

ADMINISTRATIVE REGULATION

No. 108

Board of Trustees
Douglas County School District

OBJECTIVES

Controlled Substance- and Alcohol-Free Workplace

1. Reporting Requirements
 - a. An administrator or manager/supervisor who receives information or is a witness to any use of controlled substances or alcohol by an employee which violates this Controlled Substance and Alcohol-Free Workplace policy is required to report this information to the Director of Human Resources immediately. The information reported must include:
 - 1) The name of person(s) involved, including the accused and all witnesses;
 - 2) Any information gathered, such as actual observation of controlled substance/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 shall not administer discipline until reporting such information to the Director of Human Resources and following due process procedures.
 - c. An employee who witnesses or obtains information regarding illegal controlled substance/alcohol use by his/her immediate supervisor shall report the incident to the Director of Human Resources or the Superintendent.
2. Employee Responsibilities
 - a. All employees are responsible for reviewing and complying with this Controlled Substance and Alcohol-Free Workplace Policy and administrative regulation.
 - b. All employees are responsible for meeting standards for work performance and safe on-the-job conduct.

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- c. No employee shall report to work in possession of or under the influence of alcohol or illegal controlled substances (including misused prescription or over-the-counter controlled substances as defined in Policy 108.)
- d. Employees who suspect they may have a controlled substance abuse problem are encouraged to seek counseling and rehabilitation from the District's Employee Assistance Program (EAP), a controlled 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. All employees must report (Board Policy 337) to their direct supervisor the facts and circumstances of being arrested or charged with or convicted of criminal controlled substance abuse or alcohol laws while employed by the District. If an employee's job duties involve driving a vehicle and that employee's driver's license has been suspended or revoked, the employee must refrain from performing such job duties and shall immediately notify the employee's direct supervisor.
- f. Employees must act as responsible representatives of the District and as law-abiding citizens. Employees shall report observed violations of this Controlled Substance and Alcohol-Free Workplace policy to their immediate supervisor or the Director of Human Resources. Such reporting is critical in preventing serious injuries or damage to the District's property.

3. District Responsibilities

The District is responsible for:

- a. Striving for a controlled substance and alcohol-free workplace by administering this policy and administrative regulation;
- b. Maintaining the Employee Assistance Program (EAP) and related programs;
- c. Maintaining educational information on controlled substance and alcohol-related problems and treatment, and in its sole discretion, sponsoring proactive training for employees;

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- d. 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 controlled substance/or alcohol use by employees and how to effectively intervene;
- e. Receiving and maintaining employee controlled substance and alcohol testing records and files from all sources and assuring that they are kept confidential;
- f. Making controlled substance testing and notice forms available;
- g. Notifying appropriate administrators or managers/supervisors of positive results of controlled substance and/or alcohol tests;
- h. Administering the contract with a third party to provide controlled substance and alcohol testing services;
- i. Overseeing the administration of the District's Controlled Substance and Alcohol-Free Workplace Policy;
- j. Implementing disciplinary action against employees who violate this Controlled Substance and Alcohol-Free Workplace policy after affording due process, if appropriate.

4. Reasonable Suspicion Controlled substance abuse Testing

- a. When any administrator or manager/supervisor has reasonable suspicion that an employee may be under the influence of alcohol or controlled substance, the employee in question will be directed by the Superintendent/designee to submit to controlled substance abuse and/or alcohol testing, unless employee admits.
- b. In determining whether reasonable suspicion exists, the administrator or manager/supervisor shall document, in writing, the specific facts, symptoms, or observations which form the basis for such reasonable suspicion on the form attached through this [link](#). When possible, the documentation will be forwarded to the Superintendent/designee to authorize the controlled substance and/or alcohol test of an employee.
- c. The Superintendent/designee shall direct an employee to undergo controlled substance and/or alcohol testing if there is reasonable suspicion that the

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employee is in violation of the District's policy. The employee will be placed on administrative leave 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 that an employee is violating the District's policy;
- 2) Direct observation of controlled substance abuse or alcohol use while the employee is on duty;
- 3) An admission by the employee to the use of controlled substance or alcohol prior to reporting to work or while on duty;
- 4) Controlled substance or alcohol paraphernalia found on the employee's person or at or near the employee's work area; and
- 5) Evidence that the employee has tampered with a previous controlled substance and/or alcohol test.

d. 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 controlled substance and/or alcohol test:

- 1) Abnormal or erratic behavior, including but 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) Physical symptoms which may be the result of controlled substance abuse and/or alcohol use, including but 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

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the employee or generally associated with common ailments such as colds, sinus problems, hay fever, and diabetes;

- 3) Violent or threatening behavior that is unprovoked, unexplained or aggressive against any person;
- 4) Excessive absenteeism and/or tardiness, in conjunction with another enumerate behavior.

An employee who is required to submit to reasonable suspicion testing will be immediately provided transportation by the District to the location of the test. The employee will be advised to refrain from eating or drinking before being tested. 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.

5. Consequence of Refusal to Submit to Testing/Adulterated Specimen

- a. An employee who refuses to submit to testing for controlled substance and/or alcohol, or who consents to a controlled substance abuse 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 controlled substance abuse 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 invalid, substituted, or adulterated specimen 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.
- c. A diluted positive test result shall be treated as a positive test and may result in disciplinary action up to and including termination.

6. Testing Guidelines

- a. The District may test for alcohol and illegal controlled substances including but not limited to:

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- 1) Marijuana (THC);
- 2) Cocaine, including crack;
- 3) Opiates, including heroin, codeine, and morphine;
- 4) Amphetamines, including methamphetamines; and
- 5) Phencyclidine (PCP)

- b. Where applicable, the District will follow federal testing procedures for controlled substance and alcohol set forth by the Federal Department of Transportation (DOT) 49 CFR Par1 40 and the Federal Motor Carrier Safety Regulations (FMCSR).

7. Option for Controlled substance Retest

- a. No later than 72 hours after receipt of a positive controlled substance 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.

8. Requirement for Controlled substance Retest

An employee who tests negative dilute will be required to immediately retest. The employee will:

- a. Be given the minimum possible advance notice of retest.
- b. Will be accompanied by a supervisor to the collection site, and
- c. Will not be allowed to eat or drink between the period of being noticed of the retests and the actual test.

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The retest will not be under direct observation unless directed to do so by the Medical Review Officer. If the retest is also negative dilute the test will be considered negative and the District will not conduct a third test unless directed to do so by the Medical Review Officer.

9. Searches

- a. If the District suspects that an employee is in possession of illegal controlled substance, alcohol, or contraband in violation of this Controlled Substance and Alcohol-Free Workplace 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 controlled substance abuses are located or being used on District property, including requesting 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 being 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.

10. Employee Assistance and Voluntary Referral

- a. The District strongly encourages employees who suspect they have controlled substance problems to voluntarily refer themselves to the EAP, a controlled substance abuse professional or other treatment provider. A "voluntary referral" is one that occurs prior to the employee testing positive for illegal controlled substance or alcohol and prior to any allegations that the employee has violated this Controlled substance abuse and Alcohol-Free Workplace Policy. Participation in the EAP or other treatment program is not necessarily a complete defense to an action to impose discipline but will be a factor in determining the level of discipline, if any.

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- b. An employee who is being treated for controlled substance abuse in a recognized controlled substance abuse and/or alcohol rehabilitation program may, if the Americans with Disabilities Act (ADA) applies, be entitled to reasonable accommodation so long as the employee conforms to the requirements of the program and abstains from the use of illegal controlled substance abuses and/or alcohol.
- c. The cost of the controlled substance abuse or alcohol rehabilitation or treatment program shall be borne by the employee or if applicable, the employee's insurance provider. All information regarding an employee's participation in the EAP or other treatment program shall be held in strict confidence, except information shared among District management on a need-to-know basis.

11. Discipline Related to Abuse

- a. Employees in violation of this Controlled substance and Alcohol-Free Workplace policy will be subject to disciplinary action, up to and including termination.
- b. Prior to determining its course of action, the District may in its sole discretion direct an employee to an evaluation by a controlled substance abuse professional to determine the extent of the employee's use of or dependence on the abused controlled substance and, if necessary, recommend an appropriate program of treatment.
- b. If the controlled substance abuse professional provides a recommendation for treatment, the District in its sole discretion may determine that as an express condition to continued employment, the employee must successfully complete the recommended treatment at the employee's expense. Failure to successfully complete the recommended treatment shall be grounds for immediate termination from employment.
- d. An employee who is required to undergo treatment as a condition of continued employment may be required to:
 - 1) Consent to the District monitoring the employee's progress in the program;
 - 2) Submit to controlled substance abuse and/or alcohol testing; and

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- 3) Follow any other condition that the District deems necessary to maintain a safe and healthy workplace for all employees.

12. 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 as otherwise permitted by state and federal law. Positive test results may only be disclosed to the employee, the appropriate medical and controlled substance abuse treatment providers, the District's legal counsel, a District representative in connection with an alleged violation of this Controlled Substance and Alcohol-Free Workplace policy; individuals within the District who have a need-to-know of controlled substance and/or alcohol testing results, and a court of law or administrative tribunal in any adverse personnel action.

See Related Board Policy
Reasonable Suspicion Form

Date Adopted: 08/12/14
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