

Personnel

Alcohol- and Drug-Free Workplace/School

I. Purpose

Recognizing that the health and well-being of employees and students are vitally important, the district strives to provide an environment free from the use of alcohol, toxic substances, medical cannabis, and controlled substances without a physician's prescription.

II. General Statement of Policy

- A. Use or possession of controlled substances, toxic substances, medical cannabis, and alcohol before, during, or after school hours, at school or in any other school location, is prohibited as general policy. Paraphernalia associated with controlled substances is prohibited.
- B. A violation of this policy occurs when any student, teacher, administrator, other school district personnel, or member of the public uses or possesses alcohol, toxic substances, controlled substances, or medical cannabis in any school location.
- C. The district will act to enforce this policy and to discipline or take appropriate action against any student, teacher, administrator, school personnel, or member of the public who violates this policy.

III. Definitions

- A. "Alcohol" includes any alcoholic beverage, malt beverage, fortified wine, or other intoxicating liquor.
- B. "Controlled substances" include narcotic drugs, hallucinogenic drugs, amphetamines, barbiturates, marijuana, anabolic steroids, or any other controlled substance as defined in Schedules I through V of the Controlled Substances Act, 21 U.S.C. § 812, including analogues and look-alike drugs.
- C. "Medical cannabis" means any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins, and is delivered in the form of: (1) liquid, including, but not limited to, oil; (2) pill; (3) vaporized delivery method with use of liquid or oil but which does not require the use of dried leaves or plant form; or (4) any other method, excluding smoking, approved by the commissioner.
- D. "Toxic substances" includes glue, cement, aerosol paint, or other substances used or possessed with the intent of inducing intoxication or excitement of the central nervous system.

- E. "Use" includes to sell, buy, manufacture, distribute, dispense, possess, use, or be under the influence of alcohol and/or controlled substances, whether or not for the purpose of receiving remuneration or consideration.
- F. "Possess" means to have on one's person, in one's effects, or in an area subject to one's control.
- G. "School location" includes any school building or on any school premises; in any school-owned vehicle or in any other school-approved vehicle used to transport students to and from school or school activities; off school property at any school-sponsored or school-approved activity, event, or function, such as a field trip or athletic event, where students are under the jurisdiction of the school district; or during any period of time such employee is supervising students on behalf of the school district or otherwise engaged in school district business.

IV. Exceptions

- A. A violation of this policy does not occur when a person brings onto a school location, for such person's own use, a controlled substance, except medical cannabis, which has a currently accepted medical use in treatment in the United States and the person has a physician's prescription for the substance. The person will comply with the relevant procedures of this policy.
- B. A violation of this policy does not occur when a person possesses an alcoholic beverage in a school location when the possession is within the exceptions of Minn. Stat. § 624.701, Subd. 1a (experiments in laboratories; pursuant to a temporary license to sell liquor issued under Minnesota laws or possession after the purchase from such a temporary license holder).

V. Employees

- A. As a condition of employment in any federal grant, each employee who is engaged either directly or indirectly in performance of a federal grant will abide by the terms of this policy and will notify his or her supervisor in writing of his or her conviction of any criminal drug statute for a violation occurring in any of the places listed above on which work on a school district federal grant is performed, no later than five (5) calendar days after such conviction. Conviction means 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 the federal or state criminal drug statutes.
- B. An employee who violates the terms of this policy is subject to disciplinary action, including nonrenewal, suspension, termination, or discharge as deemed appropriate by the school board.

- C. In addition, any employee who violates the terms of this policy may be required to satisfactorily participate in a drug and/or alcohol abuse assistance or rehabilitation program approved by the school district. Any employee who fails to satisfactorily participate in and complete such a program is subject to nonrenewal, suspension, or termination as deemed appropriate by the school board.
- D. Sanctions against employees, including nonrenewal, suspension, termination, or discharge will be pursuant to and in accordance with applicable statutory authority, collective bargaining agreements, and school district policies.
- E. Employees who have a prescription from a physician for medical treatment with a controlled substance, except medical cannabis, are permitted to possess such controlled substance and associated necessary paraphernalia, such as an inhaler or syringe. The employee must inform his or her supervisor. The employee may be required to provide a copy of the prescription.
- F. Employees are subject to the school district's drug and alcohol testing policies and procedures.
- G. Each employee will be provided with written notice of this Drug-Free Workplace/Drug-Free School policy and will be required to acknowledge that he or she has received the policy.

VI. Transportation Employees

- A. The district adheres to the mandated provisions of the federal Omnibus Transportation Employee Testing Act of 1991 ("OTETA"). All persons subject to commercial driver's license requirements will be tested for controlled substances and alcohol pursuant to federal law. In general, a commercial driver may be tested:
 - 1. Upon reasonable suspicion by the school district;
 - 2. In accordance with random testing procedures;
 - 3. Post-accident; and
 - 4. Upon a request to return to duty after a violation of this policy;

In addition, all persons who apply for a position where job duties include operating a commercial motor vehicle will be required to submit to a drug and alcohol test if a job offer is made by the school district.

B. Refusal to Submit to Testing

A commercial driver or driver applicant may refuse to submit to controlled substances and alcohol testing. Refusal to submit to such test subjects the commercial driver or applicant to the consequences specified in OTETA and other applicable federal law. In addition, a refusal to submit to testing establishes a presumption that the commercial driver or applicant would test positive if a test were conducted. This positive assumption makes the

commercial driver or applicant subject to discipline or disqualification under this policy.

C. Consequences

A commercial driver who tests positive with a verified confirmation test or otherwise found in violation of this policy or OTETA will be subject to discipline, including possible discharge, in accordance with any applicable collective bargaining agreement. Nothing in this policy limits or restricts the right of the school district to discipline or discharge a commercial driver for conduct that not only constitutes prohibited conduct under this policy but also violates the school district's other rules or policies.

A commercial driver or applicant with a confirmed positive test result may request a confirming retest. This retest is at the expense of the commercial driver or applicant.

- D. The supervisor of transportation/designee will provide training and materials to commercial drivers in accordance with OTETA.

VII. Student

- A. Students who have a prescription from a physician for medical treatment with a controlled substance, except medical cannabis, must comply with the school district's student medication policy.
- B. A student who violates the terms of this policy will be subject to discipline in accordance with the school district's discipline policy. Such discipline may include suspension or expulsion from school.
- C. The student may be referred to a drug or alcohol assistance or rehabilitation program and/or to law enforcement officials when appropriate.

VIII. Community Responsibilities

- A. Members of the public are not permitted to possess controlled substances in a school location except with the express permission of the superintendent.
- B. A member of the public who violates this policy will be informed of the policy and asked to leave. If necessary, law enforcement officials will be notified and asked to provide an escort.
- C. No person is permitted to possess or use medical cannabis on a school bus or van; or on the grounds of any preschool or primary or secondary school; or on the grounds of any child care facility.

- D. Possession of alcohol on school grounds pursuant to the exceptions of Minn. Stat. § 624.701, Subd. 1a, will be by permission of the school board only. The applicant will apply for permission in writing and will follow the school board procedures for placing an item on the agenda.

Legal References:

20 U.S.C. § 7101-7165 (Safe and Drug-Free Schools and Communities Act)
21 U.S.C. § 812 (Schedules of Controlled Substances)
41 U.S.C. §§ 8101-8106 (Drug-Free Workplace Act)
21 C.F.R. §§ 1308.11-1308.15 (Controlled Substances)
34 C.F.R. Part 84 (Government-wide Requirements for Drug-Free Workplace)
49 U.S.C. § 31306 (Omnibus Transportation Employee Testing Act of 1991)
49 U.S.C. § 521(b) (Civil and Criminal Penalties for Violations)
49 C.F.R. Parts 40 and 382 (Department of Transportation Rules Implementing Omnibus Transportation Employee Testing Act of 1991)
Minn. Stat. § 121A.22 (Administration of Drugs and Medicine)
Minn. Stat. § 152.22 (Medical Cannabis; Definitions)
Minn. Stat. § 152.23 (Medical Cannabis; Limitations)
Minn. Stat. § 181.950-181.957 (Drug and Alcohol Testing in the Workplace)
Minn. Stat. § 221.031, subd. 10 (Motor Carrier Rules)
Minn. Stat. § 340A.403 (3.2 Percent Malt Liquor Licenses)
Minn. Stat. § 340A.404 (Intoxicating Liquor; On-Sale Licenses)
Minn. Stat. § 609.684 (Sale of Toxic Substances to Children; Abuse of Toxic Substances)
Minn. Stat. § 624.701 (Liquor in Certain Buildings or Grounds)
Belde v. Ferguson Enterprises, Inc., 460 F.3d 976 (8th Cir. 2006)

Cross Reference:

Policy 403 (Discipline, Suspension and Dismissal of School District Employees)
Policy 632 (Chemical Use and Abuse)
Policy 506 (Student Discipline)
Policy 516 (Student Medication)

Policy
adopted: 10/20/08
amended: 02/23/09
Revised: 07/15/13
Revised: 10/24/16

INDEPENDENT SCHOOL DISTRICT 273
Edina, Minnesota