

POLICY 3070

Alcohol and Drug Abuse – Employees

- A. The Board recognizes that the unlawful use, possession, distribution, or sale of alcohol, narcotics, or other dangerous drugs is illegal according to federal and Utah law and constitutes a hazard to students. The Board encourages the development and implementation of programs which will provide information on the harmful effects and aid in the prevention of drug and alcohol abuse. The Board supports programs that coordinate school and parent cooperation in attempting to prevent problems of drug abuse and support programs that assist parents in seeking outside professional help from public and private educational and rehabilitative programs.
1. The Board delegates to the Administration responsibility for providing educational prevention programs, procedures for violations, support for employees, students and their families in all efforts of drug and alcohol prevention.
 2. 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.](#)
 3. This policy implements the federal Drug-Free Workplace Act of 1988 and [Utah Code § 34-41-101 thru 107](#) authorizing local governmental entity drug-free workplace policies and
- B. “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.
- C. 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 manufacture, distribute, dispense, possess or use or be under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, anabolic steroid, tobacco, or products containing nicotine (including but not limited to e-cigarettes, pipes, and vaporizers) 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 through 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\(a\)](#)

1. For purposes of this policy, nicotine products do not include tobacco-cessation products used as such, including nicotine patches, nicotine gum or other tobacco-cessation products that produce no smoke or vapor.
2. Marijuana and Cannabis
 - a. 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\(2\) \(2023\)](#)

D. Drug or Alcohol Testing

1. An employee or volunteer may be required to submit to medically accepted testing without justification of reasonable suspicion or critical incident 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. 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;

1) Reasonable Suspicion

- a) A “reasonable suspicion” means an articulated belief based on the recorded specific facts and reasonable inferences drawn from those facts that indicate that a school district employee is using or is under the influence of drugs or alcohol.

2) Reasonable Suspicion Documentation

- a) Prior to conducting any tests for drugs or alcohol based upon a suspicion of use, the supervisor or administrator requiring the test must articulate in writing specific facts and any reasonable inferences drawn from those facts which lead to a reasonable suspicion that an employee is using or under the influence of alcohol or illegal drugs.

[Utah Code § 34-41-102\(3\) \(2016\)](#)

[Utah Code § 34-41-101\(9\) \(2024\)](#)

[Utah Code § 34-41-101\(9\) \(2024\)](#)

- b. ~~As a part of a post-accident investigation;~~ Whenever an accident causing bodily injury occurs within the scope of employment where it appears that drugs or alcohol may have been a contributing factor.

[Utah Code § 34-41-102\(3\) \(2016\)](#)

[Utah Code § 34-41-103\(2\)\(b\) \(2024\)](#)

- c. Random testing;

- d. As part of a rehabilitation program.

2. An employee or volunteer who refuses to submit to drug or alcohol testing may be subject to disciplinary action.
3. All drug or alcohol testing shall be conducted by an independent laboratory certified for employment drug testing by either the Substance Abuse and Mental Health

Services Administration or the College of American Pathology and approved by the District.

4. Corrective or disciplinary action may be taken against an employee or volunteer if there is a positive test for controlled substances.
 - a. Employees in positions requiring a commercial driver license shall be subject to testing and prohibition requirements as directed by Federal and State law and as outlined in the [State of Utah DHRM Drug and Alcohol Testing Manual](#). Training on these requirements is the responsibility of the District Transportation Department.
5. 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 calendar days after such conviction.

[41 U.S.C. § 8103\(a\)\(1\)\(D\)](#)

[29 CFR § 94.205\(c\)](#)

[34 CFR § 84.205\(c\)](#)

[Policy 3035 Employee Criminal Background Checks and Arrest Disclosure Requirements](#)

- a. 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:
 - 1) 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.
 - 2) 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](#)

6. A separate, private record of drug or alcohol test results shall be kept by the employee's or volunteer's supervisor or building level administrator. The employee's official personnel file shall only contain a document making reference to the existence of the drug or alcohol test record.
- E. Supervisors and administrators who receive notice of a workplace violation of this policy shall immediately notify the Executive Director of Personnel, and the District will take appropriate action, which may include but is not limited to:
1. Probation;
 2. Suspension with or without pay;
 3. Referral to the Utah Professional Practices Advisory Commission;
 4. Termination of employment or voluntary services; or
 5. Participation in a rehabilitation, treatment or counseling and educational program.
- F. Consequences of Refusal to Test or Tampering with Test
1. If an employee is required to take a drug or alcohol test based on reasonable suspicion and refuses to be tested or to cooperate with test procedures, the employee may be treated as having a positive test result and disciplined accordingly and may also be disciplined for insubordination. If an employee is found to have submitted a false sample or otherwise to have attempted to circumvent the testing process, the employee may be treated as having a positive test result and disciplined accordingly.
- [Utah Code § 34-41-105\(2\) \(1994\)](#)
- G. 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 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:
1. An employee participating in a rehabilitation program shall be granted accrued leave or leave without pay for inpatient treatment.

2. 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.
3. All communication shall be classified as private in accordance with [Utah Code § 63G-2-302\(1\)\(b\)](#).
4. 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.
5. 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.
6. An employee who fails to complete the prescribed treatment without a valid reason shall be subject to disciplinary action.

[Policy 3007 Employment – Staff Code of Conduct
R277-217
Notice to Employees](#)

H. Compensation for Test Time

1. All tests performed by the District shall occur during or immediately after the regular work period of the employee and shall be considered as work time for purposes of compensation and benefits.

[Utah Code § 34-41-104\(5\) \(2024\)](#)

I. Testing Costs

1. The District shall bear the costs of all sample collection and initial testing for alcohol or drugs at the request of the District, including any costs for transportation to the test site if conducted at a place other than the workplace. The costs of testing a second urine sample will be equally divided between the District and the employee.

[Utah Code § 34-41-103\(8\) \(2024\)](#)
[Utah Code § 34-41-104\(6\) \(2024\)](#)