



## 4000-Employees

### 21 - Employee Drug and Alcohol Testing Policy

#### 1. Purpose

- 1.1. The purpose of this policy is to adopt, implement, maintain and enforce policies providing for a drug and alcohol-free workplace at Providence Hall Charter School (PHCS) pursuant to the federal Drug-Free Workplace Act of 1988, and regulations promulgated thereunder.
- 1.2. The Board of Trustees (Board) authorizes the PHCS Administration to develop appropriate guidelines, procedures, protocols, and processes for this policy.

#### 2. Definitions

- 2.1. **Alcohol** means ethyl alcohol, which may also be known as ethanol.
- 2.2. **Drug** for the purposes of this policy only means any substance recognized as a drug in the United States Pharmacopeia, the National Formulary, the Homeopathic Pharmacopeia, or other drug compendia including Title 58, Chapter 37, Utah Controlled Substances Act, or supplement to any of these compendia.
- 2.3. **Employee** includes all persons who perform services for PHCS, including without limitation all full time, part time, salary, hourly, or temporary licensed employees, non-licensed employees, Administrators, educators, hourly employees, Board members, and substitute teachers.
- 2.4. **Safety-Sensitive Positions** means CDL holders, drivers of PHCS vehicles, mechanics, maintenance personnel, food service employees, IT employees, school nurses, and special education transition employees.

#### 3. Drug Program Coordinator

- 3.1. PHCS hereby appoints the Transportation Coordinator to act as the Drug Program Coordinator and the Executive Director to act as the Alternate Drug Program Coordinator. The Drug Program Coordinator shall also act as the site coordinator for purposes of observing, collecting, and organizing and maintaining test data.

#### 4. Conditions of Employment

- 4.1. All employees who operate PHCS vehicles, or their own vehicles on PHCS business as an essential function of the job, must complete yearly an approved or PHCS-provided driver safety course.
- 4.2. All other employees who drive vehicles as part of the performance of PHCS business shall complete an approved or provided driver safety program at the time of initial employment and at least once every three (3) years.
- 4.3. All new employees and volunteers who operate PHCS vehicles on PHCS business shall have an annual driver's license verification check. At least annually, PHCS shall verify the status of the driver's license of all employees and volunteers who operate PHCS vehicles. All employees and volunteers who operate PHCS vehicles must also:
  - 4.3.1. Abide by the provisions of the *Alcohol and Drug-Free Workplace Policy*,
  - 4.3.2. Notify the Transportation Coordinator of any driving-related criminal drug or alcohol related charge, citation, or arrest no later than forty-eight (48) hours after such charge, citation, or arrest;;
  - 4.3.3. Notify the Transportation Coordinator of any revocation or confiscation of the Commercial Driver's License (CDL); and
  - 4.3.4. Consent to PHCS releasing to any other PHCS records of a positive test or a refusal to be tested.



5. **Confidentiality of Tests**
  - 5.1.1. All employees must refrain from disclosing any information about testing times or dates to forewarn potential test selectees.
  - 5.1.2. Any employee who violates this provision may be terminated for cause.
6. **Tests to be Conducted**
  - 6.1. Employees shall be tested under the following provisions:
    - 6.1.1. All employees required to hold a Commercial Driver's license shall be tested as provided in the State Office Rules;
    - 6.1.2. Any employee may be tested whenever an accident causing bodily injury occurs within the scope of employment where it appears that drugs or alcohol may have been a contributing factor. All such tests shall be conducted within eight (8) hours after the accident; and
    - 6.1.3. Any employee may be tested for drugs or alcohol where there is a reasonable suspicion that an employee may be using alcohol or illegal drugs or may be under the influence of illegal drugs or alcohol while on the job.
7. **Reasonable Suspicion**
  - 7.1. For purposes of this policy, reasonable suspicion means an articulated belief based on the recorded specific facts and reasonable inferences drawn from those facts that an employee is in violation of the *Drug and Alcohol-free Workplace Policy*. This may include:
    - 7.1.1. observable phenomena, such as direct observation of drug use or the physical symptoms of being under the influence of alcohol or controlled substances;
    - 7.1.2. a pattern of abnormal conduct or erratic behavior;
    - 7.1.3. the identification of an employee as the focus of a criminal investigation into use, possession, or trafficking in illegal controlled substances; or
    - 7.1.4. evidence that the employee has tampered with, adulterated, or substituted a specimen.
  - 7.2. Prior to conducting any tests for drugs or alcohol, and based upon a suspicion of use, the Drug Program Coordinator or the Alternate must articulate in writing specific facts and any reasonable inferences drawn from those facts which lead to a reasonable suspicion that an employee is using or under the influence of alcohol or illegal drugs. The fact forming the basis for reasonable suspicion must be documented on the PHCS approved form.
  - 7.3. The Drug Program Coordinator or the Alternate, or the employee's supervisor or building Administrator will provide the employee with specific written notice that (s)he is being tested under the reasonable suspicion standard and instruct the employee on subsequent testing procedures/protocols.
8. **Scope of Employment**
  - 8.1. An action is within the scope of employment if it is part of any actions for which an employee is remunerated or performs by reason of employment in PHCS.
9. **Test Procedures**
  - 9.1. For bus drivers, CDL holders, or other drivers of PHCS vehicles, all tests shall be conducted pursuant to the procedures established in the *Pupil Transportation Drug and Alcohol Testing Policies and Procedures* of the Utah State Board of Education (USBE).
  - 9.2. For other employees testing shall be conducted as follows:



- 9.2.1. All testing shall be performed by an independent laboratory certified for employment drug testing by either the Substance Abuse and Mental Health Services Administration or the College of American Pathology.
  - 9.2.2. Testing shall be by means of a split urine sample consisting of at least forty-five (45) ml of urine, divided into two (2) samples of at least thirty (30) milliliters and fifteen (15) milliliters each.
  - 9.2.3. The collection, storage, and transportation of samples shall be performed under reasonable and sanitary conditions in a manner designed to:
    - 9.2.3.1. ensure the privacy of the individual being tested;
    - 9.2.3.2. ensure the collection and testing of reliable samples so as to prevent substitution of samples or interference with the testing process; and
    - 9.2.3.3. ensure that samples are not misidentified, contaminated, adulterated, or otherwise subjected to tampering at any point in the chain of custody of the sample; and
  - 9.2.4. Sample testing shall be appropriately documented to ensure:
    - 9.2.4.1. samples are labeled and sealed so as to reasonably preclude the possibility of erroneous identification of test results; and
    - 9.2.4.2. individuals being tested have the opportunity to provide any relevant information regarding currently or recently used prescription or non-prescription drugs or other relevant medical information in a manner that complies with the Americans with Disabilities Act.
  - 9.2.5. Sample testing shall conform to scientifically accepted analytical methods and procedures.
  - 9.2.6. Before the result of any test may be used as a basis for any adverse employment action, the district shall verify or confirm any positive initial screening test by gas chromatography, gas chromatography-mass spectroscopy, or other comparably reliable analytic methods.
  - 9.2.7. In addition, the employee testing positive shall be notified of the positive result by telephone and in writing at the last known address and telephone number and of the option to have the fifteen (15) milliliters urine sample tested.
  - 9.2.8. If the test results of the thirty (30) milliliters urine sample indicate the presence of drugs, the person being tested shall have seventy-two (72) hours from the time of notification to request that the (15) milliliters sample be tested. The expense of testing the (15) milliliters sample shall be split between PHCS and the employee.
10. **Positive Test of Safety Sensitive Position While on Duty**
- 10.1. Any employee who holds a safety sensitive position who tests positive while acting within the scope of job duties shall be terminated for cause.
11. **Compensation for Test Time**
- 11.1. The test performed by PHCS shall occur during or immediately after the regular work period of the employee and shall be considered as work time for purposes of compensation and benefits.
12. **Cost of Test Time**
- 12.1. Except as otherwise allowed by law for testing of the second (15) milliliters sample, PHCS shall bear the costs of all sample collection and testing for alcohol or drugs at the request of PHCS, including any costs for transportation at the test site if conducted at a place other than the employee's workplace.



**FOR REFERENCE THIS WAS A SECTION OF ANOTHER POLICY  
THAT WAS EMBEDDED IN THE EMPLOYEE HANDBOOK**

- 1.1. A drug and/or alcohol test may be administered (by a contracted Medical Review Officer {MRO} service provider) to employees, board members, volunteers, critical contracted service providers and final candidates for highly sensitive positions, including all student transportation positions once the applicant has received a conditional offer of employment.
- 1.2. A drug and/or alcohol test may be administered to a person when the Immediate Supervisor, the Executive Director, or Human Resources concludes that it is more likely than not the person has engaged in conduct that violates this policy, establishing Reasonable Suspicion of drug and/or alcohol use.
  - 1.2.1. This may be based on direct observations and/or the presence of physical symptoms, a pattern of abnormal or erratic behavior, a tip from a reliable and credible source or sources regarding a person's violation of this policy or that a person may have tampered with a previous drug and/or alcohol test.