

Descriptor Term: DRUG-FREE WORKPLACE POLICY

Descriptor Code: GAKB

Rescinds: GBDA/GCDB

Board Approved: 6/7/2021

Previously Approved: 8/17/2015

Policy Statement

Board Policy EBB states: “It is the intent of the Board of Trustees of the Gulfport School District that *safety* of all students, employees, and visitors on District property or at school-sponsored events be given *highest* priority; therefore, all employees are required to conduct their daily assignments and activities to perpetuate a safe learning and work environment. Special emphasis will be given to all assignments and activities directly related to the performance of those duties in the presence of students. All employees should report for work alert and fit for duty and avoid involvement with drugs usage that could compromise fitness for duty or the ability to act safely.”

The Gulfport School District is committed to providing a safe work environment and to fostering the well-being and health of its students and employees. Everyone shares in the responsibility for maintaining a safe work environment. That commitment would be jeopardized when any employee uses illegal drugs and could come to work under their influence, possess, distribute or sell drugs in the workplace; therefore, the District has established the following policy. As a condition of employment, all employees will be required to certify, in writing, that they will abide by the terms of this policy as set forth below. The signed certification (see Attachment I) will be a part of the employee’s permanent personnel file.

Prohibited Activities/Consequences

In accordance with Public Law 100-690, the Drug-Free Workplace Act of 1988, and Public Law 101-647, the Drug-Free Schools and Communities Act of 1986, the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace. Pursuant to this law, all Gulfport School District employees are informed that any violation of the standards of conduct stated in this policy may be subject to prosecution and that they will notify the Superintendent if convicted for violation of any criminal drug statutes, should said violation occur in the workplace, no later than five (5) days after such conviction.

Employees on-duty are prohibited from using alcohol, illegal drugs, or medication for which they do not have a proper prescription or being on-duty under the influence of illegal drugs or alcohol. Likewise, employees on-duty should not take prescribed medication that will impair their ability

2 - GAKB - Drug-Free Workplace

to maintain a safe working environment for students and staff. Any employee taking prescribed medication(s) that may impair performance posing a direct threat of injury to themselves or others must inform their supervisor so that precautions may be initiated to maintain the safe working environment. Reporting to work under the influence of alcohol or when ability is impaired by alcohol or the unlawful use of a controlled substance are causes for termination.

In addition, the unlawful manufacture, sale, distribution, solicitation or possession with intent to sell or distribute, of alcohol or other drugs are prohibited in the workplace. Violations of this policy on school property, including leased property, any school job site, or any location during hours of work, including meal times and rest periods, or while participating in any GSD activities or while using district vehicles will result in disciplinary action up to and including termination of employment.

The Gulfport School District, however, is under no obligation to maintain the employment of anyone who constitutes a threat to the workplace or whose current use of alcohol or drugs prevents him/her from working safely or productively, or otherwise performing his/her duties.

Any employee found to be in violation of this Policy and who is allowed to return to work will be required to:

1. provide documentation of successful completion of a substance abuse rehab/treatment/assistance program;
2. submit to a return-to-duty drug and/or alcohol test with a negative result;
3. comply with the provisions of a follow-up testing program;
4. comply with the terms and conditions of a written "last chance" agreement.

Education and Training

Prior to instituting this revised policy and annually thereafter, the District will provide all employees with a one (1) hour minimum education program on alcohol and other drug abuse, in general, and its effects on the workplace, specifically. In addition, prior to instituting this revised policy and annually thereafter, the District will provide all supervisory personnel with a minimum of two (2) hours of training on recognizing employee substance abuse and the appropriate course of action.

Employee Assistance

The District will maintain a resource file of employee assistance service providers, alcohol and other drug abuse programs, mental health providers, and other persons, entities or organizations available to assist employees with personal or behavioral problems. In addition, the District will provide all employees a summary of the information contained within the resource file, to include all information necessary to access the services listed in the resource file and will post, in conspicuous places, a listing of multiple employee assistance providers in the area.

3 - GAKB - Drug-Free Workplace

An employee who suffers from the problems of drug abuse or alcoholism must recognize that it is his/her responsibility to address these problems. Upon request by the employee for assistance with a substance abuse problem, the District will advise the employee of leave, insurance benefits and any additional information, as needed, from the resource file. It is the employee's obligation to seek diagnosis and/or treatment and to abide by any program of care prescribed by medical personnel. A request for assistance may not be entertained if it is made after the employee engages in misconduct that Superintendent considers to be cause for discharge, and no request for assistance will prevent the Superintendent from taking disciplinary action based on the misconduct that may have been related to the employee's use of alcohol or drugs.

Drug/Alcohol Testing

The District has implemented a drug and alcohol policy and conducts a testing program, pursuant to Sections 71-7-1, et.al., of the Mississippi Code of 1972, Ann. (hereinafter referred to as "the Act"), and all employees and applicants are hereby advised of the existence of said Act. Accordingly, each applicant/employee, as a condition of employment, will be required to submit to the following types of drug and alcohol tests:

The District will require all job applicants to submit to a drug test as a condition of the employment application pursuant to the provisions of the Act which provides that an employer may require job applicants to submit to a drug test as a condition of the employment application and may use a refusal to submit to a test or positive confirmed test result as a basis for refusal to hire.

Any prospective employee who has been tendered an offer of employment contingent upon a negative drug test must be given a copy of this policy and must sign either:

1. An Acknowledgment of Receipt of Drug-Free Workplace Policy Statement/Consent Form (See Attachment I) acknowledging that the employee was given a copy of this policy and consents to testing and the release of test result information; or
2. A Refusal for Testing Form to be signed, when possible, by the prospective employee (See Attachment II)

"A positive test result will disqualify the applicant for employment and result in withdrawal of the offer of employment to the applicant. In the event the applicant refuses to cooperate in the testing procedure or refuses to provide a sample, the applicant will either sign an acknowledgment that he or she refused the test or if the applicant declines to sign the acknowledgment, a representative of the District will note the fact that the applicant refused to allow the test, and the representative will sign the acknowledgment form."

The District will require an employee to submit to reasonable suspicion drug and/or alcohol testing if there is a belief that said employee is using or has used drugs in violation of the District's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things:

4 - GAKB - Drug-Free Workplace

1. Observable phenomena, such as direct observation of drug use and/or the physical symptoms or manifestations of being under the influence of a drug;
2. Abnormal conduct or erratic behavior while at work, absenteeism, tardiness or deterioration in work performance;
3. A report of drug use provided by reliable and credible sources and which has been independently corroborated;
4. Evidence that an individual has tampered with a drug and alcohol test during his/her employment with the District;
5. Evidence that an employee is involved in the use, possession, sale, solicitation or transfer of drugs while working or while on the District's premises or operating the District's vehicle, machinery or equipment;
6. Any accident causing injury involving multiple employees will require that each involved employee submit to a drug and/or alcohol test *within twenty-four hours* of the incident. Additionally, a drug and/or alcohol test will be required *within twenty-four hours of incident* for any employee involved in *an individual* on-the-job injury requiring medical treatment by a licensed medical professional. The driver of any type of school vehicle involved in an accident will be required to submit to a drug and/or alcohol test *within twenty-four hours* of the incident. *Failure by an employee to comply with this testing requirement within twenty-four hours of the incident may result in termination of employment.* An employee injured as a result of the actions of disruptive students or non-school staff will be exempt from this requirement of alcohol and drug testing. *In the event that an employee's actions or failure to act caused or may have caused a student's injury, the Superintendent or designee may direct the employee to submit to a drug and/or alcohol test within twenty-four hours of the incident or as soon thereafter as reasonably possible.*

In all cases of reasonable suspicion testing, the District will provide transportation to and from the testing site except in those post-accident situations where it has been determined that the employee is not in need of assistance. In addition, in all instances where the results of an on-site initial screening test are non-negative, the employee will be temporarily suspended from duty until the final results are known, and the District will provide or arrange for transportation to the employee's place of residence or other mutually agreeable location. If the final results are negative, the employee will be returned to duty and made whole for any lost wages.

An employee will be subject to the same consequences as a positive test result if he/she refuses the test, adulterates or substitutes the specimen, will not sign the required forms or refuses to cooperate in the testing process in such a way that prevents completion of the test.

Testing Procedures and Methodologies

All drug testing will be conducted in accordance with the aforementioned Act. Testing for the presence of alcohol or the metabolites of drugs may be conducted by the analysis of any biological sample or specimen. A specimen means a tissue or product of the human body chemically capable of revealing the presence of alcohol or drugs and their metabolites in the human body, such as blood, breath, hair, saliva, sweat or urine. The drugs that will be tested for are amphetamines,

5 - GAKB - Drug-Free Workplace

cannabinoids (marijuana), cocaine, opiates, phencyclidine (PCP), barbiturates and benzodiazepines.

To ensure the accuracy and fairness of our testing program, all drug testing will include the following elements as applicable:

1. a process that will ensure individual privacy during the collection process and the confidentiality of test results;
2. a documented chain-of-custody procedure that will be used to ensure the integrity of each specimen;
3. an initial screening test;
4. a confirmation test using an alternative method of equal or greater specificity than the initial test;
5. use of a SAMHSA-certified drug testing laboratory for all confirmation tests;
6. review by a Medical Review Officer (a licensed physician trained in the field of drug testing) including the opportunity for individuals who test positive or are found to have submitted an adulterated or substituted specimen to provide a legitimate medical explanation, such as a physician's prescription, for the positive/adulterated/substituted result; and,
7. the opportunity for a re-test of the original specimen (at the individual's expense)

Additionally, in accordance with the aforementioned Act, an employee or job applicant to be tested shall be given (1) a medication disclosure form to permit the employee or job applicant to disclose any non-prescription or prescription medications that have been taken within the last forty-five (45) days which may result in a positive test result, and (2) a statement that the form shall be submitted directly to the laboratory in order that the District has no access to the information disclosed on the form. The procedure for submission of the form shall ensure that no person other than the laboratory has access to the information disclosed on the form.

Bus Driver Alcohol and Drug Screening

Random testing of bus drivers will be implemented using a neutral selection on a quarterly basis. The Gulfport School District will not waive the selection of any employee chosen pursuant to the random selection procedure.

Confidentiality

An employee may request and receive from the District a copy of his/her test result report.

In accordance with the aforementioned Act, all information, interviews, reports, statements, memoranda and test results, written or otherwise, received by the District through its drug and alcohol testing program are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with the Act and these regulations.

6 - GAKB - Drug-Free Workplace

Any information obtained by the District pursuant to the Act and these regulations shall be the property of the employer. The District shall not release to any person other than the employee or job applicant, or employer medical, supervisory or other personnel, as designated by the District on a need to know basis, information related to drug and alcohol test results unless: (a) The employee or job applicant has expressly, in writing, granted permission for the District to release such information; it is necessary to introduce a positive confirmed test result into an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing under applicable state or local law, or a judicial proceeding, provided that information is relevant to the hearing or proceeding, or the information must be disclosed to a federal or state agency or other unit of the state or United States government as required under law, regulation or order, or in accordance with compliance requirements of a state or federal government contract, or disclosed to a drug abuse rehabilitation program for the purpose of evaluation or treatment of an employee; or there is a risk to public health or safety that can be minimized or prevented by the release of such information; provided, however, that unless such risk is immediate, a court order permitting the release shall be obtained prior to the release of the information.

The confidentiality provisions provided for by the Act shall not apply to other parts of an employee's or job applicant's personnel or medical files. If an employee refuses to sign a written consent form for release of information to persons as permitted in the Act, the District shall not be barred from discharging or disciplining the employee.