

EMPLOYEE ALCOHOL AND/ OR DRUG TESTING REGULATIONS

Alcohol and Drug Testing: The District requires employees to undergo testing for drugs and/or alcohol in accordance with District policy and administrative regulations. The District complies with all applicable state and federal laws and regulations.

Employee Questions: Any employee who has questions relating to the District's drug and/or alcohol testing policy, or about these regulations, or about other educational materials regarding drug and/or alcohol testing should contact District's Human Resource Director.

Employees Affected: All employees are subject to testing for drugs and/or alcohol upon application for employment and upon reasonable suspicion that the employee has violated these regulations.

Bus Drivers: Drug testing for bus drivers is conducted using different procedures than those set forth in these regulations. Bus drivers should consult Policy #5175 for procedures that apply to them.

Compliance: All employees are prohibited from using, possessing, or being under the influence of illegal drugs. All employees are prohibited from using, possessing, or being under the influence of alcohol on school property or during a school-related activity.

A. Testing Situations:

1. **Applicants:** Upon a conditional offer of employment, a job applicant may be required to undergo drug and/or alcohol testing. A refusal to undergo testing or a confirmed positive test result will serve as a basis for refusal to hire, provided that such testing does not violate the provisions of the Americans with Disabilities Act of 1990, 42 U.S.C., Section 12101 et seq., and provided that such testing is required for all applicants who have received a conditional offer of employment for a particular employment classification. Applicants may be placed in an assignment as a substitute employee until the results of such testing are received by the District. All positive results will be confirmed by an alternative test method as provided by Oklahoma statute and regulations.
2. **Reasonable Suspicion:** The District may require an employee to undergo drug and/or alcohol testing upon a reasonable suspicion that the employee has violated these regulations. Reasonable suspicion exists when a specific contemporaneous event or observation points to recent alcohol and/or drug use. These observations or events must be documented. The documentation should include specific, observable facts and reasonable inferences that suggest the employee is using drugs or alcohol.

3. **Post Accident:** District employees may be tested for drugs and/or alcohol after an accident if the employee or another person has sustained a work-related injury or the District's property has been damaged, including damage to equipment, in an amount reasonably estimated at the time of the accident to exceed Five Hundred Dollars (\$500.00).

B. Consent: Employees will not be required to sign any consent or waiver prior to drug and/or alcohol testing. All employees recognize that by continuing their employment with the District they have consented to the District's adoption of a drug and/or alcohol testing program.

C. Refusal: Under this regulation, an employee will be deemed to have refused to be screened if he or she:

1. Fails to appear for a test within a reasonable time after being directed to do so;
2. Fails to remain at the testing site until the test is complete (except in the case of a pre-employment applicant who leaves the testing site prior to the commencement of the test);
3. Fails to provide a urine specimen (except in the case of a pre-employment applicant who leaves the testing site prior to the commencement of the test);
4. In the case of a directly observed or monitored collection, fails to permit observation or monitoring;
5. Fails to provide an adequate amount of urine, despite the lack of a medical explanation for the failure;
6. Fails or declines to take an additional test upon request; or
7. Fails to cooperate with any part of the testing process.

D. Procedure for Alcohol Testing and Confirmation: Alcohol testing is generally performed using breath or saliva samples. Employees may be required to allow a blood sample under certain limited circumstances. Tests shall be conducted to afford the employee reasonable privacy, but may depend upon the circumstances of the situation. If an initial test demonstrates an alcohol concentration level of .02 or higher, then a confirmation test will be required. Confirmation tests for alcohol must be conducted at least 15 minutes after the initial test. No disciplinary action will be taken against an employee unless the confirmation test also results in an alcohol concentration of .02 or higher. If the alcohol test was by breath or saliva samples, the confirmation test must be performed on a blood or urine sample of the employee.

E. Procedure for Drug Testing: The District will use the following procedures to test for the presence of controlled substances, to protect the employee and the integrity of the testing processes, to safeguard the validity of the test results, and to ensure that those results are attributed to the correct employee:

1. With the exception of pre-employment applicants, an employee will not be given advance notice of a test.
2. Collection for testing may take place off-site or on campus.
3. If an employee shows overt signs of impairment or intoxication, the District will offer transportation to preclude the employee from driving home or to the collection site. The District may utilize a taxi service or transportation provided by another District employee, a family member of the employee, or law enforcement.
4. The collection of samples shall be performed under reasonable and sanitary conditions.
5. Samples shall be collected and tested with due regard to the privacy of the individual being tested. No employer or representative, agent or designee of the District shall directly observe an applicant in the process of producing a urine sample. However, collection shall be in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable sample.
6. A sample shall be collected in sufficient quantity for splitting into two separate specimens to provide for any subsequent independent analysis in the event of challenge of the test results of the main specimen.
7. The cutoff levels to be applied in initially determining whether an employee has submitted a positive test are set forth in District Form DH-F1. If the employee undergoes a second test, the District may test for lower levels as provided by state regulations.
8. The laboratory results of employees subject to this policy will be reviewed by a review officer who has met the minimum criteria to qualify for that position in accordance with guidelines established by the State Board of Health.
9. Sample collection shall be documented, and the documentation procedures shall include:
 - a. labeling of samples so as reasonably to preclude the probability of erroneous identification of test results, and
 - b. an opportunity for the employee/applicant to provide notification of any information which the employee/applicant considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs, or other relevant information.
10. Sample collection storage and transportation to the testing facility shall be performed so as reasonably to preclude the probability of sample contamination or adulteration.
11. Sample testing procedures shall conform to scientifically accepted analytical methods and procedures, and shall include confirmation of any positive test result before the results of any test may be used as the basis for any action.
12. A written record of the chain of custody of the sample shall be maintained from the time of the collection of the sample until the sample is no longer required.

F. **Results:** If the laboratory makes a finding that the specimen is positive, adulterated, dilute, or refused, then the results will be reviewed by a qualified review officer. The review officer will give the employee an adequate opportunity to confidentially explain the

positive result. The review officer will then use his or her expertise in determining whether the employee has presented a valid medical explanation for the positive result. If so, the positive result will not be verified, and no adverse action may be taken against the employee. If not, then the review officer will report the verified positive result to the District.

The review officer must make an effort to contact the employee so that he or she may confidentially explain a positive test result. However, the review officer may verify a result without speaking to an employee in certain instances, including but not limited to, when the employee has expressly declined to discuss the result, or has not responded to the medical review officer or review officer's invitation to discussion.

G. Confirmation: If an employee believes his or her positive drug test result to be in error, then he or she may request a confirmation test which will be performed on the original specimen or a split-sample of the specimen. The confirmation test will utilize scientifically accepted methods of equal or greater accuracy than were required for the initial test. Employees should be aware that the cutoff levels necessary to confirm a positive result will be lower than those necessary to verify a positive result in the initial screening. The employee shall bear the expense of the confirmation test. However, in the event that the confirmation test results in a negative finding, the employee will be reimbursed by the District.

The District will not initiate disciplinary action against any employee who has requested a confirmation test until the confirmation results have been returned as positive, adulterated, or dilute, or the employee has refused to provide a sample.

H. Record Retention: The District will maintain records as follows:

5 years

alcohol test results with alcohol concentrations of .02 or higher
records of verified positive test results
records of refusals
records of Substance Abuse Professionals
records of follow up tests and schedules

3 years

records obtained from previous employers

1 year

records of alcohol tests with alcohol concentrations of .02 or lower

All drug and/or alcohol testing records will be stored separately from an employee's ordinary personnel file.

I. **Confidentiality:** Records relating to drug and/or alcohol testing will not be released to a third party, unless there is a valid legal reason to do so. Those reasons include, but are not necessarily limited to 1) when an employee authorizes the release in writing, 2) upon certain legal proceedings involving the employer and the employee, or 3) upon court order.

The testing facility will not release information regarding the employee's health, pregnancy status, or physical or mental condition to anyone except the employee. The testing facility will not release information regarding the presence of drugs for which the District does not test.

J. **Consequences for Violation:** Employees in violation of this policy may be subject to discipline, up to and including termination. All discipline will be determined on a case-by-case basis.

K. **Post-Rehabilitation Testing:** Any employee who is permitted to return to work after a positive test for drugs and/or alcohol, or participation in a treatment program for chemical dependency is subject to testing without notice for a period of two years, beginning with the day the employee returns to work.

L. **Employee Assistance Program:** The District will provide employees with a confidential Employee Assistance Program ("EAP") which includes drug and alcohol dependency evaluation and referral for assistance in resolving or accessing treatment for addiction to, dependence on, or problems with alcohol or drugs. The cost of treatment, counseling, or rehabilitation resulting from the employee assistance program ("EAP") referral will be the responsibility of the employee.

When documented job impairment has been observed and identified, a supervisor may recommend participation in the EAP. Any action taken by the supervisor, however, will be based on job performance. A supervisor's decision to recommend participation in the EAP does not preclude the supervisor from administering discipline in accordance with District policy. An employee who wishes to participate in the EAP shall notify the Superintendent or designee.

With regard to leave, absences due to EAP-related activities, such as referral appointments, will be treated on the same basis as other personal business or health matters.

M. **Remedies:** Any person aggrieved by a willful violation of this policy may institute a civil action as provided by law.