



# THE NEWARK PUBLIC SCHOOLS Newark, New Jersey POLICY



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## **POSSESSION/USE OF DRUGS/ALCOHOL PROHIBITED; GAMBLING, SMOKING, POSSESSION OF FIREARMS PROHIBITED**

For the purposes of this policy, “worksites” shall include any building owned, leased or operated by the Newark Public Schools (the “District”), any school building, any school premises, any school-owned or leased vehicles, and any other school-approved vehicle used to transport students to and from school or school activities. “Worksite” shall also include off-school property during 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 District.

### **Alcoholic Beverages**

The use of alcoholic beverages in/on worksites is prohibited. Violations of this prohibition may subject a District employee to disciplinary action, which may include, but not be limited to, nonrenewal, suspension, or termination at the discretion of the State District Superintendent.

### **Substance Abuse**

District employees are not permitted on any worksite after having ingested any controlled dangerous substance or drug (other than a prescription drug or an over-the-counter medication) or after having consumed any alcoholic beverage. Violations of these provisions shall result in disciplinary action.

The unlawful manufacture, distribution, dispensing, possession of, use of or sale of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or any other controlled substance in/on worksites is prohibited. Any violation of this policy is grounds for termination of employment and may subject the District employee to criminal prosecution as well as termination.

A conviction for the violation of any criminal drug statute, which is based upon behaviors occurring in or outside of the worksite, constitutes grounds for termination.

The State District Superintendent shall establish a drug-free workplace awareness program to inform District employees about: the dangers of drug abuse in the workplace; available drug counseling, rehabilitation, and employee assistance programs (EAPs); and the penalties that may be imposed upon employees for drug abuse violations.

### **Drug and Alcohol Testing**

The District is committed to the establishment of a drug and alcohol misuse prevention program among school employees who are required to maintain a commercial driver’s license that meets all applicable requirements of the Omnibus Transportation Employee Testing Act of 1991, as amended. The purpose

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of the testing program shall be to help prevent accidents and injuries resulting from the misuse of alcohol and controlled substances by District employees performing safety-sensitive functions.

In addition to all prohibitions in the first sections of this policy, all District employees who are required to maintain commercial drivers' licenses shall be prohibited from:

- A. Using any controlled substance on or off duty, unless a written prescription from a licensed medical doctor or osteopath is provided along with a written statement from the doctor or osteopath that the substance does not adversely affect the District employee's ability to safely operate a motor vehicle or perform other safety-sensitive functions;
- B. Misusing alcohol in a manner that could affect performance on the job including: use on the job; use during the four (4) hours before performing a safety-sensitive function; having prohibited concentrations of alcohol in their systems while performing a safety-sensitive function; and use during eight (8) hours following an accident.

"Controlled substance" in this policy refers to those covered by the Omnibus Act, including marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP).

All covered applicants and District employees shall be subjected to pre-employment or pre-duty, reasonable suspicion, random, post-accident, return-to-duty and follow-up alcohol and drug testing pursuant to procedures set out in the federal regulations. These procedures use an evidential breath-testing device for alcohol testing. For controlled substances testing, urine specimen collection and testing by a laboratory certified by the U.S. Department of Health and Human Services shall be required.

Pre-employment testing shall be administered to an applicant offered a position in the District prior to the first time the District employee performs any safety-sensitive function for the District. An applicant who tests positive will not be hired for any safety-sensitive position.

Random alcohol testing shall be limited to the time period surrounding the performance of safety-related functions which includes just before or just after the District employee performs the safety-related function. Controlled-substances testing may be performed at anytime while the employee is at work.

A District employee covered by the federal regulations may not refuse to take a required test. Consequences for a District employee's refusal shall be the same as for a positive result of the test.

If the testing confirms prohibited alcohol concentration levels or the presence of a controlled substance, the District employee shall be removed immediately from safety-related functions in accordance with the federal regulations. Before a District employee is reinstated, if at all, the District employee shall undergo an evaluation by a substance abuse professional, comply with any required rehabilitation, and undergo a return-to-duty test with verified test results.

The State District Superintendent retains the authority consistent with law, to discipline or discharge any District employee who is an alcoholic or chemically dependent and whose current use of alcohol or drugs affects the District employee's qualifications for and performance of the job.

All employment decisions involving reinstatement, termination or dismissal shall be made in accordance with applicable law, District policies and negotiated agreements.

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The District shall maintain records in compliance with the federal regulations in a secure location with controlled access. With the District employee's consent, the District may obtain information concerning drug and alcohol testing from the District employee's previous employer. A District employee shall be entitled upon written request to obtain copies of any records pertaining to the District employee's use of alcohol or controlled substances including information pertaining to alcohol or drug tests. Statistical records and reports shall be maintained and made available to the Federal Highway Administration for inspection or audit in accordance with federal regulations.

Records shall be made available to a subsequent employer upon receipt of a written request from a District employee and only on the expressly authorized terms of the District employee.

The State District Superintendent shall ensure that supervisors receive proper training to administer the drug and alcohol testing program and that District employees receive the notifications required by federal regulations.

Transportation contracts approved by the State District Superintendent shall contain assurance that the contractor will establish a drug and alcohol-testing program that meets the requirements of federal regulations and this policy and will actively enforce the regulations of this policy, as well as federal requirements.

**Work Performance in Connection with a Federal Grant**

In order for the School District to qualify for any direct federal grant, the District must certify that it will provide a drug-free workplace and maintain a good faith effort to continue to maintain a drug-free workplace. To this end, District employees engaged in school worksites as a result of federal grant moneys, in addition to complying with requirements of the programs, shall also be in strict compliance with this policy.

The State District Superintendent, shall notify all District employees whose work performance is done in connection with a federal grant that they are to notify their respective supervisors of convictions of any criminal drug statute violation occurring in the workplace. District employees must notify their supervisors in writing no later than five (5) working days after such conviction.

Any employee that displays reasonable suspicions via physical manifestation that they may be under the influence will be subject to a test of a board approved certified cite. Failure of an employee to undergo a test will be considered a positive test and may be subject to disciplinary action.

**Gambling**

Illegal gambling is not permitted in any worksite.

**Fire Arms**

Possession of firearms, explosives, flammables, or other incendiary materials and devices on District property is strictly prohibited.

**Smoking**

Smoking by District employees in/on District school buildings is prohibited.

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Any District employee in violation of this policy shall be subject to disciplinary action up to and including termination.

Date Adopted by State District Superintendent: January 25, 2005

<b>Legal References:</b>	<u>N.J.S.A.</u> 2C:33-16	Alcoholic beverages; bringing or possession on school property by person of legal age; penalty
	<u>N.J.S.A.</u> 2C:35-1 <u>et seq.</u>	Controlled dangerous substances
	<u>N.J.S.A.</u> 18A:11-1	General mandatory powers and duties
	<u>N.J.S.A.</u> 18A:16-2	Physical examinations; requirement
	<u>N.J.S.A.</u> 18A:27-4	Power of boards of education to make rules governing employment of teacher, etc.; employment thereunder
	<u>N.J.S.A.</u> 18A:36-32	Cigarette coin-operated vending machines; operation, installation or maintenance on property used for school purposes; fine
	<u>N.J.S.A.</u> 18A:54-20	Powers of board (county vocational schools)
	<u>N.J.S.A.</u> 26:3D-15 through -21	Legislative findings and declarations ... (smoking in educational institutions)
	<u>N.J.A.C.</u> 6A:16-6.3	Reporting students or staff members to law enforcement authorities
	<u>N.J.A.C.</u> 6A:16-6.5	Confidentiality of student or staff member involvement in substance abuse intervention and treatment programs
	<u>N.J.A.C.</u> 6A:26-12.2(a)4	Policies and procedures for school facility operation
	<u>New Jersey Constitution</u> , Art. IV, § VII, <u>par. 2</u>	
	Anti-Drug Abuse Act of 1988	
	Drug-Free Workplace Act of 1988	
	<u>A Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials</u> (1999 Revisions)	
	<u>No Child Left Behind Act of 2001</u> , Pub. L. 107-110, <u>20 U.S.C.A.</u> 6301 <u>et seq.</u>	

<b>Cross References:</b>	1330	Use of school facilities
	1410	Local units
	3220/3230	State funds; federal funds
	3515	Smoking prohibition
	4112.4	Employee health
	4219.23	Employee substance abuse
	5131.6	Drugs, alcohol, tobacco (substance abuse)