

DESCRIPTOR TERM: Personnel and Employment	Millard District Policy File Code: 4330 Approved: 07-11-24
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STAFF CONDUCT – SUBSTANCE ABUSE AND DRUG-FREE WORKPLACE

A. Purpose

This policy implements the Federal Drug-Free Workplace Act of 1988 and [UCA § 34-41-101-107](#) authorizing local governmental entity drug-free workplace policies and [UCA § 26B-7-503](#), the Utah Indoor Clean Air Act, in order to:

1. Provide a safe and productive work and educational environment that is free from the effects of the unlawful use, distribution, dispensing, manufacture, and possession of controlled substances, alcohol use, or tobacco/electronic cigarettes use during work hours or on school property;
2. Identify, correct and remove the effects of drug and alcohol abuse in the school environment and on job performance; and
3. Assure the protection and safety of students and employees.

B. Definition

1. **Alcohol Testing** means testing alcohol concentration in the blood based upon grams of alcohol per 100 milliliters of blood or testing alcohol concentration in the blood based upon grams of alcohol per 210 liters of breath.
2. **Drug** means any substance recognized as a drug in the United States Pharmacopeia, the National Formulary, the Homeopathic Pharmacopeia, or other drug compendia, including Title 58, Chapter 37, Utah Controlled Substances Act, or supplement to any of those compendia.
3. **Drug Testing** means the scientific analysis for the presence of drugs or their metabolites in the human body in accordance with the definitions and terms of this policy.
4. **Employee** means any person or officer in the service of the Millard School District (“district”) for compensation.
5. **Periodic testing** means pre-selected and pre-announced drug testing of employees or volunteers conducted on a regular schedule.
6. **Prospective employee** means any person who has made a written or oral application to become an employee of the Millard School District (“district”).

7. **Random testing** means the unannounced drug testing of an employee or volunteer who was selected for testing by using a method uninfluenced by any personal characteristics other than job category.
8. **Reasonable suspicion for drug testing** means an articulated belief based on the recorded specific facts and reasonable inferences drawn from those facts that a district employee or volunteer is in violation of the drug-free workplace policy.
9. **Rehabilitation testing** means unannounced, but pre-selected drug testing done as part of a program of counseling, education, and treatment of an employee or volunteer in conjunction with the drug-free workplace policy.
10. **Safety sensitive position** means any position involving duties which directly affects the safety of district employees, the general public, or positions where there is access to controlled substances, as defined in Title 58, Chapter 37, Utah Controlled Substances Act, during the course of performing job duties.
11. **Sample** means urine, blood, breath, saliva, or hair.
12. **Volunteer** means any person who donates services as authorized by the district without pay or other compensation except expenses actually and reasonably incurred.

C. Administrative Policy

The Administration recognizes the need to reduce the risk of use and the abuse of illegal substances among employees. Therefore, the use or possession of alcohol or illegal drugs, counterfeit substances, and all associated paraphernalia is prohibited at any school district location (as defined in this policy).

[Utah Code § 58-37-1 et seq.](#)

D. Employee Drug Policy

1. No employee shall distribute, dispense, possess, use or be under the influence of any alcoholic beverage, malt beverage or fortified wine or other intoxicating liquor or unlawfully manufacturer, distribute, dispense, possess or use or be under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, anabolic steroid or any other controlled substance, as defined in the Utah Controlled Substances Act, schedules I through V of Section 202 of the Controlled Substances Act ([21 U.S.C. § 812](#)) and as further defined by

regulation at [21 CFR § 1300.01 to 1300.05](#), before, during or after school hours at school or in any other school district location as defined below.

[Utah Code § 58-37-1 et seq.](#)

[41 U.S.C. § 8103\(a\)\(1\)](#)

[29 CFR § 94.205\(a\)](#)

[34 CFR § 84.205\(a\)](#)

2. This policy applies to narcotics, drugs and controlled substances as defined in law. Although some actions involving medical marijuana are no longer prohibited under Utah law, federal law still prohibits the manufacture, sale, distribution, and use of marijuana and conditions receipt of federal education funding on maintaining a drug-free workplace. As a recipient of federal funds, the district has an obligation to maintain a drug-free workplace. Thus, marijuana possession, sale, distribution, and use in the workplace is prohibited under this policy. However, an employee who has a valid medical cannabis card is not subject to retaliatory action for failing a drug test due to marijuana or tetrahydrocannabinol unless there is evidence that the employee was impaired or otherwise adversely affected in the employee's job performance due to the use of medical cannabis. ("Retaliatory action" means dismissal, reduction of compensation, failing to increase compensation by an amount the employee is otherwise entitled to or was promised, failure to promote the employee if the employee would otherwise have been promoted, or threatening any of these actions.) This limitation on adverse employment action does not apply in any circumstance when it would jeopardize federal funding.

[29 CFR § 94.205\(a\)](#)

[34 CFR § 84.205\(a\)](#)

[Utah Code § 26B-4-207\(2\) \(2023\)](#)

3. The use of tobacco/electronic cigarettes in any form is prohibited on district property, in district owned vehicles, or at school sponsored activities or events.
4. "School district location" means in any school building or on any school premises; on any school-owned vehicle or in any other school-approved vehicle used to transport students to and from school or school activities; off school property at 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; or during any period of time such employee is supervising students on behalf of the school district or otherwise engaged in school district business.
5. The district may test employees, volunteers, prospective employees, and prospective volunteers for the presence of drugs or their metabolites, in accordance with the provisions of this policy, as a condition of hiring, continued employment, and voluntary services.

6. An employee or volunteer may be required to submit to medically accepted testing or referred for an evaluation to a state licensed facility to determine whether he/she is using a controlled substance or alcohol in violation of federal or state law or district policy under the following circumstances:
 - a. As a part of a post-accident investigation;
 - b. When, during work hours, there is reasonable suspicion that an employee or volunteer is using, or is impaired through the use of a controlled substance or alcohol unlawfully;
 - c. Pre-announced periodic testing;
 - d. Random testing in safety sensitive positions;
 - e. As part of a rehabilitation program.
 - f. To comply with federal Drug Free Workplace Act of 1988, [41 USC § 8103](#), or other federally required drug policies.

E. Requirement for Testing Samples

1. 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
2. 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.

F. Notification

1. Pursuant to [Utah Administrative Code 277-217](#), an employee who is arrested (charged or convicted) on any alcohol or drug-related offense shall notify his/her 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.

2. As a condition of employment in any federal grant, each employee who is engaged either directly or indirectly in performance of a federal grant shall abide by the terms of this policy and shall notify his or her supervisor in writing of his or her conviction of any criminal drug statute for a violation occurring in any of the places listed above on which work on school district federal grant is performed, no later than five (5) calendar days after such conviction.

[41 U.S.C. § 8103\(a\)\(1\)\(D\)](#)

[29 CFR § 94.205\(c\)](#)

[34 CFR § 84.205\(c\)](#)

G. Actions Upon Conviction for Drug Offense in the Workplace

1. Upon receipt of notice that an employee working under a federal grant has been convicted of a criminal drug offense in the workplace, the District shall:
 - a. Within 10 calendar days of learning of the conviction, send written notice to each federal agency on whose award the employee was working. This notice shall include the identification number of each award and the employee's position title.
 - b. Within 30 calendar days of learning of the conviction, either take appropriate personnel action against the employee (up to and including termination) or require the employee to satisfactorily participate in an approved drug abuse assistance or rehabilitation program.

[41 U.S.C. § 8104](#)

[29 CFR § 94.225](#)

[34 CFR § 84.225](#)

H. Rehabilitative and Disciplinary Actions

1. If a verified or confirmed positive drug test result indicates a violation of this policy and if an employee, volunteer, prospective employee or prospective volunteer refuses to provide a sample in accordance with this policy or otherwise violates this policy, the district may use that test result, refusal, or violation as the basis for imposing rehabilitative or disciplinary action.
2. Supervisors and administrators who receive notice of a workplace violation of this policy shall immediately notify the superintendent or his

designee(s), and the district will take appropriate action which may include, but is not limited to:

- a. Enroll and participate in rehabilitation, treatment, or counseling and educational program as a condition of continued employment or volunteer service;
 - b. Suspension with or without pay;
 - c. Termination of employment or voluntary services;
 - d. Refuse to hire a prospective employee or use the services of a volunteer; or
 - e. Probation under such terms as the Superintendent or his designee(s) may direct which may also include employment contracts.
3. Rehabilitative Programs – An employee who has a confirmed positive test for use of a controlled substance or alcohol in violation of this policy may be offered the option of participating in a rehabilitation program in lieu of disciplinary action. This option is at the district’s sole discretion and at the employee’s own expense. If the employee accepts the offer tendered by the District to participate in such a program in lieu of disciplinary action, the following shall apply:
- a. An employee participating in a rehabilitation program shall be granted accrued leave or leave without pay for inpatient treatment.
 - b. The employee must sign a release to allow the transmittal of verbal or written compliance reports between the district and the inpatient or outpatient rehabilitation program provider.
 - c. All communication shall be classified as private in accordance with [UCA Title 63G, Chapter 2](#).
 - d. An employee may be required to continue participation in an outpatient rehabilitation program prescribed by a licensed practitioner on the employee’s own time and expense.
 - e. An employee, upon successful completion of a rehabilitation program shall be reinstated to work in his previously held position, or a position with a comparable or lower salary range.
 - f. An employee who fails to complete the prescribed treatment without a valid reason shall be subject to disciplinary action up to and including termination.

I. **Policy Distribution**

This policy will be distributed to all district employees and volunteers and shall be made available for review by prospective employees and prospective volunteers.

DRUG AND ALCOHOL POLICY NOTICE TO EMPLOYEES

Notice: The following notice shall be provided to all employees of the school district.

You are hereby notified that it is a violation of the policy of the Millard School District for any employee to distribute, dispense, possess, use or be under the influence of any:

(1) Alcoholic beverage, (2) malt beverage or fortified wine or, (3) other intoxicating liquor to unlawfully manufacture, distribute, dispense, possess or use or be under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, anabolic steroid or any other controlled substance, including illegal use of prescription drugs, as defined in schedules I through V of section 202 of the Controlled Substances Act ([21 U.S.C. § 812](#)) and as further defined by regulation at [21 CFR § 1300.01 et seq.](#), before, during or after school hours, at school or in any other school district location as defined below. Prescriptions drugs, including Controlled Substances Schedule 2-5, used by employees during school time must be taken according to the prescription and must not impair employee performance or judgment.

“School district location” means in any school building or on any school premises; on any school-owned vehicle or in any other school-approved vehicle used to transport students or adults to and from school or school activities; off school property at 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; or during any period of time such employee is supervising students on behalf of the school district or otherwise engaged in school district business.

You are further notified that if you are engaged either directly or indirectly in work on a federal grant, it is a condition of your continued employment on any such federal grant that you shall abide by the terms of the school district policy on alcohol and drugs and will notify your supervisor in writing of your conviction of any criminal drug statute for a violation occurring in any of the places listed above on which work on a school district federal grant is performed, no later than five (5) calendar days after such conviction.

The Board may require the contract of any employee who violates the terms of the school district’s drug and alcohol policy be non-renewed or his or her employment may be suspended or terminated, at the discretion of the board. (See Millard School District Policy File Code 4440 Orderly School Termination for Employees, or other pertinent policies and procedures.)

In the alternative, any employee who violates the terms of the school district’s drug and alcohol policy shall satisfactorily participate in a drug abuse assistance or rehabilitation program approved by the board as a condition of continued employment. If such employee fails to satisfactorily participate in such program, the employee’s contract shall be non-renewed or his or her employment may be suspended or terminated, at the discretion of the board.

[41 U.S.C. § 8103\(a\)\(1\)](#)

[41 U.S.C. § 8104](#)

[29 CFR § 94.205](#)

[29 CFR § 94.225](#)

[34 CFR § 84.205](#)

[34 CFR § 84.225](#)