



Board Policy

Drug and Alcohol-Free Workplace

**Personnel
Policy 4004**

Policy Statement

This Policy applies to all employees of the Red Clay Consolidated School District (“District”). It also applies to applicants who seek a position that is subject to pre-hire drug-testing requirements under applicable law or collective bargaining agreement.

The purposes of this Policy are:

- To establish and maintain a safe, healthy learning environment for all students and working environment for all employees.
- To help establish and maintain safety on the roads and highways.
- To reduce the number of accidents and resulting injury to persons and property damage.
- To reduce absenteeism, tardiness, and improve productivity.
- To protect the reputation of the District and its employees within the community.
- To comply with applicable federal and state laws and regulations governing drug and alcohol abuse programs.

This policy will be interpreted and applied in accordance with the Delaware Medical Marijuana Act.

PROHIBITED CONDUCT

The employees of the District are prohibited from:

- Being under the influence of alcohol, illegal drugs, or a controlled substance while at work, on District property, in a District vehicle, or at a District approved activity, event or function;
- Engaging in the manufacture, distribution, possession, or use of a controlled substance, illegal drugs, alcohol, or drug paraphernalia while at work, on District property, in a District vehicle, or at a District approved activity, event or function;
- Reporting or remaining at work while unfit for duty as a result of the use of alcohol, a controlled substance, illegal

drugs, or medication (prescription or non-prescription) of any kind.

OVER-THE-COUNTER AND PRESCRIPTION MEDICATIONS

Use of certain over-the-counter or prescription medication may affect behavior and performance, causing drowsiness or other physical side effects that impair the ability to drive a motor vehicle, operate equipment or safely perform one's job. Before reporting for work, it is the responsibility of every employee who uses prescription medication or over the counter medication that may affect his or her fitness for duty to obtain written medical clearance from the prescribing physician, or other health care provider certifying that he or she is fit for duty. Employees who are unfit for duty due to the lawful use of over-the-counter or prescription medication may use sick leave in accordance with the District's sick leave policy until they are able to return to work. Employees who anticipate long-term use of medications that impact their ability to safely and efficiently perform the essential functions of the job should contact the Human Resources Department to discuss reasonable accommodations.

INDIVIDUALS SUBJECT TO TESTING

All employees of the District are subject to testing under this Policy. Separate specimens for each type of test under this policy will be collected. Each specimen shall be subject to the testing procedures set forth in this policy.

TESTING OCCASIONS

Testing will occur under the following circumstances:

1. **Pre-Employment and Random, Suspicionless.** Certain District employees are required to submit to pre-employment and/or random, suspicionless drug and alcohol testing under (1) applicable state or federal law and/or (2) governing collective bargaining agreements. Employees who are subject to such requirements will be informed of the obligation at the time of hire.
2. **Post-Accident/Incident.** An employee may be required to submit to drug and alcohol testing if that employee is involved in a job-related accident or incident which

resulted or could have resulted in personal injury or property damage.

3. Reasonable Suspicion. An employee will be required to submit to drug and alcohol testing when there is reasonable suspicion to believe that the employee is under the influence of alcohol, controlled substances, or illegal drugs. A determination that reasonable suspicion exists to require testing shall be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. A written record shall be made of the observations leading to a drug or alcohol test, and signed by the person who made the observations. No reasonable suspicion testing shall occur without the approval of one of the following individuals: Superintendent, Deputy Superintendent, or Director of Human Resources.

TESTING PROCEDURES

A. GENERALLY

Employees tested upon “reasonable suspicion” will be taken to a designated testing site by at least one of the individuals observing the conditions or behavior that constitute “reasonable suspicion.”

No employee believed to be under the influence of drugs or alcohol will be permitted to drive a vehicle to a designated testing site or home. Transportation will be arranged to and from the testing site.

For drug testing, a “split sample” method for collecting and analyzing urine shall be used. An individual testing positive for a controlled substance may request, at his or her own expense, that a second test be conducted on the untested sample. This must be completed within 24 hours after the individual is contacted by the Medical Review Officer.

Screening alcohol tests may be administered by a Breath Alcohol Technician (“BAT”) using an evidential breath-testing device. Test results showing an alcohol concentration of 0.02 and above will require a confirmatory test. If a confirmatory test is conducted, a split sample shall be used.

ACTIONS PENDING RESULTS

Any employee required to submit to reasonable suspicion or post-accident testing under this Policy shall be suspended pending the results of his or her test.

REPORTING

Any violation or suspected violation of this Policy shall be reported to the Office of Human Resources. Law enforcement personnel shall be notified if criminal activity is discovered or suspected.

DISCIPLINE

The following discipline will be taken in the event of a positive test result:

- Any employee testing positive for a controlled substance or illegal drug shall be subject to discipline, up to and including termination.
- Any employee whose alcohol test shows an alcohol concentration of 0.02 or over shall be subject to discipline, up to and including termination.
- Any employee who refuses to submit to testing required by this Policy shall be subject to discipline, up to and including termination.
- Any employee, who engages in any other conduct prohibited by this Policy, but not discussed above, may be subject to discipline, up to and including termination.
- The District shall withdraw its offer of employment to any applicant who tests positive for a controlled substance.

In the event that the District, in its sole discretion, elects to provide the employee with a one-time opportunity to enter and successfully complete a rehabilitation program, the employee will be evaluated by a substance abuse professional (SAP). To be reinstated to full employment, the employee will need to comply with all treatment recommendations made by the SAP. During rehabilitation, the employee will be subject to unannounced drug or alcohol testing. Upon return to work from rehabilitation, the employee will be subject to unannounced drug or alcohol testing for up to a period of sixty (60) months. Any positive

test during or following rehabilitation will result in termination.

REFUSAL TO SUBMIT TO TESTING

Any of the following behavior will be considered grounds for discipline, up to and including termination:

- Refusal to take a drug or alcohol test;
- Inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation;
- Tampering with or attempting to adulterate the specimen or collection procedure; includes, but is not limited to dilution;
- Not reporting to the collection site in the time allotted; and
- Failure to remain readily available for testing.

EMPLOYEE BENEFITS

The District has benefits available for employees who require drug or alcohol rehabilitation. Employees who voluntarily seek assistance for drug or alcohol abuse will not be disciplined for seeking such assistance. After an event has occurred that may subject an employee to testing under this Policy, however, the employee shall be subject to discipline, including discharge, pursuant to this Policy, notwithstanding any such request or prior treatment. Please refer to the District’s health care plans for specific information concerning coverage for alcohol or drug rehabilitation.

CONFIDENTIALITY

Test results will be kept confidential and will only be released to those employees of the District with a reasonable business need to know, a court of law, or as authorized by the employee or applicant.

THE RIGHT TO CHANGE POLICY

The District may change this Policy at any time subject to the obligations contained in any collective bargaining agreement. Employees will be notified if changes occur. No manager, supervisor, or other employee has the authority to

	<p>enter into any agreements contrary to, or in conflict with, this Policy.</p> <p>SEARCHES</p> <p>An employee reasonably suspected of possessing alcohol, drug paraphernalia, an illegal drug, or a controlled substance on school district premises is subject to inspection and search. Search may include desks, lockers, classrooms, offices, and other locations. Employees’ personal belongings, including any bags, purses, briefcases, lunch boxes, clothing, and personal items in a District vehicle, are also subject to inspection and search.</p> <p>QUESTIONS</p> <p>Any questions regarding this Policy should be directed to the Office of Human Resources.</p> <p>REPORTING</p> <p>An employee shall immediately report any arrest or convictions resulting from the use, possession, distribution or manufacturing of a controlled substance, an illegal drug, or drug paraphernalia.</p> <p>DRUG FREE AWARENESS PROGRAM</p> <p>The District shall establish a drug-free awareness program to educate employees about the dangers of drug abuse as well as the specifics of this Policy.</p>	
<p>Definitions</p>	<p>DEFINITIONS</p> <p>“Alcohol” means the intoxicating agent in beverage alcohol, ethyl alcohol or other low-molecular-weight alcohol, or any beverage that contains more than one half (1/2) of one (1) percent of ethyl alcohol (ethanol) by volume, including but not limited to beer, wine, and distilled spirits. This also includes medications, either prescription or non-prescription, which contain alcohol.</p> <p>“Controlled substance” means a drug listed on Schedule I or Schedule II of the Controlled Substance Act, including marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines.</p>	

	<p>“District property” means all property owned, operated or controlled by the District, including, but not limited to: school buildings, offices, facilities, and surrounding areas on District-owned, leased, operated or controlled property, parking lots, and storage areas.</p> <p>“District vehicle” shall mean any District or state-owned vehicle or any other District approved vehicle (including, an employee’s own vehicle) used to transport students or employees of the District or otherwise used in the furtherance of District sponsored business or activities.</p> <p>“Driver” means any person who operates a commercial motor vehicle. The term driver includes a person applying to the District to drive a commercial motor vehicle.</p> <p>“Drug paraphernalia” means objects used to manufacture, compound, concert, produce, process, prepare, analyze, pack, repack, store, conceal, inject, ingest, inhale, or otherwise provide a means for a controlled substance to enter the human body.</p> <p>“Drug testing” includes the scientific analysis of urine, blood, breath, saliva, hair, tissue, and other specimens of the human body for the purpose of detecting a drug and/or alcohol. Regulated drug tests will use only urine as a specimen until applicable law and regulations permitted the use of other specimen sources.</p> <p>“Illegal drug” means any controlled substance as defined in this Policy; any drug that is not legally obtainable; any drug that is legally obtainable but has not been legally obtained; any prescribed drug not legally obtained; any prescribed drug not being used for the prescribed purpose; any over-the-counter drug being used at a dosage level other than recommended by the manufacturer or being used for a purpose other than intended by the manufacturer; and any drug being used for a purpose not in accordance with bona fide medical treatment.</p> <p>“Legal drug” means any over-the-counter drug or prescription medication that has been legally obtained and is being used for the purpose and by the person for which it was prescribed or manufactured. An employee must inform his/her supervisors when any medication renders the employee unfit for the safe performance of his/her job duties.</p>	
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	“Metabolite” means one of various organic compounds produced by metabolism of drugs in the human body.	
Responsibility	The Superintendent shall be responsible for compliance.	
References	16 <i>Del. C.</i> Ch. 47 Controlled Substances Act, 21 USC § 812, schedules I-V Drug-Free Workplace Act of 1988, 41 USC §§ 701-707 Safe and Drug-Free Schools and Communities Act, 20 US §§ 7101-7117	
Adoption Date	05/16/1990 reformatted 12/08/2008	
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