Merchantville Board of Education 130 South Centre Street Merchantville, NJ 08109	File Code : 4219.23 Proposed : 02/18/2014 Adopted : 02/25/2014 Revised : Reviewed : 05/06/2024

Employee Substance Abuse

There shall be no smoking in district buildings or on school grounds.

Employee use of alcoholic beverages on school property or when in official charge of pupils off school premises is prohibited.

Illegal possession, use, or sale of controlled dangerous substances, on or in school property or when in official charge of pupils off school premises, is prohibited. Any violation may subject an employee to disciplinary action including dismissal and prosecution.

Illegal gambling is not permitted in or on school property.

These rules also apply during working hours for employees whose assignments require them to work outside school work locations.

Drug and Alcohol Testing

The Merchantville School District is committed to the establishment of a drug and alcohol misuse prevention program among school bus drivers that meets all applicable requirements of the Omnibus Transportation Employee Testing Act of 1991. The purpose of the testing program shall be to help prevent accidents and injuries resulting from the misuse of alcohol and controlled substances by employees performing safety-sensitive functions.

A. In addition to all prohibitions in the first sections of this policy, all employees with commercial drivers' licenses shall be prohibited from:

B. The use of any controlled substance on or off duty, unless a written prescription from a licensed doctor or osteopath is provided along with a written statement from the doctor or osteopath that the substance does not adversely affect the employee's ability to safely operate a motor vehicle or perform other safety-sensitive functions;

C. The misuse of alcohol that could affect performance on the job including use on the job, use during the four hours before performing a safety-sensitive function, having prohibited concentrations of alcohol in their systems while performing a safety-sensitive function and use during eight hours following an accident.

"Controlled substance" in this policy refers to those covered by the Omnibus Act, including, but not limited to, marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP).

All covered applicants and employees shall be subjected to pre-employment or pre-duty, reasonable suspicion, random, post-accident, return-to-duty and follow-up alcohol and drug testing pursuant to procedures set out in the federal regulations. These procedures use an evidential breath testing device for alcohol testing. For controlled substances testing, urine specimen collection and testing by a laboratory certified by the U.S. Department of Health and Human Services shall be required.

Pre-employment testing shall be administered to an applicant offered a position in the district prior to the first time the employee performs any safety-sensitive function for the district. An applicant who tests positive will not be hired for any safety-sensitive position.

Random alcohol testing shall be limited to the time period surrounding the performance of safety-related functions which includes just before or just after the employee performs the safety-related function. Controlled substances testing may be performed at anytime while the employee is at work.

An employee covered by the federal regulations may not refuse to take a required test. Consequences for an employee's refusal shall be the same as for a positive result of the test.

If the testing confirms prohibited alcohol concentration levels or the presence of a controlled substance, the employee shall be removed immediately from safety-related functions in accordance with the federal regulations. Before an employee is reinstated, if at all, the employee shall undergo an evaluation by a substance abuse professional, comply with any required rehabilitation and undergo a return-to-duty test with verified test results.

The board retains the authority consistent with federal law to discipline or discharge any employee who is an alcoholic or chemically dependent and whose current use of alcohol or drugs affects the employee's qualifications for and performance of the job.

The district is not required under federal law requiring drug and alcohol testing to provide rehabilitation, pay for substance abuse treatment or to reinstate the employee. All employment decisions involving reinstatement, termination or dismissal shall be made in accordance with applicable state law, board policies and negotiated agreements.

The district shall maintain records in compliance with the federal regulations in a secure location with controlled access. With the employee's consent, the district may obtain any of the information concerning drug and alcohol testing from the employee's previous employer. An employee shall be entitled upon written request to obtain copies of any records pertaining to the employee's use of alcohol or controlled substances including information pertaining to alcohol or drug tests. Statistical records and reports shall be maintained and made available to the Federal Highway Administration for inspection or audit in accordance with federal regulations.

Records shall be made available to a subsequent employer upon receipt of a written request from an employee, and only on the expressly authorized terms of the employee.

The chief school administrator shall ensure that supervisors receive proper training to administer the drug and alcohol testing program and that employees receive the notifications required by federal regulations.

Transportation contracts approved by the board shall contain assurance that the contractor will establish a drug and alcohol testing program that meets the requirements of federal regulations and this policy and will actively enforce the regulations of this policy as well as federal requirements.

Key Words

Smoking; Drinking; Drugs; Smoking Prohibition; Employee Smoking, Drinking, Use of Drugs on School Premises; Drug Testing; Alcohol Testing

Legal References:

N.J.S.A. 2C:33-16 Alcoholic beverages; bringing or possession on school property by person of legal age; penalty

N.J.S.A. 2C:35-1 et seq. Comprehensive Drug Reform Act 1987

N.J.S.A. 18A:11-1 General mandatory powers and duties

N.J.S.A. 18A:16-2 Physical examinations; requirement

N.J.S.A. 18A:27-4 Power of boards of education to make rules governing employment of teacher, etc.; employment thereunder

N.J.S.A. 18A:36-32 Cigarette coin-operated vending machines; operation, installation or maintenance on property used for school purposes; fine

N.J.S.A. 18A:54-20 Powers of board (county vocational schools)

N.J.S.A. 26:3D-55 et seq. New Jersey Smoke-Free Air Act

N.J.A.C. 6A:16-6.3 Reporting students or staff members to law enforcement authorities

N.J.A.C. 6A:16-6.5 Confidentiality of student or staff member involvement in substance abuse intervention and treatment programs

N.J.A.C. 6A:26-12.2(a)4 Policies and procedures for school facility operation

Owner-Operator Indep. Drivers Assoc., Inc. v. Pena, No. 93-1427, November 1, 1993, U.S.D.C. Dist. of Columbia

New Jersey Constitution, Art. IV, § VII, par. 2

Anti-Drug Abuse Act of 1988

Drug-Free Workplace Act of 1988

34 CFR Part 85.100, Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

42 U.S.C.A. § 31306 et seq. - Alcohol and Controlled Substances Testing

49 C.F.R. Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs

49 C.F.R. Part 382 - Controlled Substance and Alcohol Use and Testing

49 C.F.R. Part 391 - Qualification of drivers

A Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials

No Child Left Behind Act of 2001, Pub. L. 107-110, 20 U.S.C.A. 6301 et seq.

Possible Cross References:

*1330 Use of school facilities

*1410 Local units

*3220/3230 State funds; federal funds

*3515 Smoking prohibition

*3541.33 Transportation safety

*4119.23 Employee substance abuse

*4212.4 Employee health

*4212.6 Personnel records

4217.50 Standards for staff discipline

*5131.6 Drugs, alcohol, tobacco (substance abuse)

*Indicates policy is included in the Critical Policy Reference Manual.