

The Board of Education (“Board”) realizes that on-the-job substance abuse is a pervasive problem throughout the American society. The District recognizes that substance abuse in the work place can seriously injure the health of employees, adversely impair job performance, and endanger the safety and well-being of other employees, students and members of the community. In addition, increased health care problems arising from substance abuse can cause increased health care costs to the employee and District in the form of treatment costs and increased insurance costs. To reduce the significant harm to individuals and the community caused by substance abuse the Board is committed to the enforcement of policies promoting drug-free schools and a drug-free workplace.

A. Federal Funding Requirements – Notification of Convictions.

Pojoaque Valley Schools is a recipient of federal funding and is subject to the Federal Drug Free Work Place Act of 1988. As a condition of employment each employee is expected to abide by this policy and to cooperate with the District’s objective of maintaining a drug free workplace. Each employee shall notify his or her employer of such employee's conviction of any criminal drug statute arising from a violation occurring in the work place no later than five (5) work days after such conviction. If an employee receives a contract or grant from the federal government, then the District shall provide written notice to the appropriate person or office in the Federal agency from which he or she receives the contract or grant within ten (10) calendar days after District receives the employee’s written notice of his/her conviction.

B. Substance Abuse Prohibited.

Substance abuse on school premises, during school programs, while on school business or in school vehicles, is prohibited.

C. Definitions. The following definitions are used in this policy:

1. “Substance abuse” means the unauthorized possession, distribution, dispensing, manufacture, sale, or use or being under the influence of controlled substances that are identified in Schedules I through V of Section 202 of the Controlled Substances Act, 21 U.S.C. § 812 (United States Code, Title XXI, Chapter 13) or its implementing regulations, 21 CF.R. §§ 1308.11 to 1308.15 where the use is neither authorized by law nor a valid prescription, or the misuse of a legal substance, including but not limited to prescription drugs, that may affect an individual's ability to perform his or her job in the workplace in a safe, adequate and secure manner. Substance abuse also shall include the unauthorized use or possession of, or being under the influence of, alcohol or alcoholic beverages and imitation controlled substances as defined in NMSA 1978, § 30-31A-1 or other look-alike drugs in the workplace.

2. “Controlled substances” means any drug or substance identified in Schedules I through IV of the Controlled Substances Act or its implementing regulations and includes, but is not limited to, marijuana, barbiturates, anabolic steroids, cocaine (including crack), amphetamines, methamphetamines or “meth”, heroin, PCP, hallucinogens, and certain prescription drugs.

3. “**School premises**” means any school building and any school property or drug free zone as defined in NMSA 1978 §§ 30-31-1 et seq., any school-owned vehicles and any other school-approved vehicle used to transport students to and from school activities or for school business.

4. “**School programs**” means any school sponsored or approved activity, event or function, on or off school premises where students are under the jurisdiction of the District; or during any period of time school employees are supervising students on behalf of the District or are otherwise engaged in school business.

5. “**Workplace**” includes employee activities on school premises, at school programs or while occupying school vehicles or other vehicles during school programs.

D. Use of Authorized Prescriptions and Drugs. Authorized prescription drugs and “over the counter” legal drugs may be used at the work place so long as prescribed dosage and recommended use is not exceeded and the use of these drugs does not adversely affect the employee’s ability to perform required work in the workplace in a safe and secure manner. When such legal drugs are to be used at the work place and are described as affecting performance by the manufacturer or known to be performance affecting by the employee, the employee shall inform his or her supervisors.

E. Discipline. Any employee who violates the terms of this policy may be disciplined, up to and including reprimand, suspension with or without pay, termination or discharge from employment and referral for investigation and/or prosecution by law enforcement agencies for violation of the standards of conduct. In addition, or alternatively, an employee may be required to participate in and satisfactorily complete a drug abuse assistance or rehabilitation program approved by the District at the employee’s expense.

F. Substance Abuse Testing. Employees are required to submit to substance abuse testing as follows:

1. **Safety Sensitive Positions.** “Safety sensitive position” means that the employee discharges duties fraught with risks of injury to others such that even a momentary lapse of attention can have disastrous consequences. The obligation of employees in certain safety-sensitive positions to perform their duties unimpaired holds direct consequences for the safety of the students of the District and of the general public. Examples include, but are not limited to, any positions that involve driving school vehicles and custodial positions that involve the use, handling or disposal of flammable, toxic or dangerous substances during the course of the employee’s primary and regular duty. Employees who hold safety-sensitive positions are subject to the following types of testing:

(a) **Random Testing.** Testing of employees is conducted on an unannounced basis just before, during or after performance of the employee’s safety-sensitive functions.

(b) **Post-Accident Testing.** Immediately (or as soon as practical) following an accident involving a District motor vehicle or other vehicle used on school business, the driver of

the vehicle must report the accident to his/her supervisor. The driver must be tested for substance abuse when:

- (i) there is a fatal accident, even if the driver is not cited for a moving traffic violation;
- (ii) there is an accident in which the driver receives a citation for a moving traffic violation;
- (iii) as a result of an accident, a person requires medical treatment; or
- (iv) one or more vehicles require towing from the scene of the accident.

(c) Return-to-duty and follow-up Testing. When an employee in a safety sensitive position has failed a random or post accident test for substance abuse, the employee must undergo a return to duty test for substance abuse and provide a certified negative test result before being authorized to return to workplace duties.

2. Reasonable Suspicion. Supervisors may require any employee to submit to substance abuse testing if the Supervisor has a reasonable suspicion that the employee’s work performance or on-the-job behavior may be affected or impaired by substances abuse.

(a) “Reasonable suspicion” means reasonable belief, based upon observations made during, just preceding or just after the period of the day during which this policy applies, that the employee’s behavior, speech, body odor, or appearance is indicative of substance abuse. Circumstances that give rise to reasonable suspicion of substance abuse may include, but are not limited to:

- (i) Observed use, possession or sale of illegal drugs and/or use, possession sale or abuse of alcohol, and/or the illegal use or sale of prescription drugs;
- (ii) Apparent physical state of impairment of motor functions;
- (iii) Marked changes in personal behavior not attributable to other factors;
- (iv) Employee involvement in or contribution to an accident where the use of alcohol or drugs is reasonably suspected or employee involvement in a pattern of repetitive accidents, whether or not they involve actual or potential injury;
- (v) Violations of criminal drug law statutes, involving the use of illegal drugs, alcohol, or prescription drugs and/or violation of drug statutes.

(b) Written Record. A written record shall be made of the observations giving rise to the District’s reasonable suspicion of substance abuse. The supervisor making the observations shall sign, date and record the approximate time of the observed conduct on the written record.

(c) **Timing of Test.** The District may require an employee reasonably suspected of substance abuse to submit to a drug or alcohol test at a certified testing facility within two (2) hours following the observations.

3. Testing Procedures. All testing procedures shall be in compliance with the Department of Transportation's rules, regulations and guidelines.

4. Refusal to Test. An employee's refusal to be tested shall be grounds for dismissal. Refusal to be tested includes, but is not limited to:

(a) failure to appear for a test at the designated laboratory at the designated time;

(b) failure to provide adequate breath, urine or blood samples within the designated time without a valid medical explanation. For example, if a test is required pursuant to reasonable suspicion, an employee's failure to produce an adequate sample for testing within two (2) hours from the time of observation will constitute a refusal to test.

(c) failure to remain available for post-accident testing;

(d) engaging in conduct that clearly obstructs the testing process, including but not limited to altering or spilling a specimen; or

(e) failing to sign the drug or alcohol testing forms.

G. Employee Assistance Programs

1. Health Risks. Substance abuse can lead to early behavioral and psychosocial problems. Substance abuse is a nondiscriminatory, progressive illness, which typically begins by experimentation, continues due to misinterpreted behavioral standards, and may result in addiction. Addiction to alcohol and/or illicit drugs will debilitate the total wellness of the individual and interfere with his or her ability to carry out even simple tasks. Descendants of a blood relative with a history of alcohol or substance abuse are at greatest risk of becoming addicted. There is no safe level of chemical use during pregnancy and research indicates that use prior to conception by either partner can affect the infant. For complete information concerning the health risks resulting from use and/or abuse of alcohol and other substances, employees are encouraged to contact the District's counseling personnel.

2. Employee CORE Team. The District can play an important role in preventing and resolving employee substance abuse by (1) providing employees an opportunity, with appropriate assistance, to discontinue their substance abuse; (2) providing educational materials to supervisors and employees on these issues; (3) assisting supervisors in confronting employees who have performance and/or conduct problems and making referrals to appropriate treatment and rehabilitative facilities; and (4) following up with individuals during the rehabilitative period to track their progress and encourage successful completion of the program. Accordingly, the superintendent shall appoint professionals with expertise or training in substance abuse

counseling and treatment to the Screening Committee/Employee Support Teams for employees (“Employee CORE Team”). Members of the Employee CORE Team may include District employees and/or professional consultants. The Employee CORE team’s function is to intervene with and provide guidance (within the scope of members’ professional licenses) to employees suspected of substance abuse, to make employee referrals to other resources in order for employees to receive substance abuse assistance, and to monitor the progress of the employee during a rehabilitative program and encourage a return for a healthy lifestyle.

3. Voluntary Referrals. The District strongly encourages employees to seek substance abuse assistance voluntarily. Information regarding an employee who voluntarily refers himself/herself to the Employee CORE Team will be treated as confidential information under applicable state and federal laws. Voluntary referrals will be taken into consideration in determining the disciplinary consequences for violation of this policy.

4. Supervisor Referrals. In the event that an employee violates this policy, the employee's supervisor will report the matter to the designated Employee CORE Team. Together, the Employee CORE Team and supervisor shall consider the disciplinary consequences, outline a recommended course of action, and report this recommendation to the superintendent. While the superintendent may take this recommendation into consideration in determining the disciplinary consequences of a policy violation, the superintendent is not bound by the recommendation.

5. Compliance. Employees who have entered into rehabilitation must comply with the terms of the program. Employees entering into in-patient rehabilitation as a part of a prescribed program will be placed on appropriate leave status for that period. Fees and expenses incurred are the responsibility of the employee.

H. Educational Programs.

1. The superintendent shall arrange for periodic (at least annually) training and education in the dangers and risks to physical and mental health, economic welfare, and civil status from the use of illicit drugs and abuse of alcohol and tobacco.

2. The superintendent or designee will post notices regarding the drug-free workplace on major bulletin Boards at each school site and administrative building and will likewise post notices in prominent areas frequented by employees on all school sites.

This notice will include the following:

(a) Prohibition of the unlawful use of controlled substances and misuse of legal substances and alcohol.

(b) Description of health risks associated with substance abuse.

(c) Description of the functions and procedures of the Employee CORE Team as well as any other therapeutic resources available.

(d) An assurance that confidentiality will be maintained.

(e) Description of the disciplinary actions and the conditions and circumstances for their application

3. This policy shall be included with the orientation package of materials for each new employee. The principal of each school will distribute the policy to each employee under his/her supervision and will maintain records signed by the employee substantiating this distribution and stating that compliance with the policy is mandatory.

I. Confidentiality and Due Process. Employees are assured that every effort will be taken to protect their confidentiality. Actions taken against employees in enforcement of this policy shall comply with such hearing or due process procedures as may be required by District policy or state and federal laws.

J. Policy Review. A biennial review of this policy shall be conducted to determine its effectiveness, to implement changes as needed, and to ensure that disciplinary sanctions are consistently enforced.