



Drug and Alcohol Testing of Other Employees

Policy Series: 5000 Personnel

**Policy No. 5200
Procedure 2**

Purpose Statement

The purpose of this procedure is to establish the circumstances, requirements, and process for drug and alcohol testing of district employees who are not bus drivers or employees in safety-sensitive positions. This procedure is intended to promote a safe, healthy, and productive work environment; ensure fair and consistent testing practices; protect employee privacy; and comply with applicable Utah law.

This procedure applies to drug and alcohol testing of district employees who are not bus drivers and who are not assigned to a safety-sensitive position. Drug and alcohol testing of bus drivers and employees in safety-sensitive positions is governed by the district's applicable transportation and safety-sensitive employee drug and alcohol testing policies.

Grounds for Testing

The district may require an employee covered by this procedure to submit to drug or alcohol testing under the following circumstances:

1. When there is reasonable suspicion that the employee is using, or is under the influence of, drugs or alcohol while acting within the scope of employment; or
2. When an accident causing bodily injury occurs within the scope of employment and it appears that drugs or alcohol may have been a contributing factor.

Reasonable Suspicion

For purposes of this procedure, "reasonable suspicion" means an articulated belief, based on recorded specific facts and reasonable inferences drawn from those facts, that an employee is using, or is under the influence of, drugs or alcohol.

Reasonable suspicion may be based on observations such as the employee's appearance, behavior, speech, body odors, motor coordination, work performance, or other specific and articulable facts observed by a supervisor or administrator.

Reasonable Suspicion Documentation

Before requiring an employee to submit to a drug or alcohol test based on reasonable suspicion, the supervisor or administrator requiring the test shall document in writing the specific facts and reasonable inferences supporting the reasonable suspicion determination.

The written documentation should include, as applicable:

1. The employee's name and position;
2. The date, time, and location of the observed conduct;
3. The specific observations supporting reasonable suspicion;
4. The names of any witnesses or administrators involved; and
5. The name and signature of the supervisor or administrator requiring the test.

Scope of Employment

An employee acts within the "scope of employment" when the employee is performing duties for which the employee is paid or is otherwise acting by reason of employment with the district.

Testing Procedures

Drug and alcohol testing shall be conducted in accordance with applicable law, district policy, and testing procedures approved by the district.

Testing shall be conducted under reasonable and sanitary conditions and in a manner that reasonably protects the privacy of the employee being tested. Sample collection, storage, transportation, and testing shall be conducted in a manner reasonably designed to prevent sample misidentification, contamination, adulteration, substitution, or interference with reliable testing.

The district may require an employee to provide an appropriate sample for testing, including a breath, saliva, oral fluid, urine, or other legally permissible sample, as determined by the district in consultation with the testing provider and in accordance with applicable law.

When a split urine sample is used, the sample shall be divided into two specimen bottles in accordance with applicable legal requirements so that the second sample may be tested if timely requested by the employee.

The employee shall have an opportunity to provide relevant information to the testing provider, including information about currently or recently used prescription or nonprescription medications or other relevant medical information, consistent with applicable law, including the Americans with Disabilities Act.

Alcohol Testing Procedures

An employee subject to alcohol testing may be required to undergo a breath, saliva, or other legally permissible alcohol test, as determined by the district in consultation with the testing provider.

If an initial alcohol screening test is positive, the result shall be confirmed through an appropriate confirmatory testing method before the district relies on the result as the basis for adverse employment action.

Drug Testing Procedures

Drug testing shall conform to scientifically accepted analytical methods and procedures. The district shall use collection and testing procedures reasonably designed to ensure reliable results and preserve the integrity of the testing process.

Before the result of any drug test may be used as a basis for adverse employment action, the district shall verify or confirm any positive initial screening test through a legally permissible confirmatory testing method.

Notice of Positive Test and Retesting

If an employee receives a positive test result, the district shall provide notice to the employee as required by law.

For a urine test, the employee shall be notified of the right to request testing of the second sample within the time required by law. If the employee timely requests testing of the second sample, the second sample shall be tested.

Consequences of Positive Test

Compliance with the district's drug and alcohol policies is a condition of continued employment.

An employee who tests positive for drugs or alcohol while acting within the scope of employment may be subject to disciplinary action, up to and including termination, in accordance with applicable law and district policy.

In determining the appropriate disciplinary action, the district may consider relevant facts and circumstances, including whether:

1. The employee voluntarily disclosed a need for counseling, treatment, or rehabilitation before being required to submit to testing; and
2. The employee agreed to participate, at the employee's expense, in a counseling, treatment, or rehabilitation program approved by the district.

An employee participating in a counseling, treatment, or rehabilitation program may be subject to conditions of continued employment, including suspension without pay, probation, reassignment where appropriate, or termination for cause, as determined by the superintendent or designee and consistent with applicable law and district policy.

Consequences of Refusal to Test or Tampering With Test

An employee who is required to submit to a drug or alcohol test under this procedure and refuses to be tested, refuses to cooperate with testing procedures, fails to provide a required sample, submits a false or altered sample, or otherwise attempts to interfere with or circumvent the testing process may be treated as having violated this procedure.

Such conduct may result in disciplinary action, up to and including termination, and may also be treated as insubordination.

Compensation for Test Time

Testing required by the district shall occur during or immediately after the employee's regular work period whenever practicable. Time spent submitting to district-required testing shall be treated as work time for purposes of compensation and benefits, as required by law.

Testing Costs

The district shall pay the cost of sample collection and initial testing required by the district, including any required transportation costs if testing is conducted at a location other than the workplace.

If an employee timely requests testing of a second urine sample, the cost of testing the second sample shall be allocated as required by law.

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174 **Confidentiality**
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176 Drug and alcohol testing records and results shall be treated as confidential personnel or
177 medical information to the extent required by applicable law. The district shall limit access to
178 such records to individuals with a legitimate need to know and shall maintain such records in
179 accordance with applicable privacy, records, and employment laws.
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181 **Definitions:**
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183 **Legal References:**

184 [Utah Code § 34-41-101](#)
185 [Utah Code § 34-41-102](#)
186 [Utah Code § 34-41-103](#)
187 [Utah Code § 34-41-104](#)
188 [Utah Code § 34-41-105](#)
189 [Utah Code § 34-41-106](#)
190 [Utah Code § 34-41-107](#)
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193 **Board Approved:**
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