

# ALCOHOL AND DRUG-FREE WORKPLACE

Waunakee Community School District

## Policy 522.1

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*(This sample policy provides for an alcohol-free and drug-free workplace, includes prohibitions related to both alcohol and controlled substances, outlines consequences for policy violations, and addresses staff awareness initiatives and supervisor training. This sample policy addresses some of the requirements of the federal Drug-Free Workplace Act as applicable to direct federal grantees and contractors, but it does not include provisions that directly address the state and federal requirements that apply to drivers who hold a commercial driver's license and who drive (or who the district may permit or assign to drive) a school bus or other qualifying commercial motor vehicle. A district that employs any such drivers and that is required to implement a federally-mandated driver testing program should refer to 522.1 Sample Policy 2 and the resources found in PRG topic 523.11 for policy provisions that address those role-specific requirements.)*

The School Board believes that an alcohol-free and drug-free workplace promotes safety, health, and productivity. In addition, District employees who misuse alcohol or drugs can undermine the Board's learning objectives for students, erode the public's confidence in the District's programs and operations, and present a danger to themselves, students, coworkers, and other persons. *{Editor's Note: This paragraph is optional.}*

District employees are prohibited from engaging in the following conduct on District-premises, in any vehicle being used for District business, or, regardless of location, at any District-authorized activity, event, or function at a time when the employee is acting in the scope of his/her employment, responsible for District students, or otherwise acting as an agent of the District:

*{Identify the specific conduct that your district prohibits and believes that it can reasonably monitor and enforce on a fair and consistent basis. Examples of specific conduct that different districts prohibit are listed below. Modify the list to reflect local intent/goals.}*

- The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance. *{Editor's Note: This provision reflects a specific requirement of the federal Drug-Free Workplace Act.}*
- Attempting or intending to unlawfully sell or otherwise distribute alcohol or controlled substances.
- Being under the influence of a controlled substance, except that an employee may possess, and work while he/she is taking, over-the-counter medication(s) and his/her own prescription medication(s) provided that (1) the employee follows the relevant instructions for and does not misuse the medication(s), and (2) the use of the medication(s) does not prevent the safe and acceptable performance of the employee's job duties.
- Possessing, distributing, or consuming intoxicating beverages or, where there is no legitimate and authorized purpose, other forms of alcohol, or being under the influence of alcohol at a blood alcohol concentration of **0.02** or higher, except:

<sup>1</sup> Note this paragraph is optional, delete editor's note from final draft.

<sup>2</sup> Your current policy references being under the influence measuring about 0.0 "using any device or means." I am not familiar with the full implications of this language with regard to the Wisconsin Fair Employment Act prohibition against discrimination based on use or nonuse of lawful products. See Wisconsin Legislature: 111.321

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- An off-duty employee who is present at insert either: "an" or "a non-District" event that occurs on District premises may possess and responsibly consume alcohol if the District has authorized the event organizer, in writing, to allow alcohol at the event.
- An employee may possess alcohol in a sealed container in his/her locked personal vehicle (e.g., for purposes of transporting the alcohol for off-duty purposes).

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**Editor's Note: State law establishes a stricter prohibited alcohol concentration (i.e., "not above 0.0") for drivers of school buses and other commercial vehicles. This policy assumes that the district contracts out for all such transportation operations. If the district employs or may consider employing a school bus or other CDL driver, consider PRG 522.1 Sample Policy 2 or consider at least expressly listing an additional exception above, stating that employees are further required to adhere to any stricter state or federal standard that applies to specific positions or specific duties.**

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**Editor's Note: The three remaining items in this list are examples of items that are sometimes not expressly mentioned in a drug-free workplace policy.**

- Using or being under the influence of a hazardous inhalant.
- Possessing, selling, or distributing, or attempting to sell or distribute, look-alike controlled substances (substances that are represented as an illegal drug regardless of the true nature of the substance) or any unlawful synthetic drugs that are not expressly classified as a controlled substance but that purportedly produce similar subjective effects to illegal drugs.
- Possessing, using, or distributing drug paraphernalia.

Employees are notified by this policy that where an employee's off-duty conduct relating to alcohol or controlled substances has a legally-sufficient connection to the individual's employment, the off-duty conduct can serve as the basis for employment-related discipline or other employment-related consequences.

Certain employees may be subject to further requirements and restrictions related to alcohol and controlled substances based on their positions or job duties. For example, an employee who is engaged in the performance of a federal contract or qualifying federal grant must notify the District Administrator of any criminal drug statute conviction for a violation that occurred in the workplace. This notification shall be made within five (5) days of the conviction. The District Administrator or his/her designee must notify the appropriate federal agency and take other appropriate action.

Adherence to the District's alcohol-free and drug-free workplace policy is a condition of employment with the District. Employees who violate the District's policies or rules regarding these substances are subject to consequences, including possible referral for a drug or alcohol evaluation, referral to a counseling or rehabilitation program, include if

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and Wisconsin Legislature: 111.35. It is possible, perhaps likely, that a tobacco user off employer premises will have residual nicotine in their system.

See the editor's note regarding the stricter alcohol concentration for CDL drivers.

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the District offers a formal EAP: "referral to any available employee assistance program (EAP)". reassignment, monitoring plans (which, to the extent permitted by law, may include testing), discipline (up to and including immediate termination), and/or referral to appropriate law enforcement officials. A referral for evaluation, counseling, or treatment does not include any District commitment to pay for such services.

This policy, or a reference to and summary of this policy, shall be included in the District's Employee Handbook.

The ~~JHR Director~~<sup>insert position title</sup> is responsible for ensuring that the District provides information to employees to raise awareness regarding (1) the dangers of ~~insert if desired: "alcohol and"~~ drug abuse in the workplace, (2) the District's policy of maintaining an alcohol-free and drug-free workplace, (3) any available counseling, rehabilitation, and (if applicable) employee assistance programs, and (4) the consequences that may be imposed upon employees for alcohol-related or drug-related misconduct. ~~Editor's Note: The federal Drug-Free Workplace Act requires federal contractors and certain federal grant recipients to maintain a drug-free awareness program to inform employees on the matters addressed in this paragraph with respect to drugs. Accordingly, a district that wishes to maintain its eligibility for direct federal grants should plan to implement such an awareness program, even if the district elects not to mention the awareness program in this policy. This paragraph also gives districts the option of committing to providing information on alcohol misuse because of the sample's earlier references to an alcohol-free workplace.~~

~~Insert this provision if the district intends to commit to providing such training: "The <sup>insert position title</sup> is responsible for ensuring that building principals and other supervisors receive alcohol and drug awareness training and such other information as may be necessary to carry out their policy-enforcement responsibilities."~~

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### Legal References:

#### Wisconsin Statutes

<a href="#">Section 111.35</a>	[use or nonuse of lawful products; exceptions and special cases]
<a href="#">Section 121.02(1)(i)</a>	[safe and healthful facilities]
<a href="#">Section 125.09</a>	[restrictions on alcohol on school property and at school activities]
<a href="#">Section 346.63</a>	[operating under influence of an intoxicant or other drug]
<a href="#">Section 939.22(15)</a>	[definition of hazardous inhalant]
<a href="#">Chapter 961</a>	[controlled substances laws]

#### Wisconsin Administrative Code

<a href="#">Trans 300.16</a>	[student transportation; driver requirements]
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#### Federal Laws and Regulations

<a href="#">41 U.S.C Ch. 81</a>	[federal drug-free workplace requirements for federal contractors and grantees]
<a href="#">2 C.F.R. Ch. 1, Part 182, Subpart B</a>	[federal regulations implementing the federal Drug-Free Workplace Act]

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[21 C.F.R. Part 1308](#) [federal schedules of controlled substances]

Cross References:

WASB PRG 522.1 Sample Policy 1

Adoption Date: 9/10/90

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May 2020

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