

DRUG AND ALCOHOL TESTING POLICY

Sweetwater County School District Number One, State of Wyoming ("District"), recognizes that alcohol and drug abuse adversely affects an employee's job performance and the kind of work he/she can perform and may affect opportunities for continued employment. The District does not intend to intrude upon the private lives of its employees. The District is concerned, however, about the use of alcohol and/or drugs if it interferes with an employee's job performance, adversely affects the job performance of other employees, endangers the employee or other employees or is detrimental to the District's best interests and the interests of students. Furthermore, no employee shall have a detectable presence of alcohol or any controlled substance (as defined by W. S. 35-7-1001 et seq.) in his/her body at District facilities or whenever performing duties for the District.

Scope

This policy applies to all employees including classified, certified, administrators, and part-time employees. The policy is applicable at District facilities or wherever the District employees are performing duties for the District. It is also applicable while operating any District vehicle or equipment at any time, or any personal, rental or other vehicle while on District business.

It is the District's policy to follow all applicable laws and regulations regarding drug and alcohol testing and the other matters addressed here. This written policy is intended to summarize how those laws and regulations apply to the District and its employees. The applicable laws and regulations establish the precise obligations of the District, as they evolve from time to time.

Definitions

- A. "Work Related Alcohol and Other Drug Abuse" is defined as the use of mood-altering drugs, including all forms of alcohol, narcotics, depressants, stimulants, hallucinogens, marijuana, or the use of prescription drugs when resulting behavior or appearance adversely affects work performance or the operation of any the District vehicle or equipment at any time, or any personal, rental or other vehicle while on District business.
- B. "Adversely Affect Work Performance" and "Under the Influence" shall be determined to be present if the employee is perceptively impaired, has impaired alertness, coordination, reactions, responses, or efforts; if the employee's condition threatens the safety of him/herself or others. It includes operation of any the District vehicle or equipment at any time, or use of any personal, rental or other vehicle while on District business.
- C. "Controlled Substances" means those substances whose distribution is controlled by regulation or statute, including but not limited to narcotics, depressants, stimulants, hallucinogens, and cannabis.
- D. "Mood-Altering" or "Alter" means changed behavior which may limit an employee's ability to safely and efficiently perform job duties or poses a threat to the safety of the employee or others.

Non-Discrimination

Consistent with its general policy against discrimination, the District recognizes that disabled individuals should be protected from discriminatory treatment. Under the Americans with Disabilities Act, a disabled person is someone who has a medical or psychological condition, which materially impairs a major life activity. However, in accordance with the Americans with Disabilities Act, disability does not include any condition resulting from alcohol or other drug abuse which prevents a person from performing essential functions of the job or which creates a direct threat to property or the safety of individuals.

Prohibitions

- A. No employee shall report to or perform the District work under the influence of alcohol, marijuana, controlled substances or other drugs, which affect his/her alertness, coordination, reaction, response, judgment, decision-making or safety. The identified thresholds are: Amphetamine-1000 (NG/ML), Barbiturates-200 (NG/ML), Benzodiazepine-300 (NG/ML), Cannabinoid 100 (NG/ML), Cocaine-300 (NG/ML), Methaqualone-750 (NG/ML), Opiates-300 (NG/ML), Phencyclidine-25 (NG/ML), Alcohol-50 (MG/DL), or other illicit drugs or controlled substances including those controlled substances as defined by the Wyoming Controlled Substances Act, W. S. 35-7-1001 et seq., at threshold levels established by the National Institute on Drug Abuse (NIDA).
- B. No employee shall operate, use, or drive any equipment, machinery, or vehicle of the District, or operate, use or drive a personal, rental or other vehicle on District business, while under the influence of alcohol, marijuana, controlled substances or other mood-altering drugs. The identified thresholds are: Amphetamine-1000 (NG/ML), Barbiturates-200 (NG/ML), Benzodiazepine-300 (NG/ML), Cannabinoid 100 (NG/ML), Cocaine-300 (NG/ML), Methaqualone-750 (NG/ML), Opiates-300 (NG/ML), Phencyclidine-25 (NG/ML), Alcohol-50 (MG/DL), or other illicit drugs or controlled substances including those controlled substances as defined by the Wyoming Controlled Substances Act, W. S. 35-7-1001 et seq., at threshold levels established by the National Institute on Drug Abuse (NIDA). Such employee is under an affirmative duty to notify his/her administrator/supervisor immediately that he/she is not in an appropriate mental or physical condition to operate, use, or drive the equipment, whether or not belonging to the District.
- C. No employee shall unlawfully manufacture, distribute, dispense, possess, transfer, or use alcohol or a controlled substance in the workplace or wherever performing duties for the District.
- D. Engaging in off-duty sale, purchase, transfer, use or possession of illegal drugs or controlled substances may have a negative effect on an employee's ability to perform his/her work for the District. In such circumstances, the employee is subject to discipline.
- E. The District may notify the appropriate law enforcement agency when it believes that an employee may have illegal drugs in his/her possession or is involved in other illegal conduct at District facilities or whenever performing duties for the District.

- F. Employees are prohibited from consuming alcoholic beverages during lunch periods, dinner periods, or breaks when returning immediately thereafter to perform work on behalf of the District.
- G. Nothing in these regulations is intended to preclude an employee from reporting his/her administrator/supervisor to the Director of Human Resources because of suspected use of alcohol and/or drugs. No employee may be disciplined or receive adverse treatment as a result of having made such a report in good faith.

Alcohol and Drug Testing

- A. In order to carry out the District's commitment to an alcohol and drug-free workplace, the District reserves the right to require employees submit to testing in accordance with applicable law.
- B. Who may be Subject to Testing?
 - 1. Volunteer Testing. The District shall permit any employee to undergo testing on a voluntary basis under this policy. No employee who voluntarily consents to testing prior to any observed or suspected violation of this policy shall be discharged as a result of a positive drug or alcohol test so long as the employee agrees to participate in the District's Employee Support Core Team Assistance Program.
 - 2. Random Testing. The District may require employees in safety-sensitive positions to undergo testing on a random selection basis according to Policy File GBCD and GBCD-R.
 - 3. Reasonable Suspicion Testing. The District may require an employee to be tested when the District reasonably suspects that the employee is impaired while on school property and/or performing school duties or:
 - a. has sustained personal injury or caused another individual to sustain personal injury in a work-related accident;
 - b. has violated the District's Policy File GBCB Drug-Free Workplace.
 - 4. In order for "reasonable suspicion" to exist, there must be a basis for forming a belief that testing is justified based on specific contemporaneous, articulatable, observations concerning the appearance, behavior, speech or body odors of the employee. The indications of impairment are outlined in GBCB-E. Administrators/supervisors shall participate in a training program to identify the effects and consequences of drug/alcohol abuse on personal health, safety, and work environment and the manifestations and behavioral causes that may indicate drug/alcohol use or abuse. Administrators/supervisors must submit their recommendations for reasonable suspicion drug/alcohol testing to the Director of Human Resources for approval.

A written record shall be prepared and maintained setting forth the behavior and observations for the reasonable suspicion leading to the testing. Such records shall be made and signed by an administrator/supervisor who made the observations within 24 hours of the observed behavior. Only the Director of Human Resources may authorize reasonable suspicion drug/alcohol testing. The Director of Human Resources shall notify the employee of the recommendation for testing and shall allow the employee to appear and offer such evidence as the employee desires prior to the Director of Human Resources acting upon any recommendation for testing. If the Director of Human Resources is not available, the Superintendent of Schools will be designated to assume the responsibilities outlined in this policy. The employee may be permitted to have a representative of the employee's choice, including an attorney present when the allegations are explained to the employee. Time is of the essence in acting upon the recommendation and delays will not be allowed should the employee choose not to appear and/or present evidences.

5. Treatment Program Testing. The District may require an employee to be tested when the employee is participating in an alcohol or chemical dependency treatment or rehabilitation program under the employee benefit plan or the Employee Support Core Team. The employee may be required to undergo testing without advance notice during the evaluation or treatment period and for up to two years following the completion of a treatment program.

C. Conducting the Testing.

1. Consent. All persons to be tested will be required to complete and sign employee consent. Substance abuse testing will not be performed unless a signed consent is in the possession of the District. Each form must also be witnessed. Employees who are using prescribed drugs must declare such prescribed drug use prior to any drug test. Excluded from these regulations are prescribed drugs only when used in the manner, combination, and quantity intended by the prescribing physician.
2. Refusal to Participate. An employee has the right to refuse testing. However, a refusal of testing will be treated as a failure to comply with the District policy and may result in disciplinary action up to and including termination of employment.
3. The Laboratory. The laboratory selected to perform testing must be certified by the National Institute on Drug Abuse (NIDA), the College of American Pathologists (CAP), or similar certifying agency. Laboratory facilities shall comply with applicable provisions of any state licenser's requirement. The laboratory shall maintain and make available for at least two years, documentation of all aspects of the testing process. The tests conducted shall be an alcohol breath test and a urine sample that shall be analyzed for marijuana (THC metabolite), cocaine, amphetamines, opiates (including heroin), and phencyclidine (PCP). Sweetwater County School District Number One will designate a collection site that shall have all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of urine specimens to a certified drug-testing laboratory. An independent medical or certified testing facility shall collect the samples and conduct all tests. A tamper-proof sealing system will be used for specimen bottles and shipping containers including use of one or more preprinted labels and seals.

The collection site personnel will arrange to ship the collected specimen to the drug-testing laboratory in accordance with custody and control procedures. If the employee refuses to cooperate with the collection process (e.g., refusal to provide a complete specimen, complete paperwork, initial specimen), the collection site person shall inform the Director of Human Resources and shall document the noncooperation on the custody and control form. The collection site will provide the results of the drug/alcohol testing to the District and the employee. Any positive initial test will be confirmed by a gas chromatography/mass spectrometry (GC/MS) test.

4. Test Results.

- a. Negative Tests [passed tests]. Negative test results on an initial test will be provided in writing to the District within three working days after the test result. An applicant or employee will receive written notification of the test result within a reasonable period after the District is notified of the result.
- b. Positive Tests [failed tests]. A confirmatory test will be performed on all samples that result in a positive test result on an initial test. Positive test results will be provided in writing to the District within a reasonable period after a confirmatory test. An applicant or employee will receive written notification of a confirmatory test result within three working days after the District is notified of such result. In the case of a positive test result on a confirmatory test, the tested individual may, within three working days after notice of the test result, explain the result or request a confirmatory retest of the original sample at the individual's own expense. If a confirmatory retest is requested, the individual must notify the District in writing, within five working days after notice of the confirmatory test result, of his or her intention to obtain a retest.
- c. Right to Test Result. An employee has the right to request and receive from the District a copy of the test result report on any drug or alcohol test.

D. Costs. All costs related to alcohol and drug testing will be paid by the District, with the exception of confirmatory retests, which must be paid for by the employee requesting the retest.

E. Disciplinary Action in Response to a Positive Test Result.

1. Interim Disciplinary Action: The District reserves the right to reassign an employee with a positive test to another position at the same rate of pay or to temporarily suspend the employee (and prohibit further use of any District vehicles or equipment) pending the outcome of the confirmatory test (and, if requested, the confirmatory retest) if the District believes that it is reasonably necessary to do so to protect the health and safety of the employee, students or the public.
2. First Failed Test: The District may discipline an employee up to and including termination of employment if the employee tests positive on a confirmatory test.

Any employee, not terminated, who has a positive confirmatory test will be required to participate in the Employee Support Core Team Assistance Program. Failure to seek and receive assistance or failure to abide by the terms and conditions or prescribed treatment will be grounds for termination. Participation in the Employee Support Core Team Assistance Program shall be taken into account in considering appropriate disciplinary action.

The District may terminate an employee for whom a positive confirmatory test is the first such result where (1) the employee is given an opportunity to participate in, at the employee's expense or pursuant to coverage under an employee's benefit plan, a drug or alcohol counseling or rehabilitation program; and (2) the employee has either refused to participate in a drug or alcohol counseling or rehabilitation program or has failed to successfully complete it. The type of counseling or rehabilitation program in which an employee participates will be determined by the District after consultation with a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency.

3. Second Failed Test: The District may discipline an employee, including termination of employment, if an employee tests positive on a confirmatory test and has previously had a positive confirmatory test result. This action may be taken without first referring the employee to a chemical dependency counseling or rehabilitation program.

F. Due Process

Any disputes by the employee of the District regarding the enforcement of these regulations shall be resolved in accordance with the grievance procedure set forth in District Policy File GBM Staff Complaints and Grievances. Any employee shall be entitled to file his/her formal written grievance with the Board of Education because the administrative levels of the grievance process will, of necessity, have already addressed certain issues including referring an employee for testing. Such grievance must be filed within twenty days of actual knowledge of the act or condition that is the basis of the grievance.

The Board may, in its discretion, appoint an independent hearing officer to take evidence in any such grievance. The authority of an officer so appointed is set forth in W. S. 16-3-112. If appointed, the independent hearing officer shall submit recommended findings and conclusions to the Board for its consideration. In the event, however, that the grievance involves a determination of whether reasonable suspicion sufficient to refer an employee for testing exists, and the hearing officer determines that reasonable cause did exist, the detailed findings of the hearing officer shall be delivered to the Superintendent in light of the potential of disciplinary action against the employee. The hearing officer shall also recommend a decision to the Board, narrowly drafted to the issue or issues in the grievance so that the grievance has been concluded

If it is determined by the Board of Education, following its consideration of the hearing officer's decision that an employee has unjustifiably been suspected of drug or alcohol involvement prohibited by this policy, the Board shall direct the Superintendent to notify the employee's administrator/supervisor or such other person, or persons as the employee may request, that the employee has not violated the terms of this policy.

If an employee is required to undergo drug/alcohol testing under any provisions of these regulations, and the test shows the employee is not in violation, the outcome of the test shall be communicated to any person or entity requested by the employee.

Nothing herein shall be construed as delaying the referral of an employee for testing in accordance with these regulations set forth above

Nothing in these regulations shall alter or supersede the provisions of the Wyoming Teacher Employment Act, W. S. 21-7-101 through 21-7-304.

G. Privacy of Test Results.

1. The Director of Human Resources shall ensure that all records related to the administration and results of the drug/alcohol testing program for its employees remain private and confidential, except such results may be used in any disciplinary proceeding arising out of the enforcement of this policy. Test results and other information acquired as a result of the testing program will not be disclosed by the District or the testing laboratory to non-administrative employees or to third party individuals, government agencies, or private organizations without written consent of the employee being tested, or court or similar order. In the event that the District receives an order of a court or a subpoena seeking information disclosed or obtained pursuant to the District's drug and alcohol policy, unless prohibited by law, or an order of the court issuing the subpoena, the District shall promptly notify the employee. The District shall include in its response to any such order or request a written notice indicating that this policy requires that the information be treated as confidential. The test results and other records related to this policy shall be maintained in the Central Administration Building in a file separated from the employee's personnel file. Any employee who inappropriately divulges information about another employee's drug- testing or other related information shall be subject to disciplinary actions. All information collected concerning an employee or disclosed by an employee pursuant to the District's drug and alcohol testing/Employee Assistance Program and accompanying regulations is obtained exclusively for purposes of employment.
2. Evidence of a positive test result on a confirmatory test, however, may be used in any proceeding pursuant to a collective bargaining agreement, an administrative hearing, or a judicial proceeding, provided the information is relevant to the hearing or proceeding. Such evidence may also be disclosed to any federal agency or other unit of the United States government as required under federal law, regulation, or order. Evidence of a positive test result on a confirmatory test may also be disclosed to a substance abuse treatment facility or the employee support team for the purpose of evaluation or treatment.
3. The District will provide an employee with access to information in the employee's file relating to positive test result reports and other information acquired in the testing process as well as conclusions drawn from or actions taken based upon such information.

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