

## Drug- and Alcohol-Free Workplace – AR

1. Reporting Requirements
  - a. An administrator or manager/supervisor who receives information or is a witness to any use of drugs or alcohol by an employee which violates the District's policies or the law is required to report this information to the Superintendent/designee immediately. The information reported must include:
    - 1) The person(s) involved, including all witnesses;
    - 2) Any information gathered, such as actual observation of drug/alcohol use, the presence of paraphernalia, observation of any unusual physical signs or behaviors;
    - 3) A written record of specific conversations held with the accused and any witnesses;
    - 4) All pertinent facts, including date(s), time(s), and location(s).
  - b. An administrator or manager/supervisor is required to report this information to the Superintendent/designee and may not conduct a formal investigation, release findings, or administer discipline prior to this disclosure and without specific authorization to do so.
  - c. An employee who witnesses or obtains information regarding illegal drug/alcohol use by his/her immediate supervisor is required to report the incident to that individual's supervisor.
2. Specimen collection, drug testing procedures, sample collection, and alcohol testing procedures will comply with all applicable provisions of federal and state law.
3. A positive test result for alcohol or drugs will be grounds for disciplinary action, up to and including possible termination.
4. Employees in safety-sensitive positions as defined in 49 CFR Part 382, *et seq.*, are subject to the Federal Department of Transportation (DOT) (49 CFR Part 40) and the Federal Motor Carrier Safety Regulations (FMCSR) as prescribed by the Federal Motor Carrier Safety Administration (FMCSA) (49 CFR Parts 382, 383, 387, 390-397, and 399), as well as the District's Drug and Alcohol-Free Workplace Policy.
5. Employee Responsibilities
  - a. Each employee is responsible for reviewing and complying with the District's Drug- and Alcohol-Free Workplace Policy.
  - b. Each employee is responsible for meeting standards for work performance and safe on-the-job conduct.
  - c. Employees shall not report to work under the influence of alcohol, illegal drugs, or misused prescription or over-the-counter drugs.
  - d. Employees who suspect they may have a substance abuse problem are encouraged to seek counseling and rehabilitation from the District's Employee Assistance Program (EAP), a substance abuse professional or other treatment provider. The District's medical insurance policy may provide for payment of some or all of the treatment costs.

- e. It is the responsibility and obligation of employees in safety-sensitive positions to determine, by consulting a health care provider if necessary, whether or not a legal drug s/he is taking may or will affect his/her ability to safely and efficiently perform his/her job duties. An employee in a safety-sensitive position whose medication may affect their ability to safely perform their job must contact the human resources director or department director who will attempt to find an appropriate alternative assignment. If none is available, the employee may take sick leave or be placed on a medical leave of absence (if available and the employee otherwise qualifies) or take other steps consistent with the advice of a health care provider. If an employee reports to work under the influence of prescription medication and, as a result, endangers him/herself or others, the employee will be disciplined, up to and including termination.
- f. Each employee must report the facts and circumstances of any criminal drug or alcohol conviction that occurred while on duty or which may impact the employee's ability to perform the duties of his/her job. If duties involve driving a vehicle, the employee must report to his/her supervisor a conviction for driving under the influence (DUI) and/or revocation or suspension of the driver's license pending adjudication. Notification to the District must occur before resuming work duties or immediately after the conviction or revocation/suspension. Failure to notify District will result in disciplinary action, up to and including termination.
- g. Employees in safety-sensitive positions identified by the District are subject to random drug and/or alcohol testing as provided in this regulation.
- h. Employees must act as responsible representatives of the District and as law-abiding citizens. It is every employee's responsibility to report violations of the District's policy to his/her immediate supervisor or to the Superintendent/ designee. Such reporting is critical in preventing serious injuries or damage to the District's property.
- i. Employees who are required to submit to a drug/alcohol test must complete and sign the consent form.

6. Superintendent/Designee Responsibilities

The Superintendent/designee is responsible for:

- a. Authorizing the testing of employees,
- b. Coordinating drug and/or alcohol testing,
- c. Requesting completion of the consent form,
- d. Notifying employees of positive test results and their right to a retest of the same sample,
- e. Implementing disciplinary action against employees who fail to comply with provisions outlined in this regulation,
- f. Notifying the District's attorney of an employee's conviction of a federal or state criminal drug or alcohol statute violation,
- g. Ensuring that the drug and/or alcohol test forms and results are kept confidential and only provided to employees with a business need for the information,
- h. Identifying safety-sensitive positions,
- i. Notifying employees in safety-sensitive positions that they are subject to random drug and/or alcohol testing, and

- j. Ensuring notices relative to this regulation and the list of positions designated as safety-sensitive, if any, are prominently displayed at all District facilities housing employees.
  - k. Administrator or Manager/Supervisor Responsibilities
7. The Administrator or Manager/Supervisor is responsible for:
- a. Determining if reasonable suspicion exists to warrant drug and/or alcohol testing, and detailing, in writing, the specific facts, symptoms, or observations that are the basis for the reasonable suspicion;
  - b. Submitting the documentation to the Superintendent/designee; and
  - c. Complying with the appropriate provisions outlined in this regulation that apply to supervisory personnel.
  - d. District Responsibilities
8. The District is responsible for:
- a. Providing communication and training on this policy and regulation to include a training program to assist administrators and managers/supervisors to recognize the conduct and behavior that gives rise to a reasonable suspicion of drug and/or alcohol use by employees and how to effectively intervene,
  - b. Receiving and maintaining employee drug and alcohol testing records and files from all sources and assuring that they are kept confidential,
  - c. Making drug testing and notice forms available,
  - d. Notifying appropriate administrators or managers/supervisors of positive results of drug and/or alcohol tests,
  - e. Administering the contract with a third party to provide drug and alcohol testing services,
  - f. Overseeing the administration of the District's Drug- and Alcohol-Free Workplace Policy,
  - g. Certifying safety-sensitive positions in consultation with the requesting administrator or manager/supervisor and legal counsel,
  - h. Notifying administrators or managers/supervisors of their employees randomly selected for drug and alcohol testing, and
  - i. Ensuring the administration of all pre-employment drug testing.
9. Employee Education
- The District maintains information relating to the hazards of and treatment for drug-and alcohol-related problems. Proactive training and information shall be sponsored by the District periodically. Any employee may voluntarily seek advice, information, and assistance. Medical confidentiality will be maintained consistent with this policy.
10. Employee Assistance and Voluntary Referral
- a. The District strongly encourages employees who suspect they have substance abuse problems to voluntarily refer themselves to a treatment program. A voluntary referral is defined as being one that occurs prior to any positive test for illegal drugs or alcohol under the District's policy and prior to any other violation of the policy, including a criminal conviction of that individual for a drug- or alcohol-related offense. A decision

to participate in the employee assistance or other treatment program will not be a protection or defense from discipline.

- b. Any employee who voluntarily requests assistance in dealing with a personal drug and/or alcohol problem may do so through a private treatment program for drug and alcohol problems. An employee who is being treated for substance abuse in a recognized rehabilitation program may, if the Americans with Disabilities Act (ADA) applies, be entitled to reasonable accommodation so long as the employee is conforming to the requirements of the program and is abstaining from the use of controlled substances and/or alcohol.
  - c. The cost of the drug or alcohol rehabilitation or treatment program shall be borne by the employee and/or the employee's insurance provider. All information regarding an employee's participation in treatment will be held in strict confidence. Only information that is necessary for the performance of business will be shared by the District's management.
11. Reasonable Suspicion Drug Testing
- a. When any administrator or manager/supervisor has reasonable suspicion that an employee may be under the influence of alcohol or drugs, the employee in question will be directed by the Superintendent/designee to submit to drug and/or alcohol testing.
  - b. The site administrator shall be responsible to determine if reasonable suspicion exists to warrant drug and/or alcohol testing and shall be required to document, in writing, the specific facts, symptoms, or observations which form the basis for such reasonable suspicion. When possible, the documentation will be forwarded to the Superintendent/designee to authorize the drug and/or alcohol test of an employee.
  - c. The Superintendent/designee shall direct an employee to undergo drug and/or alcohol testing if there is reasonable suspicion that the employee is in violation of the District's policy. The employee will be suspended with pay pending results of the test.
  - d. Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to
    - 1) Information provided either by reliable and credible sources or independently corroborated.
    - 2) The administrator or manager/supervisor or another administrator or manager/supervisor receives information from a reliable and credible source, as determined by the administrator or manager/supervisor, that an employee is violating the District's policy.
    - 3) Direct observation of drug or alcohol use.
    - 4) The administrator or manager/supervisor or another administrator or manager/supervisor directly observes an employee using drugs and/or alcohol while an employee is on duty.
    - 5) Employee admits using drugs or alcohol prior to reporting to work or while at work.
    - 6) Drug and alcohol paraphernalia possibly used in connection with illicit drugs and alcohol found on the employee's person or at or near the employee's work area.
    - 7) Evidence that the employee has tampered with a previous drug and/or alcohol test.

- e. The following behaviors will also contribute toward reasonable suspicion and, collectively or independently, on a case-by-case basis, may provide a sufficient reason for requesting a drug and/or alcohol test:
    - 1) A pattern of abnormal or erratic behavior.

This includes, but is not limited to a single, unexplainable incident of serious abnormal behavior or a pattern of behavior which is radically different from what is normally displayed by the employee or grossly differing from acceptable behavior in the workplace.
    - 2) Presence of physical symptoms of drug and/or alcohol use.

The administrator or manager/supervisor observes physical symptoms that could include, but are not limited to, glassy or bloodshot eyes, slurred speech, poor motor coordination, or slow or poor reflex responses different from what is usually displayed by the employee or generally associated with common ailments such as colds, sinus problems, hay fever, and diabetes.
    - 3) Violent or threatening behavior.

*First Incident:* If an employee engages in unprovoked, unexplained, aggressive, violent, and/or threatening behavior against any person, the department head may request that the employee submit to drug and/or alcohol testing.

*Second Incident:* Whether or not an employee has previously received formal counseling or disciplinary action for unprovoked, unexplained, aggressive, violent, or threatening behavior, upon a second or subsequent episode of similar behavior/conduct, the department head will request that the employee undergo drug and/or alcohol testing.
    - 4) Absenteeism and/or tardiness.

If an employee has previously received disciplinary action for absenteeism and/or tardiness, a continued poor record that warrants a second or subsequent disciplinary action may, in combination with other relevant behaviors, result in drug and/or alcohol testing.
  - f. An employee who is required to submit to reasonable suspicion testing will be provided transportation by the District to the location of the test. After the employee submits to the test or if the employee refuses to be tested, the District will provide transportation for the employee to his/her home.
12. Post-Accident Testing
- a. Each employee involved in an accident will be tested for drugs and/or alcohol as soon as possible after the accident, but after any necessary emergency medical attention has been provided. Accidents that trigger testing are those that result in:
    - 1) Death;
    - 2) Medical treatment other than first-aid treatment;
    - 3) Loss of consciousness; or
    - 4) Property damage estimated to be valued at or in excess of \$500.

An employee may be suspended with pay pending the results of this test and with or without pay pending any subsequent investigation. An employee who is required to submit to post-accident testing will be provided transportation by the District to the location of the test.

- b. In the event an employee is so seriously injured that s/he cannot provide a blood, breath, or urine specimen at the time of the accident, the employee must provide necessary authorization, as soon as the employee's physical condition allows, to enable the District to obtain hospital records or other documents that indicate whether there were drugs or alcohol in the employee's system when the accident occurred.
  - c. In the event federal, state, or local officials conducted alcohol and/or drug testing following an accident, the employee will be required to sign a release allowing the District to obtain the test results from such officials.
  - d. An employee who is subject to a post-accident test must remain readily available for testing. An employee who leaves the scene before the test is administered or who does not make him/herself readily available may be deemed to have refused to be tested, and such refusal shall be treated as a positive test. Further, the employee must refrain from consuming alcohol for eight hours following the accident or until the employee submits to an alcohol test, whichever comes first.
  - e. An employee who is required to submit to post-accident testing will be provided transportation to his/her home.
13. Safety-Sensitive Positions
- a. The District may conduct pre-employment testing and random testing for drugs and alcohol for positions identified as safety-sensitive by the District. Successfully passing these tests is a condition of future or continued employment.
  - b. Safety-sensitive positions mean employment positions which may, in the normal course of business:
    - 1) Require the employee to operate the District's vehicles or heavy equipment or private vehicle on company business on a regular and recurring basis; and/or
    - 2) Involve job duties which, if performed with inattentiveness, errors in judgment or diminished coordination, dexterity, or composure, may result in mistakes that could present a real and/or imminent threat to the personal health and safety of the employee, students, coworkers, and/or the public, including positions that require use of dangerous tools/equipment; performance of job duties at heights; use of dangerous chemicals; or carrying firearms in the performance of job duties.
  - c. The District shall maintain a list entitled "List of Positions Designated as Safety-Sensitive." The list shall be a public record. Before a position is included on this list, the District shall post a notice in a conspicuous location accessible to employees at the work site affected that a position is to be included as safety-sensitive for purposes of pre-employment drug testing and random drug and alcohol testing. The notice will afford an opportunity for comment within a 20-calendar day period.

Note: The final determination to place a position on the list shall be made by the District's Board of Trustees. Human Resources will maintain a master list of safety-sensitive positions subject to random testing.

14. Random Testing
  - a. All employees in positions identified as safety-sensitive by the District, shall be subject to random drug and alcohol testing.
  - b. The District will drug test, at a minimum, 50% of the average number of employee positions designated as safety-sensitive each calendar year. The District will alcohol test, at a minimum, 10% of the average number of employee positions designated as safety-sensitive each calendar year. The selection of employees for random testing shall be on a non-discriminatory basis and made from a computer-based random number generator that is matched with the employee's social security number. Random testing will be unannounced, and the dates for administering the tests will be spread reasonably throughout the year. Random testing will be performed at any time while the employee is at work.
  - c. An employee selected for random testing shall proceed immediately to the test site. An employee who engages in conduct which does not lead to testing as soon as possible after notification may be considered to have refused to be tested.
  - d. Employees selected for a random test, but absent due to vacation, sick leave, other leave, or on urgent District business approved by their administrator or manager/supervisor will not be notified to take the random test until the first day they return to work after random selection. Random selection may result in some employees being tested more than once each year; some may not be tested at all.
  
15. Return-to-Work Testing/Follow-Up Testing
  - a. If the District agrees to continue employment of an employee who violates the District's policy and then undergoes rehabilitation for drugs or alcohol, the employee will, as a condition of returning to work, be required to agree to follow-up testing as established by the Superintendent. The extent and duration of the follow-up testing will depend upon the safety and security nature of the employee's position and the nature and extent of the employee's substance abuse problem. The Superintendent will review the conditions of continued employment with the employee prior to the employee's returning to work. Any such condition for continued employment shall be given to the employee in writing. The Superintendent may consider the employee's rehabilitation program in determining an appropriate follow-up testing program.
  - b. Any employee subject to return-to-work testing who has a confirmed positive drug or alcohol test will be in violation of this policy and subject to termination.
  
16. Consequence of Refusal to Submit to Testing/Adulterated Specimen
  - a. An employee who refuses to submit to testing for drugs and/or alcohol, or who consents to a drug or alcohol test but fails to appear timely at the collection site or who fails to give his/her sample after reasonable opportunity to do so, will be treated as a refusal to submit to an alcohol or drug test. Such refusal shall be treated as a positive test and may result in disciplinary action up to and including termination.
  - b. Submission of an altered or adulterated specimen or substitution of a specimen by a specimen donor will be considered a refusal to test and such refusal shall be treated as a positive test and may result in disciplinary action up to and including termination.

17. Testing Guidelines
  - a. The District may test for alcohol and illegal substances including but not limited to:
    - 1) Marijuana (THC)
    - 2) Cocaine, including crack
    - 3) Opiates, including heroin, codeine, and morphine
    - 4) Amphetamines, including methamphetamines
    - 5) Phencyclidine (PCP)
  - b. In addition to testing for the above substances, CDL holders are subject to testing for the following substances:
    - 6-Acetylmorphine
    - MDMA (Ecstasy)
  - c. Where applicable, the District will follow federal testing procedures for drugs and alcohol set forth by the Federal Department of Transportation (DOT) 49 CFR Part 40 and the Federal Motor Carrier Safety Regulations (FMCSR). These regulations may be amended from time to time.
18. Option for Drug Retest
  - a. No later than 72 hours after receipt of a positive drug test, an employee who tests positive may request a confirmatory re-test of the same sample at his/her expense at a certified laboratory of his/her choice.
  - b. Upon request, the medical review officer will authorize the laboratory holding the employee's sample to release to a second laboratory, approved by the Department of Health and Human Services, a sufficient quantity of the sample to conduct a second testing analysis.
  - c. The employee will be required to authorize the laboratory to provide the District with a copy of its test results. The accuracy of the test results will be verified by the laboratory conducting the analysis.
19. Searches
  - a. If the District suspects that an employee or on-site contractor is in possession of illegal drugs, alcohol, or contraband in violation of its policy, the District may search District vehicles, lockers, desks, and work areas. By entering into or being present at a job site while on District time or representing the District in any way, an individual is deemed to have consented to such searches. If an individual is asked to submit to a search and refuses, that individual will be considered insubordinate and will be escorted off the job site and disciplined, as appropriate. The District may take whatever legal means are necessary to determine whether alcohol or illegal drugs are located or being used on District property. The District may call on law enforcement authorities to conduct an investigation if deemed necessary.
  - b. Searches will be conducted by management personnel and may or may not be conducted in the presence of the person whose property or work area is searched. Any suspected contraband will be confiscated and may be turned over to law enforcement as



appropriate. Any person whose property is confiscated will be given a receipt for that property by the District's representative conducting the search.

20. Discipline Related to Abuse

- a. Employees in violation of the provisions of the District's policy and this regulation will be subject to disciplinary action, up to and including termination.
- b. An employee may be found to have violated the District's policy on the basis of any appropriate evidence including, but not limited to
  - 1) Direct observation of illegal use of drugs, prohibited use of alcohol, or possession of illegal drugs or alcohol or related contraband;
  - 2) Evidence obtained from a motor vehicle citation, an arrest, or a criminal conviction for use or possession of illegal drugs or for the use or being under the influence of alcohol on the job;
  - 3) A verified positive test result; or
  - 4) An employee's voluntary admission.
- c. Prior to determining its course of action, the District may direct an employee who has tested positive to submit to an evaluation by a substance abuse professional. The evaluation will attempt to determine the extent of the employee's use of or dependence on the abused substance(s) and, if necessary, recommend an appropriate program of treatment.
- d. If an evaluation is conducted which results in a recommendation for treatment, continued employment may, but is not required to, be allowed if the recommended treatment is immediately begun and successfully completed. The treatment program may include, but is not limited to, rehabilitation, counseling, and after-care to prevent future substance use/abuse problems. The treatment program will not be at the District's expense; however, employees may use benefits provided by applicable insurance coverage. Failure by the employee to enroll in the recommended treatment program, to consistently comply with the program's requirements, to complete it successfully, and/or to complete any continuing care program shall be grounds for immediate termination from employment. Employees are limited to substance abuse treatment one time only under this regulation.
- e. When an employee is required to undergo treatment under the regulation, the employee may be required to comply with the following as a condition of continued employment:
  - 1) Monitoring of the treatment program and the employee's participation by the District;
  - 2) Submission to return-to-work testing as required under this regulation and continuing follow-up testing as provided in the Return-to-Work Testing/Follow-Up Testing section above; and
  - 3) Any other reasonable condition that the District deems necessary to maintain a safe and healthy workplace for all employees.

Failure by the employee to enroll in a required treatment program, to consistently comply with the program requirements, to successfully complete the program, and/or to complete any continuing care program will be grounds for immediate termination of employment.

f. Disciplinary action will also be taken for any job performance or behavior that would otherwise be cause for disciplinary action.

21. Confidentiality

All medical and rehabilitation records are confidential and may not be disclosed without the prior written consent of the employee, authorizing court order, or otherwise as permitted by state and federal law. Positive test results may only be disclosed to the employee, the appropriate medical and substance abuse treatment providers, the District's attorney, a District representative when needed to respond to an alleged violation of the District's policy; individuals within the District who have a need-to-know of drug and/or alcohol testing results, and a court of law or administrative tribunal in any adverse personnel action.

Reference: 49 CFR Part 382 et. seq., DOT (49 CFR Part 40), FMCSR, FMCSA (49 CFR Parts 382, 383, 387, 390-397, and 399).

Related Forms: *Alcohol Test Informed Consent: Applicants*  
*Documentation for Reasonable Suspicion Drug/Alcohol Testing*  
*Drug/Alcohol Test Informed Consent: Current Employees*  
*Drug Test Informed Consent: Applicants*  
*Suggested Steps for Reasonable Suspicion Drug/Alcohol Testing-Schools*

## **RANDOM DRUG TESTING**

### **Safety Sensitive Positions**

#### **DISTRICT PERSONNEL**

**(to be attached to policy GBB7)**

**Superintendent**

**Assistant Superintendent**

**IT Coordinator/Technician**

**Principals**

**Assistant Principals**

**Assistant Administrators**

**Maintenance Worker(s)**

**Transportation Director**

**Custodial Personnel**

**Grounds Keeper(s)**

**Food Service Personnel**

**Adult Ed. Teacher(s)**

**Alternative Ed. Teacher(s)**

**School Counselor(s)**

**GED Examiner(s)**

#### **ATHLETICS**

**Coaches**

**Assistant Coaches**

**Athletic Director(s)**

**Cheer/Drill Advisor(s)**

**Pep Club Advisor(s)**

#### **CLUBS**

**Music Teacher(s)**

**All Club/Organization Advisors**