



School Board

◆ Board Development & Training

◆ Board Policy Manual

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Section 5 - Personnel

General Personnel

Policy 5:50

Drug- and Alcohol-Free Workplace

All District workplaces are drug- and alcohol-free workplaces. All employees shall be prohibited from:

1. unlawful manufacture, dispensing, distribution, possession, use, or being under the influence of a controlled substance while on District premises or while performing work for the District.
2. distribution, consumption, use, possession, or being under the influence of alcohol while on District premises or while performing work for the District.

For purposes of this policy a controlled substance is one that is:

1. not legally obtainable;
2. being used in a manner different than prescribed;
3. legally obtainable, but has not been legally obtained; or
4. referenced in federal or State controlled substance acts.

As a condition of employment, each employee shall:

1. abide by the terms of the District policy respecting a drug- and alcohol-free workplace; and
2. notify his or her supervisor of his or her conviction under any criminal drug statute for a violation occurring on the District premises or while performing work for the District, no later than 5 calendar days after such a conviction.

In order to make employees aware of dangers of drug and alcohol abuse, the District will:

1. provide each employee with a copy of the District Drug- and Alcohol-Free Workplace policy;
2. post notice of the District Drug- and Alcohol-Free Workplace policy in a place where other information for employees is posted;
3. make available materials from local, state, and national anti-drug and alcohol-abuse organizations;
4. enlist the aid of community and state agencies with drug and alcohol informational and rehabilitation programs to provide information to District employees;
5. establish a drug-free awareness program to inform employees about:
 - a. the dangers of drug abuse in the workplace,
 - b. available drug and alcohol counseling, rehabilitation, re-entry, and any

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- 5:285 Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers
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- ◆ Guidelines for Public Participation
- ◆ Meetings, Agendas, & Minutes
- ◆ Meeting Documents

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employee assistance programs, and

c. the penalties that the District may impose upon employees for violation of this policy.

District Action Upon Violation of Policy

An employee who violates this policy may be subject to disciplinary action, including termination. Alternatively, the Board may require an employee to successfully complete an appropriate drug- or alcohol-abuse, employee-assistance rehabilitation program.

The Board of Education shall take disciplinary action with respect to an employee convicted of a drug offense in the workplace within 30 days after receiving notice of the conviction.

Should District employees be engaged in the performance of work under a federal contract or grant, or under a State contract or grant of \$5,000 or more, the Superintendent shall notify the appropriate State or federal agency from which the District receives contract or grant monies of the employee's conviction within 10 days after receiving notice of the conviction.

LEGAL REF.:

Americans With Disabilities Act, 42 U.S.C. § 12114.
Controlled Substances Act, 21 U.S.C. § 812; 21 C.F.R. 1308.11 - 1308.15.
Drug-Free Workplace Act of 1988, 41 U.S.C. § 701 et seq.
Safe and Drug-Free School and Communities Act of 1994, 20 U.S.C. § 7101 et seq.
Drug-Free Workplace Act, 30 ILCS 580/1 et seq.

ADOPTED: May 20, 2002



General Personnel

Drug- and Alcohol-Free Workplace; Tobacco Prohibition 1

All District workplaces are drug- and alcohol-free workplaces. All employees are prohibited from engaging in any of the following activities while on District premises or while performing work for the District:

1. Unlawful manufacture, dispensing, distribution, possession, or use of an illegal or controlled substance. ²
2. Distribution, consumption, use, possession, or being under the influence of an alcoholic beverage. ³
3. Possession or use of medical cannabis. ⁴

For purposes of this policy a controlled substance means a substance that is:

1. Not legally obtainable,
2. Being used in a manner different than prescribed,
3. Legally obtainable, but has not been legally obtained, or
4. Referenced in federal or State controlled substance acts.

As a condition of employment, each employee shall: ⁵

1. Abide by the terms of the Board policy respecting a drug- and alcohol-free workplace; and
2. Notify his or her supervisor of his or her conviction under any criminal drug statute for a violation occurring on the District premises or while performing work for the District, no later than 5 calendar days after such a conviction.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

The federal Drug-Free Workplace Act applies only to the specific programs receiving federal funds (41 U.S.C. §8101 et seq.). This policy, however, makes its requirements applicable to all employees in order to avoid confusion during implementation and to avoid complications when obtaining federal funds.

The federal Safe and Drug-Free Schools and Communities Act provides funds, upon application, for drug and violence prevention programs; it does not contain policy mandates. Illinois also has a Drug Free Workplace Act (30 ILCS 580/). It applies to districts with 25 or more employees working under a state contract or a grant of \$5,000 or more.

² These actions are prohibited by both federal and State Workplace Acts. See fn 6.

³ Optional; alcohol is not addressed in either the federal or State Drug-Free Workplace Acts.

⁴ To legally use medical cannabis, an individual must first become a *registered qualifying patient*. The use of cannabis by a *registered qualifying patient* is permitted only in accordance with the Compassionate Use of Medical Cannabis Pilot Program (Medical Cannabis Act) (410 ILCS 130/, added by P.A. 98-122, eff. 1-1-14). There are many situations in which no one, even a *registered qualifying patient*, may possess or use cannabis, including in a school bus or on the grounds of any preschool, or primary or secondary school (410 ILCS 130/30(a)(2) & (3)). An employer may prohibit an employee from working while under the influence of cannabis "when doing so would constitute negligence, professional malpractice, or professional misconduct," (410 ILCS 130/30(a)(1)). An employer is permitted to enforce a drug-free workplace policy, provided it is applied in a nondiscriminatory manner. An employer may discipline any employee, including one who is a *registered qualifying patient*, for violating a drug-free workplace policy (410 ILCS 130/50). Contact the board attorney for advice concerning the Medical Cannabis Act.

⁵ Required by the State and federal Drug-Free Workplace Acts.

Unless otherwise prohibited by this policy, prescription and over-the-counter medications are not prohibited when taken in standard dosages and/or according to prescriptions from the employee's licensed health care provider, provided that an employee's work performance is not impaired. ⁶

To make employees aware of the dangers of drug and alcohol abuse, the Superintendent or designee shall perform each of the following: ⁷

1. Provide each employee with a copy of this policy.
2. Post notice of this policy in a place where other information for employees is posted. ⁸
3. Make available materials from local, State, and national anti-drug and alcohol-abuse organizations. ⁹
4. Enlist the aid of community and State agencies with drug and alcohol informational and rehabilitation programs to provide information to District employees.
5. Establish a drug-free awareness program to inform employees about:
 - a. The dangers of drug abuse in the workplace,
 - b. Available drug and alcohol counseling, rehabilitation, re-entry, and any employee assistance programs, and
 - c. The penalties that the District may impose upon employees for violations of this policy.

Tobacco Prohibition ¹⁰

All employees are covered by the conduct prohibitions contained in policy 8:30, *Visitors to and Conduct on School Property*. The prohibition on the use of tobacco products applies both (1) when an employee is on school property, and (2) while an employee is performing work for the District at a school event regardless of the event's location. *Tobacco* shall have the meaning provided in section 10-20.5b of the School Code.

District Action Upon Violation of Policy

An employee who violates this policy may be subject to disciplinary action, including termination. ¹¹ Alternatively, the School Board may require an employee to successfully complete an appropriate drug- or alcohol-abuse rehabilitation program.

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⁶ This optional paragraph is not addressed in State or federal drug-free workplace acts. An employer should generally not ask an employee about his or her use of medication. See rules implementing the Americans with Disabilities Act, 29 C.F.R. §1630.14. Consult the board attorney if an employee is suspected of working while impaired.

⁷ Required by the State and federal Drug-Free Workplace Acts (30 ILCS 580/3).

⁸ As an alternative, replace the phrase "in a place where other information for employees is posted" with the district's local method (e.g., staff intranet, Internet, etc.).

⁹ Grants may be available from the State Board of Education for developing a drug-free awareness program (105 ILCS 5/2-3.93). The drug-free awareness program requirement can be met by developing a brochure on drug abuse or by contacting local, State, or national anti-drug abuse organizations for materials. The materials should be distributed to employees along with a list of places employees may call for assistance.

¹⁰ 105 ILCS 5/10-20.5b and 410 ILCS 82/. Federal law prohibits smoking inside schools (20 U.S.C. §6081). The prohibition in 8:30, *Visitors to and Conduct on School Property*, referred to here, applies "on school property or at a school event." Here, "at a school event" is clarified with the phrase "while ... performing work for the District" in order to align with this policy's other prohibitions.

The Board shall take disciplinary action with respect to an employee convicted of a drug offense in the workplace within 30 days after receiving notice of the conviction. **12**

Should District employees be engaged in the performance of work under a federal contract or grant, or under a State contract or grant of \$5,000 or more, the Superintendent shall notify the appropriate State or federal agency from which the District receives contract or grant monies of the employee's conviction within 10 days after receiving notice of the conviction. **13**

LEGAL REF.: Americans With Disabilities Act, 42 U.S.C. §12114.
Compassionate Use of Medical Cannabis Pilot Program, 410 ILCS 130/
Controlled Substances Act, 21 U.S.C. §812; 21 C.F.R. §1308.11-1308.15.
Drug-Free Workplace Act of 1988, 41 U.S.C. §8101 et seq.
Safe and Drug-Free School and Communities Act of 1994, 20 U.S.C. §7101 et seq.
Drug-Free Workplace Act, 30 ILCS 580/
105 ILCS 5/10-20.5b.

CROSS REF.: 8:30 (Visitors to and Conduct on School Property)

11 An employee who currently uses illegal drugs is not protected under the Americans With Disabilities Act (ADA) when the district acts on the basis of such use (42 U.S.C. §12114). Drug abusers and alcoholics may still be protected as *handicapped* under the Rehabilitation Act of 1973 (29 U.S.C. §706 et seq.) or the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.; 56 Ill.Admin.Code §2500.20). The Rehabilitation Act, however, excludes from protection “an alcohol or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment . . . would constitute a direct threat to the property or the safety of others,” (29 U.S.C. §706 (7)(B)).

The ADA neither authorizes nor prohibits drug testing; it allows the results of such tests to be used as the basis for disciplinary action (42 U.S.C. §12114; 29 C.F.R. §1630.16 (c)). Drug tests may still violate other laws, e.g., Title VI and the Rehabilitation Act (42 U.S.C. §2000e et seq.; and 29 U.S.C. §706 et seq.).

12 Required by both the federal and State Drug-Free Workplace Acts.

13 Id.

General Personnel

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Safe and Drug-Free School and Communities Act of 1994, 20 U.S.C. §7101 et seq.
Drug-Free Workplace Act, 30 ILCS 580/.
105 ILCS 5/10-20.5b.

CROSS REF.: 8:30 (Visitors to and Conduct on School Property)

ADOPTED: APRIL 27, 2015