

STAFF CONDUCT
DRUG AND ALCOHOL-FREE WORKPLACE

The Indian River School District Board (“Board”) believes that illegal drugs and unauthorized prescription drugs, as defined below, have no place in the work environment. Furthermore, Congress passed the Drug-Free Workplace Act of 1988, requiring the certification by federal grantees of a drug-free workplace, and the Board supports that Act. For these reasons, the Board adopts the following policy on drug-free workplace for the Indian River School District (“District”) employees subject to any collective bargaining agreement to the contrary.

1. Definitions:

- a. Distribution or Sale: Implies the transfer of unauthorized drugs, unauthorized prescription drugs or look-a-like substances to any other person with or without the exchange of money or other valuable consideration. The receiving party shall be considered as “in possession”.
- b. Drug: Any chemical substance that produces physical, mental, emotional, or behavioral change in user. Drugs include all alcoholic beverages, narcotics, analgesics, stimulants, depressants, including marijuana (legal or otherwise), hashish and otherwise controlled substances or medications other than those sold to the public on a non-prescription basis or those prescribed to the employee by a licensed physician. Drug shall also include look-alike substances. All references to “drug” or “drugs” includes possession, use, or distribution of a prescription drug that has not been prescribed by a licensed physician and/or possession, use, or distribution of a prescription drug in the dosage or amounts that exceeds that dosage or amounts prescribed for the individual by a licensed physician.)
- c. Drug Paraphernalia: Paraphernalia includes objects used to manufacture, compound, convert, produce, process, prepare, analyze, pack, repack, store, conceal, inject, ingest, inhale or otherwise provide a means to enter the human body. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia (Chapter 47, Uniform Controlled Substances Act, Sub-chapter V, §4771).
- d. In-service Days: During the regular work hours of 8:00 a.m. to 3:30 p.m. consumption of alcoholic beverages will be prohibited.
- e. Non-Prescription Drug: A non-controlled substance used for medical reasons.
- f. Possession: Implies that an employee has unauthorized drugs or unauthorized prescriptions drugs on his/her person or with his/her personal property or under his/her control by placement of and knowledge of the whereabouts of same within the school environment or during school-related activities. Not included as “in possession” is any substance that has been prescribed by a licensed physician and is present only in the dosage or amounts prescribed for the person.
- g. Prescription Drug: A controlled substance dispensed directly by a medical practitioner or by a pharmacy with a written prescription from the practitioner. Employees currently taking a prescribed medication from their own physician must carry it in the labeled container provided by a licensed pharmacist. All medication must be kept in its original container (Chapter 47, Uniform Controlled Substances Act, Subchapter 4, §4758).
- h. School Environment: Within or on District property, and/or District sanctioned and/or supervised activities

- i. Unauthorized: That which is prohibited by the superintendent of the District and/or government.
 - j. Use: Implies that an employee is reasonably known to have assimilated an unauthorized drug or is reasonably found to be under the influence of same within the school environment or during a school-related activity.
 - k. Illegal Substances: Any and all substances listed in Title 16; Chapter 47 of the Uniform Controlled Substance Abuse Act.
 - l. Zero Tolerance: It is against the law for anyone to possess illegal substances. All cases must be reported to the police.
2. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, counterfeit controlled substance or designer drug as defined under 16 Delaware Code, Chapter 47 or comparable federal law, is prohibited in the district, in all places where its employees work, including all state-owned vehicles, and in carrying out any federal grant activity. As a condition of employment, all employees shall abide by this prohibition. Violation of such prohibition shall result in disciplinary action up to and/or including termination of employment.
3. All violations of the above policy shall be reported to the superintendent or the superintendent's designee, who shall report the violation to the appropriate police authority. There may be a termination in all cases of a chargeable offense under 16 Delaware Code, Chapter 47 or comparable federal law; however, a conviction of the charged offense shall not be necessary to terminate the employee for a violation of the policy. The employee terminated may be entitled to due process per Title 14 of the Delaware Annotated Code.
4. Possession, sale, use, or distribution of drugs or drug paraphernalia by employees in the School Environment is prohibited and shall result in disciplinary action up to and/or including termination of employment.
5. Suspicion of employees reporting to work under the influence or being under the influence of drugs/alcohol while on the job will be addressed through the procedure and consequences as outlined in the attached drug and alcohol testing procedures.
6. District volunteers are also prohibited from the possession, sale, use, or distribution of drugs or drug paraphernalia in the school environment and may result in the dismissal of the individual as a volunteer.
7. Suspicion of volunteers being under the influence of drugs/alcohol while performing volunteer duties in the school environment may be addressed through the procedure as outlined in the attached drug and alcohol testing procedures at the discretion of the District.
8. Nothing in this policy shall preclude the Board from taking concurrent and/or independent personnel action against the employee under 14 Delaware Code, Sections 1411, 1421 or both for immorality, misconduct in office, incompetency or willful neglect of duty, or under its other rights to discipline or terminate employees.

9. All employees shall notify the superintendent in writing of any criminal drug statute conviction for a violation occurring in or outside the workplace no later than five working days after such conviction. Failure of the employee to make such a notification may lead to termination of employment per Title 14 of the Delaware Annotated Code. Within ten working days of receiving notice of any employee convicted as described above, the Board shall notify the federal agencies providing grants to and through the State Board and the Department of Education.
10. Within thirty days of receiving notice of any employee convicted as described in section (2), the Board will:
 - (a) Take appropriate personnel action against such an employee, up to and including termination, and/or
 - (b) Require such an employee to participate satisfactorily in an alcohol/drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement or other appropriate agency.

Such action may be taken by the District prior to conviction.

11. The Board will inform employees about:
 - (a) The dangers of drug abuse in the workplace;
 - (b) The district's policy of maintaining a drug-free workplace;
 - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
12. The Board shall make a good faith effort to continue to maintain a drug-free workplace through the implementation of this policy, and ensuring that all new employees are informed of the policy through the measures set out in section (6).

DISCIPLINARY PROCEDURES

1. Possession, sale, use, or distribution of drugs or drug paraphernalia in the school environment will:
 - (a) Result in suspension, pending a Board of Education hearing, with consideration of further disciplinary action, including termination. The Board of Education hearing will take place no later than thirty (30) working days from the first suspension day unless otherwise provided. The employee may have Association representation at the hearing.
 - (b) Result in a report of the incident to the police.
2. Suspicion of reporting to work under the influence or being under the influence of drugs/alcohol while on the job will be addressed through the procedure and consequences as outlined below.
 - (a) Drug and Alcohol Testing Procedures

STATEMENT OF PURPOSE

Employees are the District's most valuable resource and their health and safety is therefore a serious concern. Furthermore, substance abuse education is one of the District's most important missions. It is

not enough for staff to instruct students regarding substance abuse. District staff must lead by example. Finally, employees have the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs.

Each employee shall be provided with a copy of these procedures. The District will also offer training for each employee regarding substance abuse.

ASSISTANCE IN OVERCOMING ALCOHOL OR DRUG ABUSE FOR EMPLOYEES WHO VOLUNTARILY SEEK HELP

Early recognition of alcohol or drug abuse is important for successful rehabilitation, the affected employee's productivity, and reduced personal, family, and social disruption. Whenever feasible, the District will assist employees in overcoming drug or alcohol abuse. However, the decision to seek diagnosis and accept treatment for alcohol or drug abuse is primarily the individual's responsibility.

The District recognizes substance abuse is a medical problem which can be successfully treated. Most substance abusers, however, deny they have a problem, and ordinarily do not seek treatment voluntarily. This denial is the most significant obstacle to successful treatment.

Employees with alcohol or drug abuse problems may request the confidential assistance of the assistant superintendent or his/her designee. Employees may seek help without the approval of their supervisor. The assistant superintendent or his/her designee provides assistance on a strictly confidential basis and refers employees to the appropriate counseling and treatment services. Employees who voluntarily request assistance in dealing with an alcohol or drug abuse problem may do so without jeopardizing continued employment. Information disclosed in the process of seeking assistance will not serve as a basis for discipline. Disciplinary action for violation of the District's policies on alcohol and drug abuse will not be reduced if an employee requests assistance after being asked to submit a blood and/or urine specimen.

If an employee seeks assistance, such an employee shall consult with a public or private substance abuse counseling or assessment center and obtain a recommendation as to an appropriate rehabilitation program. The employee may be placed on leave for a time period necessary to successfully complete the recommended rehabilitation program. Such an employee must:

- (1) Provide the assistant superintendent or his/her designee with proof of enrollment in the recommended alcohol or drug abuse rehabilitation program and proof of attendance at all required sessions.
- (2) Pay for all costs of rehabilitation which are not covered by the employee's health insurance plan.

PROHIBITIONS

Pursuant to the Board's Drug Free Work Place Policy, the possession, use, manufacture, distribution, dispensation or sale of drugs to include marijuana and drug paraphernalia in the workplace is prohibited. The Board's Alcohol-Free Work Place Policy also prohibits the use, sale or manufacture of alcohol at any time in the workplace, on school property, and in State owned or leased vehicles. Further, the District prohibits possession of alcohol in all its facilities, in State owned, District owned or leased vehicles, and in private vehicles when used to transport students. In addition, an employee is subject to disciplinary action if the employee is under the influence of alcohol in the workplace or tests positive for use of any drug to include marijuana. For purposes of this policy, "workplace" shall be defined as

during regular scheduled work hours or any time an employee is responsible for any District student including but not limited to the following: (a) field trips; (b) after school activities (e.g. sports, student dances, etc.); or (c) on District property, including State-owned vehicles.

REASONABLE SUSPICION

1. With the exception of bus drivers who are engaged in a safety sensitive activity, an employee will be tested only if two administrators agree that there is reasonable suspicion to believe the employee is under the influence of alcohol or drugs to include marijuana in the workplace, or if there is reasonable suspicion to believe the employee used alcohol or a drug in the workplace. If two administrators are not present in the building, an employee will be tested only if one administrator and one employee agree that there is reasonable suspicion to believe the employee is under the influence of alcohol or drugs an illegal drug and/or illegal substance in the workplace, or if there is reasonable suspicion to believe the employee used alcohol or a drug in the workplace. In the case of bus drivers, such employees may be tested in accordance with the applicable State Board of Education regulations. This includes the requirement a bus driver who has been suspended due to a positive test for alcohol or drugs must submit to a test prior to returning to work, and the bus driver shall not return to work unless such a test is negative.
2. A determination there is reasonable suspicion to believe an employee is "under the influence" shall be based upon objective factors including, but not limited to, the following: odor of alcohol on the employee's breath, slurred speech, unsteady or erratic movements.
3. In order to have a written record of reasonable suspicion that an employee is "under the influence", one of the administrators who determines there is reasonable suspicion to believe an employee is "under the influence" shall, within one workday of the time the employee is tested for alcohol and/or drugs, prepare a written report listing the objective factors supporting the reasonable suspicion.
4. Administrative staff shall be trained in the identification of signs and symptoms of intoxication and substance abuse, and procedures for documentation and maintaining confidentiality prior to their involvement in the implementation of the testing procedures.

TESTING

If there is a determination there is reasonable suspicion to believe an employee is under the influence, no discipline shall be imposed in the absence of a confirmatory test unless the employee's behavior, nonfeasance, misfeasance or malfeasance provides a separate basis for discipline. If the District decides to pursue a confirmatory test, the District shall adhere to the following procedure:

1. The employee will be asked, with due regard for privacy, to submit a blood and/or urine specimen at a local collection site for alcohol and drug testing. The assistant superintendent or his/her designee will accompany the employee to the local collection site.
2. If the employee is taking a prescription drug, the employee shall disclose that fact and the laboratory shall follow its established procedures for verifying the authenticity of the prescription.

3. With regard to alcohol, a positive test result shall be alcohol concentration of .02, or more. Alcohol concentration of .02 or more means alcohol in a sample of an employee’s blood equivalent to .02 or more grams of alcohol per hundred milliliters of blood, or an amount of alcohol in a sample of an employee’s breath (measured by a breathalyzer test) equivalent to .02 or more grams per two hundred ten liters of breath.
4. With regard to drugs, discipline will be imposed if a National Institute on Drug Abuse certified laboratory confirms an initially positive test result by gas chromatography/mass spectrometry (GC/MS) using the following cutoff levels for its confirmation test:

Substance	Confirmation Test (ng/ml)
Cannabinoids Metabolite	15
Cocaine Metabolite	150
Opiate	300
Phencyclidine	25
Amphetamines	500

These five drugs or classes of drugs, as well as the confirmatory test levels, are taken from the U.S. Department of Transportation Drug Testing Procedures. If the Department of Transportation changes its drug testing procedures by adding drugs or classes of drugs, these procedures shall be modified to add such drugs or classes of drugs, including the confirmatory test levels adopted by the Department of Transportation. Employees who possess a medical card issued by the State of Delaware will not be issued a positive drug test result for marijuana. Nevertheless, no employee may be impaired by marijuana (legal, medical or otherwise) at work.

5. The costs of testing will be paid by the District.
6. If an employee is tested, the employee shall be suspended with pay pending the District's determination.
7. The District shall make a determination as soon as practicable.
8. The imposition of discipline, if any, shall occur only after confirmation of the applicable test.
9. If the drug and/or alcohol test is negative, there shall be no reference to such a test in the employee's personnel file.

CONSEQUENCES OF A POSITIVE TEST *

The discipline for an employee who tests positive for drugs is set forth below:

Violation	Discipline
1. Positive test for drugs	Appropriate discipline which may include

2. If the results of an employee's test for drugs are not a complete negative, but fall below the threshold for discipline, a record of those results shall be placed in the employee's file for a period of two years only. The employee would have the right to attach to those results a description of the circumstances surrounding the results of that test. If the employee were to come under reasonable suspicion and be tested again during that two year period, the following would apply:

termination, but at a minimum suspension without pay for up to 90 work days, and participation in a substance abuse program.

- If the results of the second test are negative, no further action would occur, and the original results would be removed from the employee's file at the end of the original two years.
- If the results of the second test were as the first test (not a complete negative but below the threshold), the employee would be subject to mandatory evaluation and completion of an education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.
- If the results of the second test were positive (above the threshold), and depending on the circumstances surrounding both tests, the first test results would be considered in deciding the discipline for the positive test.

The discipline for an employee who tests positive for alcohol is set forth below. For purposes of this section, a "second offense" is any incident within 5 years of the 1st offense. A "third offense" is any incident within 5 years of the 2nd offense.

**Employees or applicants who have a validly issued medical marijuana card and test positive for marijuana will not be considered to have violated this policy simply by nature of the presence of marijuana in the test sample. The former sentence notwithstanding, if the District can establish that the employee was under the influence of marijuana in the workplace, or possessed or transferred marijuana in the workplace, the employee shall be subject to discipline.*

VIOLATION

Blood Alcohol Concentration
(BAC) equal to .02

DISCIPLINE

FIRST OFFENSE

Employee is sent home and charged one day personal leave. Mandatory evaluation and completion of education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.

SECOND OFFENSE

Employee is suspended for 5 days without pay. Mandatory evaluation and completion of education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.

THIRD OFFENSE

Employee is suspended a minimum of 90 work days without pay with the possibility of termination. If not terminated, the employee must also complete education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.

BAC greater than .02, but less than .08

FIRST OFFENSE

Employee is suspended for 5 days without pay. Mandatory evaluation and completion of education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.

SECOND OFFENSE

Employee is suspended a minimum of 90 work days without pay with the possibility of termination. If not terminated, the employee must also complete education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.

THIRD OFFENSE

Termination

BAC greater than or equal to .08

FIRST OFFENSE

Employee is suspended a minimum of 90 work days without pay with the possibility of termination. If not terminated, the employee must also complete education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.

SECOND OFFENSE

Termination

Refusal to submit to the testing Procedure

Employee is suspended a minimum of 90 work days without pay with the possibility of termination. If not terminated, the employee must also complete education

program and/or treatment as recommended by an agency approved by the State of Delaware, Department of Public Safety; Office of Highway Safety.

REFUSAL TO SIGN THE CONSENT FORM AND SUBMIT TO THE TESTING

An administrator shall obtain the individual's signature on a consent form (Attachment No. 1) and provide the individual with a copy of the form, prior to taking the employee to the collection site. If an employee refuses to sign the consent form and submit to the testing when there is reasonable suspicion for testing the employee, such a refusal shall be deemed a positive test result.

BREATH TESTING PROCEDURES

1. Only qualified operators of a breathalyzer test shall sample employee's breath.
2. The assistant superintendent or his/her designee who accompanied the employee to the test site shall call a friend, relative or taxi to take the employee home.

BLOOD TESTING PROCEDURES

The testing centers shall conduct the tests pursuant to applicable local, state and federal laws and regulations.

MISCELLANEOUS PROVISIONS

Right to a Representative: The employee has the right to request an opportunity to talk to a representative prior to signing this form. However, the District will wait no more than 30 minutes for such a representative to appear. If the employee requests the presence of an employee, the District will provide such an employee with coverage so that the employee is available within 30 minutes.

Providing the Urine Specimen: The employee must provide at least 60 milliliters of urine. If at first the employee is unable to provide 60 milliliters of urine, collection site personnel will give the employee 8 ounces of liquid every thirty minutes until the employee is able to provide 60 milliliters of urine. The employee may provide his or her urine specimen in private. Collection site personnel will not observe the employee.

Accuracy of Test Results: The District has taken extraordinary precaution to assure the test results are accurate. If the first test produces a positive result, the laboratory will administer a second, more sophisticated test. This second test measures the exact molecules of each drug; every drug has a different molecular structure, just as each person has a different fingerprint. The laboratory's second test identifies each drug by its unique molecular "fingerprint." Only if the second test is also positive does the laboratory report a positive test result.

Chain of Custody: The District takes exceptional precaution to assure the integrity of each specimen. Individuals providing specimens have a vital role to play in the chain of custody procedures. They must keep their specimen in view at all times until it is sealed and labeled. Each individual then initials the label on his or her specimen.

Confidentiality: Test results are highly confidential. The drug testing laboratory informs only the assistant superintendent or his/her designee.

Adopted 1/10/90

Revised 2/26/91, 6/23/09, 6/21/11, 9/23/13, 6/23/14, 7/28/14, 1/27/15, 3/14/17, 4/26/21, 5/20/24

Attachment 1

CONSENT FORM

I consent to provide blood, breath and urine specimens, and consent to the testing of blood or urine specimens. I further authorize the release of the test results and any other relevant medical information as determined by the employee to the assistant superintendent or his/her designee to review the test results.

Employee's Name

Employee's Signature

Date

WITNESS VERIFICATION

Witness' Name

Witness' Signature

Date

Adopted 1/10/90

Revised 2/26/91, 6/23/09, 6/21/11, 9/23/13, 6/23/14, 7/28/14, 5/20/24