

# ***Model Policy***

## **AR 5131.61 STUDENT ATHLETE DRUG AND ALCOHOL TESTING REGULATION**

### **Purpose**

This regulation is to implement School Board Policy 5131.6.

### **Prohibited Substances**

Drugs and alcohol are defined at pages 5131.61(g)-(h) of this regulation.

### **Testing Requirements**

This regulation mandates drug and/or alcohol testing of student athletes of the district upon an articulation of reasonable suspicion of drug or alcohol use and upon a random basis.

Prior to the beginning of each sport season, student athletes and his or her parent or guardian will complete and sign the District Code of Conduct and Informed Consent Agreement. No student will be allowed to participate in practice or competition until this form is completed, signed and on file with the district.

At the beginning of each sport season, or when a student joins a sport, all athletes wishing to participate in that season's sports may be subject to urine testing for illicit or banned substances. Following any initial testing, up to 10% of eligible student athletes will be randomly tested on a weekly basis anytime during the athletic year. Any student who refuses to be tested will not be allowed to participate in athletics.

The district will submit a list of all student athletes eligible for testing to the laboratory the district chooses to assist with its drug and alcohol testing program. This laboratory will be responsible for selecting and submitting names of students to be randomly tested.

"Reasonable suspicion" is defined as drug and/or alcohol testing based upon a belief that a student is using or has used drugs and/or alcohol in violation of BP 5131.6. This belief will be drawn from specific objective and articulable facts, and reasonable inferences drawn from those facts, in light of experience, and may be based upon, among other things:

Direct observation of drug use and/or the physical symptoms or manifestations of being under the influence of a drug;

Abnormal conduct or erratic behavior while at school, absenteeism, tardiness, or deterioration in performance;

A report of drug use provided by reliable and credible sources and which has been independently corroborated;

Evidence that a student has tampered with a drug test;

Information that a student has caused, or contributed to an accident at school;

Evidence that a student is involved in the use, possession, sale, solicitation, or transfer of drugs;

Possession of equipment or paraphernalia pertaining to alcohol or illegal drug use by a student.

The district shall ensure that at least one designated employee receives 60 minutes of training on alcohol misuse and at least an additional 60 minutes of training on the misuse of controlled substances. This training will be used to determine whether reasonable suspicion exists to require a student to undergo testing.

Where practicable, an articulation of reasonable suspicion shall be based upon the observation of an individual by two persons acting in a supervisory capacity in relation to the student who have received drug and alcohol impairment recognition training. However, the observation of one trained supervisor is adequate to determine impairment.

Upon a determination of reasonable suspicion, the trained supervisor shall fill out a reasonable suspicion for drug/alcohol testing determination form. The supervisor shall then, as soon as safely possible, escort the student to the designated testing site.

The district shall pay all actual costs of drug testing, including reasonable transportation costs.

### **Testing Methods and Collection Procedures**

The district or district designee shall designate a drug/alcohol testing/collection site.

#### **Testing Procedures for Alcohol**

Any individual chosen to test for alcohol impairment shall be trained in the operation of the evidential breath testing device (EBT) he or she is using by the EBT manufacturer or the manufacturer's representative and receiving training certification from the manufacturer or the manufacturer's representative in writing and be familiar with this regulation. This person shall be designed as the breath alcohol technician (BAT). The EBT device for testing may be any EBT approved for use by state or federal law

enforcement agencies. The BAT conducting the test is responsible for documenting the results of the test and explaining the testing procedure to the student who is to be tested. Additionally, the BAT will be trained to recognize adulteration of the sample, if applicable, and sign a statement that clearly states that the BAT will hold all information related to any phase of an alcohol test confidential.

The BAT must provide the student with a sealed mouthpiece which the BAT shall open in the student's presence. The BAT shall also show the student the result displayed on the EBT and immediately inform the student if he or she is under the influence of alcohol.

If the screening test yields a positive result, the BAT shall perform a confirmation test. The BAT shall wait a minimum of fifteen minutes between tests. The BAT shall use a new mouthpiece for the confirmation test and ensure that the EBT registers a 0.00 calibration on an air blank before conducting the test. If the EBT registers greater than 0.00, the BAT shall conduct more than one air blank. If the reading is still greater than 0.00, the BAT may not use that EBT and must use an alternative device. After the confirmation test, the BAT shall explain to the student the results of the confirmation test.

After alcohol testing, the supervisor who accompanied the student to the test shall either drive the student back to school in the event of a negative test, or to the student's home in the event of a positive test.

### **Testing Procedures for Drugs**

Any individual chosen to collect urine samples under this regulation shall be trained in proper collection methods to ensure privacy, accuracy and to allow the test to be conducted with the least intrusiveness to the person presenting the sample. The district shall designate a certain area as the collection site. This area shall have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage, and shipping or transportation of urine specimens to a certified drug testing laboratory. The district may designate a community health clinic for this site. In areas with a hospital, the district will use the community hospital as the drug testing site and arrange for all drug testing to be conducted through the hospital after assurances that the hospital is capable of complying with the standards for testing set forth herein.

The student to be tested shall submit a driver's license or other photographic identification to the testing technician. In the absence of such identification, the student's accompanying supervisor may identify the student.

The student will be asked to remove any jackets and coats and to wash and dry his or her hands prior to collection of the specimen. Female students must leave their purses, but are allowed to remove and retain their wallets. This must be done in the presence of

the technician to prevent the student from having access to material which might adulterate the specimen.

The technician shall use a designated Chain of Custody Form. This form must accompany the urine sample to the designated medical laboratory which shall test the sample.

A student shall be given a choice of at least two sealed drug testing kits. The student's selected kit shall be opened in full view of the student.

Upon the student being presented with the kit, the testing technician shall direct the student to the testing area. The testing area shall be a private area.

After testing, the student must present the sample to the collection technician prior to washing his/her hands or flushing the toilet. The specimen is to remain in the visual field of the donor.

Upon receipt of the specimen, the collection technician shall verify that the sample contains at least 60 ml of urine. If the container does not, the technician shall provide the student with water, and after a reasonable time, allow him/her to attempt to produce another sample. The original sample shall be discarded. If the student still cannot produce a sufficient amount of urine, the Program Administrator shall be contacted.

The technician shall immediately measure and record the temperature of the sample on the Chain of Custody form. The technician shall then seal the sample and place a security seal from the bottom of the Chain of Custody form on the sample and request that the student date and initial it. The technician shall then complete the form, including asking the student if he or she wishes to identify any prescription medication he or she may presently be taking which would affect the sample. The technician shall then place the sample in a tamper-resistant bag and ask the student to date and initial the seal on the bag. The technician shall write the bar code on the front of the testing envelope on the bag as well as "split sample." The sample will then be sent to the testing laboratory via Goldstreak or any other acceptable rapid-transport method.

Upon receipt of the test, the laboratory will divide the sample in half. If the first test yields a negative result, the second half of the sample will be discarded. If the test yields a positive result, the second half of the sample will be tested to verify the result. Unless both halves of the sample yield positive results, the test will be considered a negative test.

The testing laboratory shall perform an initial screening test which meets the requirements of the Food and Drug Administration. A positive test result will be confirmed by using gas chromatography/mass spectrometry (GC/MS) techniques. All confirmations shall be by quantitative analysis and must be reviewed by a medical doctor or doctor of osteopathy.

The physician or osteopath shall: (1) contact the student's parents within 48 hours and offer an opportunity to discuss the confirming test result; (2) interpret and evaluate the positive drug test result; and (3) report test results caused by prescription medicine as negative.

The testing laboratory shall report the results of the test to the Program Administrator after the confirmation test has been performed and the student has been contacted.

After drug testing, the supervisor who accompanied the student to the test shall either drive the student back to school or to the student's home based upon a determination of impairment.

A student shall have the right, upon his or her request, to obtain the written test results if the student makes such a request within six months after the date of the test. Upon such a request, the district, or the designee of the district, shall provide the written test results within five days after the request is made.

A student shall have the right, upon his or her request, to explain in a confidential setting, a positive test result. This request must be in writing and be within ten days after the student has been notified of a positive test result. This request must be honored by the district within 72 hours or before the district takes any disciplinary action.

### **Refusal to be Tested**

Should a student refuse to be tested under this regulation, the student will be considered to have received a positive result on a drug or alcohol test.

Refusal to submit to an alcohol or controlled substance test shall be considered as: (1) the failure to provide adequate breath for alcohol testing as required by this regulation without a valid and verified medical explanation after he or she has received notice of the requirement for breath testing under this regulation; (2) the failure to provide an adequate urine sample for controlled substances testing as required by this regulation without a genuine inability to provide a specimen (as determined by a medical evaluation by an evaluator of the district's choosing) after he or she has received notice of the requirement for urine testing under this regulation; (3) engaging in any conduct which clearly obstructs the testing process in the district's determination. A refusal to submit shall be considered a positive test result.

### **Disciplinary Action**

The district may take disciplinary action allowed by the District Policy for drug and alcohol infractions if the student tests positive after being required to test upon an articulation of reasonable suspicion. However, should the student test positive after a random test, the student will not be penalized academically.

### **Confidentiality**

The district recognizes that the results of a drug and alcohol test will be considered medical records and held confidential to the extent permitted by law. The district will limit disclosure of information acquired in a drug and alcohol test, including the positive and negative results, to the following individuals unless the student consents in writing to other disclosures: (1) the student; (2) the Program Administrator; (3) the student's principal and other school officials with a need to know; (4) collection site personnel; (5) the laboratory medical review officer; (6) a counselor or other rehabilitation personnel if the student seeks or is required to use such service. The results of random testing will not be disclosed to criminal or juvenile authorities absent a legal requirement to do so.

## **Definitions**

**Alcohol** - Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

**Alcohol Concentration (or Content)** - Alcohol concentration or content means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

**Alcohol Use** - Alcohol use means the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

**Collection Site Person** - Collection site person is an individual authorized by the district to collect samples in accordance with this program.

**Confirmation Test for Alcohol** - A second test, following an initial test, with a result of .04 or greater, that provides quantitative data of alcohol concentration.

**Confirmation Test for Drugs** - A confirmation test for drugs means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates amphetamines, and phencyclidine.

**Drugs** - Drugs include marijuana, cocaine and cocaine derivatives, opiates, amphetamines and phencyclidine, and other substances proscribed by state law at [AS 11.71](#). Should the State of Alaska or the federal government proscribe the possession and consumption of other similar substances by statute or regulation, those substances would automatically be considered drugs for the purposes of this regulation.

<p><u>Note: Although the passage of <a href="#">AS 17.38</a>, effective February 2015, authorizes the use of marijuana under certain conditions, this law does not apply to anyone under the age of 21. In addition, as a recipient of federal funds, the district is obligated to maintain a drug-free workplace consistent with federal law, which prohibits the</u></p>
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manufacture, sale distribution, possession and sale of marijuana. For purposes of the district's policy and legal obligations, marijuana is an illicit drug and is prohibited.

Custody and Control Form - A custody and control form is a form that accompanies the urine specimen to account for the integrity of each specimen by tracking its handling and storage from point of specimen collection to its final disposition.

Failing an Alcohol Test - Failing an alcohol test shall be defined as a student having a higher alcohol concentration than .04 at the time of testing.

Failing a Drug Test - Failing a drug test shall mean that the test results show positive evidence of the presence of a prohibitive drug or drug metabolite in a student's system in amounts that exceed cutoff levels.

Screening Test for Alcohol - A screening test for alcohol shall be considered an analytical procedure to determine whether an individual may have a prohibited amount of alcohol in his or her system.

Screening Test for Drugs - A screening test for drugs shall be considered an immunoassay screen to eliminate "negative" urine specimens from further consideration.

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