

**PARK COUNTY SCHOOL DISTRICT 6  
BOARD OF EDUCATION POLICY**

**CODE: EEAEA-R2**

**ALCOHOL AND CONTROLLED SUBSTANCES TESTING REGULATION**

**Regulation Overview**

The purpose of this regulation is to establish guidelines for mandatory drug and alcohol testing (DAT) for all district employees. The implementation of this regulation will be supervised by the Superintendent or their designee.

The District recognizes that the use of drugs, including alcohol, is capable of threatening the safety, welfare and well-being of both students and other employees and will not be tolerated. The safety and welfare of the District employees and students will be maintained as a high priority and Park County School District 6 is committed to providing an alcohol and drug-free work environment for the safety of its students and employees.

The possession, use, transfer or sale of alcohol or any illegal drug or controlled substances while on duty or on district property is strictly prohibited. Being under the influence of alcohol or any illegal drugs or controlled substances while on duty or otherwise contrary to the policies established herein is also strictly prohibited.

The procedures and circumstances under which alcohol or drug testing are to be conducted by the are more specifically addressed and set forth herein.

**Alcohol Testing: An Overview**

The alcohol testing rules cover the same employees as the drug testing rules and the types of tests are: reasonable suspicion, post-accident, return-to-duty, and pursuant to Rule CKA. The specific alcohol related conduct which prohibits performance of the employee's functions include having a breath alcohol concentration of 0.02% or greater, using alcohol while in the performance of the employee's duties, performance of the employee's duties or function within four (4) hours after using alcohol, and refusing to submit to an alcohol test and using alcohol within eight (8) hours after an accident or until tested.

Breath testing will be performed using an evidential breath testing device. Two (2) breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02% alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02% or greater, a second confirmation test must be conducted. Employees who engage in prohibited alcohol conduct (i.e. a breath alcohol concentration of 0.02% or more) must be immediately removed from their safety-sensitive functions. Employees who have an alcohol concentration of 0.02% or greater when tested just before, during or just after performing safety-sensitive functions will be removed from performing their duties for twenty-four (24) hours. If an employee behavior or appearance suggests alcohol misuse, a reasonable suspicion alcohol test must be conducted. If a breath test cannot be administered, the employee will be removed from performing safety-sensitive duties for at least twenty-four (24) hours. In the event the employee's confirmation test registers 0.04% or greater, the employee is subject to disciplinary action, including, but not limited to suspension and/or termination.

**Drug Testing: An Overview**

The drug testing rules cover the same employees as the alcohol testing rules and the types of tests are: reasonable suspicion, post-accident, return-to-duty and pursuant to Rule CKA. Drug testing is conducted by analyzing a employee's urine specimen for the following drugs: marijuana, cocaine, opiates, amphetamines, and phencyclidines. The District reserves the right to administer all current available drug testing resources.

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The testing is a two (2) stage process requiring a split sample. First, a screening test is performed and, if it is positive for one or more of the drugs, then a confirmation test is performed for each identified drug. All drug test results are reviewed and interpreted by the Superintendent or their designee. Any unauthorized use of the drugs and controlled substances set forth herein are prohibited. The illicit use of drugs by employees is prohibited on or off duty. As with an alcohol misuse violation, a employee must be removed from their duty if a positive drug test results. The removal will not take place until the Superintendent or their designee has interviewed the employee and determined that the positive drug test results are from the unauthorized use of a controlled substance and no other limited or legitimate medical use or explanation exists. The employee cannot be returned to their duties until they have been evaluated by a substance abuse professional or the Superintendent or their designee has complied with recommended rehabilitation, and has a negative result on a return-to-duty drug test. Follow-up testing to monitor the employee's continued abstinence from drug use may be required.

**Required Testing**

The following test(s) shall be required by the District of all employees subject to testing pursuant to this regulation:

**A. Reasonable Suspicion Test**

Any supervisor of an employee subject to this regulation who has reasonable suspicion that an employee under their supervision is guilty of abuse or use of alcohol or controlled substances or drugs may require the employee, to undergo a drug or alcohol test. Reasonable suspicion may be based and include, but is not limited to, an employee's observed behavior which is indicative of drug or alcohol use. When a supervisor reasonably suspects the abuse of alcohol, drugs or controlled substances by an employee, the supervisor shall follow the following process:

1. Solicit an explanation from the employee for any behavior which creates a reasonable suspicion of a violation of this regulation.
2. If the employee cannot reasonably explain the behavior, the supervisor may request the employee to undergo a drug or alcohol test.
3. If the employee agrees to be tested, they will complete the District consent form and a specimen/test result will be obtained.
4. If the employee refuses to undergo the test or complete the consent form, they will be advised that such refusal constitutes a ground for immediate termination. If the employee still refuses to cooperate, they will be placed on paid leave of absence until further notice.
5. If the employee's initial DAT is positive, a second confirmation test shall be immediately administered. If the employee's initial drug test is positive, the employee will be placed on paid leave of absence pending a confirmation test of the employee's specimen if there is a delay between the initial test and the confirmation test.
6. If the employee's confirmation test is positive for abuse and/or untimely use of alcohol, controlled substances and/or drugs, they will be disciplined which discipline may include termination.

**B. Employee Post-Accident Testing**

The District shall require an employee to undergo drug testing after an accident in which the employee is operating a vehicle owned, leased or rented by the School District if (1) the employee's performance could have contributed to the accident (as determined by a citation for a moving traffic violation), (2) for all fatal accidents even if the employee is not cited for a moving traffic violation. In such cases, the procedure set forth in the reasonable suspicion testing will be followed, except that the employee shall be advised that such tests are required as part of the accident investigation. If the employee's confirmation test is positive for abuse and/or untimely use of alcohol, controlled substances or drugs, they will be disciplined, which discipline may include termination. If the

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employee refuses to undergo the requested test or complete the requisite consent form, they will be advised that such a refusal constitutes a ground for immediate termination.

C. Return to Duty/Follow-Up Testing

Any employee who is allowed to return to duty either under this regulation, or any other District policy, after engaging in conduct prohibited by this regulation shall undergo either a return-to-duty alcohol test, with a result indicating an alcohol concentration of less than 0.02% or shall undergo a return-to-duty DAT with a result indicating a verified negative result for illegal drugs/controlled substance use. In addition, the employee shall be required to submit to random drug testing upon the request of their supervisor.

**Alcohol Testing Procedures**

- A. All alcohol breath tests shall be conducted on an approved evidential breath testing device (EBT) by a trained breath alcohol technician (BAT). A BAT-qualified supervisor of an employee may conduct the alcohol test for that employee only if another BAT is unavailable to perform the test in a timely manner. EBT's shall be able to distinguish alcohol from acetone at the 0.02% alcohol concentration level and shall be capable of testing an air blank prior to each collection of breath and performing an external calibration check. In order to be used in either screening or confirmation alcohol testing, an EBT shall have a quality assurance plan (QAP) developed by the manufacturer.

Breath alcohol testing will be conducted at a location that affords visual and oral privacy to the employee being tested sufficient to prevent unauthorized persons from seeing or hearing the test results. All necessary equipment, personnel and materials for breath testing shall be provided at the location where testing is conducted. In some unusual circumstances, such as when it is essential to conduct a test outdoors at the scene of an accident, a test may be conducted at a location that provides visual and aural privacy to the greatest extent practicable.

When the employee enters the alcohol testing location, the BAT will require said employee to provide positive identification. The BAT shall explain the testing procedure to the employee. The procedure to be followed by the BAT for a screening test is as follows:

1. The BAT shall complete Step 1 on the breath alcohol testing form. The employee shall then complete Step 2 on the form, signing the certification. Refusal by the employee to sign this certification shall be regarded as a refusal to take the test.
2. An individually sealed mouthpiece shall be opened in view of the employee and BAT and attached to the EBT in accordance with the manufacturer's instructions.
3. The BAT shall instruct the employee to blow forcefully into the mouthpiece for at least six (6) seconds or until the EBT indicates that an adequate amount of breath has been obtained. If the EBT provides a printed result, but does not print the results directly onto the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the breath test form in the designated space, using a method that will provide clear evidence of removal.
4. If the EBT prints the test results directly onto the form, the BAT shall show the employee the result displayed on the EBT.
5. In any case in which the result of the screening test is a breath alcohol concentration of less than 0.02%, then BAT shall date the form and sign the certification in Step 3 of the form. The employee shall sign the certification and fill in the date in Step 4 of the form.
6. If the employee does not sign the certification in Step 4 of the form or does not initial the log book entry for a test, it shall not be considered a refusal to be tested. In this event, the BAT shall note the employee's failure to sign or initial in the "Remarks" section of the form.
7. No further testing is authorized. BAT shall transmit the result of less than 0.02% to the employer in a confidential manner, and the employer shall receive and store the information so as to ensure that confidentiality is maintained.

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8. If the result of the screening test is an alcohol concentration of 0.02% or greater, a confirmation test shall be performed as provided herein.
- B. Procedures for confirmation tests
1. The confirmation test shall be conducted within twenty (20) minutes of the completion of the screening test. The BAT shall instruct the employee not to eat, drink, put any object or substance in his/her mouth, and, to the extent possible, not belch during a waiting period before the confirmation test. This time period begins with the completion of the screening test and shall not be less than fifteen (15) minutes. The BAT shall explain to the employee the reason for the requirement (i.e., to prevent any accumulation of mouth alcohol leading to an artificially high reading) and the fact that it is for the employee's benefit. The BAT shall also explain that the test will be conducted at the end of the waiting period, even if the employee has disregarded the instruction. If the BAT becomes aware that the employee has not complied with the instruction, the BAT shall so note in the "Remarks" section of the form.
  2. Before the confirmation test is administered for each employee, the BAT shall ensure that the EBT registers 0.00 on an air blank. If the reading is greater than 0.00, the not proceed using that instrument. However, testing may proceed on another instrument.
  3. In the event that the screening and confirmation test results are not identical, the confirmation test result is deemed to be the final result upon which any action under this regulation shall be based.
  4. Following the completion of the test, the BAT and employee shall date and sign the certification form as described in the procedures for screening tests.
  5. The BAT shall transmit all results to the School District in a confidential manner.
- C. Refusal by an employee to complete and sign the breath alcohol testing form (Step 2), to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the testing process in a way that prevents the completion of the test, shall be noted by the BAT in the "Remarks" section of the form. The testing process shall be terminated and the BAT shall immediately notify the employer.

In the event an employee is unable, or alleges that he/she is unable, to provide an amount of breath sufficient to permit a valid breath test because of a medical condition, the employee may opt to immediately provide a blood sample for testing at their own expense.

If the employee refuses to undergo the test they will be advised that such refusal constitutes grounds for immediate termination. If the employee still refuses to cooperate, they will be placed on paid leave of absence until further notice.

In the event the employee's confirmation test registers 0.04% or greater, the employee is subject to disciplinary action including, but not limited to, suspension or termination.

**Drug Testing Procedures**

To ensure that the appropriate chain of custody and specimen control are maintained, the collection of urine specimens will proceed as follows:

- A. Upon the employee's arrival at the designated collection site, the collector will request the employee to provide positive identification. The employee will be required to complete a pretest information form which serves as an identification document for the specimen collected. This form will request information regarding the employee's use of prescription and non-prescription drugs which may affect the outcome of the test.

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- B. The collector will be of the same sex as the employee when direct observation is required. The employee will be required to remove any unnecessary outer garments and to leave outside the collection area any purses, briefcases, or similar items. The employee will be required to wash and dry his hands before the test is administered. The employee will then remain in the presence of the collector and not have access to water fountains, faucets, soap dispensers, cleaning agents, or any other material which could be used to adulterate the specimen. Any transfer of the specimen from the collection container to another specimen bottle will be observed by the donor.
- C. The donor shall urinate into a collection container or a specimen bottle capable of holding at least 60 ml. If a collection container is used, the collection site person, in the presence of the donor, shall pour the urine into two specimen bottles. Thirty (30) ml shall be poured into one bottle, to be used as the primary specimen, and at least fifteen (15) ml shall be poured into the other bottle, to be used as the split specimen. Both bottles shall be shipped in a single shipping container together with copies one, two, and the split specimen copy of the chain of custody form, to the laboratory.
- D. If the test result of the primary specimen is positive, the employee may request that the Superintendent or their designee direct that the split specimen be tested in a different Department of Health and Human Services (DHHS)-certified laboratory before presence of the drug(s) for which a positive result was obtained in the test of the primary specimen. The Superintendent or their designee shall honor such a request if it is made within seventy-two (72) hours of the employee having been notified of a verified positive test result. When the the laboratory is informed in writing that the employee has requested a test of the split specimen, the laboratory shall forward to a different DHHS approved laboratory, the split specimen bottle, with seal intact, a copy of the request, and the split specimen copy of the chain of custody form with appropriate chain of custody entries. The result of the test of the split specimen shall then be transmitted by the second laboratory to the Superintendent or their designee.
- E. If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the Superintendent or their designee shall cancel the test, and report the cancellation and the reasons for it to the employee.
- F. Any employee required to submit a specimen pursuant to random employee testing, reasonable suspicion testing and/or post-accident testing, will be required to submit a urine sample before being relieved of duty. Employees covered under these three sections who do not produce an adequate specimen will be in violation of this regulation and subject to disciplinary action including, but not limited to, suspension without pay and/or termination.
- G. The identification label(s) on the specimen bottle shall contain the date of collection, the name of the collection official, and required identifying information. The employee providing the specimen shall initial the label on the specimen bottle, using initials corresponding with the name on the chain of custody form. The employee providing the specimen will be asked to read and sign a certification statement certifying that the urine in the specimen bottles came from their body at the time of collection. Refusal to sign this statement will be noted on the certification statement form by the collector. Refusal to sign this statement, without justification, may result in disciplinary action up to and including termination.
- H. Upon notification by the drug program facilitator that an employee has failed to appear for their scheduled collection, the supervisor will discuss with the employee the reason(s) for failing to appear. If the employee provides a legitimate reason for failing to report, no disciplinary action will be taken. If the employee does not provide a legitimate reason for failing to report, the additional disciplinary action including, but not limited to, suspension without pay and/or termination may be taken.
- I. In the event an employee refuses to provide a specimen, the drug program facilitator and/or the

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supervisor shall advise the employee that refusal to provide a specimen shall result in termination. In the event the employee still refuses to provide a specimen, the employee will be terminated.

- J. In the event an employee fails to provide a sufficient quantity of urine (i.e., at least sixty (60) ml), the drug program facilitator and/or the employee's supervisor will meet with the employee to see if they have a legitimate reason for not providing a sufficient specimen. If the employee has a legitimate reason, they will be required to take the drug test within twenty-four (24) hours. If the employee does not have a legitimate reason, the employee will be recommended for suspension or termination.
- K. All applicants and employees have the right to refuse to undergo drug testing as provided herein. Applicants who refuse to undergo such testing will be denied employment. Employees who refuse to undergo such testing will be terminated.

All employees and job applicants will be advised of the District's drug testing program. Notice of the program will be posted on employee bulletin boards and copies of the program will be available for job applicants and employees to review. Any employee may appeal their termination or other disciplinary action taken under this regulation to the extent and in the manner any such appeal is authorized by Board policy or appropriate state law.

Adopted: 1/20/98  
Revised: 7/18/2023