) (Reference 5123:2-1-05) Attachment # 3
- I. The Board shall, prior to employing an applicant, perform a check of the abuser registry maintained by the Ohio Department of MRDD and the Nurse's Aide Registry maintained by the Ohio Department of Health to verify an individual has not been placed on either registry.

The BCI response (and the response from any other local, state or federal agency contacted) regarding any felony convictions or guilty pleas shall be compared to the information of the application and statement signed by the applicant. If the applicant has been appointed to a position, any falsification on the application or statement which is disclosed by this comparison shall be cause for removal of the employee from his position.

BCI Records

BCI reports and similar criminal records checks are not public records for purposes of O.R.C. 149.43 and shall not be made available to any person except the applicant, Board members or employees responsible for employment, or any hearing officer in a case denying employment. Such reports will not be maintained in the employee personnel files but will be maintained in a separate file in the human resources coordinator's office. (Reference: R.C. 5126.28(H)(1)). (Reference: R.C.5123:2-1-05)

Current employees have five (5) calendar days to notify the superintendent of being charged with a disqualifying offense. Notification by the employee must occur within five (5) calendar days after being convicted or entering a plea to a disqualifying offense.

The Board may conduct random and /or periodic BCI checks to insure proper reporting of disqualifying offenses.

5.2.5 Disqualification

An applicant shall be eliminated from consideration if he/she:

- A. Does not possess the knowledge, skills, and abilities necessary to effectively perform, with or without reasonable accommodation, the essential duties of the vacant position;
- B. Does not possess or is not eligible for appropriate licenses, certification, registration, or education required for the position.
- C. Has made a false statement of material fact on the application form or on supplements to it;
- D. Has not fully cooperated regarding the Board's background investigation/criminal background check of the applicant or whose background check reveals a disqualifying conviction or plea.
- E. Has committed or attempted to commit a fraudulent act at any stage of the selection process; or
- F. Is an alien not legally permitted to work in the United States and/or cannot produce the necessary records for completion of the I-9 Form..

An applicant may be eliminated from consideration upon other reasonable grounds relating to job requirements.

If an applicant is hired and it is subsequently discovered that any of the above disqualifying criteria apply, the employee will be terminated.

5.2.6 Selection Process

The selection process will be made in accordance with law including the Board's commitment to EEO and ADA. The Board is an Equal opportunity Employer. All employees and applicants for employment will be recruited, hired, promoted, transferred, demoted, laid off, terminated, suspended, evaluated, and otherwise dealt with in a consistent and equitable manner based upon merit, fitness and such qualifications as each individual might possess. No personnel decision shall be based upon race, religion, color, national origin or ancestry, age, sex, physical or mental disability, or other prohibited criteria as defined by federal or state law.

Appointments to vacant positions shall be made based solely on the applicant's knowledge, skills and abilities, integrity, work history and other job-related qualifications, as ascertained through fair and practical selection methods. (Reference: R.C. §4112.02)

An employee or applicant who feels that he/she has been the victim of discrimination may contact the Equal Employment Opportunity Officer to obtain information concerning complaint procedures.

5.2.7 Promotion

There are two types of promotions that can take place within the Board.

1. Position upgrade of a currently existing position to a level of increased responsibility. This type of promotion does not involve the replacement or hiring of any additional personnel and is at the discretion of the superintendent. No application process occurs with this type of promotion.
2. When a vacancy occurs, any qualified employee may apply for the vacant position by submitting a letter of intent and an updated application or resume. Current employees may receive preference in application and/or consideration to the extent such is permitted by state law.

Factors to be evaluated when considering a current employee for promotion include an employee's completion of required probationary period, required training courses, and the employee's performance evaluation ratings. Employees shall not be considered for transfers or promotions if they have any finalized disciplinary action, resulting in a suspension, and Last Chance Agreement in their record within 365 days of the date of the posting.

5.2.8 Staffing Authorization

The Board annually approves a budget that includes authorizations for existing and new staff. The superintendent, as appointing authority for all staff, recruits, selects, and hires personnel in accordance with staffing authorization and the operational needs of the program.

5.2.9 Certifications/Registrations/Licenses

For those job classifications requiring certification or registration as defined by the Ohio Department of MR/DD or the Ohio Department of Education, the staff of the Board must meet or exceed such requirements. Each employee's classification as adopted by the Board shall include the certification or registration requirements for that classification.

For positions licensed by a state licensing authority, an applicant possessing or eligible for such license shall be deemed eligible for employment.

Employees are responsible for meeting the professional, educational, continuing education and/or experience requirements applying to their position in order to maintain the proper state required certifications, licensures and registrations. The required fees for certification/registration/license applications, renewals, or for course work related to certification and licensing are the responsibility of individual staff members.

An employee holding a certificate, evidence of registration, or license may have such certificate, evidence of registration, or license denied, suspended, or revoked by the state or federal entity/agency issuing the certificate, evidence of registration, or license if that

agency determines that such employee is guilty of intemperate, immoral, or other conduct unbecoming to the employee's position, is guilty of incompetence or negligence within the scope of the employee's duties, or the employee has been convicted or plead guilty to any of the offenses listed in O.R.C. 5126.28.

An employee holding a certificate or evidence of registration has a duty to timely report to the superintendent any acts described above. Failure to make such timely report may result in discipline up to and including discharge. Upon receipt of information that an employee holding a certificate, evidence of registration, or license may have committed any of the acts described above, the Superintendent shall make an appropriate notification to the state or federal entity/agency that issued the certificate, evidence of registration, or license. The Superintendent may request that the regulating state or federal agency supply the Board with a written report of any information pertaining to the employee's criminal record that the agency obtains in the course of conducting an investigation or in the process of renewing the employee's license or other credentials.

If a Board employee's required license/certificate/registration is revoked or is not renewed, that person's employment shall be terminated as a voluntary resignation automatically effective with the first full business day the employee no longer possess a valid certification, licensure, or registration. . . Suspension of a certification, licensure, or registration shall, be treated as if the certification, licensure, or registration was revoked. No person will be employed or compensated by the Board if the person does not hold the certificate, evidence of registration, or license required for the position. The Superintendent may employ, at the Superintendent's discretion, an individual pending the issuance of the proper certificate, registry, or license if the person has met the requirements for such and has applied for certification, registry, or license and the application has not been denied.

Employees who have a change in their educational, certification, or registration status that may have an affect on their salary or wage are responsible for providing the appropriate documentation to the Human Resource Office. Employee's failure to comply in a timely manner will result in loss of income.
(Reference: R.C. 5126.25; R.C. 5126.26; R.C. 5126.28)

5.2.10 Medical Examinations

A medical examination by a qualified physician is required of all employees upon employment. The examinations may include such tests as determined for job-related duties of the position. The cost of mandated medical examination and mandated drug testing for employment purposes shall be paid by the Board.

Bus drivers shall have annual physical examinations in compliance with the rules established by the Ohio Department of Highway Safety and are subject to pre-employment and random drug testing.

The Superintendent may require any employee to submit to a physical or mental examination when that employee is not, as a result of apparent medical problems, performing his/her job in a satisfactory manner. Refusal by the employee to submit to examination or refusal to release the results of examination will be considered

insubordination and shall be cause for termination of employment.. Fees for medical examinations under this section shall be paid by the Board. (O.A.C.123:1-33-02)

If the results of the medical examinations indicate the otherwise qualified applicant or employee has a disability, as defined by the Americans with Disabilities Act, the Board will make reasonable accommodations to allow the individual to perform the essential functions of the employee's job unless such accommodations cause an undue hardship to the Board and unless such disability is compensated with mitigating measures.

5.2.11 Civil Rights Policy Plan

The Board has adopted a policy to ensure the protection of individual civil rights and to prescribe the process used for the resolution of complaints concerning possible civil rights violations including sexual harassment. This policy is Attachment two (2) of the personnel policy manual.

5.2.12 Individuals with Disabilities Non-Discrimination Policy

It is the policy of the Board to protect qualified individuals with disabilities from employment discrimination. The Americans with Disabilities Act (ADA) of 1990 defines a person with a disability as "an individual who has a physical or mental impairment that substantially limits a major life activity." The ADA also protects individuals who have a record of a substantially limiting impairment and people who are regarded as having a substantially limiting impairment. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, caring for oneself, learning, or working. Any physical or mental disability which is controlled by mitigating circumstances is not considered a disability under ADA.

It is unlawful to discriminate against protected individuals in all employment practices including: recruitment, hiring, promotion, training, lay-off, pay, firing, job assignments, leave, benefits, and all other employment related activities.

All employees are expected to be "fit for duty" at all times. "Fit for duty" means the ability to perform the essential functions of the position as described in the job description in a responsible manner with or without accommodations and to report to work at the assigned time and place.

Reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. It is a violation of this Board policy and the ADA to fail to provide reasonable accommodation to the known physical or mental limitations of a qualified individual with a disability, unless to do so would impose an undue hardship on the operation of the Board. Undue hardship means that the accommodation would require significant difficulty or expense. Reasonable accommodation is not available where the disability can be remedied by mitigating measures.

The Superintendent is authorized to establish guidelines to regulate the implementation of this policy.

5.2.13 Physical Ability to Lift, Carry, and Move Children, Adolescent and Adult Enrollees

The following statement will be on job descriptions for which an essential function of the positions is the requirement to lift, carry, and move children, adolescents, and adults:

Must be physically capable to lift, carry, and move enrollees, including children, adolescents, and adults in a safe manner, according to in-service training.

The following statement will be on job descriptions for all other staff:

May be requested to lift, carry, and move enrollees, including children, adolescents, and adults in a safe manner, according to in-service training.

All staff and substitutes who hold positions in which they are required to lift, carry, and move students/clients as an essential function of the positions are required to attend an in-service which stresses body mechanics, an introduction to anatomy and physiology, prevention aspects, and safe techniques of lifting, carrying, and moving. All affected staff will also attend an annual refresher course. Staff is to use mechanical lifts where provided and comply with no-lift procedures as defined at their work site. Employees maybe be disciplined for failure to use proper techniques in the lifting, carrying, or moving of participants.

5.2.14 Fitness for Duty

All employees are expected to be “fit for duty” at all times. “Fit for duty” means the ability to perform the essential functions of the position as described in the job description in a responsible manner with or without accommodation. The superintendent is authorized to establish guidelines to regulate the implementation of this policy.

Board Hours of Operation All employees shall be able and ready to report to work at the assigned time and place and in accordance with the hours of operation adopted by the Board. .

Freedom from Substance Abuse: It is our expectation that the work place will be free of evidence of, use of and/or abuse of controlled substances, including drugs and alcohol.

Need for Assistance: Employees who are considered to be unfit for duty, as determined by an appropriate examination, shall be counseled to seek appropriate rehabilitative assistance. This is inapplicable in situations covered by Policy 5.2.15.

5.2.15 Drug Free Work Place

It is the policy of the Erie County Board of MR/DD to provide a workplace free of alcohol and drugs and to take reasonable measures to ensure that employee alcohol or drug abuse does not exist. The Board realizes that a successful policy may combine education, counseling, assistance and/or discipline. In the event that an employee is

subject to substance abuse testing, regardless of the reason, the employee may be escorted by a supervisor or a member of the appropriate law enforcement entity.

I. EDUCATION AND TRAINING

- A. The Board will publish a statement notifying employees that it is unlawful to manufacture, distribute, dispense, possess, use or work under the influence of a controlled substance in any of the facilities of the Board or on work time. This statement will place employees on notice that disciplinary action may be taken if the Board discovers an employee to be in violation of this policy.
- B. The Board shall establish a drug-free awareness program and annually inform employees about:
 1. The dangers of drug/alcohol abuse in the workplace
 2. The Board's policy of maintaining a drug-free workplace
 3. Any available drug and alcohol counseling rehabilitation and employee assistance programs, and
 4. The corrective action which the Board may take against employees for violating this policy

II. CONDITIONS

- A. As a condition of employment, each employee shall abide by the terms of the drug-free workplace statement.
- B. Any employee convicted (for purposes of this policy pleading guilty has the same effect as a conviction) of violating a criminal drug statute, or convicted of violating a drug/alcohol statute that results in a misdemeanor of the first degree and a felony on subsequent offenses shall provide written documentation to the Human Resource Office within five (5) working days.
- C. Within ten (10) days of receiving actual notice that an employee has been convicted of any of the aforementioned, the Board is required by the federal Drug Free Workplace Act to notify the Ohio Department of Mental Retardation and Developmental Disabilities of this fact. Within thirty (30) days of receipt of such notice, the board shall:
 1. Terminate the employee with cause if the conviction is for dispensing, trafficking, distributing, or manufacturing.
 2. If the conviction is for possession, under the influence of, or using then, and at the Board's sole option, the employee, as a further condition of employment, shall agree to and sign a last chance agreement in which the employee agrees:
 - to an evaluation of his/her use of alcohol or mood altering substances; and,
 - to provide a release of information as to the results of that evaluation to the Superintendent; and,
 - to be tested randomly for the period of the next two years from the date of the signing of this agreement; and,
 - if he/she is diagnosed as chemically dependent they will be required to seek treatment for chemical dependency and satisfactorily complete the treatment program; and,
 - that continued employment requires compliance with all the terms of this last chance agreement, maintaining their driver's license, and maintenance of satisfactory job performance standards; and,

- the Agreement’s application to the Employee will continue for the duration of the Employee’s employment; and,
 - the Agreement will remain in the Employee’s Personnel File as a permanent record and shall be forwarded to any future Erie County appointing authorities who may employ the Employee in the future; and,
 - the Board, upon being made aware of or determining the Employee has violated this Agreement, shall hold a predisciplinary hearing prior to termination of employment in which the Board will produce proof of violation of this Agreement to the Employee; and, due recognition of the consideration of the Board in continuing the employment of the Employee, the Employee hereby waives any right to file an appeal, for an employment action which may include instances of misconduct which are related to the use of mood-altering substances. This waiver of the right to appeal includes, but is not limited to a court of competent jurisdiction, or administrative body of competent jurisdiction for which the Employee may not waive a right to appeal; and,
 - Any further convictions will result in termination with cause.
- D. If the Superintendent, upon the recommendation of a management employee and the human resources coordinator, has reasonable suspicion that any of the qualifying criteria in (I.A.) of this policy has been violated by an employee, the Superintendent can require that such an employee undergo drug/alcohol testing.
1. If the employee refuses such testing, the employee will be immediately terminated with cause.
 2. If the employee complies and the test is positive (an alcohol concentration of .04 BAC percent or greater), the employee may be terminated or sign a last chance agreement under (II.C.2.), at the sole option of the Superintendent.
- E. If an employee has an accident while operating a Board insured vehicle or their personal vehicle while on Board business, the employee maybe required to submit to a drug/alcohol test depending on the circumstances surrounding the accident. Such test will be within eight (8)hours of the accident and the provisions of (II)(D)(1) and (II.)(D)(2) apply. Employees are prohibited from using alcohol eight (8) hours following an accident or until it has been determined whether or not testing will be required. Failure to comply within the twenty-four (24) hour period may result in corrective action up to and including termination.

DRUG AND ALCOHOL TESTING OF EMPLOYEES WITH COMMERCIAL DRIVERS LICENSES

PURPOSE

The Board seeks to operate a drug and alcohol-free agency that is in compliance with the federal Department of Transportation (DOT) and the Federal Highway Administration (FHWA) regulations as directed by the Omnibus Transportation Workers Testing Act of 1991. Pursuant to these federal statutes and regulations (hereinafter collectively referred to as “DOT regulations”), all drivers who work for the Board and are required to have a commercial driver’s license (CDL) regulated by the DOT are subject to alcohol and drug use prohibitions, restrictions, and random testing.

Furthermore, the Board realizes the adverse effects that the use of illegal drugs and abuse of alcohol can have on its drivers/employees, its products and services, and the organization as a whole. It is also the Board's obligation and right to maintain a safe, healthy, and efficient work environment for its drivers and other employees and the public and to protect the Board's property, operations, productivity and public image.

COVERAGE AND IMPLEMENTATION

The policy covers all employees who are required to obtain and maintain a commercial driver's license (CDL) as a qualification for their position. This includes all positions responsible for the operation of buses that carry more than twelve (12) passengers (including the driver) and vehicles in excess of 26,000 pounds gross weight.

CONDUCT PROHIBITED BY DOT REGULATIONS

The DOT expressly prohibits certain conduct of employees with commercial driver's licenses (CDLs). likewise, the DOT regulations mandate specific consequences that will follow any violations of the DOT regulations. Employees with CDLs (also referred to as "drivers") must be aware that the DOT provisions do not replace, but are in addition to, the conduct prohibited and the disciplinary actions set forth under the existing policies of the Board.

A. DOT PROHIBITIONS REGARDING THE USE OF ALCOHOL:

A driver is prohibited from:

- 1) Using alcohol while performing safety-sensitive functions;
- 2) Performing a safety-sensitive function within four (4) hours after using alcohol;
- 3) Reporting to duty or performing a safety-sensitive function with an alcohol concentration of .04 BAC percent or greater;
- 4) Using alcohol eight (8) hours following an accident or until tested when required to be tested;
- 5) Manipulating, switching, or committing other misconduct related to a urine, breath, saliva, or blood specimen or test;
- 6) Refusing to submit to post-accident, random, reasonable suspicion or follow-up alcohol test(s) when required by the DOT;
- 7) Possessing alcohol, unless the alcohol is manifested and transported as a part of the employee's job duty;
- 8) Disclosing information about an individual's alcohol or drug testing referral, or results of said testing, or treatment referrals to anyone without a "need to know".

B. DOT PROHIBITIONS REGARDING THE USE OF DRUGS:

A driver is prohibited from:

- 1) Using or possessing any drug. An exception applies in certain limited circumstances involving authorized use of prescription drugs.
- 2) Testing positive for drugs;
- 3) Manipulating, switching, or committing other misconduct related to a urine, breath, or saliva, or blood specimen test;
- 4) Refusing to submit to a required drug test;
- 5) Disclosing information about an individual's alcohol or drug testing referral or results of said testing or treatment referrals to anyone without a "need to know";
- 6) Receiving a conviction under any state or federal drug statute for a violation occurring in the workplace or occurring while conducting Board business and

failure to notify the Board of such a conviction within five (5) calendar days of the conviction.

TESTING UNDER THE DOT REGULATIONS

The DOT regulations authorize employers to use urine, saliva and breath tests to determine the presence of alcohol and/or drugs in the system. Accordingly, to the extent that this policy makes references to blood samples or tests, it contemplates blood testing performed by a separate, authorized agency which provides test results to the Board. All urinalysis tests for drugs must use the “split sample” method of collection. The employee will be sent to an approved facility (hospital, urgent care center, etc.) for the drug test. The test will be conducted under the DOT rules. Whenever an employee receives notification of a positive, primary specimen test result, the employee may request that the split sample be tested in a different DHHS-certified laboratory. This request must be made within 72 hours after the driver received notification of the positive test result. Any test requested by the employee will be performed at the employee’s expense.

In accordance with the DOT regulations, the Board is required to test for drugs and/or alcohol in the following circumstances:

A. PRE-EMPLOYMENT DRUG TESTING

Pre-employment testing applies to individuals whom the Board intends to hire or use, on a permanent or temporary basis, as CMV drivers. “Applicants” may be prospective employees or current employees who have served in other capacities, with the Board.

B. REASONABLE SUSPICION OF DRUG AND/OR ALCOHOL USE TESTING

A driver shall be required to submit to an alcohol and/or drug test whenever a supervisor or manager has reasonable suspicion to believe that the driver has violated the prohibitions of the DOT regulation, or the driver’s behavior and appearance indicated drug use and/or alcohol misuse.

C. POST-ACCIDENT DRUG AND/OR ALCOHOL TESTING

Drivers who are involved in a reportable accident will be subject to an alcohol and/or drug test following the accident whenever the accident involves a fatality, or the driver receives a citation under state and local law for moving traffic violation arising from the accident.

A driver must submit to an alcohol test within eight (8) hours following the accident, and shall not consume any alcohol for eight (8) hours following the accident or until the driver submits to an alcohol test and is no longer on duty. Likewise, a driver must submit to a drug test within thirty-two (32) hours following the accident.

The Board may substitute a breath or blood test for the use of alcohol and a urine test for the use of drugs administered by on-site police or public safety officials under separate authority, using procedures required by their jurisdictions.

D. RANDOM ALCOHOL AND DRUG TESTING:

All drivers will be subject to unannounced drug and alcohol testing. All drivers will have equal probability of being selected for testing and will remain in the pool throughout the process.

1. Random Alcohol :

In accordance with DOT regulations the number of tests to be performed annually will be equal to or exceed a number to 25% of the total number of drivers.

2. Random Drug :

In accordance with DOT regulations the number of tests to be performed annually will be equal to or exceed a number of 50% of the total number of drivers.

E. RETURN TO DUTY ALCOHOL AND DRUG TESTING

1. Return-To-Duty Alcohol Testing:

A driver who has violated any of the alcohol misuse DOT regulations, who has been evaluated and treated [when recommended by a substance abuse professional (SAP)], and who is permitted by the Board to return to work, will be tested for alcohol. A driver may also be tested for drugs before returning to any safety-sensitive function upon recommendation of the SAP.

2. Return To Duty Drug Testing:

A driver who has violated any of the DOT drug regulations, who has been evaluated and treated (when recommended by the SAP), and who is permitted by the Board to return to work, will be tested for drugs and must have a negative test result before returning to a safety-sensitive function.

F. FOLLOW-UP DRUG AND/OR ALCOHOL TESTING:

All drivers referred by the Board to treatment, who successfully complete a treatment program for drug or alcohol abuse and are permitted by the Board to return to work will be subject to unannounced drug and alcohol testing for a period of twenty-four (24) months following their return to work.

G. CONSEQUENCES OF A VIOLATION OF THE DOT ALCOHOL AND DRUG REGULATIONS

Whenever a driver engages in prohibited conduct, the driver shall be removed from performing all safety-sensitive functions and shall be evaluated by a SAP who will determine what treatment, if any, the driver needs to resolve his or her problems associated with the alcohol misuse and drug use. (The Board will decide if the employee is eligible for participation in the rehabilitation program.) Before returning to work, the driver must undergo a return-to-duty test.

1. FAILURE OF A PRE-EMPLOYMENT TEST

Applicants or current employees (who are transferring to a CDL position or returning to duty) who fail a pre-employment test will not be permitted to occupy the position. Further, the Board may take additional disciplinary action up to and including termination.

2. POST ACCIDENT TEST

The Board may take disciplinary action for up to and including termination for any driver who has a positive drug test result following a reportable accident involving a fatality.

3. REFUSAL TO SUBMIT TO A REQUIRED TEST

A refusal to submit to a reasonable suspicion, post-accident, random or follow-up test is considered a positive verified drug test or alcohol test greater than .04 BAC.

4. ADDITIONAL DISCIPLINARY ACTION

The Board has established policies and practices in order to protect our employees and our Board from the effects of substance abuse. When there is a violation of this policy, the violation will serve as a basis for discipline, up to and including termination, even for a first offense. The degree of the action chosen will depend on the circumstances of each case.

The Board recognizes that alcoholism is a disease and based upon the facts of each case the Board will attempt to reasonably accommodate an employee who has been diagnosed with this illness and who is actively undergoing a program of rehabilitation and treatment.

5.2.16 Equal Opportunity Employer

The Board is an Equal Opportunity Employer. All employees and applicants for employment will be recruited, hired, promoted, transferred, demoted, laid off, terminated, suspended, evaluated, and otherwise dealt with in a fair and equitable manner based upon merit, fitness and such qualifications as each individual might possess. No personnel decisions shall be based upon race, color, religion, sex, national origin, age, handicap, or other prohibited criteria.

The Appointing Authority shall appoint a person(s) to be responsible for formulating, implementing, coordinating and monitoring all efforts in the area of equal employment opportunity. While overall authority for administering this policy shall be delegated to such person(s), supervisors and division heads shall also maintain responsibility for their actions in regard to providing equal opportunity to each employee or applicant. The Board shall maintain an Affirmative Action Plan describing our goals and methods for the provision of equal employment opportunities for all persons under its authority. (Reference: R.C. §5126.07) A copy of this plan shall be available in each facility where employees are assigned to work.

Any employee or applicant who feels that he/she has been the victim of discrimination may contact the Equal Employment Opportunity Officer to obtain information concerning complaint procedures.

5.2.17 Anti-Harassment Policy

No employee shall unlawfully harass any other employee, service provider, contractor, client of the Board, member of the public, or any other individual with whom the employee interacts in connection with the employee's job duties. "Unlawful harassment" includes harassment of an individual based on the race, color, religion, gender, national origin, handicap, age, or ancestry of the individual.

No employee shall sexually or unlawfully harass any other employee, service provider, contractor, client of the board, member of the public, or any other individual with whom the employee interacts in connection with the employee's job duties. "Sexual harassment"

includes but is not limited to unwelcome sexual advances, requests for sexual favors, and all other verbal or physical conduct with sexual overtones where any of the following conditions are present or implied:

- A. Submission by an employee, service provider, or contractor is required, either explicitly or implicitly, as a condition of employment or participation in the program;
- B. Submission or rejection by an employee, service provider or contractor is the basis for an employment-related decision;
- C. The conduct interferes with an employee's, service provider's, contractor's work performance, or the program's purpose; or
- D. The conduct creates an intimidating, hostile, or offensive work environment.

Any employee, applicant, client, or other person covered by this policy who feels that he/she has been the victim of unlawful harassment should contact the EEO Coordinator or the Superintendent for information concerning complaint procedures. Incidents of unlawful harassment should be reported within 30 days of the occurrence or as soon as reasonably possible for action to be taken to correct the situation.

Violations of this policy will not be tolerated. Any employee guilty of unlawful harassment will be disciplined in accordance with policies outlined in this manual. Any employee who falsely accuses another employee of unlawful harassment may be disciplined in accordance with the disciplinary policy.

5.2.18 Nondiscriminatory Contracts

Any individual, agency, or service provider entering into a contract with the Board shall act in a nondiscriminatory manner both as an employer and as a service provider and shall act without regard to the race, color, national origin, religion, age, sex or handicap of the employee or program beneficiary. Failure to do so may result in the termination of the contract.

5.2.19 Nepotism

Members of the immediate families of Board members, Probate Judge or the Board of County Commissioners may not be hired to work for the Board. No person shall occupy any position in which he/she could directly supervise or otherwise influence a decision in favor of or against another member of his/her immediate family. No employee will attempt to influence or intervene in any personnel action for a member of his/her family with this agency or with any agency or business contracting with the Board. If two employees who work at the same site marry or live together, the superintendent may reassign either one to a different job site. No employee shall be reassigned if reassignment would result in reduction in pay or position, require assignment to a new or different classification, or in any other way affect the reassigned employee's civil service status (*Reference R.C. 5126.03*). When, as the result of promotion or re-assignment, a potential conflict may exist, the Board may approve a plan to resolve the potential conflict.

5.2.20 Seniority

Seniority for classified non bargaining unit employees shall have the meaning ascribed to it by the Ohio Department of Administrative Services.

5.2.21 Personnel Records

Access, duplication, dissemination, and destruction of personnel records procedures will comply with the Ohio Department of Mental Retardation and Developmental Disabilities Rule 5123:2-1-02 and the Public Records Act, O.R.C. §149.43.

Procedures that address access, duplication, dissemination and destruction of personnel records will be maintained by the human resources coordinator. All staff having any responsibility for maintaining personnel information will be informed of these procedures.

Personnel records shall include, but not be limited to:

- A. Name, permanent and current address, phone number;
- B. Emergency notification information including name, address, home and work phone number;
- C. Job description, civil service classification (if applicable);
- D. Record of permanent or temporary certification, registration or license, as applicable;
- E. Records of sick leave and vacation;
- F. Record of physical examination, current within one year of date of initial employment. **(ALL MEDICAL RECORDS, INCLUDING RECORDS OF PHYSICAL EXAMINATIONS, MUST BE MAINTAINED IN A CONFIDENTIAL, SEPARATE FILE);**
- G. Bus driver annual physical examination form, as applicable. **(MUST BE MAINTAINED IN A CONFIDENTIAL, SEPARATE FILE);**
- H. Records of in-service training;
- I. Personnel action forms;
- J. Annual performance evaluations signed by the immediate supervisor, Superintendent, and the employee indicating the employee's awareness of the evaluation. For classified employees the performance evaluation forms used shall be those provided by or approved by the Department of Administrative Services. Other evaluation methods may be used in addition to the required form. Performance evaluations on unclassified employees shall be based on the requirements of the position;
- K. Payroll information;
- L. Retention record requirements; and
- M. Application forms.

An employee shall have a right of reasonable inspection of his or her official file. All personnel files are permanently retained by the Board. An employee who wishes to review his or her personnel file may do so by contacting the human resources coordinator. Employees must advise the human resources office of any change in: name, address, marital status, telephone number, number of withholding allowances claimed for tax purposes, citizenship, or emergency contact.

In order to perform daily business transactions for the Board, the following positions shall have access to the personnel files: Superintendent, the Human Resource Officer, and legal counsel for the Board, and any staff whose primary responsibility is maintaining or managing personnel records.

5.2.22 Dissemination of Personnel Records

Ohio Law requires that all public records be prepared and made available for inspection upon request to any member of the public at all reasonable times during regular business hours.

Records shall be reviewed only in the confines of the human resources office. If copies of materials in a file are requested, a reasonable fee will be charged.

The public will have access to all records in the employee's personnel file with the following exceptions:

- A. Medical records;
- B. Records pertaining to adoption, probation or parole proceedings;
- C. Trial preparation records;
- D. Confidential law enforcement investigatory records;
- E. Records of which the release is prohibited by State or Federal Law including criminal records checks and an employee's social security number; and
- F. Records which do not serve to document official functions or activities.

When an employee's personnel file has been requested to be reviewed by a member of the public, the Board will adhere to the Board's public records policy. The Board will also make every attempt to notify the employee of the request.

5.2.23 Classification Plan

The Board shall administer a classification plan based on an analysis of the duties and responsibilities of positions within the organization. Position descriptions shall be prepared for the various positions of the agency.

The Superintendent/designee shall regularly review the duties and responsibilities of positions and make necessary adjustments to the position descriptions.

An employee may request that his/her position be audited for proper classification by requesting a review by the Board's human resources coordinator. Unless duties are substantially altered on a permanent basis, the employee may not request such a review for a year from the date of the results of the last review.

5.2.24 Probation-Classified Employees

Each newly hired or promoted employee in a classified position shall serve a probationary period. The probationary period shall be, at a minimum, one hundred eighty (180) calendar days. The Board may increase the length of the probationary period but in

no case shall such period exceed one (1) year. (Reference: R.C. 124.27; O.A.C. 123:1-19-03)

Time spent in inactive or active pay status while on an approved leave of absence shall not be counted as part of the probationary period.

Supervisors shall use the probationary period to closely observe and evaluate the employee's performance and aptitude for the job. The employee is encouraged to bring problems to the supervisor for resolution in order to enhance his/her performance. Supervisors have a responsibility to recommend retention of only those employees who meet acceptable work standards during the probationary period.

Probationary employees will be evaluated at midpoint and within 10 calendar days prior to the end of their probationary period. Full and appropriate records should be maintained. Should the employee be given a probationary removal within the second half of the probationary period but before the end of the probationary period, the final evaluation will be made at the time of removal. Although the primary purpose of a probationary evaluation is to rate an employee's job performance uniformly and objectively, the evaluation serves several other purposes as well:

- A. By acting as a means of communication between employee and supervisor, it can reveal conditions which are contributing to poor morale or low productivity;
- B. It gives an employee an opportunity to identify and correct specific performance problems of which he/she may not have been aware; and
- C. It serves as the means of determining job efficiency for probationary removal.

The employee should sign the evaluation as an acknowledgement that he/she has seen and discussed the document with the supervisor. Employees should always be made aware that the signature does not signify agreement with the evaluation, but is only an acknowledgement that it has been seen and discussed. Any points of disagreement should be expressed in writing by the employee in the space reserved for employee comments. No change in the rating is to be made after the form is signed by the employee. If the employee refuses to sign the evaluation, the supervisor must record the reasons and the employee's refusal should be verified in writing by a witness. If an employee has not been on the job for some time and is, therefore, not available for signature, the supervisor must clearly indicate this absence on the evaluation form. When the employee signs the evaluation after the supervisor's rating, he/she must receive a copy of the rating in its final form after all other reviewers have made their comments.

Probationary classified employees may not be removed during the first half of the probationary period unless it is for "just cause" as defined in O.R.C. §124.34.

Probationary employees may be removed during the second half of the probationary period if the service is considered unsatisfactory. The removal cannot be effective after the final day of the probationary period.

Promotion, and Demotion, and Lateral Transfer During a Probationary period.

If an employee's service is found to be unsatisfactory during the probationary period following promotion, a reduction is made to the classification held prior to the promotion.

A probationary removal may not be given in this case. However, an order of removal may be issued in accordance with the provision of the O.R.C. §124.34.

No probationary period is required following a demotion.

An employee may not be promoted or laterally transferred during his original new hire probationary period. If an employee accepts a position in a different, lateral classification during his original probationary period, the employee must resign his current position in order to accept the new position and must serve an original probationary period in the new classification. An employee who resigns during a probationary period is not eligible for reinstatement. The employee may be considered for a new appointment. A new probationary period must be served if the person is appointed to the position for a second time.

Probation of a Transferred Employee

The employee will serve a probationary period. The employee will not be removed if his job performance in the new position is found to be unsatisfactory. The employee will, however, be returned to the former position or other comparable position if the former position no longer exists

5.2.25 Access to Board Facilities and Equipment

The facilities and equipment provided to employees by the Board are for the purposes and businesses of the Board. The Board reserves the right to have access and inspect its facilities and equipment and take action to seize, remove, or destroy material found to be illegal, immoral, or inappropriate to the work environment.

5.2.26 Children in the Workplace

In general children are not permitted in the workplace. The following are acceptable reasons for children to be in the workplace:

- A. The child is enrolled in program on Board property and the employee reports to work before the program begins and/or continues to work after the program ends. In this situation, the child may attend work with the employee for no more than 30 minutes before or the end of the employees work day.
- B. The child is participating in a **pre-planned and short-term** event that intends to fulfill an educational requirement for work site experience, volunteer experience, or a formal disability awareness experience; one example of this is the national “Take your Daughter to Work Day.”

If an employee brings a child to work under one of the conditions above then they agree to the following:

- A. The child/children do not interfere with or interrupt normal operations.
- B. The child/children are not ill.
- C. The employee’s supervisor has given prior approval for the child to be in the workplace.

- D. Employee's who bring their children to work do so at their own risk. The Board is not responsible for the safety of employees' children who are not enrolled in its programs.
- E. Employee's are responsible for the conduct of their children. They shall indemnify the Board for any injuries.
- F. Children do not use Board Equipment intended for employee use.
- G. The employee ensures that the Board's confidentiality policy is enforced.
- H. Employees may not bring their children to work as an alternative to regular day care.

Failure to comply with the above stipulations will result in the loss of the privilege of bring the child to work.