



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 Associate Superintendent of Human Resources, or his/her designee, for further investigation. The Associate Superintendent of Human Resources or his/her designee may interview the suspected employee prior to the immediate supervisor if circumstances warrant.

B. If, upon further investigation, the Associate Superintendent of Human Resources or his/her 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 Associate Superintendent of Human Resources or his/her 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. The District may also use alcohol tests to detect the presence of alcohol in beverage containers or other personal item(s) an employee may possess. A positive test indicating presence of alcohol shall be deemed as possession under this Rule.

E. 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 Vehicles guidelines.

F. Any employee who is subject to disciplinary action under this Rule shall, within a reasonable time, be provided a written statement setting forth the specific reasons for such disciplinary action. The written statement shall contain a written acknowledgment of receipt signed by the employee. Should the employee refuse to sign the acknowledgement of receipt, the refusal shall be so noted on the receipt by the supervisor or administrator.

G. The Associate Superintendent of Human Resources or his/her designee shall undertake such additional investigation as may be necessary, and shall provide the employee with such written statement within a reasonable time specifically stating:

- 1. What additional action, other than being suspended from duties, if any, will be taken in accordance with this Rule; and**
- 2. The date and/or the conditions under which the employee may return to his or her regular duties, if applicable; and**
- 3. The employee's due process rights and time limits to appeal by reference to the District's grievance procedures or, if applicable, the provision of the collective bargaining agreement.**

VII. At all times, each District employee shall make every reasonable effort to ensure that any employee who, in the course of their employment or in the discharge of duties, is under the influence of alcohol does not operate a motor vehicle. Should an employee refuse to cooperate and attempt to operate a motor vehicle when such employee is intoxicated and/or under the influence of alcohol, law enforcement officials shall be immediately notified and the employee shall be terminated from employment.

VIII. District employees who violate this Rule shall be subject to the following penalties:

A. Reporting to work under the influence of alcohol, or while in the course of the employee's employment or in the discharge of his or her duties thereunder, at a District-sponsored student event, or at a student activity in which the District or other school districts participate.

- 1. First offense: Employee will be issued a written reprimand, will be subject to a minimum suspension of five (5) days without pay, and a maximum of termination of employment. Mandatory referral to E.A.P. in the event the employee is not terminated.**

2. Second offense: Employee shall be terminated from employment.

B. Use of alcohol or beverages containing alcohol while on District property, or while in the course of the employee's employment or in the discharge of his or her duties thereunder, at a District-sponsored student event, or at a student activity in which the District or other school districts participate.

1. First offense: Employee will be issued a written reprimand, will be subject to a minimum suspension of five (5) days without pay, and a maximum of termination of employment. Mandatory referral to E.A.P. in the event the employee is not terminated.

2. Second offense: Employee shall be terminated from employment.

C. Possession of Alcohol while on District property, or while in the course of the employee's employment or in the discharge of his or her duties thereunder, at a District-sponsored student event, or at a student activity in which the District or other school districts participate.

1. First offense: Employee will be issued a written reprimand, will be subject to a minimum suspension of five (5) days without pay, and a maximum of termination of employment. Mandatory referral to E.A.P. in the event the employee is not terminated.

2. Second offense: Employee shall be terminated from employment.

D. Employee is convicted of distribution of alcohol or beverages containing alcohol to minors.

1. First offense: Employee shall be terminated from employment.

E. Refusal to undergo further testing based on a reasonable suspicion of intoxication and/or performance of duties under the influence of alcohol.

1. First offense: Employee shall be terminated from employment.

IX. Employees of the District shall fully comply with and successfully complete the treatment directed by District's E.A.P. when the employee is being disciplined for violation of this Rule. Failure to do so shall result in termination of employment.

X. The Superintendent or his/her designee may impose a lesser or alternative penalty than those provided for herein if the Superintendent or his/her designee deems that a lesser or alternative disposition is in the best interests of the District and the employee.

XI. If a District employee is convicted of any crime related to the distribution or otherwise making alcohol available to minors, the employee shall be terminated from employment. An employee convicted of any crime relating to the possession, use, or distribution of alcohol, including driving under the influence, must notify the Associate Superintendent of Human Resources or his/her designee no later than one(1) business day after the conviction. Failure to timely notify may be grounds for disciplinary action, up to and including termination of employment.

XII. The District will use the following counseling and education services:

A. Employees are encouraged to participate in the District's substance abuse awareness programs. Additionally, employees are encouraged to voluntarily utilize the E.A.P. services provided by the District in seeking assistance with alcohol problems. An employee's private use of these services on the employee's own initiative will not jeopardize job security or promotional opportunity. When such use is private and voluntary, no identifying report of any kind will be made by the E.A.P. to the District unless the employee so chooses.

B. Any employee who is disciplined for alcohol use and not terminated shall be referred to the District's E.A.P. for assessment, counseling, treatment and rehabilitation. This shall be a management referral and, as such, the employee shall be required to execute the necessary releases so that the E.A.P. may inform the District whether such employee is in compliance with directed treatment.

C. The District will provide training for its administrators and supervisors to recognize typical symptoms of alcohol use and abuse.

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December 18, 1989

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July 2, 1990

November 5, 1990

December 7, 1998

February 5, 2007

November 18, 2013

June 6, 2022

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