

Personnel

Alcohol- and Drug-Free Workplace and School Environment

I. Purpose

Recognizing that the health and well-being of employees and students are important, the school district prohibits the use of alcohol, toxic substances, ~~controlled substances~~, ~~medical cannabis~~, non-intoxicating cannabinoids, edible cannabinoid products, and ~~controlled substances~~ ~~medical cannabis~~ without a physician's prescription.

II. General Statement of Policy

- A. Except as otherwise provided in this policy, use or possession of ~~alcohol, toxic substances~~, controlled substances, ~~toxic substances~~, ~~medical cannabis~~, ~~non-intoxicating cannabinoids~~, ~~edible cannabinoid products~~, and ~~or medical cannabis~~ ~~alcohol~~ before, during, or after school hours, on school district property or any other school location, is prohibited as general policy. Paraphernalia associated with controlled substances are prohibited.
- B. Except as provided in Section IV., a violation of this policy occurs when a student, employee, or member of the public uses or possesses alcohol, toxic substances, controlled substances, non-intoxicating cannabinoids, edible cannabinoid products, or medical cannabis on district property.
- C. An individual may not use or possess cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public school, as defined by state law, including all facilities, whether owned, rented, or leased, and all vehicles that the school district owns, leases, rents, contracts for, or controls.
- D. The district takes appropriate action against any student, employee, or member of the public who violates this policy.

III. Definitions

~~For purposes of this policy, the definitions included in this section apply.~~

- A. "Alcohol" includes any alcoholic beverage containing more than one-half of one percent alcohol by volume.
- B. "Controlled substances" include narcotic drugs, hallucinogenic drugs, amphetamines, barbiturates, marijuana, anabolic steroids, or any other

controlled substance as defined under federal and state law, including analogues and look-alike drugs.

- C. "District property" includes any school district building or on any district premises; in any district-owned vehicle or in any other district-approved vehicle used to transport students to and from school or district activities; off-district property at any district-sponsored or district-approved activity, event, or function, such as a field trip or athletic event, where students are under the jurisdiction of the district; or during any period of time an employee is supervising students on behalf of the district or otherwise engaged in district business.
- D. "Edible cannabinoid product" means any product that is intended to be eaten or consumed as a beverage by humans, contains a cannabinoid in combination with food ingredients, and is not a drug.
- E. "Medical cannabis" means any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins, and is delivered in the form of (1) liquid, including, but not limited to, oil; (2) pill; (3) vaporized delivery method with use of liquid or oil but which does not require the use of dried leaves or plant form; or (4) combustion with use of dried raw cannabis; or (5) any other method approved by the Commissioner of the Minnesota Department of Health.
- F. "Non-intoxicating cannabinoid" means substances extracted from certified hemp plants that do not produce intoxicating effects when consumed by injection, inhalation, ingestion, or by any other immediate means.
- G. "Possess" means to have on one's person, in one's effects, or in an area subject to one's control.
- H. "Sell" means to sell, give away, barter, deliver, exchange, distribute or dispose of to another, or to manufacture; or to offer or agree to perform such an act, or to possess with intent to perform such an act.
- I. "Toxic substances" includes: (1) glue, cement, aerosol paint containing toluene, benzene, xylene, amyl nitrate, butyl nitrate, nitrous oxide, or containing other aromatic hydrocarbon solvents, but does not include glue, cement, or paint contained in a packaged kit for the construction of a model automobile, airplane, or similar item; (2) butane or a butane lighter; or (3) any similar substance declared to be toxic to the central nervous system and to have a potential for abuse, by a rule adopted by the Commissioner of the Minnesota Department of Health.
- J. "Use" means to sell, buy, manufacture, distribute, dispense, be under the influence of, or consume in any manner, including, but not limited to, consumption by injection, inhalation, ingestion, or by any other immediate means.

IV. Exceptions

- A. A violation of this policy does not occur when a person brings onto a school district property, for that person's own use, a controlled substance, except medical cannabis, non-intoxicating cannabinoids, or edible cannabinoid products, which has a currently accepted medical use in treatment in the United States and the person has a physician's prescription for the substance. The person will comply with the relevant procedures of this policy.
- B. A violation of this policy does not occur when a person possesses an alcoholic beverage in a district property when the possession is within the exceptions of Minnesota law.
- C. A violation of this policy does not occur when a person uses or possesses a toxic substance unless they do so with the intent of inducing or intentionally aiding another in inducing intoxication, excitement, or stupefaction of the central nervous system, except under the direction and supervision of a medical doctor.
- D. The district may not refuse to enroll, employ, or otherwise penalize a person enrolled in the Minnesota Patient Registry Program solely based on their enrollment in the registry program, unless failing to do so would violate federal law or regulations or cause the district to lose a monetary or licensing-related benefit under federal law or regulations.

V. Procedures

- A. Students who have a prescription from a physician for medical treatment with a controlled substance, except medical cannabis, non-intoxicating cannabinoids, or edible cannabinoid products, must comply with the school district's student medication policy.
- B. Employees who have a prescription from a physician for medical treatment with a controlled substance, except medical cannabis, non-intoxicating cannabinoids, or edible cannabinoid products, are permitted to possess such controlled substance and associated necessary paraphernalia, such as an inhaler or syringe. The employee must inform their supervisor. The employee may be required to provide a copy of the prescription.
- C. Each employee will be provided with written notice of this Drug-Free Workplace/Drug-Free School policy and will be required to acknowledge that they have received the policy.
- D. Employees are subject to the district's drug and alcohol testing policies and procedures.
- E. Members of the public are not permitted to possess controlled substances,

~~intoxicating cannabinoids, or edible cannabinoid products~~ in a school location except with the express permission of the superintendent.

- F. No person is permitted to possess or use medical cannabis, non-intoxicating cannabinoids, or edible cannabinoid products on a school bus or van; or on the grounds of any preschool or primary or secondary school; or on the grounds of any childcare facility. This prohibition includes (1) vaporizing or combusting medical cannabis on any form of public transportation where the vapor or smoke could be inhaled by a minor child or in any public place, including indoor or outdoor areas used by or open to the general public or place of employment; and (2) operating, navigating, or being in actual physical control of any motor vehicle or working on transportation property, equipment or facilities while under the influence of medical cannabis, non-intoxicating cannabinoids, or edible cannabinoid products.
- G. Possession of alcohol on school grounds pursuant to the exceptions of Minnesota law will be by permission of the superintendent only.

VI. Enforcement

A. Students

- 1. Students may be required to participate in programs and activities that provide education against the use of alcohol, tobacco, marijuana, smokeless tobacco products, electronic cigarettes, and non-intoxicating cannabinoids, and edible cannabinoid products.
- 2. Students may be referred to drug or alcohol assistance or rehabilitation programs; school based mental health services, mentoring, and counseling, including early identification of mental health symptoms, drug use, and violence, and appropriate referral to direct individual or group counseling service, which may be provided by school based mental health services providers; and/or referral to law enforcement officials when appropriate.
- 3. A student who violates the terms of this policy will be subject to discipline in accordance with the school district's discipline policy. Such discipline may include suspension or expulsion from school.

B. Employees

- 1. An employee who violates the terms of this policy is subject to disciplinary action, including nonrenewal, suspension, termination, or discharge as deemed appropriate by the district.
- 2. In addition, any employee who violates the terms of this policy may be required to satisfactorily participate in a drug and/or alcohol abuse assistance or rehabilitation program approved by the district. Any employee

who fails to satisfactorily participate in and complete such a program is subject to nonrenewal, suspension, or termination as deemed appropriate by the district.

3. Sanctions against employees, including nonrenewal, suspension, termination, or discharge will be pursuant to and in accordance with applicable statutory authority, any applicable collective bargaining agreement, and district policies.
4. Employees who have a prescription from a health care provider for medical treatment with a controlled substance, except medical cannabis, are permitted to possess such controlled substance and associated necessary paraphernalia, such as an inhaler or syringe. The employee must inform their supervisor. The employee may be required to provide a copy of the prescription.
5. As a condition of employment pursuant to any federal grant, each employee who is engaged either directly or indirectly in performance of a federal grant will abide by the terms of this policy and will notify their supervisor in writing of their conviction of any criminal drug statute for a violation occurring in any of the places listed above on which work on a school district federal grant is performed, no later than five (5) calendar days after such conviction. Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
6. Employees are subject to the district's drug and alcohol testing policies and procedures.
7. Each employee will be provided notice of this policy.

C. The Public

A member of the public who violates this policy will be informed of the policy and asked to leave. If necessary, law enforcement officials will be notified and asked to provide an escort.

VII. Transportation Employees

- A. The school district adheres to the mandated provisions of the federal Omnibus Transportation Employee Testing Act of 1991 ("OTETA"). All persons subject to commercial driver's license requirements will be tested for controlled substances, and alcohol, and cannabis (including medical cannabis) pursuant to federal law. In general, a commercial driver may be tested:
 1. Upon reasonable suspicion by the district;
 2. In accordance with random testing procedures;

3. Post-accident; and
4. Upon a request to return to duty after a violation of this policy;

In addition, all persons who apply for a position where job duties include operating a commercial motor vehicle will be required to submit to a drug and alcohol test, [including medical cannabis](#), if a [conditional](#) job offer is made ~~by~~ [and before the first time the driver performs safety-sensitive functions for the district](#).

B. Refusal to Submit to Testing

A commercial driver or driver applicant may refuse to submit to controlled substances and alcohol testing. Refusal to submit to such test subjects the commercial driver or applicant to the consequences specified in OTETA and other applicable federal law. In addition, a refusal to submit to testing establishes a presumption that the commercial driver or applicant would test positive if a test were conducted. This positive assumption makes the commercial driver or applicant subject to discipline or disqualification under this policy.

C. Consequences

A commercial driver who tests positive with a verified confirmation test or otherwise found in violation of this policy or OTETA will be subject to discipline, including possible discharge, in accordance with any applicable collective bargaining agreement. Nothing in this policy limits or restricts the right of the district to discipline or discharge a commercial driver for conduct that not only constitutes prohibited conduct under this policy but also violates the district's other rules or policies.

A commercial driver or applicant with a confirmed positive test result may request a confirming retest. This retest is at the expense of the commercial driver or applicant.

- D. The supervisor of transportation/designee will provide training and materials to commercial drivers in accordance with OTETA.

Legal References:

20 U.S.C. § 7101-7165 (Safe and Drug-Free Schools and Communities Act)
21 U.S.C. § 812 (Schedules of Controlled Substances)
41 U.S.C. §§ 8101-8106 (Drug-Free Workplace Act)
21 C.F.R. §§ 1308.11-1308.15 (Schedules of Controlled Substances)
34 C.F.R. Part 84 (Government-wide Requirements for Drug-Free Workplace (Financial Assistance))
49 U.S.C. § 31306 (Omnibus Transportation Employee Testing Act of 1991)
49 U.S.C. § 521(b) (Civil and Criminal Penalties for Violations)
49 C.F.R. Parts 40 and 382 (Department of Transportation Rules Implementing Omnibus Transportation Employee Testing Act of 1991)

Minn. Stat. § 120A.05 (Definitions; - Elementary ~~s~~School; Middle~~s~~School; Secondary ~~s~~School)
 Minn. Stat. § 120B.215 (Education on Cannabis Use and Substance Use)
 Minn. Stat. § 121A.22 (Administration of Drugs and Medicine)
 Minn. Stat. § 121A.40-§ 121A.56 (Pupil Fair Dismissal Act)
 Minn. Stat. § 151.72 (Sale of Certain Cannabinoid Products)
 Minn. Stat. § 152.01, subd. 15a (Definitions - Sell)
 Minn. Stat. § 152.22, subd. 6 (Definitions - Medical Cannabis; ~~Definitions~~)
 Minn. Stat. § 152.0264 (Cannabis Sale Crimes)
 Minn. Stat. § 152.23 (Limitations - Medical Cannabis; ~~Limitations~~)
 Minn. Stat. § 169A.31 (Alcohol-Related School Bus or Head Start Bus Driving)
 Minn. Stat. § 181.950-181.957 (Drug and Alcohol Testing in the Workplace)
 Minn. Stat. § 221.031, subd. 10 (~~Motor Carrier Rules~~-Intrastate Carrier; Operating Requirements, Exemptions - Controlled Substance and Alcohol Use and Testing Exemption)
 Minn. Stat. § 340A.101, subd. 2. (Definitions - Alcoholic Beverage)
 Minn. Stat. § 340A.403 (3.2 Percent Malt Liquor Licenses)
 Minn. Stat. § 340A.404 (Intoxicating Liquor; On-Sale Licenses)
 Minn. Stat. § 342.09 (Personal Adult Use of Cannabis)
 Minn. Stat. § 342.56 (Limitations)
 Minn. Stat. § 609.684 (~~Sale of Toxic Substances to Children~~; Abuse of Toxic Substances)
 Minn. Stat. § 624.701 (Alcohol in Certain Buildings or Grounds)
Belde v. Ferguson Enterprises, Inc., 460 F.3d 976 (8th Cir. 2006)

Cross Reference:

Policy 403 (Discipline, ~~Suspension and Dismissal~~ of School District Employees)
 Policy 419 (Tobacco-Free Environment)
 Policy 506 (Student Conduct and Discipline)
 Policy 516 (Student Medication)
 Policy 516.5 (Overdose Medication)
 Policy 632 (Chemical Use and Abuse)

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 Edina, Minnesota