

The board of trustees is committed to a safe working environment, which includes supporting a drug and alcohol free workplace. The board does not tolerate drug or alcohol abuse, or the misuse of prescription drugs, by its employees. All district workplaces are hereby declared to be drug and alcohol free workplaces. The drug free workplace requirements extend to all property owned by the district, all activities sponsored by the district, and include any vehicle owned by this district.

Employees are prohibited from manufacturing, dispensing, using, possessing, or distributing illegal drugs or alcohol on any school premises or at any school activity. Employees are further prohibited from being under the influence of illegal drugs or alcohol on any school premises or at any school activity.

DEFINITIONS

Award: Financial assistance provided to the district by the U.S. Department of Education or other federal agency, including grants or cooperative agreements in the form of money or property in lieu of money; or block grants or a grant in an entitlement program. The term “award” does not include any of the following: technical assistance that provides services instead of money; loans and loan guarantees; interest subsidies; insurance; direct appropriations; or veteran’s benefits to individuals.

Controlled Substance: Any drug or substance that is: (a) not legally obtainable; (b) being used in a manner different than prescribed; (c) legally obtainable, but has not been legally obtained; or (d) identified in schedules I through V of the Controlled Substance Act (21 U.S.C. §812) and as further defined in 21 CFR §1308.11 through 1308.15, or (e) identified in Idaho Code §37-2701 *et seq.*

Conviction: A finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes.

Criminal Drug Law: A federal or non-federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance.

Drug Free Workplace: A site for the performance of work done in connection with a specific award at which employees of the recipient are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

Illegal Drug Use: The use, possession or distribution of illegal drugs, or the abusive use of other

drugs, or the use of alcohol on any school premises or at any school activity. The term does not include the use of a drug taken under the supervision of a licensed health care provider.

Illegal Drugs: Any controlled substances defined by schedules I through V of the Controlled Substance Act (21 U.S.C. §812) and Idaho Code §37-2701, or any other substance which is used to alter or change the mood of an individual, or anabolic steroids. The term “illegal drugs” does not include over the counter drugs or prescriptions prescribed by a doctor or dentist specifically for the person in possession of those drugs.

Under the Influence: This definition covers not only all well-known and easily recognized conditions and degrees of intoxication but any abnormal mental or physical condition which is the result of indulging to any degree in unlawful alcohol or illegal drugs, and which tends to deprive one of that clearness of mind and self-control of which he or she would otherwise possess.

Unlawful Alcohol: Any alcoholic beverage as defined by Idaho Code §§23-1001, and 23-1303.

Unlawful Alcohol Use: The use, possession, or distribution of alcohol on any school premises or at any school activity.

Violations: The commission of an act of illegal drug use or unlawful alcohol use by a district employee.

DRUG-FREE AWARENESS PROGRAM

The district will establish a drug-free awareness program to inform employees about: (1) the dangers of drug abuse in the workplace; (2) the district’s policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon employees for drug use violations.

Upon adoption of this policy or initial employment with the district, all employees will receive a copy of this policy and the accompanying procedures (Policy 403P1). Additionally, a copy of this policy and the accompanying procedures will be available for review at the district office. A signed statement acknowledging receipt and understanding of, and agreement to abide by, this policy will be placed in the employee’s personnel file.

EMPLOYEES WORKING IN FEDERAL GRANT PROGRAMS

Any employee working in the department or program responsible for the performance of a federal grant will, as a condition of employment, agree to abide by the terms of this policy and to notify the district of any criminal drug statute conviction for a violation occurring in the workplace. The employee must notify the district no later than five (5) days after such conviction.

Pursuant to the Drug-Free Workplace Act, the district will report, in writing, to the federal

contracting or granting agency, within ten (10) days of receiving notice, that an employee has been convicted of a criminal drug statute for a violation occurring in the workplace.

DISCIPLINARY ACTION

1. 1. Any employee who violates the terms of the district's drug and alcohol policy may be subject to disciplinary action, including, but not limited to, discharge, suspension, and/or referral for drug and alcohol abuse evaluation and rehabilitation, at the discretion of the board. The fact that an employee has been referred for assistance and the employee's willingness or ability to rehabilitate are appropriate considerations as to what, if any, disciplinary action may be taken.
2. Notwithstanding the above paragraph, a district bus driver will be suspended from all duties pending investigation when reasonable suspicion exists that the driver may be under the influence of illegal drugs or alcohol. If a bus driver is found to have violated this policy, he or she will be immediately terminated from district employment and the incident will be reported to the State Department of Education, The board or designee will recommend license revocation to the Idaho Department of Transportation.
3. If reasonable suspicion exists that federal, state or local laws have been violated the district will notify the appropriate law enforcement agencies.

In determining whether and to what extent an employee will be disciplined or discharged for violation of this policy, the board may consider the following factors:

1. The degree to which the nature of the criminal offense reduces the district's ability to maintain a safe working environment;
2. The degree to which the nature of the criminal offense unreasonably endangers the safety of other employees and/or students;
3. The degree to which the conviction unreasonably undermines the public confidence in the district's operations;
4. The nature of the criminal offense;
5. The nature of the employee's job with the district;
6. The existence of any explanatory or mitigating facts or circumstances;
7. Whether the employee promptly reports the conviction; and
8. Any other facts relevant to the employee, including but not limited to years of service and record of performance with the district.

The district establishes that an employee was discharged for work-related misconduct, as provided in Idaho Code §72-1366, upon a showing that the district has established a drug-free workplace policy in accordance with Idaho Code §72-1701 et seq. and the discharge was based on:

1. A confirmed positive drug and/or alcohol test result of not less than .02 BAC;
2. The employee's refusal to provide a sample for testing;
3. The employee's alteration or attempt to alter a test sample by adding a foreign substance for the purpose of making the sample more difficult to analyze; or
4. The employee's submission of a sample that is not his or her own.

Within thirty (30) days after receiving notice of a conviction, the district will take appropriate disciplinary action and/or refer the employee to an appropriate substance abuse rehabilitation program.

CONFIDENTIALITY

All information, interviews, reports, statements, memoranda or test results, written or otherwise, received through a substance abuse testing program shall be kept confidential and securely maintained in a file separate from the employee's personnel file. Confidential information will be used or disclosed only on a need-to-know basis and to the extent necessary for the conduct of the district's business, subject to the following exceptions: in a proceeding related to any disciplinary action taken by the district as a result of the drug and/or alcohol test; any other dispute between the district and the employee; as required to be disclosed by the United States department of transportation law or regulation or other federal law; or as required by service of legal process.

The district will not disclose information to third parties regarding drug and alcohol testing without the written consent of the employee.

Records showing an employee tested negative will be kept for at least one (1) year. Records showing that an employee tested positive, including the reason for the test, identification of the substance(s) used by the employee, and the disposition of each employee will be kept for the length of employment plus at least five (5) years. Such records will be kept confidential and will not be considered part of an employee's personnel file.

PRE-EMPLOYMENT TESTING

Applicants being considered for employment may be required to submit to a urinalysis test for the detection of illegal drug use. Applicants shall be given a copy of this policy in advance of employment. Applicants must acknowledge having read or had this policy explained to them and should understand that as a condition of employment they are subject to its contents. Applicants shall sign an acknowledgement prior to substance screening, permitting the summary result to be transmitted to the superintendent or designee.

An applicant refusing to complete any part of the drug testing procedure will not be considered a valid candidate for employment with the district. Such refusal will be considered as a withdrawal of the individual's application for employment. If substance screening shows a confirmed positive result for which there is no current physician's prescription, a second confirming test

may be requested by the superintendent or designee. If the first or any requested second confirming test is positive, any job offer shall be revoked.

REASONABLE SUSPICION TESTING

All employees in the district are subject to reasonable suspicion drug testing. The district may require any employee to submit to a chemical test of the employee's breath, saliva, or urine if the superintendent or designee has reasonable suspicion to believe that the employee is using or is under the influence of alcohol or an illegal substance while on duty on district property or at a district-sponsored activity, function, or event, regardless of location, or that the employee has otherwise violated this policy. When a supervisor observes or is notified of behaviors or events that lead the supervisor to believe that the employee is in violation of this policy, the supervisor shall notify the superintendent or designee.

The superintendent, or other authorized designee, are the only individuals in the district authorized (a) to make the determination that reasonable suspicion exists to order a drug screen; and (b) who may order an employee to submit to a drug screen.

Factors that may be considered in determining that reasonable suspicion exists include, but are not limited to, the following:

1. Observed use, possession, or sale of illegal drugs and/or alcohol, and/or illegal use or sale of prescription drugs.
2. Marked changes in personal behavior or productivity not reasonably attributable to other causes.
3. Apparent impairment of psychomotor functions, reasoning, judgment, or concentration, and/or physical indicators of impairment such as slurred speech, dilated or blurry eyes, or difficulty walking, not reasonably attributable to other causes.
4. Involvement in or contribution to an accident or deviations from safe working practices, whether the incident involves actual or potential injury to person(s) or property, where the use of alcohol or drugs is reasonably suspected.
5. Violations of criminal drug law statutes involving the use of illegal drugs, alcohol, or prescription drugs and/or violations of drug statutes.

The superintendent or designee may rely on report(s) from persons who report suspected drug or alcohol use by an employee if the individual is determined to be reliable and has based such reports upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee.

An employee who is required to submit to drug/alcohol testing based upon reasonable suspicion and refuses shall be charged with insubordination and necessary procedures may be taken to terminate the employee in accordance with board policy and state law. An employee who tests positive on a reasonable suspicion test will be considered in violation of this policy. Violation of this policy shall constitute grounds for termination in accordance with board policy and state law.

The circumstances under which substance screening may be considered, as outlined above, are strictly limited in time and place to employee conduct on duty or during work hours, or on or in district property, or at district-approved or school-related functions.

POST ACCIDENT TESTING

Employees operating a district-owned vehicle involved in a motor vehicle accident which involves either a fatality or the issuance of a citation for a moving violation to the district employee may be tested for alcohol misuse and controlled substance abuse in accordance with district procedures (Policy 403P1). Bus drivers employed by the district must comply with Policy 744.

RETURN TO DUTY TESTING

An employee who has been given the opportunity to undergo rehabilitation for drugs or alcohol shall, as a condition to returning to duty, be required to agree to reasonable follow-up testing established by the superintendent or designee. The extent and duration of the follow-up testing will depend upon the safety or security nature of the employee's position and the nature and extent of the employee's substance abuse problem. The superintendent or designee will review the conditions of continued employment with the employee prior to the employee returning to work. Any such condition for continued employment shall be given to the employee in writing. This agreement must be signed by the employee before the employee is permitted to return to work. Prior to the employee returning to work, the employee must complete a drug and/or alcohol test which shows a negative result.

The superintendent or designee may consult with the employee's rehabilitation program in determining an appropriate follow-up testing program, including the frequency of any substance screening contained in a follow-up testing program. In no instance shall such screening be ordered by the superintendent or designee more than one time within a 72-hour period. In the event of positive test results, the superintendent or designee will work out disciplinary procedures, if any, in accordance with board policy and state law.

Any employee subject to return to duty testing that has a confirmed positive drug/alcohol test shall be in violation of this policy. Violation of this policy shall constitute grounds for immediate termination in accordance with board policy and state law.

INSPECTIONS

Employees may be assigned district-owned offices, vehicles, lockers, desks, cabinets, etc., for the mutual convenience of the district and district personnel. Employees have no expectation of privacy in any of these locations or any personal belongings which they may place in such areas.

Whenever the superintendent or designee reasonably suspects that an employee's work performance or on-the-job behavior may have been affected in any way by alcohol or drugs or that an employee has sold, purchased, used, or possessed alcohol, drugs, or drug paraphernalia on district premises or in district-owned vehicles, the superintendent or designee may search the employee and the employee's locker, desk, vehicle or other district property under the control of the employee.

Investigations under this policy are limited to investigations into work-related misconduct and offenses. Any searches for law enforcement purposes must comply with all applicable state and federal laws.

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LEGAL REFERENCE:

Federal Laws and Regulations

41 U.S.C. §81 *et. seq.*, as amended (the Drug-Free Workplace Act of 1988)

29 CFR §94.205 – What must I include in my drug-free workplace statement?

34 CFR Part 84 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)

Idaho Code Sections

23-105 – Alcoholic Liquor Defined

23-1001(a) – Beer Defined

23-1303 – Wine Definitions

33-513 – Professional Personnel

33-517 – Noncertificated Personnel

33-518 – Personnel Files

37-2701 *et seq.* – Uniform Controlled Substances

72-1701 *et seq.* – Alcohol and Drug Free Workplace Act

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