

## **DRUG AND ALCOHOL FREE WORKPLACE**

The Rapid City Area School District will provide an alcohol and drug-free workplace. This policy is intended to comply with all applicable Federal regulations governing workplace drug and alcohol abuse and misuse.

### Definitions:

1. Covered employees: All employees of the district are covered by this Drug and Alcohol Free Workplace Policy.
2. Substance Abuse Professional (SAP): A licensed physician or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission, with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders.
3. Breath Alcohol Technician (BAT): An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.
4. Evidential Breath Tester (EBT): A device approved by the National Highway Traffic Safety Administration for the evidential testing of breath.
5. Medical Review Officer (MRO): A licensed physician responsible for receiving laboratory results who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate a confirmed positive test result.

Employees under the influence of alcohol and/or other drugs are a serious risk to themselves, to students and to other employees. It is the policy of Rapid City Area School District to assure employees of the district are fit for duty and to protect students and the public from the risks posed by the use of alcohol and prohibited drugs by employees. The board hereby commits itself to a continuing good faith effort to maintain a drug-free and alcohol-free environment by implementing the following:

1. Prohibited Use of Drugs: The use, possession, sale or transfer of illegal drugs on school property, in school district vehicles or while engaged in school activities are strictly forbidden. Being under the influence of drugs while engaged in school activities, while on school property, or while in school district vehicles is prohibited.
  - a. Illegal drugs include, but are not limited to:

- 1) Marijuana
  - 2) Amphetamines
  - 3) Opiates
  - 4) Cocaine
  - 5) Phencyclidine (PCP)
- b. An employee's use of prescription drugs, prescribed by a medical practitioner, is not prohibited so long as the use of the prescription medication does not impair the employee's mental function, motor skills or judgment. Any prescription which bears a warning label indicating possible impairments must be disclosed to the employee's immediate supervisor before performing any work for the district.
2. Prohibited Use of Alcohol: The consumption or misuse of beverages containing alcohol, ethyl alcohol, or other molecular weight alcohol, including methyl or isopropyl alcohol, is prohibited. No employee shall be under the influence of alcohol while engaged in school activities, while on school property, or while in school district vehicles. The use, possession, sale or transfer of alcoholic beverages on school property, in school district vehicles or while engaged in a school activity is strictly forbidden.
- a. Employees shall not report or remain on duty for the district if his/her ability to perform his/her job is adversely affected by alcohol or when his/her alcohol concentrations level is .04 or greater.
- 1) If an employee has consumed alcohol within four (4) hours prior to performing their duties, the employee may state, prior to performing any function for the district, that he/she has consumed alcohol and indicate whether or not he/she is able to perform his/her job.
  - 2) If an employee believes he/she is not capable of performing his/her job, the supervisor should excuse the employee from work. If the employee believes he/she is capable of performing his/her duties, the employee will be tested and allowed to perform the function if the concentration level is less than .02. If the concentration level is greater than .02 but less than .04, the employee will be allowed to perform the function only if a retest is conducted and the concentration level measures less than 0.02. If the employee is not retested, he/she must wait until 8 hours have elapsed before resuming the performance of a safety-sensitive function. To encourage employees to admit that alcohol has been consumed, they will not be subject to the consequences specified herein provided such an admission is made prior to performing any

safety-sensitive function. If an on-call employee does not indicate that he/she has consumed alcohol and exhibits signs of alcohol misuse, the employee may be subject to reasonable suspicion testing. If the test indicates a concentration level at 0.04 or greater, the employee will be subject to the consequences of violating this policy.

3. Impaired Employee: Any employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty will not be allowed to commence job duties and/or will be suspended from job duties pending an investigation and verification of the employee's condition. A drug or alcohol test will be considered positive if the employee is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
4. Drug and Alcohol Testing: Drug and alcohol tests will be administered to employees under the following conditions:
  - a. Pre-employment and pre-transfer at the district;
  - b. There is "reasonable suspicion" that the employee is using or is under the influence of a drug or alcohol (See "5. Reasonable Suspicion" below);
  - c. Every employee whose performance could have contributed to a fatal accident, as determined using the best information available at the time of the decision;
  - d. One or more vehicles is involved in an accident that requires a tow from the scene of the accident and the employee has been issued a citation under state or local laws for a moving traffic violation;
  - e. If a person receives medical attention from a vehicle accident and the employee has been issued a citation under state or local laws for a moving traffic violation;
  - f. After an accident or occurrence that results in an injury on the job as defined by the Occupational Safety and Health Administration; or
  - g. After any vehicular accident when it appears that the employee might reasonably have avoided the accident or minimized the consequences, but did not do so.

Employees involved in nonfatal accidents must be tested for drugs as soon as practicable, but within 32 hours of the accident. Employees involved in a fatal accident must be tested for drugs and alcohol as soon as practicable following the accident.

5. Reasonable Suspicion: The determination of “reasonable suspicion” as defined above must be made by a supervisor who is trained in detecting the signs and symptoms of alcohol misuse and drug abuse and must be based upon specific, immediate, and clearly obvious observations concerning the appearance, behavior, speech, or body odors of the covered employee.
6. Testing:
  - a. Alcohol: Testing is authorized if the observations of suspected misuse are made just preceding, during, or just after the performance of an employee’s job duties. If the test is not performed within 2 hours of determination of reasonable suspicion, a report must be prepared by the supervisor and filed with the Office of Human Resources stating the reason the test was not administered promptly. Attempts to test must continue up until 8 hours have elapsed. If a test is not administered within 8 hours following determination, the attempts to administer the test will cease and the reasons for not obtaining the test recorded. Regardless of the absence of the test, the supervisor must not permit an employee to report for duty, remain on duty, nor perform or continue to perform work duties while the employee is under the influence of or impaired by alcohol until:
    - 1) An alcohol test is administered and the alcohol concentration is less than 0.02.
    - 2) The start of the employee’s next regularly scheduled duty period, but not less than 8 hours following the determination of reasonable suspicion.
  - b. Drugs: Testing is authorized at any time an employee is on duty and “reasonable suspicion” is determined. When directed to submit to a drug test, the employee must proceed to the drug testing facility immediately. As soon as practicable after receiving notice from the MRO that the employee has a verified positive drug test result, or if the employee refuses to submit to a drug test, the supervisor must require that the employee cease performance and/or not allow the performance of his/her job. Before the employee is allowed to resume performance of his/her job duties, the employee must meet the requirements of return to duty drug testing with a verified negative result. (See “10. Return To Duty”).

7. Random Testing: Employees will be subject to random drug and alcohol testing throughout the year. A scientifically valid method for random testing will be employed so that each employee will have an equal chance of being tested each time selections are made.
  - a. Alcohol: The district will randomly test employees at minimum annual rates as established for safety-sensitive positions by the DOT. Employees in non safety sensitive positions may be randomly tested. Employees will be randomly tested before, during and immediately following the performance of his/her job. An employee may be tested when he/she gets called into work despite not being on the schedule.
  - b. Drugs: Employees will get randomly tested for drugs at an annual rate established for safety-sensitive positions by the DOT. Employees in non-sensitive positions may be tested randomly. Upon notification of selection for random testing, the covered employee must immediately proceed to the test site.
  
8. Failure to Submit to Drug or Alcohol Testing: An employee who refuses to submit to drug and/or alcohol testing will be subject to disciplinary action, including termination. Refusals may be considered a positive test result and will result in the same consequences applicable to an actual positive test. Refusals may be considered insubordination and will be subject to disciplinary action. Conduct that constitutes refusal includes:
  - a. Refusal to take a test;
  - b. Employee's inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation;
  - c. Providing false information in connection with a test, attempting to falsify test results through tampering, contamination, adulterating, or substituting the specimen or collection procedure;
  - d. Not reporting to the collection site within the time frame allotted; or
  - e. Leaving the scene of an accident without a valid reason before required testing has been conducted.

It will *not* be considered a refusal to submit to testing if the employee requires necessary medical attention.

9. Drug or Alcohol Testing Procedure: In the event a drug or alcohol test is requested under section 4, the following procedures apply:
  - a. Meeting with Supervisor: The employee's immediate supervisor shall meet with the employee and discuss the reasons for the requested test. A memorandum of the meeting shall be prepared by the supervisor documenting the nature of the request and the reasons therefore. The memorandum shall be placed in a sealed and confidential envelope and placed in the employee's personnel file. At no time will the supervisor who makes a reasonable suspicion determination be allowed to conduct a drug and/or alcohol test.
  - b. Time for Testing: No leave shall be deducted for the time required to obtain testing if the test results are negative. If testing is positive, leave will be deducted for the time required to obtain testing.
  - c. Transportation to Test Site: At no time will employee who is suspected of being under the influence of drugs or alcohol be allowed to transport him/herself to the test site. The supervisor or designee will make appropriate arrangements for the employee to be transported to the test site.
  - d. Test Scheduling: During the normal business hours of the Office of Human Resources, all test scheduling for drug/alcohol testing will be coordinated through the Office of Human Resources. In the event a supervisor determines reasonable suspicion exists or an accident occurs after normal office hours of the Office of Human Resource, the supervisor will call the testing facility to arrange for completion of testing. The supervisor will report the incident in writing to the Office of Human Resources the next business day.
  - e. Testing Facilities: Testing will be conducted in a manner that assures adherence to all standards of confidentiality of test specimen collection, test results and release of records; assures the privacy of a tested employee is protected; assures a high degree of accuracy and reliability; and utilizes techniques, equipment and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS) and the DOT. Testing may be conducted at any site, including laboratory facilities or field specimen collection sites, deemed necessary to achieve the testing requirements.

- f. Drug Testing: An initial drug screen will be conducted on each specimen as per the procedures in 49 CFR Part 40 of the federal regulations. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40. In the event of a positive result, the applicant or covered employee will have 72 hours in which to request a confirmatory gas chromatography/mass spectrometry (GC/MS) test.
  - g. Alcohol Testing: Testing for the presence of alcohol will be conducted by a certified BAT using an approved EBT. In limited circumstances, generally involving an accident, alcohol testing may be performed at the accident site by law enforcement personnel trained in the use of and utilizing an approved EBT.
  - h. Test Results: The laboratory and/or BAT will use procedures to ensure that all drug and/or alcohol test results are attributed to the correct safety-sensitive employee.
  - i. Confidentiality/Access to Records: The school district will take appropriate measures to ensure that the confidentiality of test results and access to records are strictly maintained. Test results and records may be released only under the following circumstances:
    - 1) Release of information or copies of records to third parties as directed by specific, written instruction from the employee.
    - 2) As pertaining to the proceedings of a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested.
    - 3) Upon written request from any employee relating to his/her test.
    - 4) To the National Transportation Safety Board investigating any accident involving vehicles/employees.
    - 5) As requested by DOT or any DOT agency with regulatory authority over the school district or any of its employees.
    - 6) In response to a criminal investigation or subpoena of a state or federal law enforcement agency.
10. Return to Work: Any employee who has violated any provision of this policy concerning the use/misuse of alcohol or drugs or has tested positive on a drug or alcohol test must undergo a return to duty test to verify a negative test result before

performing any duties for the district. All return-to-duty test collections will be completed employing direct observation of the specimen collection by a member of the same gender as the employee. Direct observation will require the donor to reveal to the observer that no prosthetic devices or other cheating devices are being utilized.

11. Follow-up Testing: Any employee who has tested positive for drugs or alcohol and has been evaluated by an SAP must undergo follow-up unannounced testing for a minimum period of 12 months up to a maximum period of 60 months and will be required to have verified negative test results. The frequency and duration of follow-up testing will be recommended by the SAP as long as a minimum of 6 tests are conducted during the first 12 months after the employee has returned to duty. If an employee has tested positive for either drugs or alcohol, the district may require the employee to test negative for both drugs and alcohol. Any employee who is subject to follow-up testing will also continue to be subject to random testing.
12. Alcoholism, Drug Abuse and Emotional Disorders: Employees who have an alcohol and/or other drug abuse problem or suffer from emotional problems are encouraged to seek professional assistance. Upon request, an employee shall be provided a listing of the regional treatment facilities or agencies to assist him/her in their choice of a service provider. **While treatment costs are the responsibility of the employee, the use of earned sick leave is to be granted for necessary treatment. Through RCAS an employee assistance program is provided. Links for this information are available at:**  
  
[http://public.rcas.org/administration/HR/Benefits/Employee%20Assistance%20Program%20\(EAP\)/Employee%20Assistance%20Program.pdf](http://public.rcas.org/administration/HR/Benefits/Employee%20Assistance%20Program%20(EAP)/Employee%20Assistance%20Program.pdf)  
  
[http://public.rcas.org/administration/HR/Benefits/Employee%20Assistance%20Program%20\(EAP\)/EAP%20Flyer.pdf](http://public.rcas.org/administration/HR/Benefits/Employee%20Assistance%20Program%20(EAP)/EAP%20Flyer.pdf)  
  
[http://public.rcas.org/administration/HR/Benefits/Employee%20Assistance%20Program%20\(EAP\)/EAP%20Contact%20Information.pdf](http://public.rcas.org/administration/HR/Benefits/Employee%20Assistance%20Program%20(EAP)/EAP%20Contact%20Information.pdf)
13. Disclosure of Criminal Drug Violations: All employees shall notify their immediate supervisor of any convictions and/or the pendency of alleged criminal drug or alcohol violations no later than five (5) days after such conviction or filing of such charges.
14. Violation: Any employee tests positive for drugs and/or alcohol will be subject to disciplinary action, which may include dismissal, referral for prosecution, and/or satisfactory participation in drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement or

other appropriate agency. "Satisfactory" shall mean, participate in such a manner that all sessions are attended by the individual, and the individual presents to the district a signed statement of completion by the assistance or rehabilitation program director. Any employee who refuses to undergo or fails to comply with requirements for treatment, after care, or return to duty will be subject to disciplinary action, up to and including termination.

- a. **Drugs:** Any employee who has a confirmed positive drug test will be removed from his/her position, informed of available educational and rehabilitation programs, and evaluated by an SAP who will determine whether the covered employee is in need of assistance in resolving problems associated with prohibited drug use. The employee will not be allowed to return to his/her position until he/she has been evaluated and released to return to duty by the SAP.
  - b. **Alcohol:** Any employee who has engaged in prohibited conduct will not be permitted to perform their employment duties. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. An employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his/her position for 8 hours unless a retest results in a concentration measure of less than 0.02. An alcohol concentration of 0.04 or greater will be considered a positive test and will result in referral to an SAP. The employee will not be allowed to return to his/her position until he/she has been evaluated and released to return to duty by the SAP.
15. **Training:** Training related to the effects of drugs and alcohol will be conducted by the Office of Human Resources and/or others selected by the district who are qualified to provide instruction. All employees will be required to participate in drug/alcohol training as follows:
- a. Supervisors who make reasonable suspicion determinations will participate in a minimum of one hour of training each on the physical, behavioral, and performance indicators of probable drug use and alcohol misuse.
  - b. Employees will participate in a minimum of one hour of training on the effects and indicators of drug use and will receive, at a minimum, printed information concerning the effects of alcohol misuse on the employee's health, work, and personal life and signs and symptoms of an alcohol problem.

- c. All employees will be receive a copy of the school district's alcohol misuse and drug abuse policy and procedure and written information regarding the effects of drug and alcohol misuse/abuse. Additionally, information regarding the prohibited drug use and alcohol misuse policy and program will be prominently displayed throughout the district.
16. Effects of Alcohol Misuse: Alcohol abuse and misuse has a devastating impact on the workplace, the individual and his/her personal health, and the family unit. The signs and symptoms of alcohol use include dulled mental processes, lack of coordination, odor of alcohol on breath, possible constricted pupils, sleepy or stuporous condition, slowed reaction rate, or slurred speech. The employee personally can suffer chronic and deteriorating health consequences such as dependency, fatal liver disease, increased cancers of various body parts, kidney disease, pancreatitis, spontaneous abortion and neonatal mortality, ulcers, birth defects in unborn infants, malnutrition, tremors, and despair or depression. Social issues that are affected by alcohol use include homicides, motor vehicle accidents, suicides, family stability, increasing the chances of domestic violence, and impacting financial well-being. In the workplace, alcohol affects an employee's ability to perform his/her job by impairing the person's reasoning and motor skills, increases the incidents of absenteeism, and jeopardizes the safety of the employee, coworkers, and the public . A person who is legally intoxicated is 6 times more likely to have an accident than a sober person. When an employee is suspected of or self-identifies an alcohol problem, help is available through the Office of Human Resources. Any employee who believes he/she has an alcohol-related problem is encouraged to contact his/her supervisor or the Office of Human Resources for guidance and referral to assistance. All contacts are held in the strictest of confidence.
17. Impact of Americans with Disabilities Act (ADA): In accordance with the provisions of the Americans With Disabilities Act of 1990, any applicant or employee who tests positive for the use of illegal drugs is not "a qualified individual with a disability". Under Title I of the ADA, the district may deny employment to or discharge any individual who has a positive result on either a drug or alcohol test. However, a qualified applicant or employee who has completed a rehabilitation program for drugs or alcohol and who is currently drug or alcohol free may be considered to have a disability and may be entitled to reasonable accommodation. Determinations will be made by or in cooperation with the SAP on a case by case basis. All questions regarding the provisions of the ADA should be directed to the Office of Human Resources.

18. Retention of Records: The district will maintain records of its anti-drug and alcohol misuse programs. Records are maintained, with controlled access, in the Office of Human Resources. Each record will be maintained for the specified period of time, measured from the date of the document's or data's creation, in accordance with the following schedule:
  - a. Five Years.
    - 1) Records of verified positive drug test results, alcohol test results with results indicating an alcohol concentration of 0.02 or greater, documentation of refusals to take required drug or alcohol tests, employee evaluations and referrals to the SAP, and a copy of the annual management information system reports submitted to the appropriate federal agencies.
  - b. Two Years.
    - 1) Records related to the collection process, except calibration of EBT's, and employee training.
  - c. One Year.
    - 1) Records of negative drug tests and alcohol test results of less than 0.02.
  - d. Types of Records.
    - 1) Records related to the collection process that must be maintained:
      - a) Collection logbooks.
      - b) Documents relating to the random selection process.
      - c) Calibration documentation for EBT devices.
      - d) Documentation of BAT training.
      - e) Documents generated in connection with decisions to administer reasonable suspicion testing.
      - f) Documents generated in connection with post-accident testing.

- g) Documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for testing and/or an adequate urine sample.
- 2) Records related to the test results that must be maintained:
    - a) The employer's copy of the drug sample custody and control form and the alcohol test form, including the results of the test.
    - b) Documents related to the refusal of any covered employee to submit to a drug or alcohol test.
    - c) Documents presented by a covered employee to dispute the results of a drug or alcohol test.
  - 3) Records related to other violations of the alcohol abuse regulations.
  - 4) Records related to evaluations, referrals, and return to duty and follow up testing:
    - a) Records pertaining to a determination by a SAP concerning a covered employee's need for assistance.
    - b) Records concerning a covered employee's compliance with the recommendations of the SAP and entry into and completion of a recommended treatment program.
  - 5) Copies of management information system reports.
  - 6) Records related to employee training:
    - a) Materials on drug use/alcohol misuse awareness including a copy of this policy and procedure.
    - b) Names of covered employees attending training on prohibited drug use, dates and times of such training, and documentation of compliance with alcohol regulations concerning this policy and procedure.
    - c) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make reasonable suspicion determinations.

- d) Certification that all training complies with the regulations.
19. Proper Application Policy: Supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the provisions of the federal regulations or this policy, or who is found to deliberately misuse the policy with regard to subordinates, will be subject to disciplinary action, up to and including termination.
20. Contact Department: Any questions regarding implementation of the federal regulations, the contents of this policy, and available assistance to the drug/alcohol impaired employee should be directed to the following department:

Adopted: 06/27/16

Cross Reference:

IGAGA - Teaching About Drug and Alcohol Abuse  
JFCHA-P - Student Chemical Use and or Abuse

Legal Reference:

Drug-Free Workplace Act of 1988 (P.L. 100-690)  
21 U.S.C.802  
21 CFR 1308

1989 Amendments to the Drug Free Schools and Communities Act of 1986