PERSONNEL SUB-COMMITTEE MEETING
Thursday, October 29, 2015
5:00 pm
Superintendent’s Conference Room – District Office
2 Blackburn Drive, Gloucester, MA 01930

AGENDA

I. CALL TO ORDER

II. REPORTS/DELIBERATIONS/DISCUSSIONS

* A. Domestic Violence Leave Policy – File GCCD

* B. Physical Restraint of Students Policy – File JKAA

* C. Drug and Alcohol Testing for Transportation Employees Policy - File EEAEA-1

D. Discussion items that were not reasonably anticipated by the Chairperson, in accordance with M.G.L., Chapter 30A, Section 18-25

III. ACTION

IV. ADJOURNMENT

DISCLAIMER: The listing of matters is those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

Enclosures
DOMESTIC VIOLENCE LEAVE POLICY

The Gloucester Public School Committee and the Gloucester Public Schools are committed to providing a workplace and learning environment that is aware of and sensitive to the needs of victims of domestic violence. The Gloucester Public Schools’ Domestic Violence Leave Policy is intended to comply with applicable state law. Leaves covered by the Massachusetts Act Relative to Domestic Violence are defined below:

It shall be the policy of the school district to permit an employee to take up to 15 days of domestic violence leave from work in any 12 month period. In order to be eligible for said leave:

(i) the employee, or a family member of the employee, must be a victim of abusive behavior as defined by law;
(ii) the employee must be using the leave from work to seek or obtain medical attention, counseling, victim services or legal assistance; secure housing; obtain a protective order from court; appear in court or before a grand jury; meet with a district attorney or other law enforcement official; or attend child custody proceedings or address other issues directly related to the abusive behavior against the employee or family member of the employee; and
(iii) the employee must not be the perpetrator of the abusive behavior against such employee’s family member.

The employer shall have the sole discretion to determine whether this leave shall be paid or unpaid. An employee seeking such leave shall exhaust all annual or vacation leave, personal leave, and sick leave available to the employee, prior to requesting or taking domestic violence leave, unless the employer waives this requirement.

Except in cases of imminent danger to the health or safety of an employee, advanced notice of domestic violence leave shall be required. If such imminent danger exists the employee shall notify the employer within three (3) workdays that the leave was taken or is being taken. The notification may be communicated to the employer by the employee, a family member of the employee or the employee’s counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate, or other professional who has assisted the employee in addressing the effects of the abusive behavior. If an unscheduled absence occurs, an employer shall not take any negative action against the employee if the employee, within 30 days from the unauthorized absence or within 30 days from the employee’s last unauthorized absence in the instance of consecutive days of unauthorized absences, provides any of the documentation found in (1) to (7) below. An employer may require behavior and that the leave is consistent with clauses (i) to (iii) as referenced above; provided, however, that an employer shall not require an employee to show evidence of an arrest, conviction or other law enforcement documentation for such abusive behavior. The documentation shall be provided to the employer within a reasonable period after the employer requests it.
An employee shall satisfy this documentation requirement by providing anyone of the following documents to the employer:

(1) a protective order, order of equitable relief, or other documentation issued by a court of competent jurisdiction as a result of abusive behavior against the employee or employee’s family member;

(2) a document under the letterhead of the court, provider, or public agency which the employee attended for the purposes of acquiring assistance as it relates to the abusive behavior complained of by the employee or family member;

(3) a police report or statement of a victim or witness provided to police documenting the abusive behavior;

(4) documentation that the perpetrator of the abusive behavior has admitted to sufficient facts to support a finding of guilt; or has been convicted of, or has been adjudicated a juvenile delinquent by reason of any offense constituting abusive behavior;

(5) medical documentation of treatment as a result of the abusive behavior;

(6) a sworn statement, signed under the penalties of perjury, provided by a counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate, or other professional who has assisted the employee or the employee’s family member in addressing the effects of the abusive behavior;

(7) a sworn statement, signed under the penalties of perjury, from the employee attesting that the employee has been a victim of or is a family member of a victim of abusive behavior.

Such documentation may be kept in the employee’s employment record, but only for as long as required for the employer to make a determination as to whether the employee is eligible for leave. All information related to the employee’s leave shall be kept confidential and shall not be disclosed, except to the extent that disclosure is:

(i) requested or consented to, in writing, by the employee;
(ii) ordered to be released by a court of competent jurisdiction;
(iii) otherwise required by applicable federal or state law;
(iv) required in the course of an investigation authorized by law enforcement, including, but not limited to, an investigation by the Attorney General; or
(v) necessary to protect the safety of the employee or others employed at the workplace.

The Superintendent shall ensure that notice is provided to all employees in the next school year and beyond by appropriately amending the district’s employee handbooks, by whatever title they
may be known, or by direct notice about the Domestic Violence Law and securing the employees signature acknowledging receipt of the handbook/notice. The Superintendent shall be responsible for notifying all current employees, unless they have been notified through the handbook, of this policy in a manner that he/she deems appropriate.

No employer shall coerce, interfere with, restrain or deny the exercise of, or any attempt to exercise, any rights provided herein or to make leave requested or taken contingent upon whether or not the victim maintains contact with the alleged abuser. No employer shall discharge or in any other manner discriminate against an employee for exercising the employee’s rights under law. The taking of domestic violence leave shall not result in the loss of any employment benefit accrued prior to the date of such leave. Upon the employee’s return from such leave, he/she shall be entitled to restoration to the employee’s original job or to an equivalent position. Definitions of “abuse”, “abusive behavior”, “domestic violence”, “employee” and “family members” may be found in the laws referenced below.

Legal Reference: M.G.L. 149:52E; Section 10 Chapter 260 of the Acts of 2014

NOTE: The School Committee should seek the advice of counsel, deliberate, and determine whether or not to change the following language in the first paragraph as the School Committee, in consultation with the Superintendent, may choose to 1) make this type of leave paid or unpaid, and 2) make an employee exhaust other leave options or not:

“The employer shall have the sole discretion to determine whether this leave shall be paid or unpaid. An employee seeking such leave shall exhaust all annual or vacation leave, personal leave and sick leave available to the employee, prior to requesting or taking domestic violence leave, unless the employer waives this requirement.”

Additionally, the statute does not require that employers with less than 50 employees provide this leave.
DOMESTIC VIOLENCE LEAVE POLICY

It shall be the policy of the school district to permit an employee to take up to 15 days of domestic violence leave from work in any 12 month period. In order to be eligible for said leave:

(i) the employee, or a family member of the employee must be a victim of abusive behavior;
(ii) the employee must be using the leave from work to seek or obtain medical attention, counseling, victim services or legal assistance; secure housing; obtain a protective order from court; appear before a grand jury; meet with a district attorney or other law enforcement official; or attend child custody proceedings or address other issues directly related to the abusive behavior against the employee or family member of the employee; and
(iii) the employee must not be the perpetrator of the abusive behavior against such employee’s family member.

The employer shall have the sole discretion to determine whether this leave shall be paid or unpaid. An employee seeking such leave shall exhaust all annual or vacation leave, personal leave and sick leave available to the employee, prior to requesting or taking domestic violence leave, unless the employer waives this requirement.

Except in cases of imminent danger to the health or safety of an employee, advanced notice of domestic violence leave shall be required. If such imminent danger exists the employee shall notify the employer within 3 workdays that the leave was taken. The notification may be communicated to the employer by the employee, a family member of the employee or the employee’s counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted the employee in addressing the effects of the abusive behavior. If an unscheduled absence occurs, an employer shall not take any negative action against the employee if the employee, within 30 days from the unauthorized absence or within 30 days from the employee’s last unauthorized absence in the instance of consecutive days of unauthorized absences, provides any of the documentation found in (1) to (7) below. An employer may require documentation that the employee or employee’s family member has been a victim of abusive behavior and that the leave is consistent with clauses (i) to (iii) as above referenced; provided, however, that an employer shall not require an employee to show evidence of an arrest, conviction or other law enforcement documentation for such abusive behavior. The documentation shall be provided to the employer within a reasonable period after the employer requests it.

An employee shall satisfy this documentation requirement by providing anyone of the following documents to the employer:

(1) a protective order, order of equitable relief or other documentation issued by a court of competent jurisdiction as a result of abusive behavior against the employee or employee’s family member;

(2) a document under the letterhead of the court, provider or public agency which the employee attended for the purposes of acquiring assistance as it relates to the employee or family member;
(3) A police report or statement of a victim or witness provided to police documenting the abusive behavior;

(4) documentation that the perpetrator of the abusive behavior has admitted to sufficient facts to support a finding of guilt; or has been convicted of, or has been adjudicated a juvenile delinquent by reason of any offense constituting abusive behavior;

(5) medical documentation of treatment as a result of the abusive behavior;

(6) a sworn statement, signed under the penalties of perjury, provided by a counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted the employee in addressing the effects of the abusive behavior;

(7) a sworn statement, signed under the penalties of perjury, from the employee attesting that the employee has been a victim of or is a family member of a victim of abusive behavior.

All information related to the employee’s leave shall be kept confidential and shall not be disclosed, except to the extent that disclosure is:

(i) requested or consented to, in writing, by the employee;
(ii) ordered to be released by a court of competent jurisdiction;
(iii) otherwise required by applicable federal or state law;
(iv) required in the course of an investigation authorized by law enforcement, including, but not limited to, an investigation by the Attorney General; or
(v) necessary to protect the safety of the employee or others employed at the workplace.

The Superintendent shall ensure that notice is provided to all employees in the next school year and beyond by appropriately amending the district’s employee handbooks, by whatever title they may be known, or by direct notice about the Domestic Violence Law and securing the employees signature acknowledging receipt of the handbook/notice. The Superintendent shall be responsible for notifying all current employees, unless they have been notified through the handbook, of this policy in a manner that he/she deems appropriate.

No employer shall coerce, interfere with, restrain or deny the exercise of, or any attempt to exercise, any rights provided herein or to make leave requested or taken contingent upon whether or not the victim maintains contact with the alleged abuser. No employer shall discharge or in any other manner discriminate against an employee for exercising the employee’s rights under law. The taking of domestic violence leave shall not result in the loss of any employment benefit accrued prior to the date of such leave. Upon the employee’s return from such leave, he/she shall be entitled to restoration to the employee’s original job or to an equivalent position. Definitions of “abuse”, “abusive behavior”, “domestic violence”, “employees” and “family members” may be found in the laws referenced below.

SOURCE: MASC October 2014
LEGAL REF.: M.G.L. 149;52E; Section 10 Chapter 260 of the Acts of 2014

NOTE: The School Committee should seek the advice of counsel, deliberate, and determine whether or not to change the following language in the first paragraph as the School Committee, in consultation with the Superintendent, may choose to 1) make this type of leave paid or unpaid, and 2) make an employee exhaust other leave options or not:

"The employer shall have the sole discretion to determine whether this leave shall be paid or unpaid. An employee seeking such leave shall exhaust all annual or vacation leave, personal leave and sick leave available to the employee, prior to requesting or taking domestic violence leave, unless the employer waives this requirement."

Additionally, the statute does not require that employers with less than 50 employees provide this leave.
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(ii) the employee must be using the leave from work to seek or obtain medical attention, counseling, victim services or legal assistance; secure housing; obtain a protective order from court; appear in court or before a grand jury; meet with a district attorney or other law enforcement official; or attend child custody proceedings or address other issues directly related to the abusive behavior against the employee or family member of the employee; and
(iii) the employee must not be the perpetrator of the abusive behavior against such employee’s family member.

The employer shall have the sole discretion to determine whether this leave shall be paid or unpaid. An employee seeking such leave shall exhaust all annual or vacation leave, personal leave and sick leave available to the employee, prior to requesting or taking domestic violence leave, unless the employer waives this requirement.

Except in cases of imminent danger to the health or safety of an employee, advanced notice of domestic violence leave shall be required. If such imminent danger exists the employee shall notify the employer within 3 workdays that the leave was taken or is being taken. The notification may be communicated to the employer by the employee, a family member of the employee or the employee’s counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted the employee in addressing the effects of the abusive behavior. If an unscheduled absence occurs, an employer shall not take any negative action against the employee if the employee, within 30 days from the unauthorized absence or within 30 days from the employee’s last unauthorized absence in the instance of consecutive days of unauthorized absences, provides any of the documentation found in (1) to (7) below. An employer may require documentation that the employee or employee’s family member has been a victim of abusive behavior and that the leave is consistent with clauses (i) to (iii) as referenced above; provided, however, that an employer shall not require an employee to show evidence of an arrest, conviction or other law enforcement documentation for such abusive behavior. The documentation shall be provided to the employer within a reasonable period after the employer requests it.
An employee shall satisfy this documentation requirement by providing anyone of the following documents to the employer:

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(2) a document under the letterhead of the court, provider or public agency which the employee attended for the purposes of acquiring assistance as it relates to the abusive behavior complained of by the employee or family member;

(3) A police report or statement of a victim or witness provided to police documenting the abusive behavior;

(4) documentation that the perpetrator of the abusive behavior has admitted to sufficient facts to support a finding of guilt; or has been convicted of, or has been adjudicated a juvenile delinquent by reason of any offense constituting abusive behavior;

(5) medical documentation of treatment as a result of the abusive behavior;

(6) a sworn statement, signed under the penalties of perjury, provided by a counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted the employee or the employee’s family member in addressing the effects of the abusive behavior;

(7) a sworn statement, signed under the penalties of perjury, from the employee attesting that the employee has been a victim of or is a family member of a victim of abusive behavior.

Such documentation may be kept in the employee’s employment record, but only for as long as required for the employer to make a determination as to whether the employee is eligible for leave. All information related to the employee’s leave shall be kept confidential and shall not be disclosed, except to the extent that disclosure is:

(i) requested or consented to, in writing, by the employee;
(ii) ordered to be released by a court of competent jurisdiction;
(iii) otherwise required by applicable federal or state law;
(iv) required in the course of an investigation authorized by law enforcement, including, but not limited to, an investigation by the Attorney General; or
(v) necessary to protect the safety of the employee or others employed at the workplace.

The Superintendent or his/her designee shall notify all employees of this policy in a manner that he/she deems appropriate in accordance with the law.

No employer shall coerce, interfere with, restrain or deny the exercise of, or any attempt to exercise, any rights provided herein or to make leave requested or taken contingent upon whether or not the
victim maintains contact with the alleged abuser. No employer shall discharge or in any other manner discriminate against an employee for exercising the employee’s rights under law. The taking of domestic violence leave shall not result in the loss of any employment benefit accrued prior to the date of such leave. Upon the employee’s return from such leave, he/she shall be entitled to restoration to the employee’s original job or to an equivalent position. Definitions of “abuse”, “abusive behavior”, “domestic violence”, “employees” and “family members” may be found in the laws referenced below.

Adopted and approved by the Arlington School Committee: December 18, 2014

Legal Reference: M.G.L. 149:52E; Section 10 Chapter 260 of the Acts of 2014

Arlington Public Schools
Cambridge Public Schools' Domestic Violence Leave Policy

The Cambridge School Committee and the Cambridge Public Schools are committed to providing a workplace and learning environment that is aware of and sensitive to the needs of victims of domestic violence. The Cambridge Public Schools' Domestic Violence Leave Policy is intended to comply with applicable state law. Leaves covered by the Massachusetts Act Relative to Domestic Violence are defined below.

Leave Entitlement

Employees are permitted take up to 15 days of unpaid leave from work in any 12 month period if:

- The employee, or a family member of the employee, is a victim of abusive behavior;
- The employee, or family member of the employee, is seeking assistance as a result of abusive behavior (i.e. legal or medical services, counseling, or victim's services); and
- The employee is not the perpetrator of the abusive behavior against such employee's family member.

Leave entitlement

Domestic violence leave is not available unless all other available leave is exhausted (i.e. vacation, personal, sick, family and medical leave).

Reinstatement Following Leave

Employees who return from a domestic violence leave will be reinstated to their same or equivalent job with equivalent pay, benefits and other employment terms as required by the applicable state or federal law. However, time spent on leave does not count towards length of service credit, except for purposes of retirement or other purposes as identified within applicable collective bargaining agreements.

Definitions

"Abuse" is defined as: attempting to cause or causing physical harm; placing another in fear of imminent serious physical harm; causing another to engage involuntarily in sexual relations by force, threat or duress or engaging or threatening to engage in sexual activity with a dependent child; engaging in mental abuse, which includes threats, intimidation or acts designed to induce terror; depriving another of medical care, housing, food or other necessities of life; or restraining the liberty of another.

"Abusive behavior" is defined as: any behavior constituting domestic violence, stalking, sexual assault, or kidnapping.

"Family member" is defined as: persons who are married to one another; persons in a substantive dating or engagement relationship and who reside together; persons having a child in common regardless of whether they have ever married or resided together; a parent, step-parent, child, step-child, sibling, grandparent or grandchild; or persons in a guardianship relationship.
Notice

Employees shall provide notice of leave as far in advance as possible to the Office of Human Resources and to their immediate supervisor. If health and safety is threatened by imminent danger, advance notice is not required; however, the employee must notify their supervisor and the Office of Human Resources within 3 workdays that a domestic violence leave has been taken.

Employees shall provide documentation evidencing that the employee or employee’s family member has been a victim of abusive behavior and that leave has been taken as a result. Documentation in support of a domestic violence leave may include providing a copy of a protective order, court documentation, police report, signed admission of guilt by perpetrator, medical documentation, and/or a sworn statement by social worker, medical care worker, shelter worker, lawyer, or the employee.

Confidentiality

All information related to the employee’s leave shall be kept confidential, except where disclosure is consented to by the employee, ordered by the court of law, required by state or federal law, required in the course of an investigation, or necessary to protect the safety of the employee or others employed in the workplace.

Complaints of Discrimination

The Cambridge Public Schools will not discriminate against any employee seeking domestic violence leave in accordance with the Massachusetts Act Relative to Domestic Violence. Complaints of Discrimination should be filed with the Executive Director of the Office of Human Resources, 159 Thorndike Street, Cambridge, Massachusetts 02141. Phone: 617-349-6438. Facsimile: 617-349-6439. The Cambridge Public Schools will investigate all complaints received regarding its policies and practices and seek to resolve differences that may arise among employees in a fair and expeditious manner. Employees are encouraged to attempt resolution within their school and administrative office and may seek advice from appropriate individuals or the Office of Human Resources without being required to file a formal complaint.

Adopted: October 7, 2014
Maintaining an orderly, safe environment conducive to learning is an expectation of all staff members of the Gloucester School District. Further, students of the District are protected by law from the unreasonable use of physical restraint.

Physical restraint shall be used only in emergency situations after other less intrusive alternatives have failed or been deemed inappropriate, and with extreme caution. School personnel shall use physical restraint with two goals in mind:

1. To administer a physical restraint only when needed to protect a student and/or a member of the school community from immediate, serious, physical harm; and
2. To prevent or minimize any harm to the student as a result of the use of physical restraint.

The following definitions appear at 603CMR 46.02:

1. Extended Restraint: A physical restraint the duration of which is longer than twenty (20) minutes.
2. Physical escort: Touching or holding a student without the use of force for the purpose of directing the student.
3. Physical restraint: The use of bodily force to limit a student’s freedom of movement.

The use of mechanical or chemical restraint is prohibited unless explicitly authorized by a physician and approved in writing by the parent/guardian. The use of seclusion restraint is prohibited in public education programs.

Mechanical restraint – The use of a physical device to restrict the movement of a student or the movement or normal function of a portion of his or her body. A protective or stabilizing device ordered by a physician shall not be considered a mechanical restraint.

Seclusion restraint – Physically confining a student alone in a room or limited space without access to school staff. The use of “Time out” procedures during which a staff member remains accessible to the student shall not be considered “seclusion restraint”.

Chemical restraint – the administration of medication for the purpose of restraint.

The Superintendent will develop written procedures identifying:

- Appropriate responses to student behavior, that may require immediate intervention;
- Methods of preventing student violence, self injurious behavior, and suicide;
- Descriptions and explanations of the school’s method of physical restraint;
- Descriptions of the school’s training and reporting requirements;
- Procedures for receiving and investigating complaints.
Each building Principal will identify staff members to serve as a school-wide resource to assist in ensuring proper administration of physical restraint. These staff members will participate in an in-depth training program in the use of physical restraint, which the Dept. of Elementary and Secondary Education recommends be at least 16 hours in length.

Only school personnel who have received training pursuant to 603CMR 46.00 shall administer physical restraint on students. Whenever possible the administration of physical restraint shall be administered in the presence of at least one adult who does not participate in the restraint. A person administering physical restraint shall only use the amount of force necessary to protect the student from injury or harm.

In addition, each staff member will be trained regarding the school’s physical restraint policy. The Principal will arrange training to occur in the first month of each school year, or for staff hired after the beginning of the school year, within a month of their employment.

Physical restraint is prohibited as a means of punishment, or as a response to destruction of property, disruption of school order, a student’s refusal to comply with a school rule or staff directive, or verbal threats that do not constitute a threat of imminent, serious physical harm to the student or others.

A member of the School Committee or any teacher or any employees or agent of the School Committee shall not be precluded from using such reasonable force as is necessary to protect pupils, other persons or themselves from an assault by a pupil.

The program staff shall report the use of physical restraint that lasts longer than five minutes, or results in injury to a student or staff member. The staff member shall inform the administration of the physical restraint as soon as possible, and by written report, no later than the next school day. The Principal or director or his/her designee shall maintain an ongoing record of all reported instances of physical restraint, which, upon request, shall be made available to the Dept. of Elementary and Secondary Education.

When a restraint has resulted in serious injury to a student or program staff member or when an extended restraint has been administered, the program shall provide a copy of the required report to the Dept. of Elementary and Secondary Education within five (5) school working days of the administration of the restraint.

In special circumstances waivers may be sought from parents either through the Individual Education Plan (IEP) process or from parents of students who present a high risk of frequent, dangerous behavior that may frequent the use of restraint.

SOURCE: MASC

LEGAL REF.: 603 CMR 46.00
M.G.L. 71:37G
Restraint Prevention and Behavior Support Policy and Procedures Policy

I. OVERVIEW

The Gloucester Public Schools (“the District”) seeks to ensure that every student is free from the use of physical restraint that is inconsistent with the requirements of 603 C.M.R. 46.00. Physical restraint is an emergency measure of last resort. It may be administered only when necessary to protect a student and/or school community member from assault or imminent, serious physical harm. When, based on this standard, physical restraint is necessary, staff will strive to prevent or minimize any harm to the student as a result of the use of physical restraint. The District will annually review its Restraint Prevention and Behavior Support Policy and Procedures, provide it to all District staff, and make it available to parents of enrolled students.

II. DEFINITIONS

Mechanical Restraint: the use of any device or equipment to restrict a student’s freedom of movement. The term does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related services professional, and are used for the specific and approved positioning or protective purposes for which such devices were designed. Examples of such devices include: adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; vehicle safety restraints when used as intended during the transport of a student in a moving vehicle; restraints for medical immobilization; or orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

Medication Restraint: the administration of medication for the purpose of temporarily controlling behavior. Medication prescribed by a licensed physician and authorized by the parent for administration in the school setting is not medication restraint.

Physical Escort: a temporary touching or holding, without the use of force, of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is agitated to walk to a safe location.

Physical Restraint: direct physical contact that prevents or significantly restricts a student’s freedom of movement. Physical restraint does not include: brief physical contact to promote student safety, providing physical guidance or prompting when teaching a skill, redirecting attention, providing comfort, or a physical escort.

Principal: instructional leader of a public school education program or his or her designee.
Prone Restraint: a physical restraint in which a student is placed face down on the floor or another surface, and physical pressure is applied to the student’s body to keep the student in the face-down position.

Seclusion: involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. Seclusion does not include a time-out as defined below.

Time-Out: a behavioral support strategy, developed pursuant to 603 CMR 46.04(1), in which a student temporarily separates from the learning activity or the classroom, either by choice or by direction from staff, for the purpose of calming. During time-out, a student must be continuously observed by a staff member. Staff shall be with the student or immediately available to the student at all times. The space used for time-out must be clean, safe, sanitary, and appropriate for the purpose of calming. Time-out shall cease as soon as the student has calmed.

DESE’s Technical Assistance Advisory SPED 2016-1, issued on July 31, 2015, provides the following additional definitions pertaining to time-out:

Inclusionary time-out: when the student is removed from positive reinforcement or full participation in classroom activities while remaining in the classroom.

Exclusionary time-out: the separation of the student from the rest of the class either through complete visual separation or from actual physical separation.

III. PROHIBITIONS

Chemical restraint, mechanical restraint and seclusion are prohibited in all public school education programs.

IV. SPECIFIC RIGHTS

Neither 603 C.M.R. 46.00 nor this policy prohibits: (1) any teacher, employee or agent of the District from using reasonable force to protect students, others or themselves from imminent, serious, physical harm; (2) any individual from reporting to appropriate authorities a crime committed by a student or other individual; (3) law enforcement, judicial authorities or school security personnel from exercising their responsibilities, including the physical detainment of a student or person alleged to have committed a crime or posing a security risk; or (4) an individual from reporting neglect or abuse to the appropriate state agency, pursuant to M.G.L. c. 119 § 51A.

V. DESE TECHNICAL ASSISTANCE ON USE OF TIME-OUT

DESE’s Technical Assistance Advisory SPED 2016-1, issued on July 31, 2015, explains the differences between “inclusionary time-out” and “exclusionary time-out” as follows:

“Inclusionary time-out”: when the student is removed from positive reinforcement or full participation in classroom activities while remaining in the classroom.
The use of “inclusionary time-out” functions well as a behavior support strategy while allowing the student to remain fully aware of the learning activities of the classroom. “Inclusionary time-out” includes practices used by teachers as part of their classroom behavior support tools, such as “planned ignoring,” asking students to put their heads down, or placing a student in a different location within the classroom. These strategies, used to reduce external stimuli in the student’s environment while keeping the student physically present and involved in learning, have proven to be useful tools for classroom management.

If the student is not “separated from the learning activity” or the classroom, the student will be in “inclusionary time-out” and the requirements that accompany the use of “exclusionary time-out,” listed below, do not apply. A student is not “separated from the learning activity” if the student is physically present in the classroom and remains fully aware of the learning activities.

“Inclusionary time-out” does not include walled off “time-out” rooms located within the classroom; use of those is considered to be “exclusionary time-out.”

“Exclusionary time-out”: the separation of the student from the rest of the class either through complete visual separation or from actual physical separation.

The following requirements apply to the use of “exclusionary time-out”:

- “Exclusionary time-out” may be used only for the purpose of calming;
- During “exclusionary time-out,” the student must be continuously observed by a staff member;
- The staff member will either be with the student or immediately available to the student at all times;
- The space used for “exclusionary time-out” must be clean, safe, sanitary and appropriate for calming;
- Unless it poses a safety risk, a staff member must be physically present with the student who is in an exclusionary time-out setting;
- If it is not safe for the staff member to be present with the student, the student may be left in the time-out setting with the door closed. However, in order to ensure that the student is receiving appropriate support, a school counselor or other behavioral support professional must be immediately available outside of the time-out setting where the individual can continuously observe and communicate with the student as appropriate to determine when the student has calmed;
- Students must never be locked in a room;
- For students displaying self-injurious behavior, a staff member must be physically present in the same setting with the student;
- An “exclusionary time-out” must be terminated as soon as the student has calmed; and
- An “exclusionary time-out” may not extend beyond thirty (30) minutes without the approval of the Principal. A Principal may grant an extension beyond thirty (30) minutes based only on the individual student’s continuing agitation.
VI. REQUIREMENTS FOR THE USE OF PHYSICAL RESTRAINT

Legal Standard for Use
Physical restraint is considered an emergency procedure of last resort. This means that it may be used only when the student’s behavior poses a threat of assault or imminent, serious, physical harm to self and/or others; and the student is not responsive to verbal directives or other lawful and less intrusive behavior interventions, or such interventions are deemed to be inappropriate under the circumstances.

Physical restraint may never be used for punishment. Physical restraint may not be used as a response to a student’s property damage, disruption of school order, refusal to comply with rules/directions, or verbal threats, unless the above harm standard is also met.

Brief physical contact to promote safety is not considered a restraint. DESE’s Question and Answer Guide to Implementation of 603 CMR 46.00, The Regulations for the Prevention of Physical Restraint and Requirements if Used, issued on July 31, 2015, states that “brief physical contact to promote safety refers to measures taken by school personnel consisting of physical contact with a student for a short period of time solely to prevent imminent harm to a student, for example, physically redirecting a student about to wander on to a busy road, grabbing a student who is about to fall, or breaking up a fight between students.”

Physical restraint may not be used as a standard response for any student. No IEP or written behavioral plan may include physical restraint as a standard response to any behavior.

Safety
To ensure student safety, staff will review and consider a student’s medical and psychological limitations, known or suspected trauma history, and/or behavior intervention plans. Physical restraint will not be used when it is medically contraindicated for reasons including, but not limited to, communication-related disorders, asthma, seizures, cardiac condition, obesity, bronchitis, or risk of vomiting.

During a physical restraint, staff will continuously monitor the student’s physical status, including skin temperature, color and respiration, and make certain that the student is able to breathe and to speak. Staff will use the safest physical restraint method available and appropriate for the situation, and will use only the amount of force necessary to protect the student or others from physical injury or harm. Whenever possible, another adult who is not a participant in the restraint will witness the administration of the restraint.

Duration
A physical restraint must be terminated as soon as the student is no longer an immediate danger to himself or others, or the student demonstrates or expresses significant physical distress (e.g., difficulty breathing, sustained or prolonged crying, sustained or prolonged coughing). If a student demonstrates or expresses significant physical distress, staff will release the restraint and seek medical assistance immediately. **For any student to be restrained for more than twenty (20) minutes, staff must obtain the Principal’s approval.** This approval must be based on the student’s continued agitation justifying the need for continued restraint.
Follow-up
Follow-up procedures will be implemented after the release of the student from physical restraint. These will include reviewing the incident with the student to address the precipitating behavior, reviewing the incident with staff who administered the restraint to discuss whether proper restraint procedures were followed, and considering whether any follow-up is appropriate for students who witnessed the incident.

Prone and Floor Restraints
Prone restraints are prohibited, except on an individual basis and when all of the following conditions, which require specific documentation, are met: (1) the student has a documented history of repeatedly causing serious self-injuries and/or injuries to other students or staff; (2) all other forms of physical restraint have failed to ensure the safety of the student and/or others; (3) there are no medical contraindications, as documented by a licensed physician; (4) there is psychological or behavioral justification for the use of prone restraint and no psychological or behavioral contraindications, as documented by a licensed mental health professional; (5) the program has obtained consent to use prone restraint in an emergency as set out in 603 CMR 46.03(1)(b), and the use of prone restraint is approved in writing by the Principal; and (6) the program has documented all of the above before using prone restraint and maintains the documentation. The only staff authorized to administer a prone restraint are staff who have received in-depth restraint training in accordance with 603 C.M.R. 46.04(3).

Floor restraints are prohibited unless the staff administering the restraint have received in-depth training in accordance with 603 C.M.R. 46.04(3), and these trained staff members determine that such method of restraint is required to provide safety for the student or others.

VII. REPORTING PHYSICAL RESTRAINT USE
All physical restraints, regardless of duration, will be reported.

Reporting within School and to Parents
The reporting process within the school and to the student’s parents is as follows: The staff will immediately verbally inform the Principal, and the Principal will make reasonable efforts to verbally inform the student’s parents within 24 hours of the restraint. The staff will file a detailed written report no later than the next school day, and the Principal will e-mail or mail the written report to the parents within three (3) school days of the restraint. There are no individual waivers permitted for these reporting requirements.

Report Contents
The report will include: names and job titles of those involved, including observers; date and time the restraint began and ended; the name of the administrator who was verbally informed; the name of the Principal or designee who approved extending the restraint beyond twenty (20) minutes, when such approval was obtained; what was happening before the restraint; the efforts staff used to prevent escalation of the student’s behavior, including the specific de-escalation strategies that the staff used; the alternatives to restraint that staff attempted; the justification for initiating the restraint; a description of the holds used and why they were necessary; a description of the student’s behavior and reaction during the
restraint, and any medical care given; information regarding any further actions the school has taken or may take; and information regarding opportunities for the student’s parents to discuss the restraint with the school.

**Reporting to the Department of Elementary and Secondary Education**

The reporting process to the Department of Elementary and Secondary Education (DESE) is as follows: The District will report to DESE all restraints that result in serious injury to either a student or a staff member within three (3) working days of the restraint. Additionally, the District will provide DESE with an annual report of its physical restraint use.

**VIII. ADMINISTRATIVE REVIEWS OF PHYSICAL RESTRAINT USE**

Two types of administrative reviews will be conducted in regards to the use of physical restraint. The Principal will conduct a Weekly Individual Student Review and a Monthly School-Wide Review.

*Weekly Individual Student Review*

A Weekly Individual Student Review will be conducted in regards to any student who has been restrained multiple times during the week. The Principal will convene a review team to assess the progress and needs of any such student, with the goal of reducing or eliminating future restraint. This team will review and discuss the written restraint reports, analyze the factors that led to the restraint, consider the factors that may have contributed to the escalation of the student’s behavior, and develop a written action plan.

*Monthly School-Wide Review*

A Monthly School-Wide Review will also be conducted by the Principal. In this review, the Principal will consider patterns of restraints, number of restraints, duration of restraints and any injuries caused by restraints. The Principal will assess whether the restraint prevention and management policy needs to be modified and/or whether there is a need for additional staff training on restraint reduction and restraint prevention strategies.

**IX. TRAINING REQUIREMENTS**

*General Training*

The Principal will ensure that all staff receive training on the District’s Restraint Prevention and Behavior Support Policy and Procedures and the requirements for the use of restraint. This training will comply with the requirements of 603 C.M.R. 46.04(2).

*In-Depth Training*

The Principal will identify and authorize certain staff to serve as a school-wide resource to assist in ensuring the proper administration of physical restraint. These identified staff will participate in an in-depth training that complies with the requirements of 603 C.M.R. 46.04(3) and 603 C.M.R. 46.04(4).
X. SPECIFIC PROCEDURES

The District has developed and implemented specific procedures regarding appropriate responses to student behavior that may require immediate intervention.

[For each of the below items, the District can either insert its practice, or reference the title of another document that provides the relevant information]

Methods to prevent student violence, self-injurious behavior, and suicide (individual crisis planning, de-escalation techniques)

Alternatives to physical restraint (verbal prompting, physical escort, time-out, de-escalation techniques)

Description of physical restraints used in emergency situations

Restraint Complaint Procedure
Any individual who wishes to file a regarding physical restraint practices, should immediately report their concern promptly to the school principal or designee. If the school principal receives the report, he or she will notify the [insert title] of the complaint. The [insert title] will promptly investigate the complaint and provide the complainant notification of the outcome of the complaint within a reasonable time period of receipt of the complaint.

Methods to engage parents in discussions about restraint prevention and the use of restraint solely as an emergency measure
DRUG AND ALCOHOL TESTING FOR SCHOOL BUS AND COMMERCIAL VEHICLE DRIVERS

The District shall adhere to federal law and Department of Transportation regulations requiring a drug and alcohol-testing program for school bus drivers and commercial vehicle drivers. Such testing will be conducted for five different situations: pre-employment, randomly, following an accident, following an authorization to return to duty, and upon reasonable suspicion that a driver is under the influence of alcohol or using drugs.

The District will comply with Department of Transportation protocols regarding the collection and testing necessary to establish whether alcohol or drugs are present in the driver’s system, and regulations will be established for the steps to be taken in the event that test results are positive.

This program shall comply with the requirements of the Code of Federal Regulations, Title 49, Section 382 et seq. The Superintendent or designees shall adopt and enact procedures consistent with the federal regulations, defining the circumstances and procedures for testing.

SOURCE: MASC

49 C.F.R. Part 40 Procedures for Transportation Workplace and Drug and Alcohol Testing Programs
49 C.F.R. Part 382 Controlled Substance and Alcohol Use and Testing
49 C.F.R. Part 391 Qualification of Drivers
PROPOSED POLICY
Reviewed initially on 6/2/15 by Personnel Sub-Committee Meeting

DRUG AND ALCOHOL TESTING FOR TRANSPORTATION EMPLOYEES

It is the policy of the Gloucester Public Schools to comply fully with the regulations issued by the U.S. Department of Transportation under the 1991 Omnibus Transportation Employee Testing Act, which concerns drug and alcohol testing to transportation workers in the reporting/record-keeping requirement relative to such testing. The rules found at 49 C.F.R. s382.100 et seq. apply to all interstate and intrastate truck and motor coach operators, including but not limited to school bus drivers and all school district employees with commercial drivers licenses (COL).

The following conduct for safety-sensitive drivers employed by the Gloucester Public Schools is prohibited:

- Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions with a breath/blood alcohol content of 0.04 percent (or higher).
- Use of alcohol within the four (4) hours prior to performing a safety-sensitive function like driving.
- Use of alcohol on the job.
- Use of alcohol during the eight (8) hours following an accident.
- Possession of any medication or food containing alcohol while driving a vehicle.
- Refusal to take a required test.
- Use of a controlled substance on or off duty unless a doctor has prescribed the controlled substance and the doctor has informed the employee that the substance does not adversely affect the employee’s ability to operate a vehicle safely.

SCOPE

This policy shall be in effect for all safety-sensitive drivers employed by the Gloucester Public Schools, including all employees required to hold commercial drivers licenses (COL) and school bus drivers.
PROCEDURES

Alcohol and drug testing pursuant to 49 C.F.R., section 982.100 et seq.

TYPES OF TESTS

The following tests are required:

1. **Pre-Placement Testing for Controlled Substances and Alcohol**

   All applicants for employment in covered positions, or candidates for transfer or promotion to such positions, as well as those covered employees returning from layoff, are subject to screening for use of alcohol or controlled substances. All applicants who test positive for either drugs or alcohol will not be offered employment with the Gloucester Public Schools.

2. **Post Accident**

   An employee shall be tested after an accident involving a school district vehicle if his or her performance could have contributed to the accident as determined by a citation for a moving traffic violation, and for all fatal accidents even if the driver is not cited for a moving traffic violation. An accident is defined as an incident involving a commercial motor vehicle in which there is either a fatality, an injury treated away from the scene, or a vehicle is required to be towed from the scene. Tests for alcohol use shall be conducted within 2 hours, but in no case more than 8 hours after the accident, while tests for controlled substances shall be conducted within 32 hours of the accident. Employees must refrain from all alcohol and controlled substance use until the test is complete. Employees are obligated to cooperate in such testing or they will be deemed to have refused. It is the employee's responsibility to make himself or herself available for testing. Generally, the employee will be accompanied to and from the testing site by a Gloucester Public Schools Supervisor.

3. **Reasonable Suspicion**

   **Proposed Language:** An employee shall be tested when a trained supervisor or manager observes behavior, speech, appearance, or body odor that leads to a reasonable suspicion that the employee has violated these guidelines through the use of alcohol or illicit drugs, or has been or is using controlled substances without a doctor's prescription. In the case of alcohol use, the observation shall be made during, just preceding, or just after the workday. No such limitations are placed on observations for impermissible use of controlled substances. Tests for alcohol use shall be conducted within two (2) hours. **If an alcohol test is not administered within two hours after the observation is made, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight hours after the observation is made, the employer shall cease attempts to**
administer an alcohol test and shall state in the record the reasons for not administering the test. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol as shown by the behavioral, speech, and performance indicators or alcohol misuse, nor shall an employer permit the driver to perform safety-sensitive functions until: an alcohol test is administered and the driver’s alcohol concentration measures less than 0.02; or 24 hours have elapsed following the determination that there was reasonable suspicion to believe the driver violated the prohibitions concerning the use of alcohol. A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or company official who made the observations, within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier. Reasonable suspicion testing may only be conducted after consultation with the Superintendent or his or her designee.

4. Random

Employees shall be tested for the use of alcohol and controlled substances on a random, unannounced basis just before, during or after performance of safety sensitive functions for alcohol or at any time for controlled substances. Regulations §382.305 (b)(1) states the following:

Except as provided in paragraphs (c) through (e) of this section, the minimum annual percentage rate for random alcohol testing shall be 10 percent or the average number or driver positions.

5. Return to Duty and Follow-up

An employee who has violated the prohibited alcohol or drug standards shall be tested for alcohol and/or drug use prior to his/her return to performing safety sensitive duties. Follow-up tests are unannounced and at least six (6) tests must be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following the return to duty.

CONDUCTING TESTS

1. Alcohol

DOT rules require breath testing using evidential breath testing (EBT) devices. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02 or greater, a confirmation test must be conducted. Refusal of an employee to complete and sign the breath alcohol testing form shall be deemed to be a refusal to test. In addition, blood alcohol testing can
be used in reasonable suspicion and post-accident testing where an evidentiary breath-testing device is not capable of producing adequate breath.

2. **Drugs**

Drug testing is conducted by analyzing a driver's urine specimen, and must be conducted through a U.S. Department of Health and Human Services certified facility. Specimen collection procedures and chain of custody requirements ensure that the specimen's security, proper identification, and integrity are not compromised.

DOT rules require a split specimen procedure. Each urine specimen is subdivided into two bottles labeled as primary and split. Both bottles are sent to the laboratory. Initially, only the primary specimen is opened and used for the urinalysis. The split specimen remains sealed at the laboratory. If the analysis of the primary specimen confirms the presence of illegal controlled substances, the driver has 72 hours to request that the split specimen be sent to another DHHS certified laboratory for analysis.

All urine specimens are analyzed for the following drugs: Marijuana (THC Metabolite), Cocaine, Amphetamines, Opiates (including Heroin), and Phencyclidine (PCP).

Testing is conducted using a two-stage process. First, a screening test is performed. If the test is positive for one or more of the drugs, a confirmation test is performed for each identified drug. Sophisticated testing requirements ensure that over-the-counter medications or preparations are not reported as positive results.

All drug tests are reviewed and interpreted by a physician designated as a Medical Review Officer (MRO) before they are reported to the employer. If the laboratory reports a positive result to the MRO, the MRO will contact the driver and conduct an interview to determine if there is an alternative medical explanation for the drugs found in the urine specimen. For all the drugs listed above, except PCP, there are some limited, legitimate medical uses that may explain a positive test result. If the MRO determines that the drug use is legitimate, the test will be reported to the school district as a negative result.

3. **Refusal to Participate/Tampering**

Any refusal to participate in any of the types of alcohol and or drug tests authorized in this policy, including physical absence, will be treated as indicative of a positive test result.

If there is any evidence that an employee engaged in sample tampering, or provided false information in connection with the test, such conduct shall be treated as a refusal to participate in testing for purposes of imposing discipline.
CONSEQUENCES OF ALCOHOL/DRUG MISUSE

1. Drivers who have any alcohol concentration (defined as 0.02 or greater) when tested just before, during, or just after performing safety and sensitive functions must be removed from performing such duties for 24 hours. Depending on the circumstances, disciplinary action, up to and including termination, will be imposed upon an employee whose alcohol test reveals any alcohol concentration (between 0.02 and 0.04).

Drivers who engage in prohibited alcohol or drug conduct (that is, who test positive for alcohol use greater than 0.04 or drug use) must be immediately removed from safety sensitive functions. Drivers who are serving a probationary period will be terminated immediately. If a driver has served a probationary period and is found to have committed a second offense, he/she shall be terminated. [from notes] Depending on circumstances, non-probationary violators will be subject to disciplinary action of either suspension from duty or termination of employment. After evaluating each individual situation, the school district reserves the right to hold such action in abeyance upon the employee's voluntary agreement to participate in a rehabilitation program, as described in Part 3 below.

Drivers who wish to continue employment with the Gloucester Public Schools must be evaluated by a substance abuse professional and comply with any treatment recommendations to assist them with an alcohol or drug problem. Employees will be placed on a leave of absence [WITH OR WITHOUT PAY?] during the treatment period. Payment for any recommended treatment will be strictly at the expense of the employee (or his or her health insurance program, if applicable).

2. Drivers who have been evaluated by a substance abuse professional, who comply with any recommended treatment, who have taken a return to duty test with a result less that 0.02 and or a during drug test which is negative and who are then subject to unannounced follow-up tests, at the employee's expense, may return to work.

3. Drivers who have returned to work under these conditions and who subsequently test positive for alcohol or drugs in accordance with this policy will be terminated immediately. Any action may be subject to the grievance and arbitration procedure.

4. Once an employee successfully completes rehabilitation, he or she shall be returned to his or her regular duty assignment or an equivalent position. Employee assignments during treatment shall be based on each individual's circumstances. As a condition of employment, the employee must comply with prescribed follow-up care.
INFORMATION/TRAINING

1. All current and new employees will receive written information about the testing requirement and how and where they may receive assistance for alcohol or drug misuse. All employees must receive a copy of this policy and sign the Confirmation of Receipt (attachment 1).

2. The Director of Transportation must attend at least two hours of training on alcohol and drug misuse symptoms and indicators used in making determinations for reasonable suspicion testing. Supervisors and managers will be instructed on the detection of abuse problems and the enforcement of the testing policy. Periodic, ongoing training will also occur after implementation of the policy.

3. This policy will be posted on the district website and will be available to all employees.

   Educational information will be made available periodically, focusing on the potentially dangerous effects of drug and alcohol use and abuse, the procedures associated with pre-employment drug screening and "reasonable suspicion" testing, the effects on job performance measured in loss of productivity, and potential safety hazards presented to the individual employee, other employees and the public.

4. All recruitment advertising for safety-sensitive positions will include the statement "Drugs/alcohol screening is a condition of employment" at the bottom of the advertisement/posting with the EEO statement.

5. All final candidates for employment will be given a copy of this policy, and be given the opportunity to read the policy in its entirety.

RECORD KEEPING

1. The Director of Transportation will keep detailed records of its alcohol and drug misuse prevention program (i.e., alcohol and drug testing).

2. Driver alcohol and drug testing records are confidential. Test results and other confidential information may only be released to the employer, the substance abuse professional, the superintendent or his/her designee, and any arbitrator of a grievance filed in accordance with this policy. Any other release of this information may only be made with the driver's consent, or in response to a court order.
PRE-EMPLOYMENT REFERENCES

All recruitment advertising for safety-sensitive positions will include the statement "Drugs/alcohol screening is a condition of employment" at the bottom of the advertisement/posting with the EEO statement.

1. The school district must obtain and review the following information from each employer that the prospective driver worked for in a safety-sensitive position during the previous two years: information about a test in which the employee's blood alcohol was 0.04 or greater; information about a positive drug test; and information about any refusal to participate in the alcohol and drug testing program.

2. The prospective employee must provide the former employer with a written release allowing the release of this information or he/she may not be hired.

3. If the previous employer indicates that a positive result was received, or that the employee refused to participate when selected for an alcohol or drug test, the applicant may not be appointed unless he/she has already consulted with a substance abuse professional, already received recommended treatment, and subsequently tested negative in a return to duty test for the former employer.

The Gloucester Public Schools must provide the same information to subsequent employers of current school district employees when provided with a written release.

QUESTIONS

Questions about this policy should be referred to the employee's Supervisor, or the Director of Human Resources.
EMPLOYEE CONFIRMATION OF RECEIPT

I hereby certify that I was given a copy of the Gloucester Public Schools Drug and Alcohol Testing Policy and have been given an opportunity to ask questions of my supervisor about the content of the policy.

____________________________________________________________________________________
Employee Name

____________________________________________________________________________________
Department

____________________________________________________________________________________
Employee’s Signature

____________________________________________________________________________________
Date

cc: Personnel File
Drug and Alcohol Screening Employee Consent

I, ________________________________ understand that the medical examination that I am about to receive includes:

[ ] A blood test for the presence of drugs and/or alcohol.

[ ] A urine test for the presence of drugs and/or alcohol

I hereby give my consent to ______________________________ to perform these tests. I understand that if I decline to sign this consent, and thereby decline to submit a sample for the test, I may be subject to disciplinary action, up to and including termination the Gloucester Public Schools.

I further consent to the release of the results to the Gloucester Public Schools.

I have taken the following medications/substances within the last 96 hours:

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<thead>
<tr>
<th>Identify</th>
<th>Name &amp; Amount Taken</th>
<th>Prescribing Physician</th>
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<tr>
<td>[ ] Sleeping Pills</td>
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<td>[ ] Diet Pills</td>
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<td>[ ] Pain Relief Pills</td>
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<td>[ ] Cold Medicine</td>
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<td>[ ] Other</td>
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</table>

[ ] Consent Given

[ ] Consent Refused

Specimen #: ________________________________

Signed: ________________________________

Date: ________________________________
DRUG AND ALCOHOL TESTING FOR TRANSPORTATION EMPLOYEES POLICY

General

The Gloucester Public Schools has established this policy to maintain a work environment that is free from the effects of alcohol and drug use. The Gloucester Public Schools expects that employee off-the-job as well as on-the-job involvement with drugs and alcohol can have an impact on the work place and on our ability to accomplish our goal of an alcohol-free and drug-free environment. The Gloucester Public Schools does expect employees to report for work in the condition to perform their duties.

1. The illegal use, sale or possession of narcotics, drugs or controlled substances while on the job or on Gloucester Public Schools property is an offense warranting discharge. Any illegal substances will be turned over to the appropriate law enforcement agency.

2. Employees who report to work after consuming alcohol, drugs or controlled substances, including working under the influence of alcohol or narcotics, drugs or controlled substances, either on the job or when reporting for work, or who possess or consume said substances during work hours, have the potential for interfering with their own as well as their co-workers’ safe and efficient job performance. Consistent with existing Gloucester Public Schools practices, such conditions will be proper cause for administrative action up to and including termination of employment.

3. Off-the-job illegal drug activity that could adversely affect an employee’s job performance or that could jeopardize the safety of other employees, students, the public, Gloucester Public Schools property or equipment is proper cause for administrative or corrective action up to and including termination of employment.

4. Employees who are involved with off-the-job drug activity or illegal activity concerning alcohol may be considered in violation of this policy. In deciding what action to take, management will take into consideration the nature of the charges, the employee’s present job assignment, the employee’s record with the Gloucester Public Schools, and other factors relative to the impact of the employee’s arrest upon the conduct of Gloucester Public Schools business.

5. Some of the drugs that are illegal under federal, state or local laws include, among others, marijuana, heroin, hashish, cocaine, hallucinogens, and/or depressants not prescribed for current personal treatment by a licensed physician.

6. Employees are expected to follow any directions of their health care provider concerning prescription medications and must immediately notify their supervisor if any prescription drug is likely to have an impact on job performance. In addition, notification must be given at the time of any testing or screening as to any drugs or medicine being taken.
Any employee, while on Gloucester Public Schools property or during that employee’s work shift, including without limitation all breaks and meal periods, who consumes or uses, or is found to have in his or her personal possession, in his or her locker or desk or other such repository, alcohol or drugs that are not medically authorized or is found to have used or to be using such alcohol or drugs will be suspended immediately pending further investigation. If use of or possession is substantiated, corrective action up to and including termination will be imposed.

**Voluntary Disclosure**

If an employee chooses to notify the Gloucester Public Schools or request assistance from the Employee Assistance Program regarding an alcohol or drug problem, that notice or request will not jeopardize his or her continued employment provided the employee stops any and all involvement with the substance being abused, enters into and satisfactorily completes an approved rehabilitation program, signs a Last Chance Agreement agreeing to random testing, and maintains adequate job performance. Employees who voluntarily disclose their substance abuse issues prior to corrective sanctions or being selected for testing will be permitted to take an unpaid leave of absence for the purposes of entering into rehabilitation. Where required by law, the employee’s job will be protected during this leave of absence. Where an unpaid, job-protected leave of absence is not required by law, the Gloucester Public Schools may grant the employee a leave of absence, with or without a guarantee of reinstatement at the completion of the rehabilitation program.

**Refusal to Participate/Tampering**

Any refusal to participate in any of the types of alcohol and/or drug tests authorized in this policy will be treated as a positive result.

If there is any evidence that an employee engaged in sample tampering, such conduct shall be treated as a refusal to participate in testing for purposes of imposing corrective action.

**Information/Training**

All current and new employees will receive written information about the testing requirements and how and where they may receive assistance for alcohol or drug misuse. All employees must receive a copy of this policy and sign the confirmation of receipt.

All supervisory and management personnel of safety-sensitive positions must attend at least two hours of training on alcohol and drug misuse symptoms and indicators used in making determinations for reasonable suspicion testing.

**Record Keeping**

The Gloucester Public Schools is required to keep detailed records of its alcohol and drug misuse prevention program. Driver alcohol and drug testing records are confidential. Test results and other confidential information may only be released to the employer, the substance abuse professional, the Medical Review Officer (MRO), and any arbitrator of a grievance filed in accordance with this policy. Any other release of this information may only be made with the driver’s consent.
**Pre-Employment References**

The Gloucester Public Schools must obtain and review the following information from each employer for which the prospective driver worked in a safety sensitive position during the previous two years: information about a test in which the employee’s blood alcohol content was 0.04 percent or greater; information about a positive drug test; and information about any refusal to participate in the alcohol and drug testing program. The prospective employee must provide the former employer with a written release allowing the release of this information or he/she will not be hired.

If the previous employer indicates that a positive result was received or that the employee refused to participate when selected for an alcohol or drug test, the applicant may not be appointed unless he/she has consulted with a substance abuse professional, received recommended treatment, and tested negative in a return to duty test. The Gloucester Public Schools must provide the same information to subsequent employers of current Gloucester Public Schools employees when provided with a written release.

**Testing for Drugs and Alcohol**

It is the policy of the Gloucester Public Schools to comply fully with the rules issued by the U.S. Department of Transportation (DOT) under the 1991 Omnibus Transportation Employee Testing Act dealing with limitations on alcohol and drug use by any employee who transports students, drug and alcohol testing of such employees, and the reporting/record-keeping requirements relative to such testing. The rules found in 49 C.F.R. Sec. 382.100 et seq. apply to all interstate and intrastate truck and motor coach operators, including but not limited to school bus drivers, all Gloucester Public Schools drivers with commercial drivers licenses and/or 7D licenses, and any other employee who transports students.

The following conduct is prohibited:

1. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions with a breath/blood alcohol content of 0.4 percent or greater or under the influence of drugs;
2. Use of drugs or alcohol within the four (4) hours prior to performing a safety-sensitive function like driving;
3. Use of drugs or alcohol on the job;
4. Use of drugs or alcohol during the eight (8) hours following an accident;
5. Possession of any drugs, medication or food containing alcohol while driving a vehicle;
6. Refusal to take a required drug or alcohol test; and
7. Use of controlled substances on or off duty, unless a doctor has prescribed the controlled substance and the doctor has informed the employee that the substance does not adversely affect the employee’s ability to operate a vehicle safely.
Zero Tolerance Policy

The Gloucester Public Schools is a zero tolerance employer. The Gloucester Public Schools cooperates fully with local, state and federal authorities in matters pertaining to the use, possession or sale of controlled substances by anyone on Gloucester Public Schools premises.

A. Applicants

All final candidates for safety-sensitive positions must pass a pre-employment, post-offer drug test as a requirement for employment. Any applicant for a safety-sensitive position who refuses to take a drug test or who tests positive will be considered to have failed to meet the criteria for employment.

B. Employees

Reporting to work in an impaired or unfit condition because of the use or consumption of controlled substances or alcohol is strictly prohibited. Any employee who uses, possesses, or is involved in the sale or purchase of any substance covered under the federal Controlled Substance Act, while on Gloucester Public Schools premises, conducting Gloucester Public Schools business, or operating Gloucester Public Schools vehicles or equipment is considered to be in violation of this policy. Any employee who violates this policy will be subject to immediate termination from employment.

This policy also applies to the use of prescription drugs that impair an employee’s ability to safely perform his/her job. Use of prescription drugs other than as prescribed by an employee’s own physician is a violation of this policy. An employee who takes medication prescribed to another person will be considered to be using an “illegal” substance and if tested will produce a positive test result.

C. Drug and Alcohol Testing

Drug and/or alcohol testing of employees, including testing as prescribed by the DOT, may be conducted under some or all of the following circumstances.

Safety Sensitive Positions

For the purposes of this policy and as defined in Section 382.107 of the FMCSA safety regulations, designated “safety-sensitive” work includes the operation, supervision, maintenance or dispatch of any vehicle. A driver, mechanic or dispatcher is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function while inspecting, servicing or conditioning any commercial motor vehicle at any time.
Employees in safety-sensitive positions, including those who hold a CDL, are subject to the following tests:

- **Random Testing:** Random selection process ensures each employee the same fair and equal chance of being selected. Selection of employees for random testing will be conducted through the use of a third party random number generator selection process. Due to the nature of the random selection process, an employee could be randomly selected to test more than once a year. An employee randomly selected will be notified by his or her supervisor of the selection and instructed to immediately go to the designated collection site. Each year, the Gloucester Public Schools must conduct random alcohol tests on at least 25% of all the covered employees and random drug tests on at least 50% of all covered employees.

- **Return to Duty After Leave of Absence:** Employees in safety-sensitive positions who are returning from any type of leave of 30 days or more, including but not limited to leave for workers’ compensation, pregnancy or personal reasons, or to serve in the military, will be tested before they will be allowed to return to work.

- **Post-Collision Drug and Alcohol Tests** following a collision that involves a commercial motor vehicle if:
  
  - The collision involved a fatality, or
  
  - The Gloucester Public Schools driver receives a citation for a moving traffic violation arising from the collision, and
  
  - An individual involved in the collision receives immediate medical attention away from the scene of the collision, or
  
  - There was disabling damage to one or more vehicles involved in the collision requiring them to be towed from the scene of the collision, or
  
  - The circumstances of the accident indicate that the driver could have been impaired at the time of the accident.

  It is the employee’s responsibility to make him/herself available for testing. Generally, the employee will be accompanied to/from the testing site by a Gloucester Public Schools employee/supervisor.

  Refusal to be tested or to otherwise comply with this requirement will result in corrective action up to and including termination, even for a first offense.

In any of these incidents, drug tests are required immediately, but no later than thirty-two (32) hours following the collision, and a Breath Alcohol Test is required immediately, but no later than eight (8) hours following the collision.
Reasonable Suspicion

Reasonable suspicion drug and/or alcohol tests are conducted when there is reason to believe any employee is under the influence of drugs and/or alcohol and is based on exhibited behavior, speech, appearance, etc. as observed by their supervisor, whether or not that employee works in a safety-sensitive position. Employees directed to submit to reasonable suspicion testing will be escorted directly to the testing facility. The employee will not be permitted to return to duty unless the test results indicate that the employee was not under the influence of drugs and/or alcohol while on Gloucester Public Schools premises or while conducting Gloucester Public Schools business off premises.

PROCEDURES – Alcohol and Drug Testing Pursuant to 49 C.F.R. Sec. 382.100 et seq.

Conducting Tests

1. **Alcohol:** DOT rules require breath testing using evidential breath testing (EBT) devices. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a “negative” test. If the alcohol concentration is 0.02 or greater, a confirmation test must be conducted. Refusal of an employee to complete and sign the breath alcohol testing form to provide breath or otherwise to cooperate shall be deemed to be a refusal to test. In addition, blood alcohol testing can be used in reasonable suspicion and post-accident testing where an EBT device is not available or where an employee is not capable of producing adequate breath. Refusal to be tested or to otherwise fail to cooperate with the requirements of this section will be subject to corrective action up to and including termination, even for a first offense.

2. **Drugs:** Drug testing is conducted by analyzing a driver’s urine specimen and must be conducted through a U.S. Department of Health and Human Services (DHHS) certified facility. Specimen collection procedures and chain of custody requirements ensure that the specimen’s security, identification and integrity are not compromised.

   DOT rules require a split specimen procedure. Each urine specimen is subdivided into two bottles labeled as “primary” and “split.” Both bottles are sent to the laboratory. Initially, only the primary specimen is opened and used for the urinalysis. The split specimen remains sealed at the laboratory. If the analysis of the primary specimen confirms the presence of illegal controlled substances, the driver has 72 hours to request that the split specimen be sent to another DHHS certified laboratory for analysis.

   Testing is conducted using a two-stage process. First, a screening test is performed. If the test is positive for one or more of the drugs, a confirmation test is performed for each identified drug. Sophisticated testing requirements ensure that over-the-counter medications or preparations are not reported as positive results.
All drug tests are reviewed and interpreted by a physician designated as an MRO before they are reported to the employer. If the laboratory reports a positive result to the MRO, the MRO will contact the driver and conduct an interview to determine if there is an alternative medical explanation for the drugs found in the urine specimen. For all the drugs listed above except PCP, there are some limited, legitimate medical uses that may explain a positive test result. If the MRO determines that the drug use is legitimate, the test will be reported to the Gloucester Public Schools as a negative result.

3. **Refusal to Participate/Tampering:** Any refusal to participate in any of the types of alcohol and/or drug tests authorized in this policy will be treated as a positive result. If there is any evidence that an employee engaged in sample tampering, such conduct shall be treated as a refusal to participate in testing for purposes of imposing corrective action.

D. **Prescription and Over-the-Counter Medication**

In addition to controlled substances and alcohol, Gloucester Public Schools employees shall not report for duty while under the influence of prescription or over-the-counter medication that might impair the employee’s ability to perform his/her job safely. As a condition of continued employment with the Gloucester Public Schools, an employee who is required to operate a motor vehicle or assist students must advise his/her supervisor if he/she is taking prescribed or non-prescribed medication that may or does impair his/her ability to safely perform his/her job. Failure to report the use of such medication may result in corrective action, up to and including termination.

E. **General Guidelines for Drug and Alcohol Testing**

There are certain situations that may arise during the testing process that employees sometimes do not understand, leading them to violate the procedures and be considered to have a “positive” test result. Knowing what to do will help avoid incorrect behavior when in these situations. The following are some of the instances that need explanation. It is the employee’s responsibility to ask questions and to read those documents containing the complete testing information.

- Once an employee has been notified that he/she is selected for a drug test or a drug and alcohol test, he/she MUST go immediately to the testing site. If the time from when the employee leaves to be tested and he/she arrives at the test site is much longer than what is usually required to travel, the employee will be asked to provide an explanation.

- Once an employee arrives at a test site for a drug test, he/she may not leave until the test is complete. Leaving the site while the test is in process will, by law, be counted as a positive test result.
Another common problem is when an employee is notified he/she is selected but refuses to go because he/she has other plans made. It is very important to know that once informed, it is **REQUIRED** that the employee go for testing. Not doing so results in a “refusal-to-test” that equals a failed test. There is no way to reschedule the test for another time.

F. Refusal to Test

Refusal to submit to testing as required under this policy is prohibited and will result in termination of employment. Refusal to test includes:

- Failure to appear for any test within the designated time frame
- Failure to remain inside the testing collection site until the process is complete
- Failure to provide a sufficient urine specimen for drug testing where there is no adequate medical explanation provided as a result of a medical evaluation
- Failure to provide an adequate amount of saliva or breath for alcohol testing
- Failure to permit an observed collection when required
- Failure to undergo a medical examination or evaluation as directed by the MRO
- Failure to cooperate with any portion of the testing process (i.e., refuse to empty pockets or behave in a confrontational manner that disrupts the collection process)

G. Consequences of Violation of the Policy

**Controlled Substance** – A positive test results in termination of employment.

- If the employee tests positive for any drug, the employee will be notified by the MRO.
- The MRO will review the test results with the employee for a possible medical explanation, i.e. prescription drug or over-the-counter drug that was taken at the time of the test.
- The MRO may also call the physician or drug store for confirmation.
- The Gloucester Public Schools will not be informed of a positive test result until the MRO contact procedures have been completed.
• If there is no medical explanation:
  
  ⋅ The employee may not be returned to duty and is subject to immediate termination.

  ⋅ Employees who test positive will be allowed 72 hours following notification of their drug test results to request a re-test of the original split test sample.

  ⋅ Any re-test of the split specimen will be at the employee’s expense.

  ⋅ The employee will be suspended without pay until the re-test results are received by the Gloucester Public Schools.

  ⋅ If re-test results are negative, initial test results will be cancelled and the employee will be fully reinstated with back pay.

  ⋅ If the re-test is positive, or if a re-test is not requested within the designated time period, the employee will be terminated.

**Alcohol** – If the employee tests 0.02 or higher, a second confirmation test must be given within 15 minutes.

• If the confirmation test is less than 0.02, the employee may be returned to duty.

• If the confirmation test is 0.02 or greater, the employee’s supervisor will be notified. The employee will be driven home from the collection site, and the employee will be terminated.

• Drivers who have any alcohol concentration (defined as 0.02 or greater) when tested just before, during, or just after performing safety-sensitive functions must be removed from performing such duties for 24 hours and will be suspended without pay until they have completed a program of rehabilitation that has been approved by the Gloucester Public Schools.

**H. Substance Abuse Professional (SAP) Resources**

• The Lexington Group (800) 571-0197
• Employee Assistance Program (800) 252-4555

**Questions**

Questions about this policy should be referred to the Gloucester Public Schools Human Resources Director.
Workplace Searches

To safeguard the property of our employees, students and visitors, to help prevent the possession, sale and use of illegal drugs on Gloucester Public Schools premises, and in keeping with the spirit and intent of the Gloucester Public Schools drug-free workplace and workplace violence policies, the Gloucester Public Schools reserves the right to question employees and all other persons entering and leaving our premises and to inspect any packages, parcels, purses, handbags, briefcases, lunch boxes, or any other possessions or articles carried to or from Gloucester Public Schools property, including vehicles. In addition, the Gloucester Public Schools reserves the right to search any employee’s office, desk, files, lockers and so forth that are the property of the Gloucester Public Schools and are issued for the use of employees only during their employment with the Gloucester Public Schools. Inspections may be conducted at any time at the discretion of the Gloucester Public Schools.

In conjunction with the implementation of this policy, the Gloucester Public Schools will post notices in conspicuous places throughout our facilities informing all employees, prospective employees, customers, visitors, and all other persons of this policy and right to question individuals and conduct inspections.

Persons entering the premises who refuse to cooperate in an inspection conducted pursuant to this policy will not be permitted to enter the premises. Employees working on or entering or leaving the premises who refuse to cooperate in an inspection, as well as employees who after the inspection are believed to be in possession of stolen property or illegal drugs, will be suspended and will be subject to corrective action up to and including termination if on investigation they are found to be in violation of the Gloucester Public Schools security procedures or any other Gloucester Public Schools rules and regulations.