



TO: School Board Members

FROM: Tye Michaels, Director of Human Resources

DATE: April 21, 2025

RE: Second Reading of Policy 416, Drug and Alcohol Testing

BACKGROUND:

A review of Policy 416, Drug and Alcohol Testing, has been performed. A first reading was presented to board members at their meeting on February 18. The district's current policy was reviewed against MSBA's model policy. Based on this review, several changes were presented at that February meeting. The changes are reiterated at the end of the document.

During the first reading, the board identified some potential issues. In response, the administration is proposing some additional changes. These are described below.

For some issues identified by the board, the administration is providing rationale as to why it does not recommend changes to what was included in the first reading. These are also described below.

Additional Changes Proposed in the Second Reading

- Section I, item A -The board expressed concerns about the tone of this section as it relates to permissible recreational use of cannabis. This section is not needed and has been removed in the second reading.
- Throughout the policy, there are instances that list different types of drugs and alcohol. The board wondered why 'cannabis' was included in some but not others. Legal counsel reviewed the various locations and only recommended adding it in one section, given that its absence in other sections was intentional due to related laws and statutes. The only location where 'cannabis' was added in the second reading was Section II.D in the last sentence.

Issues Identified Where No Further Changes Are Recommended

Board members discussed concerns about cannabis testing and how would be able to discriminate between permissible use versus non-permissible use. Legal counsel did not recommend changes to the related portions of the policy, but did offer the following constraints around testing that might alleviate some concerns.

The District may only test other employees for cannabis use in two circumstances:

- *Random testing for employees in safety-sensitive positions (which likely would not be many, if any, employees outside of those who fall within federal drug testing regulations)*
- *Reasonable suspicion testing - Reasonable suspicion testing only occurs when the District has some reason to believe that the employee is under the influence, like the employee exhibiting indicators of intoxication or being in possession of cannabis. In addition, if the test results are positive, the employee has the opportunity under both Minnesota law and Policy 416 to explain any positive test results.*

The District is proposing to adopt the MSBA's model policy, which is based on updated Minnesota laws governing drug, alcohol, and cannabis testing.

Changes Recommended in the First Reading Include

- The title of the policy now includes cannabis testing and you will see the addition of that language throughout the policy.
- Under Section II, General Statement of Policy, item F was added as it goes into greater detail about the various forms of cannabis.
- Under Section III, Federally Mandated Drug and Alcohol Testing for School Bus Drivers:
 - Under B and C, additional definitions and detail were added
 - Under G, additional definition was added as it relates to cannabinoid products
 - Under H, new language was added for school districts to conduct full pre-employment queries through a federal Clearinghouse as required by federal law
 - Under M, a section on personal information was added as it relates to required reporting to the federal Clearinghouse
 - Items Q and R were added as it again relates to language on the federal Clearinghouse
- Under Section IV, Drug and Alcohol Testing for Other Employees, cannabis testing language was added and the definitions section was moved up from where it currently was in the current policy.
- Also Under Section IV, more detail was added as it relates to cannabis testing as well as a new section required by recent change in legislation as it relates to oral fluid testing.
- The list of legal references was updated.
- This policy references a number of attachments and those are included.

RECOMMENDED RESOLUTION:

This is a second reading. No resolution is needed at this time.