

Drug-Free Workplace

Purpose

The Lakeland Joint School District is committed to a safe working environment, to making adequate provisions for the safety and health of its employees at their place of employment, and to the safety and health of the students we serve as well as the general public.

The use of illegal drugs, the abuse of alcohol, and the misuse of prescription drugs is unacceptable.

All District workplaces are drug- and alcohol-free workplaces. All employees are prohibited from:

1. Unlawful manufacture, dispensing, distribution, possession, use, or being under the influence of a controlled substance while on District premises or while performing work for the District;
2. Distribution, consumption, use, possession, or being under the influence of alcohol while on District premises or while performing work for the District.

As a condition of employment, each employee shall:

1. abide by the terms of the District policy respecting a drug- and alcohol-free workplace; and
2. notify his or her supervisor if he/she is arrested, charged, or convicted of any criminal drug statute, no later than five (5) days after such a conviction.

Definitions as Used in This Policy

1. "Illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful. Such term does not include the use of a drug taken under the supervision by a licensed health care professional.
2. "Drug" or "illegal drug" means a controlled substance as defined in Schedules I through V of Section 202 of the Controlled Substances Act.
3. "Conviction" means a finding of guilt, including a plea of no-contest, or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.

4. "Criminal Drug Law" means a federal or non-federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

5. Controlled Substance – means any drug or substance that is: 1. not legally obtainable; 2. being used in a manner different than prescribed; 3. legally obtainable, but has not been legally obtained; or 4. referenced in federal or state controlled substance acts.

Confidentiality

Records that pertain to the District's employee required substance screens are recognized to be private and sensitive records. They shall be maintained by the Superintendent in a secure fashion to insure confidentiality and privacy and be disclosed to appropriate district personnel only to the extent necessary to address any work-related safety risks occasioned by either the drug or alcohol use. Records shall be maintained in a secure fashion to insure confidentiality and privacy. Medical records, and information relating directly thereto, shall be maintained in accordance with provisions of Idaho law and used with the highest regard for employee privacy consistent with law and the purpose of achieving and maintaining a drug free workplace. All Personnel records and information regarding referral, evaluation, substance screen results, and treatment shall be maintained in a confidential manner and no entries concerning such shall be placed in an employee's personnel file.

Pre-Employment Testing

Applicants for positions which require testing shall be given a copy of this Policy in advance of the post-offer, pre-employment testing and/or physical.

Applicants must acknowledge having read or had this Policy explained to them and should understand that as a condition of employment they are subject to its contents. Applicants shall sign an acknowledgment prior to substance screening, permitting the summary result to be transmitted to the Superintendent. An applicant refusing to complete any part of the drug testing procedure shall not be considered a valid candidate for employment with the District, and such will be considered as a withdrawal of the individual's application for employment. The applicant shall not be permitted to reapply for employment with the District for at least twelve (12) months and not until the applicant shows proof of successful completion of a drug rehabilitation program or proof that the applicant has otherwise rehabilitated successfully and is no longer engaging in illegal drug use.

If substance screening shows a confirmed positive result for which there is no current physician's prescription, a second confirming test may be requested by the Superintendent. If the first or any requested second confirming test is positive, any job offer shall be revoked.

Drug and Alcohol Abuse Testing Procedures

1. Purpose. The purpose of this procedure is to establish guidelines to be followed in the drug/alcohol testing of external applicants for safety-sensitive positions with the District as well as current District employees.

2. Program Responsibility. The Superintendent or designee has the overall responsibility for this program.

3. Designation of Medical Review Officer. The District will utilize a qualified Medical Review Officer (MRO). The Medical Review Officer will be responsible for reviewing the results of drug tests before they are reported; reviewing and interpreting each confirmed positive test to determine if there is an alternative medical explanation for the positive; conducting an interview with the individual testing positive; reviewing the individual's medical history and medical records made available to the individual to determine if the positive result was caused by legally prescribed medication; requiring a retest of the original specimen if the MRO deems it necessary; and verifying that the laboratory report and the specimen are correct. The MRO is expected to follow the Medical Review Officer Manual published by the U.S. Department of Health and Human Services for tests conducted under this Policy.

If the MRO determines that there is a legitimate medical explanation for the positive test other than the use of a prohibited drug, the MRO will conclude that the test is negative and will not take any further action. If the MRO concludes that a particular test is scientifically insufficient, the MRO will conclude that the test is negative for that individual. If the MRO determines that there is no legitimate explanation for the positive test other than use of a prohibited drug, the MRO will communicate the test results as a positive to the Superintendent or designee. The results of negative tests will be communicated by the MRO to the Superintendent or designee.

Any employee or prospective employee, who has a positive test result, may request that the same sample be retested by a laboratory mutually agreed upon by the employee and the District at the employee's or prospective employee's expense.

4. Designation of Laboratory. A qualified and certified laboratory and external drug/alcohol testing company will be selected to perform the testing on specimens submitted, and for performing the required drug/alcohol test in accordance with applicable federal and state laws, and, more specifically, as contained in this policy.

5. Authorization for Testing. When the person reports to the designated collection site, the drug and/or alcohol screening procedure will be explained and the person will be asked to assist completing any necessary forms. All persons subject to testing for any reason shall be asked to sign the necessary authorization forms which will allow the test to be performed and for the information to be provided to the MRO and the Superintendent about the required drug and/or alcohol test.

6. Specimen Retention. The retention of specimens for possible future analysis is the responsibility of laboratory and testing vendor. All specimens will be retained for a minimum period of one (1) week. At such time, negative specimens will be discarded. Positive specimens will be resealed and retained in a separate and secure area for a minimum of one (1) year. Within this one (1) year period, the person tested, the MRO, or the Superintendent can request in writing that the laboratory retain the sample for an additional reasonable period specified in the request. If no proper written request is received within the one (1) year period, the sample may be discarded.

Any transfer of the original specimen to another laboratory for reconfirmation of positive results will follow the chain of custody procedures described in the policy.

7. Notification and Administrative Processing of Positive Results. All analytical results, negative and positive, will be reported by the laboratory to the MRO within an average of five (5) days after receiving the specimens. The MRO will review the individual's medical history, questionnaire, relevant bio-medical information, and interview the person to determine if there is any satisfactory explanation for the positive result. The MRO may conduct an additional medical interview with the individual and may require the original specimen to be reanalyzed if necessary.

The MRO will advise the Superintendent or designee of any positive test results on external applicants where alcohol and drug testing has been required and where, in the view of the MRO, there is not legitimate medical explanation for the confirmed positive test result other than the unauthorized use of an illegal drug.

The MRO will advise the Superintendent or designee of any positive drug or alcohol test results on employees that were done for any reason in order that proper disciplinary actions can be coordinated and will advise the Superintendent or designee of negative test results.

8. Record Retention. Confidentiality Records of drug tests results are recognized to be private and sensitive records, which will be maintained in a secure fashion to insure confidentiality. Records showing an employee passed a drug test will be kept for at least one (1) year. Records showing that an employee failed a drug test, the type of test (e.g., reasonable suspicion), the functions of the employee, the illegal drug(s) used by the employee, and the disposition of each employee will be kept for at least five (5) years. These records, or any of them, may be maintained by the MRO or at the Director of Human Resources' discretion for an indefinite period of time beyond the above specified minimums.

Information regarding an individual's drug testing results is confidential and will be released by the MRO and the Superintendent or designee only upon the written consent of the individual, except that results may be released and relied upon by the District in any administrative or court action by the employee involving the drug test or any discipline resulting from a violation of this policy, including employment and court proceedings.

Collections of Specimens - Specimens will be collected in accordance with Federal and State laws which are incorporated herein by reference, with the exceptions as noted in this policy. At least 30 ml of urine will be required to complete the test, or the test will be rejected and must be re-performed. The designated collection site shall have an enclosure within which private urination can occur, a toilet for completion of urination, and a source of water for washing hands. Procedures for collecting urine specimens shall allow individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen. Examples of reasonable cause to believe a specimen will be altered or substituted include: the presentation of a urine specimen that falls outside the normal temperature range (90.0 deg. F - 100.0 deg. F) and presentation of a specimen with a specific gravity of less than 1.0003.

9. General Drug Testing Procedures.

- A. All applicants will be informed of the Drug Free Workplace Substance Abuse Policy and provided a copy upon request
- B. Applicants will be asked to sign an authorization for the tests which will release the MRO to disclose the results of the drug and alcohol test to the Superintendent or designee. .
- C. The MRO will review the analytical results of the drug and alcohol tests, the individual's medical history questionnaire, and relevant biomedical information and interview the applicant, either by phone or in person, to determine whether there is any satisfactory explanation for a positive result.
- D. The MRO may conduct an additional medical interview with the individual and may require the original specimen to be reanalyzed if necessary. The MRO will advise the Superintendent of any positive test results where there is not a legitimate explanation for the positive test.
- E. The MRO will advise the applicant that he or she has tested positive and, if requested, will allow the applicant a reasonable period, not to exceed three (3) days, to provide additional medical evidence of a proper prescription for the drug(s) which caused the positive test. Nothing herein shall be construed as requiring the MRO to disclose to the applicant the drug(s) for which the applicant tested positive. Rather, it is the duty of the applicant to disclose to the MRO and, upon request, to provide the MRO with evidence of all drugs taken by prescription.
- F. In the event of a positive test where there is not a legitimate medical explanation, the Superintendent or designee will advise the applicant in accordance with the Drug-Free Workplace Substance Abuse Policy of the conditions that must be met before the individual could again be considered for employment with the District.
- G. The designated safety-sensitive positions subject to testing are: principal, assistant principal, teacher, traveling teacher, teacher aide/paraprofessional, school secretary, and school bus driver. The superintendent or Board may choose to require pre-employment testing for any other position.

H. Reasonable Suspicion Testing - This testing will be conducted for any employee whenever the Board, through the Superintendent, or someone authorized in his/her absence, and/or the MRO suspects that there is a violation of the District Drug-Free Workplace Substance Abuse Policy.

I. Once the determination has been made that an employee is to be tested based upon reasonable suspicion, the Superintendent or designee should then transport the employee to the collection site or make other appropriate arrangements for transportation. The collection site personnel should be notified that the reason for testing is reasonable suspicion.

J. Upon arriving at the collection site, the employee will be asked to sign a release for testing and to assist in completing the necessary forms for testing. After the employee has signed the necessary releases for testing, then the standard procedures for drug and alcohol testing should be followed by the collection site personnel.

K. Once the procedure has been completed, the employee should be transported back. The employee will be placed on administrative leave with pay until the results of the tests are available and given instructions to call the Superintendent or designee each workday, before the normal reporting time for that employee, for further instructions.

L. If the employee refuses to sign the release or refuses to be tested, the employee should be advised that refusal under Board Policy is insubordination. If the employee continues to refuse, the employee should be transported back. The Superintendent or designee will place the employee on administrative leave with pay with instructions to call his/her office before the normal reporting time for that employee on the following workday.

M. If the Superintendent or designee feels that the employee is in no condition to operate a vehicle, then the employee should be transported home. .

N. In the event of positive test results, the MRO will contact the Superintendent or designee who will then review other records of the employee and contact the Superintendent to work out proper disciplinary procedures, if any, in accordance with Board policy and state law.

O. Once the employee has been scheduled for testing, if the employee refuses to be tested, the employee will be considered insubordinate and subject to disciplinary procedures. If an employee has been notified to go for testing and fails to show up for the test, this will be considered the same as refusal to test unless a medical emergency or accident prevents the employee from testing, in which case credible documentation will be required that substantiates the reason for being absent from the testing. If in the sole discretion of the Superintendent the employee is allowed to be tested at a later date, the above procedure will be repeated. In no case will an employee be allowed more than one (1) opportunity to be rescheduled for testing.

P. An employee can be discharged for work-related misconduct as provided in I.C. 72-1366.

Q. Employees who refuse to be tested or who do not appear for testing and do not have a documented credible reason for being absent from the testing time will be subject to disciplinary procedures. In the event of positive test results, the MRO will contact the Superintendent or designee who will then review other records of the employee and contact the Superintendent to work out proper disciplinary procedures, if any, in accordance with Board policy and state law.

R. Return to Duty Testing - This testing will apply when an employee who has been given an opportunity for rehabilitation for drugs and or alcohol is returned to duty. Prior to the employee coming back on the job, the employee must be examined by the MRO and a drug and/or alcohol test done which shows negative results. The Superintendent may consult with the MRO and the rehabilitation program officials to determine an appropriate follow-up testing program following Board policy and prepare a follow-up program which will include, among other things, the appropriate period for testing as determined.

S. This Agreement must be signed by the employee before the employee is allowed to return to the job.

T. All testing done as a result of the above conditions will be conducted in accordance with the procedures contained herein for drug testing. In the event of positive test results, the MRO will contact the Superintendent or designee to determine disciplinary procedures, if any, in accordance with Board policy and state law.

U. Changes to Procedures - This procedure may be amended from time to time to facilitate changes in the District's Drug Free Workplace Substance Abuse Policy as necessary.

Employee Conduct

Substance abuse is the misuse or illicit use of alcohol, drugs, or controlled substances, including but not limited to marijuana, heroin, or cocaine.

1. Illegal drugs

(1) Employees shall not engage in the illegal use of drugs at any time, and such use will not be tolerated. Further, employees on duty, or on District property, or in attendance at system-approved or school-related functions will not manufacture, distribute, dispense, possess, or use illegal drugs or drug paraphernalia, nor will they be under the influence of such drugs.

(2) An employee arrested or charged with any criminal drug or alcohol law violation shall notify the Superintendent no later than five (5) day after such charge or arrest. Within thirty (30) days after receiving notice of a charge, the District will take appropriate disciplinary action, if any, and/or refer the employee to an appropriate substance abuse rehabilitation program.

(3) Failure of the employee to report the an arrest or charge within the time prescribed will lead to disciplinary action up to and including discharge. Convictions of a criminal drug or alcohol law can result in disciplinary action up to and including discharge. In determining whether and to what extent an employee will be disciplined or discharged for the conviction of a criminal drug or alcohol law, the Board will consider the following factors: the degree to which the nature of the criminal offense reduces the District's ability to maintain a safe working environment; the degree to which the nature of the criminal offense unreasonably endangers the safety of other employees and/or students; the degree to which the conviction unreasonably undermines the public confidence in the District's operations; the nature of the criminal offense; the nature of the employee's job with the District; the existence of any explanatory or mitigating facts or circumstances; whether the employee promptly reports the conviction; and any other facts relevant to the employee, including but not limited to years of service and record of performance with the District.

2. Alcohol and Drugs

Alcohol, prescription drugs, and over-the-counter drugs are legal and readily available. These drugs, when abused over time or used in combination with one another, can result in chemical dependency or poly-drug addiction. Employees shall conduct themselves in a manner consistent with the following provisions:

(1) Employees on duty, or on District property, or in attendance at system-approved or school-related functions must not be under any degree of intoxication or odor from alcohol. Employees shall not manufacture, sell, or use alcoholic beverages or possess open alcoholic beverage containers while on duty, or on District property, or in attendance at system-approved or school-related functions.

(2) Employees on duty shall not use or take prescription drugs above the level recommended by the prescribing physician and shall not use prescribed drugs for purposes other than those for which they are intended.

Physical Examination/Screening Based Upon Reasonable Suspicion

Whenever the Board, through its Superintendent, reasonably suspects that an employee's work performance or on-the-job behavior may have been affected in any way by illegal drugs or alcohol or that an employee has otherwise violated the District's Drug-Free Workplace Substance Abuse Policy, the employee may be required to submit a breath, saliva, urine and/or blood sample for drug and alcohol testing. When a supervisor observes or is notified of behaviors or events that lead the supervisor to believe that the employee is in violation of the Drug-Free Workplace Substance Abuse Policy, the supervisor shall notify the Superintendent.

An employee who is required to submit to drug/alcohol testing based upon reasonable suspicion and refuses shall be charged with insubordination, and necessary procedures will be taken to terminate the employee in accordance with Board policy and state law.

An employee who tests positive on a reasonable suspicion test will be in violation of this policy. Violation of this policy shall constitute grounds for termination in accordance with Board policy and state law.

The District's Superintendent is the only individual in the District authorized to make the determination that reasonable suspicion or cause exists to order a drug screen and is the only individual who may order an employee to submit to a drug screen.

Two types of cases for which reasonable suspicion procedures may be invoked are:

1. Chronic Case - Deteriorating job performance or changes in personal traits characteristics where the use of alcohol or drugs may be reasonably suspected as the cause.
2. Acute Case - Appearing in a specific incident or observation to then be under the present influence of alcohol and/or drugs or investigation of an accident where the use of alcohol or drugs is reasonably suspected to be a contributing cause.

Circumstances under which substance screening may be considered, in either the chronic or acute cases, include but are not limited to the following:

- (1) Observed use, possession, or sale of illegal drugs and/or use, possession, sale, or abuse of alcohol and/or the illegal use or sale of prescription drugs.
- (2) Apparent physical state of impairment of motor functions.
- (3) Marked changes in personal behavior not attributable to other factors.
- (4) Employee involvement in or contribution to an accident where the use of alcohol or drugs is reasonably suspected or employee involvement in a pattern of repetitive accidents, whether or not they involve actual or potential injury.
- (5) Violations of criminal drug law statutes involving the use of illegal drugs, alcohol, or prescription drugs and/or violations of drug statutes.

The circumstances under which substance screening may be considered, as outlined above, are strictly limited in time and place to employee conduct on duty or during work hours, or on or in District property, or at school system-approved or school-related functions.

Prior to substance screening, employees must sign an acknowledgment that the summary result will be transmitted to the Superintendent. Drug and/or alcohol screening shall be conducted by Board approved, independent, certified laboratories utilizing recognized techniques and procedures, more specifically described in the Drug and Alcohol Abuse Testing Procedures contained in this policy. A breath analysis test will be performed by a certified Breath Alcohol Technician.

Post-Accident Testing while operating a district owned vehicle

Drivers involved in a motor vehicle accident (if operating a district vehicle or personal vehicle transporting students), will be tested for alcohol misuse and controlled substance abuse.

The driver will contact the District at the time of the accident unless he or she is physically impaired as a result of the accident. The District will contact the testing lab. The testing lab will specify where the alcohol and/or controlled substance testing is to be completed.

If a driver is not able to produce enough breath to test for alcohol using a state approved breath analyzer, a blood test may be done for alcohol.

Law enforcement officials may require a driver involved in an accident to submit to tests administered as part of their jurisdiction. For purposes of this policy, only the test results provided by the District testing laboratory will be accepted.

Failure of an employee to submit to testing for either alcohol and/or controlled substance will be considered a positive test and will be determined as cause for disciplinary action.

Testing for alcohol must be done within eight (8) hours of the time of the accident. Testing for controlled substances must be done within thirty-two (32) hours of the time of the accident.

The driver subject to post-accident testing must refrain from consuming alcohol for either eight (8) hours following the accident or until he/she submits to an alcohol test, whichever comes first. Failure to do so will constitute a positive test result and will be determined as cause for disciplinary action.

Opportunity to Contest or Explain Test Results

Employees or job applicants who have a positive confirmed test result may explain or contest the result to the Superintendent within five (5) working days after the Superintendent or designee contacts the employee or job applicant and shows him/her the positive test result as it was received from the laboratory in writing.

Return to Duty Testing

An employee who has been given the opportunity to undergo rehabilitation for drugs will, as a condition of returning to duty, be required to agree to a reasonable follow-up testing established by the Superintendent or designee. The extent and duration of the follow-up testing will depend upon the safety or security nature of the employee's position and the nature and extent of the employee's substance abuse problem. Any conditions for continued employment shall be given to the employee in writing. The Superintendent or designee may consult with the employee's rehabilitation program in determining an appropriate follow-up testing program, including the frequency of any substance screening contained in a follow-up testing program. Any employee subject to return to duty testing that has a confirmed positive drug test shall be

in violation of this policy. Violation of this policy shall constitute grounds for immediate termination in accordance with Board policy and state law.

Inspections

Employees may be assigned District-owned offices, vehicles, lockers, desks, cabinets, etc. for the mutual convenience of the District and personnel. Employees have no expectation of privacy in any of these locations nor any personal belongings which they may place in such areas.

Whenever the Superintendent reasonably suspects that an employee's work performance or on-the-job behavior may have been affected in any way by alcohol or drugs, the Board may search the employee, the employee's locker, desk or other District property under the control of the employee.

Whenever the Superintendent reasonably suspects that an employee has sold, purchased, used or possessed alcohol, drugs or drug paraphernalia on District premises, the Superintendent may inspect the employee, the employee's locker, desk or other District property under the control of the employee.

Inspections under this policy are limited to investigations into work-related misconduct and offenses. Any searches for law enforcement purposes must comply with all applicable state laws.

Refusal to Test

The following constitutes refusal to test:

1. Refusing to sign any of the following forms:
 - a. Statement that a copy of alcohol and controlled substance testing procedures and policy has been given.
 - b. Statement that alcohol and controlled substance testing procedures and policy has been explained.
 - c. Agreement to be tested according to the alcohol and controlled substance testing procedures and policy.
 - d. Refusal to provide pre-employment history of alcohol misuse and controlled substance abuse.
 - e. Failure to give permission to contact previous employers or approve the release of any alcohol and/or controlled substance test results involving said employee.
2. The following constitutes alcohol testing refusals:
 - a. Refusal by any employee to complete and sign the breath alcohol testing form.
 - b. Failure to provide adequate breath without a valid medical explanation in writing.
 - c. Failure of employee to remain readily available for testing for eight (8) hours following an accident that requires testing.
3. The following constitutes controlled substance testing refusals:

- a. Failure to provide a urine sample within four (4) hours, without a valid medical explanation in writing.
- b. Conduct that clearly obstructs testing procedures.
- c. Failure of employee to remain readily available for testing for thirty-two (32) hours following an accident requiring testing.

District Action Upon Violation of Policy

Employees in violation of the provisions of this policy shall be subject to disciplinary action up to and including termination. The fact that an employee has been referred for assistance and his/her willingness or ability to rehabilitate are appropriate considerations as to what, if any, disciplinary action may be taken.

An employee who violates this policy may be subject to disciplinary action, including termination. Alternatively, the Board may require an employee to successfully complete an appropriate drug- or alcohol-abuse, employee-assistance rehabilitation program.

The Board shall take disciplinary action with respect to an employee convicted of a drug offense in the workplace, within thirty (30) days after receiving notice of the conviction.

Should District employees be engaged in the performance of work under a federal contract or grant, or under a state contract or grant of \$5,000 or more, the Superintendent shall notify the appropriate state or federal agency from which the District receives contract or grant moneys of the employee's conviction, within ten (10) days after receiving notice of the conviction.

Legal Reference: Drug Free Workplace Act of 1988
I.C. 72-1701 through 72-1716

Policy History:

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Revised on: