

Personnel- All EmployeesDrug and Alcohol Testing Policy

Prohibition of Employee use and possession of illegal or misuse of prescription drugs.

I. Rationale and Purpose:

A. Rationale: Because school administrators, teachers and school support staff serve in an in loco parentis capacity while in charge of students, the potential for harm through illegal drug use is heightened. In this regard, teachers and school support staff are in "safety sensitive" positions. Teachers and school support staff are a group of professionals and adults to whom we entrust young children for a prolonged period of time on a daily basis. Simple common sense and experience with life tells us that even a momentary lapse of attention can have disastrous consequences, particularly if that inattention or lapse were to come at an inopportune moment. Children, especially younger children, are active, unpredictable, and in need of constant attention and supervision. Even momentary inattention or delay in dealing with a potentially or dangerous emergency situation could have grievous consequences.

B. Purpose: The purpose of this Policy is to establish standards of conduct for Employees (school administrators, teachers and school support staff) as to the use and possession of illegal drugs while in the course of their employment or in the discharge of their duties and eliminate the unlawful use or distribution of illegal drugs, or the misuse of prescription drugs, on District property.

C. Application: This Policy also applies to acts or any conduct which is illegal under federal, state, or local law. All District employees are covered by this Policy. Violation of this Policy shall result in disciplinary action up to and including termination of employment.

II. Recognition of Employee Rights: This Policy shall be administered in accordance with and subject to all applicable District grievance policies and procedures contained either in collective bargaining agreements or policies of the District, and pursuant to all constitutional rights, state and federal, to which employees are entitled.

III. Release of Information: The name of any employee violating this Policy shall not be released to the public unless the employee requests an open hearing with the Board; provided, however, that the Superintendent may notify law enforcement authorities of any suspected violation of criminal statutes or ordinances.

IV. Definitions: The following definitions shall apply for purposes of this Policy:

A. Illegal drugs shall mean all controlled substances as defined in Neb. Rev. Stat. §§ 28-401, 28-404, 28-405 and 28-419 including but not limited to "uppers", "downers", barbiturates, marijuana, amphetamines, LSD, heroin, hashish, hallucinogens, cocaine, anabolic steroids, and any metabolite or conjugated form thereof, and any other substance, except legal non-prescription

drugs or legal beverages, which alters the mood or behavior and which is not taken for medical purposes under a prescription by a licensed physician.

B. Distribution shall mean any delivery, sale, transfer, handling, transmitting, administering, giving, or otherwise making available, illegal drugs.

C. Drug paraphernalia shall mean all equipment, products, and materials of any kind which are used, intended for use, or designed for use, in manufacturing, injecting, ingesting, inhaling, or otherwise introducing illegal drugs into the human body, as defined in Neb. Rev. Stat. § 28-439.

D. “Look-alike” drugs shall mean any substance which is believed to be or represented to others to be an illegal drug, or possessed with the belief or understanding that the substance is an illegal drug.

E. “Intoxication” and/or “Under the influence” shall mean for the purposes of this Policy that the employee is impaired and/or affected by an illegal drug, or the combination of an illegal drug and alcohol, in any detectable manner. The symptoms of influence are not confined to those consistent with misbehavior or to obvious impairment of physical or mental ability such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by professional opinion, a scientifically valid test or by a lay person’s opinion.

F. Possession shall mean on the employee’s person, in the employee’s personal belongings, or under the employee’s reasonable control. A District employee shall be deemed in possession of illegal drugs, look-alike drugs, or drug paraphernalia if he or she has illegal drugs, look-alike drugs, or drug paraphernalia on his or her person, or under his or her control.

V. The following conduct is prohibited.

A. Reporting to work, performing job duties or conducting any District business while under the influence of any illegal drug is strictly prohibited and shall subject the District employee to immediate discipline actions as hereinafter provided. Conduct of an employee giving rise to a reasonable suspicion that employee is under the influence shall be reported to the employee’s immediate supervisor or Human Resources.

B. The possession, use or distribution of any illegal drug or “look-alike” drug while on District property, performing job duties, or while in the course of the employees’ employment, at a District-sponsored student event, or at a student activity in which the District or other school districts participate, is strictly prohibited and shall subject the District employee to immediate discipline actions as hereinafter provided.

VI. In cases of suspected violations of this Policy, the following actions and procedures shall be implemented.

A. Any employee suspected of being in violation of this Policy shall be interviewed by his or her immediate supervisor or an administrator as soon as possible to determine whether

the employee is in violation of this Policy. If necessary, the immediate supervisor or administrator may summon a second supervisor or administrator to be present at the interview and to assist in the determination. If the supervisor or administrator determines that there is a reasonable suspicion that the employee may be in violation of any provision of this Policy, the supervisor or administrator shall immediately refer the employee to the Superintendent of Schools or designee for further investigation.

B. If, upon further investigation, the Superintendent of Schools or designee has a reasonable suspicion that the employee has violated this Policy, he/she shall immediately suspend the employee with pay from his or her duties, and if the employee is being suspected of being under the influence of illegal drugs, may direct that the employee be tested for illegal drugs.

C. Employees are required to submit to drug testing upon directive from the Superintendent of Schools or designee. The employee shall be advised of the required drug testing by the Superintendent of Schools, or designee, and be transported to a location for the administration of such required test.

D. The results of the drug test may be used to provide the employee an opportunity to exonerate himself/herself. If the employee tests negative for drugs, the employee will not be subject to disciplinary measures related to violation of the District's drug policy and may be returned to duty. If a test of an employee positively detects the presence of illegal drugs, the results shall be confirmed in accordance with Neb. Rev. Stat. § 48-1903 prior to being used against an employee in any disciplinary or administrative action.

E. An employee who refuses to undergo testing based upon reasonable suspicion that the employee is intoxicated and/or under the influence of illegal drugs shall be subject to immediate disciplinary actions up to and including termination of employment and such refusal may be offered in evidence in any grievance proceeding and/or termination hearing.

F. Any employee who is subject to disciplinary action under this Policy shall, within a reasonable time, be provided a written statement setting forth the reasons for such disciplinary action. The written statement shall contain an acknowledgment of receipt signed by the employee. Should the employee refuse to sign the acknowledgment of receipt, the refusal shall be so noted on the receipt by the supervisor or administrator.

G. The Superintendent of Schools or designee shall undertake such additional investigation as may be necessary, and shall provide the employee with such written statement within a reasonable time specifically stating:

1. What additional action, other than being suspended from duties, if any, will be taken in accordance with this Policy; and,

2. The date and/or the conditions under which the employee may return to his or her regular duties, if applicable; and,

3. The employee's due process rights and time limits to appeal by reference to the District's grievance procedures or, if applicable, the provision of the collective bargaining agreement.

VII. At all times, each District employee shall make every reasonable effort to ensure that any employee who, in the course of their employment or in the discharge of duties, is under the influence of illegal drugs, does not operate a motor vehicle. Should an employee refuse to cooperate and attempt to operate a motor vehicle when such employee is under the influence of illegal drugs, law enforcement officials shall be immediately notified and the employee shall be subject to immediate disciplinary action up to and including termination of employment.

VIII. District employees who violate this Policy shall be subject to the following potential penalties.

A. Reporting to work under the influence of illegal drugs the Employee may at the discretion of the Administration, and, in the case of termination or cancelation of contract, on the recommendation of the Administration to the Board of Education:

1. Be issued a written reprimand, will be subject a minimum suspension of twenty days without pay, and participate in mandatory referral to a drug counseling program selected by the District with costs to be paid by the employee in the event the employee is not terminated; or,

2. Be subject to termination of employment and/or cancelation of contract, and for certificated employees a report to the Nebraska Department of Education Professional Practice Commission.

B. Illegal possession, use or distribution of illegal drugs, look-alike drugs or drug paraphernalia while on District property, or while in the course of the employee's employment or in the discharge of his or her duties thereunder, at a district- sponsored student event, or at a student activity in which the District or other school districts participate the Employee shall be subject to termination of employment and/or cancelation of contract, and for certificated employees a report to the Nebraska Department of Education Professional Practice Commission.

C. Refusal to undergo further testing based on a reasonable suspicion of being under the influence of illegal drugs the Employee shall be subject to immediate disciplinary action up to and including termination of employment and such refusal may be offered in evidence in any grievance proceeding and/or termination hearing.

IX. Employees of the District shall fully comply with and successfully complete the treatment directed by the District's drug and alcohol counseling when the employee is being disciplined for violation of this Policy. Failure to do so may result in termination of employment.

X. The Superintendent or designee may impose a lesser or alternative penalty than those provided for herein if the Superintendent or designee deems that a lesser or alternative disposition is in the best interests of the District and the employee.

XI. Any employee convicted of violating a criminal drug statute must notify the Superintendent of Schools or designee no later than one business day after the conviction. Failure to timely notify is grounds for termination of employment.

XII. The District will utilize the following education services: The District will provide training for its administrators and supervisors to recognize typical symptoms of drug use and abuse.

Legal Reference: Neb. Rev. Stat. §§ 48-1901 through 48-1910

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