

1 **Browning Public Schools**

2  
3 Policy # 5228

4 Policy Name: *Employee Drug and Alcohol Testing*

5 Regulation: -----

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7 For the purpose of adhering to the principles invoked in the Drug Free Workplace Act of 1988, as  
8 well as legal guidelines established by the Federal Omnibus Act of 1991 and Montana State Statute  
9 (MCA 39-2-304) and in conformance with all applicable regulations, three (3) broad categories of  
10 employees are henceforth subject to one or more of the following forms of drug and alcohol testing:

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- 12 (1) All employees (regardless of classification) will be subject to testing when:
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- 14 (a) reasonable belief exists that they are involved in manufacture, use possession, transfer
- 15 or distribution of alcoholic beverages or illegal drugs while on the job. The term “on
- 16 the job” is specifically defined in Board Policy #5110;
- 17 (b) following a work-related accident, causing death, personal injury or property damage in
- 18 excess of \$1,500.00, and,
- 19 (c) as a condition of employment.
- 20
- 21 (2) Employees whose primary responsibility is performance of work in hazardous conditions,
- 22 security, safety or fiduciary matters will be subject to pre-employment, post-accident and
- 23 reasonable belief testing;
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- 25 (3) Employees whose position requires a commercial driver’s license will be subject to pre-
- 26 employment, post-accident, random, reasonable suspicion and treatment/follow-up testing.
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28 The purpose of the testing program shall be to monitor the misuse of alcohol and controlled  
29 substances by employees in order to prevent accidental injury to the employee or co-workers and to  
30 ensure that the District’s standards for maintaining an environment in which student safety is  
31 considered paramount are continually upheld.

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33 Marijuana is included in the definition of illegal drug for the purposes of Subsections (1)(a) and (b)  
34 above because individuals are prohibited from possessing, consuming, or storing marijuana or  
35 marijuana paraphernalia on the grounds of any property owned or leased by a school district, a public  
36 or private preschool, school, or postsecondary school or in a school bus; marijuana cannot be smoked  
37 in a location where smoking tobacco is prohibited; and marijuana consumed in a manner that  
38 endangers others is prohibited in accordance with Montana law.

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40 A positive test for marijuana, alcohol, nicotine, or a medically prescribed substance is not a  
41 disqualifying factor the purposes of Subsection (1)(c) if the applicant is of legal age to consume the  
42 identified substance. A positive test for marijuana is a disqualifying factor for applicants seeking a  
43 position as a bus driver, federally compensated employee, or other position identified by the  
44 Superintendent.

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46 **Consequences if Testing Indicates Drug or Alcohol Misuse**

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48 Submission to drug and alcohol testing, as described above, is a condition of employment. In the  
49 event, drug and alcohol testing confirms prohibited alcohol levels and or the presence of a controlled  
50 substance or the employee refuses to be tested or tampers with a test, the Superintendent shall

1 recommend termination from employment. Recommendations for dismissal, made under Board  
2 Policy #5110 by the Superintendent, which are supported by a positive test result and conform to  
3 appropriate due process will result in immediate discharge by the Board of Education from  
4 employment with Browning Public Schools. The District is not required under federal law requiring  
5 drug and alcohol testing to provide rehabilitation, pay for substance abuse treatment or to reinstate  
6 the employee.

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8 The Assistant Superintendent, or Personnel, shall verify that each employee has been notified of this  
9 policy when hired by the District and shall be required to verify that such notification has been given  
10 to all current employees. All employees shall acknowledge, in writing, receipt of a copy of this  
11 policy.

### 12 13 **Confidentiality**

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15 All documentation concerning testing and the test results of any individual pursuant to this policy  
16 shall be kept strictly confidential. In order to secure the confidentiality of the employee, the results  
17 of any test performed pursuant to this policy will be released only under the following  
18 circumstances: (1) required communication to the Superintendent, and/or his designee, the  
19 immediate supervisor, the Medical Review Officer, the collection site or the testing laboratory, (2) in  
20 accordance with a court order or as otherwise required by law or governmental regulation, (3)  
21 express written authorization is granted by the tested individual.

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23 The Superintendent is directed to establish procedures to implement this policy.  
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28 **Cross Reference:** #5110 Drug Free Workplace (Policy #1025)  
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30 **Legal Reference:** 39-2-304 MCA Lie Detector Test/Prohibited Regulation of Blood  
31 and Urine testing.  
32 Initiative 190 – “Montana Marijuana Regulation and Taxation Act.” January 1,  
33 2021  
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### 35 36 **Policy History**

37 Adopted on: 1/29/97  
38 Revised on: 11/8/05, 3/26/14, 2/9/21  
39 Reviewed: 1/27/21  
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