

**DRUG & ALCOHOL-FREE WORKPLACE****Definitions**

For purposes of this policy:

- *Alcohol* means any alcoholic beverage as defined in 23 U.S.C. 158 and NDCC 5-01-01.
- *Drug* means any controlled substance as defined in NDCC Sections 19-03.1-05 through 19-03.1-13 and 19-03.1-26 (paraphernalia); schedules I through V of the Controlled Substances Act (21 U.S.C. 812), and as further defined by regulation 21 CFR 1308.11 through 1308.
- *Possession* shall mean:
  - a. Actual physical possession of the drug or alcohol while on school property;
  - b. Use or consumption of the drug or alcohol while on school property;
  - c. Drugs or alcohol in the employee's car, handbag, backpack, or other belongings while on school property; or
  - d. Appearance by an employee on school property after having consumed or ingested the drug or alcohol that is noticeable by breath odor, speech alterations, unsteadiness of gait or posture, or like symptoms of chemical intoxication.
- *Reasonable suspicion* means a good faith suspicion by a trained district administrator and/or supervisor that an employee, based on objective facts and articulable observations, that an employee has violated the Drug and Alcohol Free Workplace policy and is using, or appears to presently be under the influence of drugs or alcohol.
- *School property* is defined in NDCC 15.1-19-10(6)(b) as all land within the perimeter of the school site, all school buildings, structures, facilities, and school vehicles, whether owned or leased by a school district, and the site of any school-sponsored event or activity.
- *Use* means that an employee is reasonably suspected to have ingested, injected, inhaled or otherwise taken into their body drugs or alcohol, or is reasonably found to be under the influence of drugs or alcohol.

The McClusky School District is committed to a safe, healthy working and learning environment for its employees and students. Therefore, the District enforces the Drug and Alcohol Free Workplace Act by prohibiting employees from the use, manufacturing, possession, distribution, or dispensing of drugs or alcohol while on school property, unless use is at the instruction of a physician, and the physician has advised that use shall not affect the employee's ability to perform duties. Employees are also prohibited from knowingly or intentionally aiding or abetting in any of the above activities.

An employee must inform their immediate supervisor when the employee's ability to perform job duties is impaired due to on- or off-duty drug or alcohol use.

**Awareness Program**

The Superintendent shall create an Employee Drug-free Awareness Program in accordance with federal law. Information on the effects of drug and alcohol misuse, signs and symptoms of a drug and/or alcohol problem, and available methods of intervention when a misuse problem is detected can be found in each school's Staff Lounge.

**Policy Dissemination**

The Superintendent shall give a copy of this policy to each employee and maintain documentation of receipt of this information.

**Reasonable Suspicion Testing**

Employees may be subject to drug and/or alcohol testing when there is reasonable suspicion by the district administrator and/or supervisor that indicates the employee may have violated district policy and is using or appears to presently be under the influence of drugs and/or alcohol in violation of the policy.

Reasonable suspicion testing shall be based on objective facts and articulable observations that are consistent with the signs and symptoms of drug and alcohol abuse; including, but not limited to, appearance, behavior, motor skills, attendance and/or work performance by the employee. The circumstances, under which drug and alcohol testing shall be considered, as outlined above, are strictly limited to time and place of employee conduct while on duty, during work hours, and/or on school property.

The District shall take steps to ensure that district administrators and supervisors receive proper training to recognize the signs and symptoms of drug and alcohol misuse prior to making determinations for reasonable suspicion testing.

Reasonable suspicion testing shall be performed in accordance with federal law on Transportation Workplace Drug Testing and testing procedures outlined in administrative regulation. The District shall designate collection sites where employees may provide specimens. This language in no way authorizes the District to conduct pre-employment, random, post-accident, return-to-duty, or follow-up drug testing on employees not subject to the Omnibus Transportation Testing Act or positions not defined by the Board as safety sensitive.

The District shall pay all costs of the employee drug and alcohol testing, unless the test is a retest requested by the employee.

**Violation Reporting**

As a condition of employment, each employee shall agree to abide by this policy and notify the Superintendent of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction. The Superintendent, in accordance with applicable law, shall notify the appropriate federal and/or state agency after receiving any notice of a conviction for a violation occurring in the workplace. Failure of the employee to report the conviction within the time prescribed may lead to disciplinary action up to and including discharge.

**Violations**

Violations of this policy may result in the following:

1. Mandatory participation in the Employee Assistance Program (EAP) and/or a rehabilitation program. Chemical dependency leave shall be granted in accordance with the chemical dependency leave policy;
2. Unpaid leave or suspension;
3. Termination of employment; due process procedures shall be followed prior to termination, if required; or
4. Notification of proper law enforcement authorities.

**Assistance**

The Board recognizes that drug and/or alcohol addiction is a treatable disease and that early intervention and support improve the success of rehabilitation. The District shall offer an Employee Assistance Program (EAP) to assist in rehabilitation and intervention efforts. Use of the EAP will not jeopardize employment or promotion opportunities. Treatment for drug and/or alcohol addiction may be covered by the employee benefit plan; however, the ultimate financial responsibility for this treatment belongs to the employee.

**Confidentiality**

All information received by the District as a result of this policy is confidential. Access to this information is limited to those who have a legitimate need to know or upon written consent of the employee.

The District shall maintain employee testing records in accordance with federal law on drug and alcohol testing regulations.

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

- DE, Staff Code of Conduct
- DEAA-AR, Procedure If Drug and/or Alcohol Use is Reasonably Suspected
- DEAA-E, Record of Observable Behavior
- DGB, Employee Assistance Program
- DGB-BR, Employee Assistance Program Procedure

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

**[0619]**