

## DRUG AND ALCOHOL TESTING PROGRAM FOR EMPLOYEES

### Definitions

For the purpose of this policy:

- *Alcohol* means any alcoholic beverage as defined in 23 U.S.C. 158 and NDCC 5-01-01.
- *Drugs or controlled substances* refers to substances covered by the Omnibus Transportation Act, including but, not limited to, marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP) (See 21 CFR part 1308).
- *Covered employee/position* means an employee/position subject to the Omnibus Transportation Employee Testing Act.
- *Safety-sensitive position* means a job in which a momentary lapse in the discharge of duties poses a safety threat with potentially severe consequences. In addition to covered positions, the board recognizes the following as safety-sensitive positions: school vehicle drivers as described in NDCC 15.1-07-20.

### Statement of Philosophy

The McClusky School District is committed to the establishment of a drug and alcohol testing program that meets all applicable requirements of the Omnibus Transportation Employee Testing Act and other applicable federal and state law. All covered and safety-sensitive employees are prohibited from using controlled substances and alcohol as stipulated in this policy.

### Prohibitions and Hours of Compliance

Covered and safety sensitive employees are prohibited from using a controlled substance at all times unless use is at the instruction of a physician, and the physician has advised that use will not affect the employee's ability to perform safety-sensitive duties.

Covered and safety sensitive employees are prohibited from using alcohol while on duty, four hours prior to performing duties, and up to eight hours following an accident or until the employee performs a post-accident test (whichever occurs first).

No supervisor having actual knowledge that an employee covered by this policy has used a controlled substance or alcohol within prohibited hours shall permit the employee to perform or continue to perform safety-sensitive duties.

### Notice of Medication Use

Employees covered by this policy shall notify the District any time they are using medication prescribed by a physician that could adversely affect their performance of safety-sensitive duties. Employees shall not drive or perform other safety-sensitive duties at any time they have been advised by a physician that medication may or will adversely affect their ability to safely perform these duties.

### Participation in Drug and Alcohol Testing Program Required

Employees serving in positions covered by this policy are required to participate in all applicable drug and alcohol testing as a condition of employment.

**Circumstances for Testing**

All covered and safety sensitive employees shall be subject to pre-employment, reasonable suspicion, random, post-accident, return-to-duty and follow-up alcohol and drug testing pursuant to procedures set out in the federal regulations or as allowed by applicable law. Pre-employment controlled substance and alcohol testing shall be administered to an applicant offered a covered or safety-sensitive position in the District prior to the first time the employee performs any safety-sensitive duties for the District unless the applicant meets exemption criteria contained in federal regulations. Employment with the District is conditional upon the applicant receiving negative test results.

An individual applying for, transferring to, or being promoted to any covered or safety-sensitive position shall initially be subject to controlled substance and alcohol testing. Verified positive test results shall prevent an applicant/employee from moving into a covered or safety-sensitive position. School vehicle drivers shall also be subject to post-accident, reasonable suspicion and random testing. Non-transportation safety-sensitive positions shall be subject to post-accident and reasonable suspicion tests.

**Testing Procedures**

Testing shall be performed in accordance with federal drug and alcohol testing regulations and testing procedures are outlined in administrative regulations.

**Refusal to Submit**

An employee covered by this policy may not refuse to take a required test. Refusal includes tampering with, adulterating, or substituting a specimen for testing; inability to provide sufficient quantities of the substance being tested without a valid medical exemption; interfering with the collection procedure; not immediately reporting to the collection site; leaving the collection site before the collection process is complete; and/or leaving the scene of an accident without a valid reason before a drug and/or alcohol test has been conducted. Employees who refuse required testing shall, at a minimum, be prohibited from performing covered and safety-sensitive duties.

**Violations**

If the testing confirms prohibited alcohol concentration levels or the presence of a controlled substance, the employee shall be removed immediately from covered and safety-related duties and may be subject to the disciplinary consequences contained in the Drug and Alcohol Free Workplace policy. Before an employee is reinstated, if at all, the employee shall comply with all applicable return-to-duty requirements, including evaluation, rehabilitation, and drug/alcohol testing requirements. An employee who is prohibited from performing covered or safety-sensitive duties may be assigned to non-covered or nonsafety-sensitive duties until such time as the employee complies with the requirements for returning to duty. The District will follow treatment referral procedures contained in federal regulations for covered employees.

Employees with verified alcohol concentrations below prohibited amounts shall be removed from covered and safety-sensitive positions and may be subject to the disciplinary consequences contained in the Drug and Alcohol-Free Workplace policy.

The District is not required to provide rehabilitation, pay for substance abuse treatment, or to reinstate the employee. The Board retains the authority consistent with law to discipline or discharge any employee who is an alcoholic or chemically dependent and whose current use of alcohol or drugs affect the qualifications for and performance of their job.

**Confidentiality of Records**

The District shall maintain records in compliance with law. Drug and alcohol testing records are confidential and shall be maintained in a secured location. An employee shall be entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or controlled substances including information pertaining to alcohol or drug tests. Records shall be made available to a subsequent employer upon receipt of a written request from an employee only as expressly authorized by the terms of the employee's request.

Necessary records and reports shall be maintained and made available to federal and state transportation agencies upon request in accordance with federal regulations.

**Records from Former Employers**

With the employee's consent and in accordance with 49 CFR 40.25, the District may obtain any information concerning drug and alcohol testing from the employee's previous employer.

**Training**

The District shall take steps to ensure that supervisors receive proper training to administer the drug and alcohol testing program.

**Identity of Contact Person**

The Board designates the Superintendent to serve as the contact person for questions concerning the drug and alcohol testing program and this policy. This designee may be reached at the McClusky High School Office or at 701-363-2470.

**Policy Dissemination**

The Superintendent shall disseminate this policy and other educational material in accordance with federal law. Each employee subject to this policy shall certify in writing that they have received this material upon receipt. The Board designates the Superintendent as the individual responsible for answering questions related to this material.

**Effects of Alcohol and Controlled Substances**

Each school's Staff Lounge contains information on the effects of alcohol and controlled substance misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem; and available methods of intervening when a misuse problem is detected.

**Conflict between Regulations and Federal Law and Regulations**

In the event of a conflict between the provisions of federal law or regulations concerning alcohol and drug testing and this policy or regulations, the federal law or regulations shall control.

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**Complementing NDSBA Templates (may contain items not adopted by the Board)**

- DBBA-AR, Drug and Alcohol Testing Procedures
- DBBA-E, Drug and Alcohol Testing for Employees
- DEAA, Drug and Alcohol-Free Workplace
- DEAA-AR, Procedure If Drug and/or Alcohol Use is Reasonably Suspected
- DEAA-E1, Record of Observable Behavior
- DEAA-E2, Steps to Performing a Reasonable Suspicion Test
- DEAA-E3, Drug and/or Alcohol Testing Consent Form
- DFC, Transfer and Reassignment
- DI, Personnel Records

**End of McClusky School District #19 Policy DBBA ..... Adopted: January 13, 2020**

**[0619]**