

SMYRNA SCHOOL DISTRICT *PROCEDURE*

Section:	4000 Personnel	Office Responsible:	Human Resources
Procedure:	4139 Employee Drug and Alcohol		
Related Policies:	<u>4139 Employee Drug and Alcohol Policy</u>		

I. Purpose

To set forth specific criteria when drug and/or alcohol use is suspected or confirmed.

II. Authority

Delaware Code, Title 14

US Code, Title 41, Subtitle IV, Chapter 81

III. Definitions

Drug: Any chemical substance that produces physical, mental, emotional, or behavioral change in use. Drugs include all alcoholic beverages, narcotics, analgesics, stimulants, depressants, including marijuana, hashish and otherwise controlled substances or medications other than those sold to the public on a non-prescription basis or those prescribed to the employee by a licensed physician.

Possession: Implies that an employee has authorized on his/her person or with his/her personal property or under his/her control by placement of and knowledge of the whereabouts of same within the school environment or during school-related activities.

Use: Implies that an employee is reasonably known to have assimilated an unauthorized drug or is reasonably found to be under the influence of same within the school environment or during a school related activity.

Distribution or Sale: Implies the transfer of unauthorized drugs or lookalike substances to any other person with or without the exchange of money or other valuable consideration. The receiving party shall be considered as “in possession.”

Unauthorized: That which is prohibited by the Superintendent of Schools and/or government.

School Environment: Within or on school property, and/or school sanctioned and/or supervised activities.

Prescription Drug: A controlled substance dispensed directly by a medical practitioner or by a pharmacy with a written prescription from the practitioner.

Non-Prescriptive Drug: A non-controlled substance used for medical reasons.

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Drug Paraphernalia: Paraphernalia includes objects used to manufacture, compound, convert, produce, process, prepare, analyze, pack, repack, store, conceal, inject, ingest, inhale or otherwise provide a means to enter the human body. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia.

Inservice Days: During the regular work hours of the employee, consumption of alcoholic beverages will be prohibited.

Workplace: During regularly scheduled work hours or any time an employee is responsible for any District student including but not limited to field trips, after school activities or on District property, including state-owned vehicles.

IV. Procedure

The Smyrna School District believes the school environment should promote learning, physical and emotional growth, socialization, and individual development. It also believes alcohol and/or drugs adversely affect these disciplines. Therefore, possession, use and/or distribution of alcohol and/or unauthorized drugs, or drug paraphernalia shall be prohibited within the school environment.

This procedure has been developed to:

- a. Prevent drug and alcohol use in the Smyrna School District environment.
- b. Encourage employees with drug and alcohol use problems to seek voluntary assistance, counseling, and rehabilitation.
- c. Meet problems of alcohol and drug use in the Smyrna School District environment in a forthright and positive manner through progressive and corrective disciplinary actions.

Employees currently taking a **prescribed medication** from their own physician must carry it in the labeled container provided by a licensed pharmacist. All medication must be kept in its original contain.

Possessing illegal substances in against the law and all cases will be reported to the police.

Discipline:

- a. Possession, sale or distribution of drugs or drug paraphernalia in the school environment will result in progressive discipline up to and including possible termination based on the specifics of the incident.
- b. Suspicion of reporting to work under the influence or being under the influence of drugs/alcohol while on the job will be addressed through the procedure and consequences as outlined in this procedure.

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Prohibitions:

Pursuant to the Board's Employee Drug and Alcohol Policy, the possession, use, manufacture, distribution, dispensation or sale of illegal drugs, or drug paraphernalia in the workplace is prohibited. The policy also prohibits the use, sale or manufacture of alcohol at any time in the workplace, on school property, and in State owned, District owned or leased vehicles, and in private vehicles when used to transport students. In addition, an employee is subject to disciplinary action if the employee is under the influence of alcohol in the workplace or tests positive for use of an illegal drug.

Reasonable Suspicion:

- a. Except for bus drivers, who are engaged in a safety sensitive activity, an employee will be tested only if two administrators agree there is a reasonable suspicion to believe the employee is under the influence of alcohol or an illegal drug in the workplace, or if there is a reasonable suspicion to believe the employee used alcohol or an illegal drug in the workplace. Bus drivers may be tested in accordance with the applicable State Board Regulations. This includes the requirement a bus driver who has been suspended due to a positive test for alcohol and drugs must submit to a test prior to returning to work, and the bus driver shall not return to work unless such a test is negative.
- b. A determination of reasonable suspicion to believe an employee is "under the influence" shall be based upon objective factors including, but not limited to, the odor of alcohol on the employee's breath, slurred speech and/or unsteady erratic movements.
- c. One of the administrators who determines there is a reasonable suspicion to believe an employee is under the influence shall, within one workday of the time the employee is tested for alcohol and/or drugs, prepare a written report listing the objective factors supporting the reasonable suspicion.

Testing:

If there is a determination of reasonable suspicion to believe an employee is under the influence, no discipline shall be imposed in the absence of a confirmatory test. If the District decides to pursue a confirmatory test, the District shall adhere to the following procedure:

- a. The employee will be asked with due regard for privacy, to submit a blood and/or urine specimen to a local collection site for alcohol and drug testing. An administrator will accompany the employee to the local collection site.
- b. A positive test result for alcohol shall be a concentration of .02 or more. Alcohol concentration of .02 or more means alcohol in a sample of an employee's blood equivalent to .02, or more, grams of alcohol per hundred millimeters of blood; or an amount of alcohol in a sample of an employee's breath (measured by the

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Omicron Intoxilizer Test) equivalent to .02 or more grams per two hundred and ten liters of breath.

- c. A positive test result for illegal drugs will be measured by the gas chromatography/mass spectrometry using the following cutoff levels:
 - i. Cannabinoids Metabolite 15 ng/ml
 - ii. Cocaine metabolite 150 ng/ml
 - iii. Opiate 300 ng/ml
 - iv. Phencyclidine 25 ng/ml
 - v. Amphetamines 500 ng/ml

**The classes of drugs and the confirmatory test levels are taken from the USDOT Drug Testing Procedures. If the USDOT changes its Drug Testing Procedures by adding drugs or classes of drugs or confirmatory test levels, these procedures shall be modified to reflect those changes.

The district will cover the cost of the testing. If an employee is tested, the employee shall be suspended with pay pending the District's determination. The District shall decide as soon as practicable. The imposition of discipline, if any, shall occur after confirmation of the applicable test. If the drug/alcohol test is negative, there shall be no reference to such test in the employee's personnel file.

Consequences of a Positive Test:

- a. Positive test for drugs- appropriate discipline which may include termination, but at a minimum suspension without pay for up to 90 work days, and participation in a substance abuse program.
- b. If the results of an employee's test for drugs are not a complete negative, but fall below the threshold for discipline, a record of those results shall be placed in the employee's file for a period of two years only. The employee would have the right to attach to those results a description of the circumstances surrounding the results of that test. If the employee were to come under reasonable suspicion and be tested again during that two-year period, the following would apply:
 - i. If the results of the second test are negative, no further action would occur, and the original results would be removed from the employee's file at the end of the original two years.
 - ii. If the results of the second test were as the first test (not a complete negative but below the threshold), the employee would be subject to mandatory evaluation and completion of an education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.
 - iii. Employees or applicants who have a validly issued medical marijuana card and test positive for marijuana will not be considered to have violated this policy simply by nature of the presence of marijuana in the test sample. The former notwithstanding, if the District can establish that the employee was under the influence of marijuana in the workplace, or

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possessed or transferred marijuana in the workplace, the employee shall be subject to discipline.

- c. Positive test for alcohol – for purposes of this section, a second offense is any incident within 5 years of the first offense. A third offense is any incident within 5 years of the second offense.
 - i. **Blood alcohol concentration (BAC) equal to .02**
 - 1. First Offense: Employee is sent home and charged one day personal leave. Mandatory evaluation and completion of education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.
 - 2. Second Offense: Employee is suspended for 5 days without pay. Mandatory evaluation and completion of education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.
 - 3. Third Offense: Employee is suspended a minimum of 90 work days without pay with the possibility of termination. If not terminated, the employee must also complete education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.
 - ii. **BAC greater than .02, but less than .08**
 - 1. First Offense: Employee is suspended for 5 days without pay. Mandatory evaluation and completion of education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.
 - 2. Second Offense: Employee is suspended a minimum of 90 work days without pay with the possibility of termination. If not terminated, the employee must also complete education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety Office of Highway Safety.
 - 3. Third Offense: Termination.
 - iii. **BAC greater than or equal to .08:**
 - 1. First Offense: Employee is suspended a minimum of 90 work days without pay with the possibility of termination. If not terminated, the employee must also complete education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.
 - 2. Second Offense: Termination.
 - iv. **Refusal to submit to the testing procedure:**
 - 1. Employee is suspended a minimum of 90 work days without pay with the possibility of termination. If not terminated, the employee must also complete education program and/or treatment as recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.

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- v. **Refusal to sign the consent form to submit to the testing:**
 - 1. An administrator shall obtain the individual's signature on a consent form (Attachment 2) and provide the individual with a copy of the form, prior to taking the employee to the collection site,
 - 2.If an employee refuses to sign the consent form and submit to the testing when there is a reasonable suspicion for testing the employee, such a refusal shall be deemed a positive test result.
- vi. **Breath Testing Procedures:**
 - 1. Only qualified operators of a breathalyzer test shall sample employee's breath.
 - 2.The assistant superintendent or designee who accompanied the employee to the test site shall call an emergency contact to take the employee home.
- vii. **Blood Testing Procedures:**
 - 1. Only authorized personnel at the local collection site shall conduct the blood testing. Collection site personnel will draw 5 to 7 milliliters of blood from the individual into a tamper-proof vacutainer bag.
 - 2. Both collection site personnel and the employee shall always keep the specimen in view prior to it being sealed and labeled.
 - 3. Collection site personnel and the employee shall always keep the specimen in view prior to its being sealed and labeled. The employee shall observe the sealing process.
 - 4.Collection site personnel shall place securely on the side of the vacutainer bag an identification label which includes the date, the specimen number and the employee's name. The employee shall observe the application of this label and shall then initial the label as certification it is the specimen the employee provided. Collection site personnel shall note any unusual behavior on the chain of custody form.
 - 5.The employee shall then sign the chain of custody form, which states the date, collection site, the names of collection site personnel, and the employee's name and specimen number, and which verifies the blood specimen has been in the employee's view continuously from the time of the collection until he or she initialed the label.
 - 6.The assistant superintendent or designee who accompanied the employee to the local collection site shall call an emergency contact to take the employee home.
- viii. **Urine Specimen Procedures:**
 - 1. Collection site personnel shall direct the individual to remove any unnecessary outer garments, such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the urine specimen. Collection site personnel will further

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- direct the individual to put aside all personal belongings such as a purse or briefcase. The individual may retain his or her wallet.
2. To deter adulteration of the urine specimen by substances concealed in the individual's hands or under the individual's fingernails, collection site personnel shall instruct the individual to wash his or her hands prior to urination. After washing hands, the individual shall remain in the presence of collection site personnel and shall not have access to purses or briefcases or to water fountains, faucets, soap dispensers, cleaning agents or any other materials which could be used to adulterate the specimen. Collection site personnel shall note any unusual behavior on the chain of custody form.
 3. The individual may provide the urine specimen in the privacy of a stall or otherwise partitioned area assuring privacy. If there is a toilet in such an area, toilet bluing agents shall be placed in the toilet tank so the reservoir of water in the toilet bowl always remains blue. Collection site personnel shall note any unusual behavior on the chain of custody form.
 4. Upon receiving the specimen from the individual, collection site personnel shall determine it contains at least 60 milliliters of urine. If the specimen does not contain at least 60 milliliters of urine, collection site personnel should provide the individual with 8 ounces of fluid every 30 minutes until urination.
 5. Immediately after the specimen is collected, collection site personnel shall inspect the specimen to determine its color, temperature and any signs of contamination. Collection site personnel should note any unusual findings on the chain of custody form. Collection site personnel shall forward all specimens to the laboratory for testing even if the specimen may be adulterated.
 6. Both collection site personnel and the individual shall always keep the specimen in view prior to its being sealed and labeled. If collection site personnel transfer the specimen to a second bottle, the individual shall observe the transfer of the specimen.
 7. Collection site personnel shall place a tamperproof seal over the bottle cap and down the sides of the bottle. The individual shall observe this sealing process.
 8. Collection site personnel shall place securely on the side of the bottle an identification label which contains the date, the specimen number and the individual's name. The individual shall observe the application of this label and shall then initial the label as certification that it is the unadulterated specimen the employee provided.
 9. The individual shall then sign the chain of custody form, which state the date, collection site, the names of the collection site personnel and the individual's name and specimen number, and

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which verifies the urine specimen was in the individual's view continuously from the time of the collection until the employee initialed the label affixed to the bottle.

Chain of Custody and Shipment of Urine or Blood Specimen:

- a. Collections site personnel must complete the chain of custody form to maintain control and accountability of each urine or blood specimen from the point of collection to receipt of test results.
- b. The chain of custody form shall document each time a specimen is handled or transferred and the reason for such handling or transfer, and shall identify every individual in the chain. Collection site personnel shall minimize the number of persons handling a specimen.
- c. Collection site personnel shall ship the collected specimen for testing within the 24 hours of collection. Collection site personnel shall place the specimen in a container designed to minimize the possibility of damage during shipment and shall securely seal the container to eliminate the possibility of undetected tampering. On the tape sealing the container, collection site personnel shall sign and enter the date. Collection site personnel shall attach the chain of custody form and the Confidential Medical Questionnaire and Consent Form to the sealed container prior to shipment.
- d. Collection site personnel shall secure the sealed container to prevent unauthorized access during temporary storage before shipment.
- e. Collection site personnel shall not permit any unauthorized person access to any part of the collection site area when blood or urine specimens are collected or temporarily stored.

Testing Standards

- a. **Security and Chain of Custody:** An approved laboratory will maintain strict security at its facilities and rigorously follow proper chain of custody procedures, the laboratory will fully satisfy every security and chain of custody requirement of NIDA's Mandatory Guidelines for Federal Workplace Drug Testing Programs.
- b. **Blood Test and Breath Test:** A Positive result shall be a blood alcohol concentration of .02 or greater which constitutes a violation of the Staff Drug and Alcohol Policy.
- c. **Initial Test (Urine):** The laboratory will use an immunoassay which has been approved for commercial use by the USDA.
- d. **Confirmatory Test (Urine):** The laboratory will confirm all initially positive test results of urine specimens by gas chromatography/mass spectrometry (GC/MS).
- e. If the Department of Transportation changes its drug testing procedures by adding drugs or classes of drugs, these procedures shall be modified to and

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such drugs or classes of drugs, including the initial test levels and confirmatory test levels adopted by the Department of Transportation.

- f. **Reporting Results:** Unless otherwise notified, the laboratory will retain all records pertaining to given specimen for one year in the case of the negative results and for three years in the case of positive results.
- g. **Storage:** The laboratory will store all specimens for at least one year or longer whenever requested.

Miscellaneous Provisions:

- a. **Right to Representative:** The employee has the right to request an opportunity to talk to a representative prior to signing this form. However, the District will wait no more than 30 minutes for such a representative to appear. If the employee requests the presence of an employee, the District will provide such an employee with coverage so that the employee is available within 30 minutes.
- b. **Providing the Urine Specimen:** The employee must provide at least 60 milliliters of urine. If at first the employee is unable to provide 60 milliliters of urine, collection site personnel will give the employee 8 ounces of liquid every 30 minutes until the employee is able to provide 60 milliliters of urine. The employee may provide his or her urine specimen in private. Collection personnel will not observe the employee.
- c. **Accuracy of Test Results:** The District has taken extraordinary precaution to assure the test results are accurate. If the test produces a positive result, the laboratory will administer a second, more sophisticated test. This second test measures the exact molecules of each drug; every drug has a different molecular structure, just as each person has a different fingerprint. The laboratory's second test identifies each drug by its unique molecular "fingerprint." Only if the second test is also positive does the laboratory report a positive test result. The scientific and medical community uniformly agrees that the combination of tests used by the laboratory produces extremely accurate results. The National Institute of Drug Abuse regularly inspects the laboratory and has certified that it meets the highest professional standards.
- d. **Chain of Custody:** The District takes exceptional precautions to assure the integrity of each specimen. To ensure an individual's specimen is not accidentally confused with another's, collection site personnel follow a rigorous chain of custody procedure. They must always keep their specimen in view until it is sealed and labeled. Everyone then initials the label on his or her specimen.
- e. **Confidentiality:** Test results are highly confidential. The drug testing laboratory informs only the District's testing site coordinator.

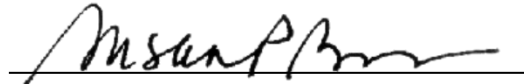
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Assistance in Overcoming Alcohol or Drug Abuse for Employees who Voluntarily Seek Help:

Early recognition of alcohol or drug abuse is important for successful rehabilitation, the affected employee's productivity and reduced personal, family, and social disruption. Whenever feasible, the District will assist employees in overcoming drug or alcohol abuse. However, the decision to seek diagnosis and accept treatment for alcohol or drug abuse is primarily the individual's responsibility. The district recognizes substance abuse is a medical problem which can be successfully treated. Most substance abusers, however, deny they have a problem, and ordinarily do not seek treatment voluntarily. This denial is the most significant obstacle to successful treatment.

Approval Acknowledged by:



Susan P. Brown, *Ed. D., CSBA*
Superintendent of Schools

Procedure Actions

Adopted: 3/15/2023

Revised:

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Attachment 1

Confidential Medical Questionnaire

During the last thirty (30) days, have you taken any prescription or over-the-counter medication listed below? Check the appropriate box for each medication and list the name of the medication you have taken.

Yes No

Type of Medication	Check if Yes	Date Taken	Name of Medication
Heart Medication			
Asthma Medication			
Allergy or Sinus Medication			
Laxatives or Diarrhea Medicine			
Nausea Medicine			
Stomach or Intestinal Medicine			
Diet Pills			
Depression Medicine or Mood Elevator			
Tranquilizers, Nerve Medicine			
Sleeping Pills			
Muscle Relaxers			
Seizure Medication			
Pain Medication			
Other			

Addiction Questionnaire

Currently undergoing treatment or in the past have undergone treatment for an addiction to alcohol or drugs may be a legally protected disability under Federal, State, or Local Laws. Are you addicted to alcohol or drugs?

Employee Name _____

Employee Signature _____

Date _____

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Attachment 2

Consent Form

I consent to provide blood, breath, and urine specimens, and consent to the testing of blood or urine specimens. I further authorize the release of the test results and any other related medical information to the Assistant Superintendent or Designee to review the test results.

Employee Name _____

Employee Signature _____

Date _____

Witness Verification

Witness Name _____

Witness Signature _____

Date _____