

Minidoka County School District requires drug and/or alcohol testing of any employee reasonably suspected of being under the influence of illegal drugs, controlled substances, intoxicating substances and/or alcohol while on duty at a District building or at a District-sponsored activity, function, or event, regardless of location.

This policy is the enforcement portion of current District Policy 524.00 Employee Drugs, Alcohol & Tobacco and sets forth the testing requirements and procedures required by I.C. § 72-1701, et seq. and 42 U.S.C. § 12101. These code sections allow employers to adopt policies to test employees or prospective employees for the illegal drugs, controlled substances, intoxicating substances and/or alcohol as a condition of hiring or continued employment.

To establish that an employee was under the influence of illegal drugs, controlled substances, intoxicating substances and/or alcohol it is not necessary that any particular degree or state of intoxication be shown. It need only be shown that the employee had consumed sufficient illegal drugs, controlled substances, intoxicating substances and/or alcohol to influence or affect the employee's ability to perform their responsibilities for the District.

Testing Based Upon Reasonable Suspicion

All employees in the District are subject to reasonable suspicion drug testing. If the Superintendent or designee has reasonable suspicion to believe that an employee is using or is under the influence of illegal drugs, controlled substances, intoxicating substances and/or alcohol while on duty on District property or a District-sponsored activity, function or event, regardless of location, the District may require any employee to submit to drug or alcohol testing by a scientifically reliable testing procedure.

Reasonable suspicion means a good faith suspicion, based on objective facts, which is sufficient for a person to conclude that the employee is using or appears to be presently under the influence of illegal drugs, controlled substances, intoxicating substances and/or alcohol. Reasonable suspicion is more than a mere hunch that an employee is using or is under the influence of alcohol and/or drugs.

Reasonable suspicion may be established through a variety of factors either observed by the Superintendent or designee or reports from persons who report suspected drug or alcohol use by an employee, if the report stems from an individual who bases such report upon articulable observations concerning one or more factors of concern. The factors include but are not limited to the following:

1. Personal observation of possession, use or sale of illegal drugs, controlled substances, intoxicating substances and/or alcohol.
2. Apparent impairment or other physical indicators such as odor of illegal drugs or alcohol.
3. Decrease in productivity not reasonably attributable to other causes.
4. Erratic behavior or dramatic changes in normal behavior.
5. Involvement in an accident.

Contacting Law Enforcement

Law Enforcement may be contacted when it is deemed appropriate. This includes but is not limited to if the employee drove a motor vehicle to the building or event or when the employee is suspected of possessing illegal or controlled substances.

Requirements for Sample Collection and Testing

All sample collection and testing for illegal drugs, controlled substances, intoxicating substances and/or alcohol under this policy shall be performed in accordance with the following conditions:

1. The collection of samples shall be performed under reasonable and sanitary conditions;
2. The District or the District's agent who is responsible for collecting the sample will be instructed as to the proper methods of collection;
3. Samples shall be collected and tested with due regard to the privacy of the individual being tested and in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples;
4. Sample collection shall be documented and the documentation procedures shall include:
 - a. Labeling of samples so as reasonably to preclude the possibility of misidentification of the person tested in relation to the test result provided; and
 - b. Handling of samples in accordance with reasonable chain-of-custody and confidentiality procedures;
5. Sample collection, storage and transportation to the place of testing shall be performed so as reasonably to preclude the possibility of sample contamination and/or adulteration;
6. Sample testing shall conform to scientifically accepted analytical methods and procedures;
7. Drug testing shall include a confirmatory test before the result of any test can be used as a basis for action by the District. A confirmatory test refers to the mandatory utilization of a chromatographic technique such as gas chromatography-mass spectrometry or another comparable reliable analytical method;
8. Positive alcohol tests resulting from the use of an initial screen saliva test, must include a confirmatory test that utilizes a different testing methodology meant to demonstrate a higher degree of reliability;
9. Positive alcohol tests resulting from the use of a breath test must include a confirmatory breath test conducted no earlier than fifteen (15) minutes after the initial test; or the use of any other confirmatory test meant to demonstrate a higher degree of reliability.

The Board of Trustees designates a mobile drug service to provide the collection and testing services necessary to implement this policy. All employees who are subject to testing are required to sign the necessary documents to authorize the testing and disclosure of the information to the Superintendent or designee. The refusal to test by an employee who is requested to test based on reasonable suspicion shall be subject to the consequences of a positive

test. In addition, a law enforcement agency may also collect samples if a mobile drug service is not available.

Right of Employee to Explain Positive Test Result and Request for Retest

Any employee who tests positive for drugs or alcohol must be given written notice of that test result, including the type of substance involved, by the District. The employee must be given an opportunity to discuss and explain the positive test result with a medical review officer or other qualified person.

Any employee who has a positive test result may request that the same sample be retested by a mutually agreed upon laboratory. A request for retest must be done within seven (7) working days from the date of the first confirmed positive test notification and may be paid for by the employee requesting the test. If the retest results in a negative test outcome, the District will reimburse the cost of the retest, compensate the employee for their time if suspended without pay, or if terminated solely because of the positive test, the employee shall be reinstated with back pay.

Discharge for Work-Related Violations of this Policy

An employee is in violation of the District's drug, controlled substances and alcohol policy and is subject to disciplinary action up to discharge for work-related misconduct, under the following circumstances:

1. A confirmed positive drug test or a positive alcohol test; or
2. The employee's refusal to provide a sample for testing; or
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.

Employer's Disciplinary or Rehabilitative Actions Based on Testing

Unless otherwise prohibited, upon receipt of a confirmed positive drug or alcohol test result or other proof which indicates a violation of the District's drug and alcohol policy, or upon the refusal of an employee to provide a test sample, or upon an employee's alteration of or attempt to alter a test sample, the District may use that test result or the employee's conduct as the basis for disciplinary or refusal-to-hire action.

Actions taken by the District may include, but are not limited to the following:

1. A requirement that the employee enroll in an employer-approved rehabilitation, treatment, or counseling program, which may include additional drug or alcohol testing, as a condition of continued employment;
2. Suspension of the employee with or without pay for a period of time;
3. Termination of the employee;
4. Other disciplinary measures in conformance with the employer's usual procedures, including any collective bargaining agreement.

Action taken pursuant to this section shall not create any cause of action against the District.

Confidentially of Information

All information, interviews, reports, statements, memoranda or test results, written or otherwise, received through a substance abuse testing program shall be kept confidential, and are intended to be used only for the District’s internal business use or other dispute between the District and the employee; or 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 information described in the preceding paragraph shall be the property of the District.

An employer, laboratory, medical review officer, employee assistance program, drug or alcohol rehabilitation program and their agents, who receive or have access to information concerning test results shall keep the information confidential except where prohibited or mandated by law.

Testing Costs

Any drug or alcohol testing by the District of a current employee shall be deemed work time for the purpose of compensation. The District shall pay all costs of requested drug and alcohol testing requested by the District. The District will reimburse the employee for the cost of a retest, if the retest establishes a negative test result.

Notice

The District shall provide a copy of this policy to each employee upon its adoption and any future employees upon hire. Employees will be required to sign a statement acknowledging receipt of the policy.

School Bus Drivers

District-employed school bus drivers operating under a commercial driver’s license must meet the U.S. Department of Transportation’s drug and alcohol testing requirements, which are addressed in District Policy 524.00 Employee Drugs, Alcohol & Tobacco.

Definitions

For purposes of this policy, illegal drugs, controlled substances, intoxicating substances and/or alcohol have the meaning proscribed in Idaho Code.

This policy does not include the reasonable use of alcohol during after-hours activities, while an employee who is over twenty-one (21), is participating in professional development and students aren’t present or being supervised.



LEGAL REFERENCE: Idaho Code §§ 37-2705 through -2713, 23-105, 23-1001, 72-1701, et seq., 42 U.S.C. 12101. State v. Andrus, 118 Idaho 711, 800 P.2d 107, (Ct.App.1990)

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