



4173.2: DRUG-FREE WORKPLACE: ALCOHOL

I. The purpose of this Rule is to establish standards of conduct for employees as to the use and possession of alcohol while in the course of their employment or in the discharge of their duties and eliminate the unlawful use or distribution of alcohol on District property. This Rule also applies to acts or any conduct which is illegal under federal, state, or local law. All District employees are covered by this Rule. Violation of this Rule shall result in disciplinary action up to and including termination of employment.

II. This Rule shall be administered in accordance with and subject to all applicable District grievance policies and procedures contained either in collective bargaining agreements or policies and rules of the District, and pursuant to all constitutional rights, state and federal, to which employees are entitled.

III. The name of any employee violating this Rule shall not be released to the public unless the employee requests an open hearing with the Board; provided, however, that the Superintendent may notify law enforcement authorities of any suspected violation of criminal statutes or ordinances.

IV. The following definitions shall apply for purposes of the Rule:

A. Alcohol or alcoholic beverage shall mean any substance subject to the jurisdiction of the Nebraska Liquor Control Commission and those beverages and alcoholic liquors defined in the Nebraska Liquor Control Act, Neb. Rev. Stat. § 53-103.

B. Distribution shall mean any delivery, sale, transfer, handling, transmitting, administering, giving, or otherwise making available, alcohol or alcoholic beverages.

C. "Intoxication" and/or "Under the influence" shall mean for the purposes of this Rule, that the employee is impaired and/or affected by an alcoholic substance, or the combination of a drug and alcohol, in any detectable manner. The symptoms of influence are not confined to those consistent with misbehavior or to obvious impairment of physical or mental ability such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by professional opinion, a scientifically valid test and, in some cases, by a lay person's opinion.

D. Possession shall mean on the employee's person, in the employee's personal belongings, including any beverage containers, or under the employee's reasonable control. A District employee shall be deemed in possession of alcohol, if he or she has alcohol on his or her person, or under his or her control.

E. Employee Assistance Program (E.A.P.) shall mean an Employee Assistance Program provided by the District for the benefit of its employees.

V. The following conduct is prohibited:

A. Reporting to work, performing job duties or conducting any District business while intoxicated or otherwise under the influence of alcohol is strictly prohibited and shall subject the District employee to immediate discipline actions as hereinafter provided. Conduct of an employee giving rise to a reasonable suspicion that the employee is under the influence shall be reported to the employee's immediate supervisor or the Human Resources Department.

B. The possession, consumption, or use of alcohol, while on District property, while performing job duties, or while in the course of the employee's employment, at a District- sponsored student event, or at a student activity in which the District or school districts participate, is strictly prohibited and shall subject the District employee to immediate discipline actions as hereinafter provided.

C. The Distribution of alcohol to minors is strictly prohibited and shall be subject to immediate discipline actions as hereinafter provided.

VI. In cases of suspected violations of this Rule, the following actions and procedures shall be implemented:

A. Any employee suspected of being in violation of this Rule shall be interviewed by his or her immediate supervisor or administrator as soon as possible to determine whether the employee is in violation of this Rule or any provisions of this Rule. If necessary, the immediate supervisor or administrator may summon a second supervisor or administrator to be present at the interview and to assist in the determination. If the supervisor or administrator determines that there is a reasonable suspicion that the employee may be in violation of any provision of this Rule, the supervisor or administrator shall immediately refer the employee to the Assistant Superintendent of Human Resources, or designee, for further investigation. The Assistant Superintendent of Human Resources or designee may interview the suspected employee prior to the immediate supervisor if circumstances warrant.

B. If, upon further investigation, the Assistant Superintendent of Human Resources or designee, has a reasonable suspicion that the employee has violated this Rule, he/she shall suspend the employee with pay from his or her duties and, if the employee is suspected of being under the influence of alcohol, may direct that the employee be tested for alcohol. Employees are required to submit to alcohol testing upon direction from the Assistant Superintendent of Human Resources or designee. The employee shall be advised of the required alcohol testing by the Assistant Superintendent of Human Resources or designee.

C. The results of the alcohol test may be used to provide the employee an opportunity to exonerate himself/herself. If the employee tests negative for alcohol, the employee will not be subject to disciplinary measures related to violation of the District's alcohol policy and shall be returned to duty. If a test of an employee's body fluid and/or breath positively detects the presence of alcohol, the results may be confirmed in accordance with Neb. Rev. Stat. § 48- 1903 prior to being used against an employee in any disciplinary or administrative action.

D. Breath test devices will only be administered by personnel who are properly trained. Breath test devices will be tested for accuracy and calibrated as necessary pursuant to the Nebraska Department of Motor

Date of Adoption

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Date of Revision

July 2, 1990

November 5, 1990

December 7, 1998

February 5, 2007

November 18, 2013

Reaffirmed

June 3, 2019

Related Policies and Rules

[4173: Drug-Free Workplace](#)

[4173.1: Drug-Free Workplace](#)

[4173.3: Drug-Free Workplace: Drugs](#)

Legal Reference

Neb. Rev. Stat. §§ 48-1903, 48-1910