

EMPLOYEE SUBSTANCE ABUSE – NON-CERTIFIED STAFF

General - All Employees

The use of alcoholic beverages in school worksites is prohibited. Violations of this prohibition may subject an employee to disciplinary action which may include but is not limited to non-renewal, suspension, or termination at the discretion of the Board.

The unlawful manufacture, distribution, dispensing, possession of, use of or sale of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or any other controlled substance on or in school worksites is prohibited. Any violation may subject an employee to participation in a drug rehabilitation program and disciplinary action including but not limited to non-renewal, suspension, or termination at the discretion of the Board of Education.

For the purposes of this policy "worksite" shall include any school building, or any school premises and any school-owned vehicles or any other school-approved vehicle used to transport students to and from school or school activities. Worksite also includes off-school property during any school-sponsored or school-approved activity, event or function such as a field trip or athletic event, where students are under the jurisdiction of the school District.

The Board of Education, as a result of criminal convictions or conditional discharge of any criminal drug statute violation by an employee occurring outside of the worksite, may discipline said employee. Disciplinary action may include, but is not limited to non-renewal, suspension, or termination at the discretion of the Board.

Illegal gambling is not permitted in or on the school worksite.

Smoking by employees in school buildings or on school grounds is prohibited.

School District employees who violate this policy or are present on school premises while under the influence of alcohol will be subject to discipline, which may include dismissal or certification of tenure charges, as appropriate.

The Superintendent shall establish a drug-free awareness program which includes notice of the dangers of drug abuse in the workplace and available drug counseling programs and shall distribute this policy to all employees annually. New employees shall be provided with a copy of this policy prior to beginning work assignments.

Work Performance in Connection with a Federal Grant

In order for the school District to qualify for any direct federal grant, the District must certify that it will provide a drug-free workplace and maintain a good faith effort to continue to maintain a drug-free workplace. To this end, employees engaged in school worksites as a result of federal grant moneys shall in addition to complying with requirements of the programs shall also be in strict compliance with this policy.

The Superintendent shall notify all employees whose work performance is done in connection with a federal grant that they are to notify their respective supervisors of convictions of any criminal drug statute violation occurring in the workplace. Employees must notify their supervisors no later than five days after such conviction. To be in compliance, the District must notify the federal grant program of such conviction within 10 days of receipt of said conviction.

EMPLOYEE SUBSTANCE ABUSE – NON-CERTIFIED STAFF (continued)**Drug and Alcohol Testing**

The Old Tappan School District is committed to the establishment among its own bus drivers and by its contracted transportation providers of a drug and alcohol misuse prevention program among school bus drivers that meets all applicable requirements of the Omnibus Transportation Employee Testing Act of 1991. The purpose of the testing program shall be to help prevent accidents and injuries resulting from the misuse of alcohol and controlled substances by employees performing safety-sensitive functions.

In addition to all prohibitions in the first sections of this policy, Old Tappan employees and all contracted employees with commercial drivers' licenses shall be prohibited from:

- A. The use of any controlled substance on or off duty, unless a written prescription from a licensed doctor or osteopath is provided along with a written statement from the doctor or osteopath that the substance does not adversely affect the employee's ability to safely operate a motor vehicle or perform other safety-sensitive functions;
- B. The misuse of alcohol that could affect performance on the job including use on the job, use during the four hours before performing a safety-sensitive function, having prohibited concentrations of alcohol in their systems while performing a safety-sensitive function and use during eight hours following an accident.

"Controlled substance" in this policy refers to those covered by the Omnibus Act, including, but not limited to, marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP).

All covered applicants and employees shall be subjected to pre-employment or pre-duty, reasonable suspicion, random, post-accident, return-to-duty and follow-up alcohol and drug testing pursuant to procedures set out in the federal regulations. These procedures use an evidential breath testing device for alcohol testing. For controlled substances testing, urine specimen collection and testing by a laboratory certified by the U.S. Department of Health and Human Services shall be required.

Pre-employment testing shall be administered to an applicant offered a position by the District or by the contracted service provider prior to the first time the employee performs any safety-sensitive function for the District. An applicant who tests positive will not be hired for any safety-sensitive position in this District by the contracted service provider.

Random alcohol testing shall be limited to the time period surrounding the performance of safety-related functions which includes just before or just after the employee performs the safety-related function. Controlled substances testing may be performed at anytime while the employee is at work.

An employee covered by the federal regulations may not refuse to take a required test. Consequences for an employee's refusal shall be the same as for a positive result of the test.

If the testing confirms prohibited alcohol concentration levels or the presence of a controlled substance, the employee shall be removed immediately from safety-related functions in accordance with the federal regulations. Before an employee is reinstated, if at all, the employee shall undergo an evaluation by a substance abuse professional, comply with any required rehabilitation and undergo a return-to-duty test with verified test results.

The Board retains the authority consistent with federal law to refuse to use an employee or a contracted any employee who is an alcoholic or chemically dependent and whose current use of alcohol or drugs affects the employee's qualifications for and performance of the job.

EMPLOYEE SUBSTANCE ABUSE – NON-CERTIFIED STAFF (continued)**Drug and Alcohol Testing** (continued)

The District is not required under federal law requiring drug and alcohol testing to provide rehabilitation, pay for substance abuse treatment or to reinstate the employee. All employment decisions involving reinstatement, termination or dismissal shall be made in accordance with applicable state and federal law, Board policies and negotiated agreements.

The District shall, and shall require its contracted transportation agents to, maintain records in compliance with the federal regulations in a secure location with controlled access. With the employee's consent, the District or the contracted transportation agents may obtain any of the information concerning drug and alcohol testing from the employee's previous employer. 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. Statistical records and reports shall be maintained and made available to the Federal Highway Administration for inspection or audit in accordance with federal regulations. Records shall be made available to a subsequent employer upon receipt of a written request from an employee, and only on the expressly authorized terms of the employee.

The Superintendent shall require that District supervisors and supervisors of the contracted transportation agents receive proper training to administer the drug and alcohol testing program and that District employees and employees of the contracted transportation agents receive the notifications required by federal regulations.

Transportation contracts approved by the Board shall contain assurance that the contractor will establish a drug and alcohol testing program that meets the requirements of federal regulations and this policy and will actively enforce the regulations of this policy as well as federal requirements.

Legal References: N.J.S.A. 2C:33-16

Alcoholic beverages; bringing or possession on school property by person of legal age; penalty

N.J.S.A. 2C:35-1 et seq.

Controlled dangerous substances

N.J.S.A. 18A:11-1

General mandatory powers and duties

N.J.S.A. 18A:16-2

Physical examinations; requirement

N.J.S.A. 18A:27-4

Power of Boards of education to make rules governing employment of teacher, etc.; employment thereunder

N.J.S.A. 18A:36-32

Cigarette coin-operated vending machines; operation, installation or maintenance on property used for school purposes; fine

N.J.S.A. 18A:54-20

Powers of Board (county vocational schools)

N.J.S.A. 26:3D-15

through -21

Legislative findings and declarations ... (smoking in educational institutions)

N.J.A.C. 6A:16-6.3

Reporting students or staff members to law enforcement authorities

N.J.A.C. 6A:16-6.5

Confidentiality of student or staff member involvement in substance abuse intervention and treatment programs

N.J.A.C. 6A:26-12.2(a)4

Policies and procedures for school facility operation

Owner-Operator Indep. Drivers Assoc., Inc. v. Pena, No. 93-1427, November 1, 1993, U.S.D.C. Dist. of Columbia

New Jersey Constitution, Art. IV, § VII, par. 2

Anti-Drug Abuse Act of 1988

EMPLOYEE SUBSTANCE ABUSE – NON-CERTIFIED STAFF (continued)**Legal References: (continued)**

Drug-Free Workplace Act of 1988

34 CFR Part 85.100, Government-wide Debarment and Suspension (non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants)

42 U.S.C.A. § 31306 et seq. - Alcohol and Controlled Substances Testing

49 C.F.R. Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs

49 C.F.R. Part 382 - Controlled Substance and Alcohol Use and Testing

49 C.F.R. Part 391 - Qualification of drivers

P.L. 103-227, GOALS 2000: Educate America (Pro Children Act of 1994)

Attorney General's Executive Directive No. 1988-1

<u>Cross References:</u>	*1330	Use of school facilities
	*1410	Local units
	*3220/3230	State funds; federal funds
	*3515	Smoking prohibition
	*3541.33	Transportation safety
	*4119.23	Employee substance abuse
	*4212.4	Employee health
	*4212.6	Personnel records
	4217.50	Standards for staff discipline
	*5131.6	Drugs, alcohol, tobacco (substance abuse)

*Indicates policy is included in the Critical Policy Reference Manual.

Key Words

Smoking; Drinking; Drugs; Smoking Prohibition; Employee Smoking, Drinking, Use of Drugs on School Premises; Drug Testing; Alcohol Testing

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