

G-22: Administrative Procedures Tobacco- and Drug-Free District



REFERENCES

[Board Policy G-22](#)

DEFINITION

Illegal Drug/Substance: For purposes of these administrative procedures, the Controlled Substances Act dictates what the district defines as an illegal drug/substance. Products that may contain any illegal drug/substance, such as bongs, vaporizers, patches, food, candy, etc., are included within this definition.

Medical Review Officer: A trained practitioner at a testing facility authorized to administer and interpret controlled substance and alcohol tests.

Post-Accident Testing: For purposes of these administrative procedures, post-accident testing means testing of an employee, who was driving a district-owned vehicle, for the influence of controlled substances and alcohol following an accident when:

- A. The accident involves the loss of human life, or
- B. The employee-driver receives a citation under state or local law for a moving traffic violation arising from the accident, if the accident involves:
 1. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or
 2. One or more vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle, or
- C. The accident involves accident-related circumstances that meet the "reasonable suspicion" criteria of these procedures, or
- D. In the absence of the criteria listed above, and by mutual agreement between the employee-driver involved in the accident and the employee's supervisor, a test is considered advisable.

Random Testing: Unannounced controlled substance and alcohol testing of an employee done in accordance with federal and state law. An employee is selected for testing by a method uninfluenced by any personal characteristic other than job category.

Reasonable Suspicion: An articulated belief based on recorded specific observations concerning the appearance, behavior, speech, or body odors of an employee, and reasonable inferences drawn from those observations that an employee is in violation of these procedures or the corresponding board policy.

Rehabilitative Testing: Unannounced controlled substance and alcohol testing of preselected employees done as part of a program of counseling, education, and treatment of an employee in conjunction with these procedures or the corresponding board policy.

Safety Sensitive Positions: Positions that require the employee to hold a commercial driver's license ("CDL").

Under the Influence of Alcohol or an Illegal Drug: For the purposes of these administrative procedures, under the influence of alcohol or an illegal drug means that a person:

- A. is under the influence of alcohol, an illegal drug, or a combined influence of alcohol and drugs to a degree that renders the person incapable of effectively working in the district;
- B. has sufficient alcohol in the person's body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .05 grams or greater at the time of the test; or
- C. has a blood or breath alcohol concentration of .05 grams or greater during work hours.

Tobacco Products: Products which may contain tobacco including all forms of cigars, cigarettes, E-cigarettes, vaporizers, smokeless tobacco, pipe tobacco, and roll-your-own tobacco. Smokeless tobacco includes any snuff or chewing tobacco.

PROCEDURES FOR IMPLEMENTATION

I. Effect on Performance/Conduct

- A. Employees should report to work fit for duty and able to safely and effectively perform job functions.

- B. Employees are not prohibited from lawful use and possession of prescribed or over-the-counter medications unless the medication adversely affects their ability to safely or effectively perform their job duties. Any employee taking prescribed or over-the-counter medications is responsible for consulting the prescribing physician or pharmacist to ascertain whether the medication may interfere with the safe performance of job functions. If the use of a medication could compromise the safety of employees, the public, or property it is the employee's responsibility to avoid unsafe workplace practices by using appropriate personnel procedures such as calling in sick, using leave, requesting a change of duty, notifying a supervisor, or notifying the district's human resource services department ("HRS").
- C. The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of this rule to intentionally misuse or abuse prescription medication.
- D. The district may take appropriate personnel action, up to and including dismissal from employment, if the employee is taking any substance that impairs their ability to safely or effectively perform their job responsibilities, their performance deteriorates, or their impairment causes accidents to occur.

II. Training

- A. Classified and hourly employees will receive training regarding these procedures and the corresponding board policy during new employee orientation, and licensed employees will receive training at the start of the school year.
- B. All employees will receive information regarding the district's drug-free awareness program, which includes information about the dangers of drug use, the contents of these administrative procedures and the accompanying board policy, available counseling or rehabilitation programs, and penalties for non-adherence.

III. Types of Testing

- A. Employees in safety-sensitive positions will participate in:
 - 1. pre-employment testing for controlled substances and alcohol; and
 - 2. random testing for controlled substances and alcohol.
- B. All employees will participate in:
 - 1. reasonable suspicion testing for controlled substances and alcohol;
 - 2. post-accident testing for controlled substances and alcohol; and
 - 3. rehabilitative testing for controlled substances and alcohol.

IV. Facility

All controlled substance and alcohol testing ("testing") will be conducted by a district-approved independent facility that has been certified to administer testing by the Substance Abuse and Mental Health Services Administration or the College of American Pathology.

V. Testing Required

- A. Employees required to participate in testing will make themselves available for testing as soon as notified by their supervisor or the district's human resource services department ("HRS").
- B. An employee is presumed to be under the influence of alcohol or an illegal drug if the employee refuses the district's lawful request to submit to a drug or alcohol test.

VI. Sample Collection

- A. An employee who is subject to testing shall submit:
 - 1. an oral sample for testing; or
 - 2. a split urine sample for testing or retesting.
- B. Sample collection shall be performed under reasonable and sanitary conditions, and in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of the sample.
- C. Reasonable measures will be taken to ensure the privacy of the individual being tested during sample collection.
- D. The individual being tested shall have the opportunity to provide notification of any information relevant to the test, such as prescription and non-prescription medications used. The individual may also provide information in compliance with the Americans with Disabilities Act of 1990.
- E. Sample collection, labeling, storage, and transportation to the testing facility shall all be performed in a manner that reasonably precludes the probability of sample misidentification, contamination, or adulteration.
- F. Sample testing will conform to scientifically accepted analytical methods and procedures.

VII. Results

- A. The testing facility shall communicate all test results to HRS.
- B. Positive results:
 - 1. The medical review officer ("MRO") will determine whether there is a legitimate medical explanation for the result.
 - 2. For a test that was conducted using a urine sample, the employee may request a testing of the second sample.

- a. The request for testing of the second sample must be received within 72 hours after HRS notifies the employee of the positive test results from the first sample.
 - b. The expense of testing the second urine sample will be equally divided between the employee and the district. The employee's portion will be automatically deducted from the employee's paycheck.
3. Employees in safety-sensitive positions whose job responsibilities require them to hold a CDL, are prohibited by law from being under the influence of marijuana. Thus, for those employees, possession of a medical marijuana card will not be sufficient justification for a positive test result.
4. If no legitimate medical explanation exists, then:
 - a. In cases where alcohol, illegal drugs or substances are detected pursuant to a blood or urine analysis, the MRO will inform HRS and the employee of the positive results. HRS will remove the employee from duty and conduct an investigation to determine if disciplinary action is warranted.
 - b. The employee may request re-testing of the original sample with the cost to be shared equally between the employee and the district.
 - c. Employees in positions requiring a commercial driver's license ("CDL") shall be subject to testing and prohibition requirements as directed by federal and state law and as outlined in the State of Utah Pupil Transportation Drug and Alcohol Testing Handbook. Training on these requirements is the responsibility of the district's transportation department.

VIII. Rehabilitative or Disciplinary Action

An employee may be disciplined and/or required to seek rehabilitative treatment if:

- A. a confirmed positive test result indicates a violation of these procedures;
- B. the employee or prospective employee refuses to provide a sample;
- C. the employee submitted an adulterated sample or a sample that was tampered with; or
- D. the employee or prospective employee otherwise violates these procedures.

IX. Self-Disclosing Controlled Substance Use or Alcohol Abuse

- A. The district may require an employee who self-discloses controlled substance use or alcohol abuse when not under imminent threat of testing to participate in a rehabilitative treatment or counseling program.
- B. This option is at the district's sole discretion and the employee's own expense. The following shall apply to an employee participating in this program:
 1. An employee participating in a rehabilitation program shall be granted accrued leave and may be granted leave without pay, if necessary, for inpatient treatment.
 2. The employee must sign a release to allow the transmittal of verbal or written compliance reports between the district and the inpatient/outpatient rehabilitative program provider.
 3. The employee must provide verification from a licensed practitioner associated with the employee's chosen rehabilitation/counseling program that the employee is capable of performing his/her essential job functions.
 - a. This release must be provided within two business days in order for the employee to remain at work.
 - b. If such release is not provided within two business days, the employee will be placed on leave; either paid through use of benefitted leave or unpaid if no leave exists, until the district receives said release or the employee has exhausted all available leave options.
 4. An employee may be required to continue participation in an outpatient rehabilitation program, prescribed by a licensed practitioner, on the employee's own time and at the employee's expense.
 5. An employee, upon successful completion of a rehabilitation program shall be reinstated to work according to board policies and district administrative procedures or negotiated provisions regarding reinstatement after leave.
 6. An employee who fails to complete the prescribed treatment without a valid reason shall be subject to disciplinary action, up to and including termination of employment.
 7. An employee who returns to work shall be subject to testing for a period of one year.

X. Recordkeeping

- A. A separate, private record of the test results shall be kept by HRS.
- B. The employee's official personnel file shall only contain a document indicating the existence of the test record.

XI. Supervisor Duty to Report

Supervisors and administrators who receive notice of a workplace violation of these procedures or the corresponding board policy shall immediately notify HRS, and the district shall take appropriate action.

XII. Prescription Medications

- A. Legally prescribed medications may be permitted on district premises if these medications are stored in the original prescription container and are prescribed by an authorized medical provider for the current use of the person possessing the medication.

- B. If an employee is taking prescription medication, it is the employee's responsibility to understand the side effects of any prescribed medication and to inform their supervisor if the medication would impair the employee's ability to perform their job duties in a safe and efficient manner.
- C. Possession or use of prescription medications that are not in the employee's name may subject the employee to discipline.

XIII. Nondiscrimination for Medical Cannabis with Prescription

- A. The district may take an adverse employment action against an employee for failing a drug test for the use of medical cannabis that is obtained and used in accordance with state law only if the district would take an adverse employment action against an employee for failing a drug test for the use of a prescribed controlled substance that was used in accordance with state law.
- B. The district may take an adverse employment action against an employee for the sole reason of the employee being a medical cannabis cardholder only if the government employer would take an adverse employment action against an employee for the sole reason that the employee has a prescription for a controlled substance.
- C. Before taking an adverse employment action against an employee solely because the employee is a medical cannabis cardholder or holds a prescription for another controlled substance, the district shall:
 1. consult with legal counsel, if one is employed or contracted with to provide services to the government employer; and
 2. obtain approval from the superintendent.

XIV. Reapplication for Employment after Termination for Policy or Procedure Violation

- A. Employees terminated under these procedures may be designated as Not Eligible for Rehire (NER) for a period of at least five years.
- B. To be considered for rehire, the employee must provide documentation of successfully completing a controlled substance or alcohol rehabilitation program.

XIII Tobacco-Free District

- A. There will be no use of tobacco products, including products which may contain tobacco such as vaporizers, within district facilities or on school property at any time. There will be no tobacco use in district vehicles at any time. Tobacco usage is also prohibited in personal vehicles when they are being used to transport persons on district business.
- B. "Tobacco-Free Workplace" signage may be posted at all entrances.
- C. Employees will be informed of the board's policy through signs posted in facilities and vehicles, and orientation and training provided by the district.
- D. Adherence to the tobacco-free policy is required of all district employees, students, and visitors.
 1. Employees and students found in violation of the policy, or these procedures may be subject to disciplinary action.
 2. If visitors are observed violating the policy, an employee should courteously inform them of the policy and request their compliance.
- E. The following tobacco cessation services are available to all individuals who wish to stop using tobacco products:
 1. The Utah Tobacco Quit Line (1.800.QUIT.NOW) provides telephone-based counseling, support materials, and referrals to local classes and additional assistance when appropriate. Callers may also qualify for free nicotine replacement therapy.
 2. Utah QuitNet (www.utahquitnet.com) provides quitting guides, peer support through message boards and email, expert advice and other services to help people quit using tobacco.
 3. Tobacco Free Resource Line (1.877.220.3466 or theTRUTH@utah.gov) provides materials including brochures, Quit Line cards, posters, and fact sheets.

No district employee or student shall be subjected to discrimination in employment or any district program or activity on the basis of age, color, disability, gender, gender identity, genetic information, national origin, pregnancy, race, religion, sex, sexual orientation, or veteran status. The district is committed to providing equal access and equal opportunity in its programs, services and employment including its policies, complaint processes, program accessibility, district facility use, accommodations and other Equal Employment Opportunity matters. The district also provides equal access to district facilities for all youth groups listed in Title 36 of the United States Code, including scouting groups. The following person has been designated to handle inquiries and complaints regarding unlawful discrimination, harassment, and retaliation: Tina Hatch, Compliance and Investigations/Title IX Coordinator, 406 East 100 South, Salt Lake City, Utah 84111, (801) 578-8388. You may also contact the Office for Civil Rights, Denver, CO, (303) 844-5695.