

Article IX.A.1.b. Drugs, Alcohol, and Tobacco

A. Purpose

This policy is intended to provide a safe and productive educational and work environment for students and employees free from the effects of unlawful use of controlled substances, alcohol, and tobacco.

This policy is written to comply with all requirements found in state and federal law, including 41 U.S.C. 702 *et seq.*, Drug-Free Workplace Requirements; Utah Code § 34-41-101 *et seq.*, Local Governmental Entity Drug-Free Workplace Policies; Utah Code § 26-38-101 *et seq.*, Utah Indoor Clean Air Act; Utah Administrative Code R277-217, Standards for Educators; Utah Administrative Code R477-14, Substance Abuse and Drug-Free Workplace; and Utah State Office of Education, Pupil Transportation Drug and Alcohol Testing Policy.

B. Definitions

1. Controlled substance refers to a drug or some other substance, or an analog of a controlled substance, that is capable of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system or that is identified in the Utah Controlled Substances Act, Utah Code § 58-37-4.
2. Distribution (Utah Code § 53G-8-205) refers to the selling, sharing, or delivery of:
  - a. prohibited substances;
  - b. imitation prohibited substances, which by dosage, appearance (including color, shape, size, markings, and representations made) would lead a reasonable person to believe that the substance is a controlled substance;
  - c. and over-the-counter medications that alter psychosocial functioning as a result of taking more than the recommended dosage.
3. Intent to distribute refers to possession of a prohibited substance in excess of what a reasonable person would consider to be personal use or a prescribed daily dosage or a stated intent (verbal or written) to distribute.
4. Drug paraphernalia refers to equipment, products, and materials of any kind, including the constituent parts thereof, that are designed or intended for use in packaging, repackaging, processing, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body alcohol, any controlled substance, or other intoxicants, and more thoroughly described in Utah Code § 58-37a-3 and 4.
5. Possession refers to the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining of a prohibited substance and as further defined in Utah Code § 58-37-2.

6. Prohibited substance refers to all substances that are legally restricted from school property including:
  - a. all controlled substances identified in Utah Code § 58-37-3, with the exception of controlled substances legally prescribed for a patient by a physician or other qualified health care provider;
  - b. use of any tobacco products, including smokeless tobacco and e-cigarettes or other forms of nicotine delivery;
  - c. all alcoholic beverages as defined in Utah Code § 32B-1-102;
  - d. all psychotoxic chemical solvents as defined in Utah Code § 76-10-107; and
  - e. all other products and substances capable of causing intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system as a result of introducing, by any method, the substance into the human body.
7. Use refers to the application, inhalation, swallowing, injection, or consumption of a prohibited substance and as further defined in Utah Code § 58-37-2.
8. Tobacco products refer to all cigarettes (including menthol and cloves) and other tobacco products or nicotine delivery devices of any kind and in any form, including but not limited to chewing tobacco, pipes, cigars, smokeless tobacco, snuff, e-cigarettes, personal vaping devices, and hookahs.

### C. Policy

1. Individuals are prohibited from manufacturing, possessing, distributing, consuming, or using any unlawful controlled substance, drug paraphernalia, alcohol, or tobacco products in any form while on school property, while operating a District vehicle, or while attending any school-sponsored activity or event.
2. Individuals are prohibited from being under the influence of any controlled substance not prescribed by a qualified physician, prescribed controlled substance that is used in a manner not prescribed by a qualified physician, or alcohol while on school property, while operating a District vehicle, or attending any school-sponsored activity or event.
3. Violation of this policy is considered improper conduct and such conduct is incompatible with employment, volunteering, or school attendance. If a violation occurs, the District will take appropriate corrective action and apply appropriate discipline according to this and other District policies.<sup>1</sup>
4. Prescription medications shall be properly secured.

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<sup>1</sup> This policy shall not limit or inhibit law enforcement officers from carrying out law enforcement duties.

D. Testing

1. District employees may be required to submit immediately to medically accepted drug or alcohol testing as defined in Utah Code § 34-41-104 and/or to a field breath exam administered by a qualified law enforcement officer (using a portable alcohol testing device) under one or more of the following circumstances:
  - a. as part of pre-employment screenings for employees in safety-sensitive positions (as that term is defined in state law and by the Utah Department of Human Resources Management (DHRM));
  - b. randomly for employees in safety-sensitive positions as part of a District-wide random drug testing program;
  - c. where a reasonable suspicion exists that a District employee is using or is under the influence of alcohol or a controlled substance while at work;
  - d. as a part of a post-accident or critical-incident investigation;
  - e. prior to return to duty or as a condition of continued employment if alcohol or controlled substances played any part of a District employee's absence from duty; or
  - f. as follow up in combination with a mutually agreed upon rehabilitation program.
  
2. Drug and alcohol testing shall be conducted in accordance with Utah Code § 34-41-104 by a laboratory certified for employment drug and alcohol testing.
  - a. Drug and alcohol testing results shall be confirmed using reliable testing methods and communicated to both the Human Resources Department and the current or prospective employee.
  - b. Current or prospective employees shall be informed of their option for a split-sample test at the employee's expense.
  - c. Employees in positions requiring commercial driver licenses (CDL) shall also be subject to testing requirements and prohibitions under Federal and State law and as outlined in the State of Utah, DHRM Drug and Alcohol Testing Manual.

E. Reporting

Pursuant to Utah Administrative Code R277-516, an employee who is arrested (charged or convicted) on any alcohol or drug-related offense shall notify their supervisor or file notice of the arrest directly to the Human Resources Department within forty-eight (48) hours of the arrest. Supervisors shall notify the Human Resources Director of the arrest as soon as possible.

F. Discipline

In the event an employee tests positive for unlawful controlled substances; tests positive for alcohol; refuses to submit to a drug or alcohol test; attempts to taint, avoid, delay, or circumvent the testing process; is arrested (charged or convicted) on an alcohol or drug-

related offense; or violates this policy in some other way, the District will initiate appropriate administrative and criminal investigations, and a confirmed violation of this policy may result in discipline up to and including termination.

G. Prevention and Treatment

1. Pursuant to state statutes and USBE rules, drug-free awareness programs will be provided to remind students and employees of the danger and consequences of illegal substances.
2. Any employee who has a substance or alcohol abuse problem is encouraged to voluntarily obtain assistance through a drug or alcohol abuse treatment program. All such treatment will be at the employee's expense, and the employee may be required to use sick or vacation leave. Employees are strongly urged to seek assistance before usage affects performance of job duties. The District Benefits Office provides information to employees regarding coverage for substance abuse treatment programs and accommodations granted under the Americans with Disabilities Act (ADA).
3. Seeking drug or alcohol treatment will be taken into consideration by the District when making decisions with respect to discipline. The District may, at its sole discretion, based on the particular facts of a given matter, agree to allow an employee to seek assistance through a drug or alcohol treatment program as a condition of continued employment. The District will not excuse policy violations by an employee, however, based on the pretext that the employee intended to seek the assistance of a drug or alcohol treatment program.

History:

Revised December 2021. Combined with Administrative Memorandum Number Fifty-Nine.

References:

41 USC 702 *et seq.*, Drug-Free Workplace Requirements  
Utah Code § 34-41-101 *et seq.*, Local Governmental Entity Drug-Free Workplace Policies  
Utah Code § 26-38-101 *et seq.*, Utah Indoor Clean Air Act  
Utah Code § 53G-10-406, Underage Drinking and Substance Abuse Prevention  
Utah Administrative Code R277-217, Standards for Educators  
Utah Administrative Code R277-910 Underage Drinking and Substance Abuse Prevention  
Utah Administrative Code R477-14, Substance Abuse and Drug-Free Workplace  
Utah State Office of Education, Pupil Transportation Drug and Alcohol Testing Policy  
ADA Amendments Act of 2008 § 36-209