

DRUG AND ALCOHOL TESTING PRORAM FOR EMPLOYEES NOT REQUIRED TO POSSESS A COMMERCIAL DRIVERS LICENSE

Statement of Policy

In order to foster an appropriate environment for the education of students and to protect the health and safety of employees, it is the policy of the Interstate 35 Community School District that the following conduct is prohibited: (1) the use, sale, offering for sale, or possession of illegal drugs, controlled substances, imitation controlled substances, or counterfeit controlled substances, on the job, on the district's premises, or in district vehicles; (2) any improper use of "legal" or physician-prescribed drugs on the job, on the district's premises, or in district vehicles; (3) the use, sale, offering for sale, or possession of alcoholic liquor (beer, wine, or alcohol) on the job, on the district's premises, or in district vehicles; and (4) being under the influence of illegal drugs or controlled substances, alcoholic liquor (beer, wine, or alcohol) or improperly used prescription drugs on the job, on the district's premises, or in district vehicles.

Application

The portions of this policy which pertain to testing (Sections C through M) apply to all individuals who are not required to possess a commercial driver's license in order to perform the duties of their position.

Unless otherwise specified, this policy applies to all district employees, including part-time employees.

This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Visitors, vendors, and contractor employees are governed by this policy while on district premises and will not be permitted to conduct business if found to be in violation of this policy.

Testing Provisions

The district will conduct drug and alcohol testing when the district makes an offer of employment to individuals who are not required to possess a commercial drivers' license in order to perform the duties of their position.

The district may conduct drug and alcohol testing of individuals who are not required to possess a commercial driver's license in order to perform the duties of their position under the following circumstances:

- (1) Where there is reasonable suspicion of the use of illegal drugs, controlled substances or alcohol,
- (2) When investigating certain workplace injuries, and
- (3) During or after rehabilitation.

Definitions

As used in this policy, the term “controlled substance” means any substance specified in Schedule I, II, III, IV, or V of the Federal Controlled Substances Act, 21 U.S.C. 801 et. Seq. and published at 21 CFR 1308.11 and 21 CFR 1308.12, and any substance defined as a “controlled substance” by state law.

“Alcohol” means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol. The term “alcohol” includes, but is not limited to, beer, wine, liquor, other alcoholic beverages, and medicines containing alcohol (unless the packaging seal is unbroken).

Reasonable Suspicion Testing

Any employee who is reasonably suspected of being impaired by or under the influence of a controlled substance or alcohol (that is, having a controlled substance or alcohol in the body) will be suspended from their job duties pending an investigation and verification of their condition. Employees who are reasonably suspected of being impaired by or under the influence of a controlled substance or alcohol will not be permitted to drive a motor vehicle after they have been suspended. If the employee has driven a motor vehicle to work, the employee must either make arrangements with another individual to drive their vehicle or must make arrangements for alternative transportation.

Employees may be subject to testing when there is reason to believe that an employee is using or has used alcohol or other drugs in violation of the district’s written policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. For purpose of this provision, facts and influences may be based upon, but are not limited to, any of the following:

1. Observable phenomena while at work such as direct observation of alcohol or drug use or abuse or of the physical symptoms or manifestations of being impaired due to alcohol or other drug use.
2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
3. A report of alcohol or other drug use provided by a reliable and credible source.
4. Evidence that an individual has tampered with any drug or alcohol test during the individual’s employment with the district.
5. Evidence that the employee has manufactured, sold, distributed, solicited, possessed, used, or transferred drugs while working or while on the district’s premises or while operating the district’s vehicle, machinery, or equipment.

Reasonable suspicion testing will only be required during, just before, or just after the period of the day when the employee is engaged in work functions.

Employees who are required to submit to reasonable suspicion testing will be suspended from their job duties pending an investigation and the report of the tests. If the test of the employee results in an alcohol concentration of less than .04 and MRO-verified negative test for the use of

controlled substances, then the period of suspension will be with pay. If the test of the employee results in an alcohol concentration of more than .04 or a MRO-verified positive test for the use of controlled substances, then the period of suspension will be without pay.

Post-Injury Testing

Employees may be subject to testing if they have suffered a work-related injury for which a report could be required under Iowa Code Chapter 85. Iowa Code Section 85.16(2) provides that worker's compensation benefits will not be allowed for an injury which was caused by the employee's intoxication, if the intoxication, was a substantial factor in causing the injury. In determining whether an employee will be required to submit to post-injury drug test, the district will apply the standards set forth in Part F of this policy ("Reasonable Suspicion Testing").

The employee is permitted to obtain necessary medical attention following an accident, to leave the scene of an accident for the period necessary to obtain necessary emergency medical care, but the employee will be subject to post-injury testing and must remain readily available for testing or the employee will be deemed to have refused to submit to testing.

Alcohol test will be administered as soon as practicable, but no later than 8 hours after the injury. Tests for controlled substances will be administered as soon as practicable, but no later than 32 hours after the injury.

Testing During or After Rehabilitation

Employees who have tested positive on a drug or alcohol test and who employment has not been terminated will be subject to testing during, and after completion of, drug or alcohol rehabilitation. The number, type, and frequency of follow-up tests will be as directed by the substance abuse professional and, unless otherwise recommended, will consist of at least 6 tests in the first 12 months following the employee's return to duty.

Cooperation Required

Any individual who refuses to submit to an alcohol or controlled substance test, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution will be subject to disciplinary action. The phrase "refuses to submit to an alcohol or controlled substance test" means that the individual:

1. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing, or
2. Fails to provide adequate urine for controlled substance testing without valid medical explanation after he or she has received notice of the requirements for urine testing, or
3. Engages in conduct that clearly obstructs the testing process.

All employees are encouraged to make use of available resources for treatment of substance abuse problems. Under certain circumstances, employees may be referred for treatment for substance abuse. An employee will be subject to disciplinary action for:

1. A failure or refusal to submit to an evaluation.

2. A failure or refusal to undergo treatment recommended as a result of an evaluation.
3. Withdrawal from or a failure to satisfactorily complete the treatment program recommended as a result of evaluation.
4. Withdrawal from or a failure to satisfactorily participate in an aftercare program, if aftercare is prescribed as a part of treatment.

Testing will be conducted in a manner to assure the highest degree of accuracy and reliability by using techniques and laboratory facilities which meet the requirements of the Iowa Department of Health.

Confirmatory Testing

If the result of the initial test is an alcohol concentration of .04 or greater or if the result of the initial test is positive for the presence of a controlled substance, a confirmatory test must be performed. The confirmatory test will use a different chemical process than was used in the initial screen for drugs or alcohol. The confirmatory drug or alcohol test will be a chromatographic technique such as gas chromatography/mass spectrometry, or another comparably reliable analytical method.

Employee Requested Testing

If a confirmed positive drug or alcohol test for a current employee is reported to the district by the medical review officer, the district will notify the employee in writing by certified mail, return receipt requested, of the results of the test, the employee's right to request and obtain a confirmatory test of the second sample collected at an approved laboratory of the employee's choice, and the fee payable by the employee to the district for reimbursement of expenses concerning the test. The fee charged an employee will be an amount that represents the costs associated with conducting the second confirmatory test, which will be consistent with the district's cost for conducting the initial confirmatory test on an employee's sample.

If the employee, in person or by certified mail, return receipt requested, requests a second confirmatory test, identifies an approved laboratory to conduct the test, and pays the district the fee for the test within seven days from the date the district mails by certified mail, return receipt requested, the written notice to the employee of the employee's right to request a test, a second confirmatory test will be conducted at the laboratory chosen by the employee. The results of the second confirmatory test will be reported to the medical review officer who reviewed the initial confirmatory test results and the medical review officer will review the results and issue a report to the district on whether the results of the second confirmatory test confirmed the initial confirmatory test as to the presence of a specific drug or alcohol. If the results of the second test do not confirm the results of the initial confirmatory test, the district will reimburse the employee for the fee paid by the employee for the second test and the initial confirmatory test will not be considered a confirmed positive drug or alcohol test for purposes of taking disciplinary action.

If a confirmed positive drug or alcohol test for prospective employee is reported to the district by the medical review officer, the district will notify the prospective employee in writing of the

results of the test, of the name and address of the medical review officer who made the report, and of the opportunity for the prospective employee to request records.

Consequences for Violations

If the test of an individual who is applicant for employment results in a Medical Review Officer (MRO)-verified positive test for the use of controlled substances or an alcohol concentration of .04 or greater, the applicant will not be eligible for employment.

Disciplinary action, including termination of employment, may be taken against employees for any of the following reasons:

1. A violation of any provision of Board Policy.
2. If the test of the employee results in a Medical Review Officer (MRO)-verified positive for the use of controlled substances or an alcohol concentration of .04 or greater.
3. A failure or refusal to submit to testing
4. A failure or refusal to submit to an evaluation.
5. A failure or refusal to undergo treatment recommended as a result of evaluation.
6. Withdrawal from or a failure to satisfactorily complete the treatment program recommended as a result of an evaluation.
7. Withdrawal from or a failure to satisfactorily participate in an aftercare program, if aftercare is prescribed as a part of treatment.

Payment for Evaluation and Treatment

The district's responsibility for the cost of any evaluation, treatment, or counseling will be limited to the benefits provided by the district's health insurance plan for such evaluation, treatment, or counseling.

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