

Drug-Free Workplace

The Board of Directors recognizes its responsibility to maintain a drug-free workplace. In recognition of that responsibility and in order to be in compliance with the Drug-Free Workplace Act of 1988, no employee contractor, or volunteer shall manufacture, distribute, dispense, possess, or use on or in the workplace without a valid prescription any alcoholic beverage, or controlled substance.

Definitions

For purposes of this policy, the "workplace" is defined to mean the site for the performance of work done, which includes any ESD building or any ESD or school district property; any ESD-owned vehicle or any other ESD-approved vehicle used to transport students to and from school or school activities; and other property that is used during any ESD-sponsored or ESD-approved activity, event or function, such as a field trip, where students are under the jurisdiction of the ESD which could also include work on a federal grant.

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), and as further defined by regulation 21 CFR 1300.11 through 1300.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal alcoholic beverage or drug statutes.

"Under the influence" is defined as any noticeable use, any detectable level of alcohol or drugs, or perceptible impairment of the employee's mental or physical faculties.

Prohibited Behavior

To help maintain a drug-free workplace, the following behaviors will not be tolerated:

- A. Reporting to work or the workplace under the influence of alcohol, illegal and/or controlled substances including marijuana (cannabis) and anabolic steroids.
- B. Using, possessing, transmitting alcohol, illegal and/or controlled substances, including marijuana (cannabis) and anabolic steroids, in any amount, in any manner, and at any time in the workplace.
- C. Using ESD property or the staff member's position within the district to make or traffic alcohol, illegal and/or controlled substances, including marijuana (cannabis) and anabolic steroids.
- D. Using, possessing or transmitting illegal and/or controlled substances, including marijuana (cannabis) and anabolic steroids.

Notification Requirements

It is a condition of the ESD's agreement to allow volunteer or contracted services, that all volunteers and contractors comply with this policy. Any volunteer or contractor who violates this policy will be released from services.

As a condition of employment, each employee shall abide by the terms of the ESD policy respecting a drug-free workplace.

As a condition of employment, each employee shall notify his/her supervisor of his/her conviction under any criminal alcoholic beverage or drug statute for a violation occurring in the workplace as defined above. Such notification shall be provided no later than five (5) days after such conviction. If any ESD employee engaged in work in connection with a federal grant is convicted under any criminal drug statute for actions taken in the workplace, the ESD will notify the funding agency within ten (10) days of receiving notice of such conviction from the employee.

Any staff member who is taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with the safe performance of his/her job. If the use of a medication could compromise the safety of the staff member, other staff members, students or the public, it is the staff member's responsibility to use appropriate personnel procedures (e.g., use leave, request change of duty, or notify his/her supervisor of potential side effects) to avoid unsafe workplace practices. If a staff member notifies his/her supervisor that the use of medication could compromise the safe performance of his/her job, the supervisor, in conjunction with the department Cabinet member and Human Resources, then will determine whether the staff member can remain at work and whether any work restrictions will be necessary.

Disciplinary Action

Any employee convicted of a crime attributable to the use, possession, or sale of illegal and/or controlled substances, including marijuana (cannabis) and anabolic steroids, or who engages in activities that violate this policy, will be subject to disciplinary action, including termination.

The ESD will impose discipline on employees engaged in drug activity in the workplace within thirty (30) days of receiving notice by taking appropriate personnel action, up to and including discharge, or requiring the employee to satisfactorily participate in a drug/alcohol rehabilitation program approved for such purpose by a federal, state or local health, law enforcement or other appropriate agency.

As a condition of eligibility for reinstatement or continued employment, an employee may be required to satisfactorily complete a drug/alcohol rehabilitation or treatment program approved by the Superintendent, at the employee's expense. Nothing in this policy shall be construed to guarantee reinstatement or continued employment of any employee who violates this policy, nor does the ESD incur any financial obligation for treatment or rehabilitation ordered as a condition of eligibility for reinstatement or continued employment.

Employees will be provided with a written statement that manufacture, distribution, dispensing, possession, or use without a valid prescription of any alcoholic beverage or controlled substance, or being under the influence of alcohol or controlled substances, in the workplace is prohibited and that specific sanctions apply for violations.

The ESD may notify law enforcement agencies if an employee's conduct may be criminal, or may take other actions as it deems appropriate. Notification of law enforcement and discipline will be carried out in accordance with procedures developed by the Superintendent.

The ESD will make available the ESD's drug-free workplace policy, available Employee Assistance Program, and the penalties for drug/alcohol violation convictions.

Legal References: 21 U.S.C. 812 – Schedules of controlled substances.
 21 CFR 1300.11 through 1300.15.

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