



# NEBO SCHOOL DISTRICT BOARD OF EDUCATION POLICIES AND PROCEDURES

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**SECTION:** G - Personnel  
**POLICY TITLE:** Alcohol and Drug-Free Workplace  
**FILE No.:** GBCC  
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### **1. PURPOSE AND PHILOSOPHY**

The Board of Education of Nebo School District recognizes that every employee should have the opportunity to work in an environment that is safe, conducive to the educational goals of the District, and free from unnecessary disruption. The use, manufacture, possession, influence, distribution, dispensation, and sale of tobacco, alcohol, drugs, or other similarly harmful substances or drug paraphernalia in the workplace jeopardizes this safe environment and constitutes a hazard to the health and welfare of students and employees, in addition to being illegal under state and federal law. In order to maintain a secure and orderly learning environment, the District hereby adopts this policy to assist employees in avoiding the dangers of the Prohibited Substances outlined herein. It is the policy of Nebo School District pursuant to the Drug-Free Workplace Act of 1988, 41 U.S.C. 8101, et seq., and regulations promulgated thereunder, 34 CFR 84.100, et seq., to adopt, implement, maintain, and enforce a drug- and alcohol-free workplace.

### **2. DEFINITIONS**

- 2.1. **"Influence"** means the effects of any substance identified or defined in this policy. An employee is under the influence if the employee has inhaled, ingested, injected, or otherwise consumed a Prohibited Substance and is found on school or District property or at a school- or District-sponsored event before the effects of the substance have worn off.
- 2.2. **"Sell"** and **"Distribute"** have the meanings ascribed to them in the Utah Controlled Substances Act, Utah Code Ann., Section 58-37-1, et seq., and the Imitation Controlled Substances Act, Utah Code Ann., Section 58-37b-1, et seq. To sell or distribute means the actual, constructive, or attempted transfer, delivery, or dispensing to another of any Prohibited Substance. Such delivery does not require an exchange of goods or services. Any sharing of a Prohibited Substance, whether profitable or not, constitutes a sale or distribution and is prohibited by this policy.
- 2.3. **"Use"** and **"Possession"** have the meanings ascribed to them in the Utah Controlled Substances Act, Utah Code Ann., Section 58-37-1, et seq., and mean the ownership, control, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption of any Prohibited Substance as defined in Section 3 below.

### 3. PROHIBITED SUBSTANCES

- 3.1. Unless specifically authorized by Section 3.3 below, as a condition of employment no employee may use, manufacture, possess, be under the influence of, sell, dispense, or distribute any of the Prohibited Substances described in Section 3.2 below while on school or District property; in any vehicle dispatched by the District; at any activity trip, educational field trip, or overnight travel as those terms are defined in Nebo School District Policy #IICA – Student Educational Travel; or at any time while on duty, supervising students, or otherwise acting within the scope of employment. These prohibitions apply whether or not the actions occur during regular school hours. For purposes of this policy, employees are considered to be on duty during the entirety of any activity trip, educational field trip, or overnight travel, regardless of location, time of day or night, or number of other individuals present or said to be supervising students. Employees travelling with students are never considered off duty. Likewise, employees travelling for District or school business under Nebo School District Policy #DLC – Personnel Travel may not engage in behavior or activities that reflect negatively on the District or incur civil or criminal liability. Specifically, individuals on personnel travel who may be operating a vehicle, whether personal, District, or owned by a third party, must abide by the prohibitions of this section.
- 3.2. The following are Prohibited Substances:
- 3.2.1. **Addictive Prescription Drugs**, which means drugs for which a prescription is required and which have a high potential for abuse and may lead to severe or moderate psychological or physical dependence. All drugs listed in Schedule II of the federal Controlled Substances Act, and most from Schedule III, fall under this category. Examples include, but are not limited to, oxycodone (such as Percocet and OxyContin), Fentanyl, Morphine, hydrocodone/codeine (such as Lortab and Vicodin), and Paregoric.
- 3.2.2. **Alcohol, Alcoholic Beverages, and Alcoholic Products** as those terms are defined in the Utah Alcoholic Beverage Control Act, Utah Code Ann., Section 32B-1-102.
- 3.2.3. **Illegal Drugs**, which means drugs as defined in the Utah Controlled Substances Act, Utah Code Ann., Section 58-37-2, and the use of which is prohibited by law. As used in this policy, the term “drug” or “drugs” includes all substances whose use is prohibited by local, state, or federal law, which are listed in Schedules I through V of both the federal Controlled Substances Act and the Utah Controlled Substances Act.
- 3.2.4. **Imitation and Other Harmful Substances**, including, but not limited to, imitation controlled substances as defined in the Utah Imitation Controlled Substances Act, Utah Code Ann., Section 58-37b-1, et seq., psychotoxic chemical solvents as defined by Utah Code Ann., Section 76-10-107, nitrous oxide as defined by Utah Code Ann., Section 76-10-107.5, performance enhancing drugs, and any other substance ingested, injected, inhaled, or otherwise consumed with the intent to affect the structure or any function of the body; cause a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses; or in any manner change, distort, or disturb the aural, visual, or mental processes.
- 3.2.5. **Non-Addictive Prescription Drugs**, which means drugs for which a prescription is required but which have a lower potential for abuse and a limited likelihood of leading to psychological or physical dependence. Typically those drugs listed in Schedules IV and V of the federal Controlled Substances Act fall under this category. Examples include cough suppressants, antibiotics, diet drugs, non-amphetamine stimulants, long acting barbiturates, Valium, Lyrica, and other drugs not known to be addictive and which are not typically used recreationally.
- 3.2.6. **Over-the-Counter Drugs**, which are drugs that have a currently accepted medical use and for which a prescription is not needed.

**3.2.7. Paraphernalia**, as defined in the Utah Drug Paraphernalia Act, Utah Code Ann., Section 58-37a-3, including any equipment, product, or material used or intended for use to store, contain, conceal, inject, ingest, inhale, or to otherwise introduce any Prohibited Substance into the human body. Notwithstanding this provision, employees may use and possess asthma inhalers, epinephrine auto-injectors (EpiPens), and equipment necessary for the administration of diabetes medication.

**3.2.8. Tobacco**, including cigarettes, cigars, pipes, smokeless tobacco, e-cigarettes, or other tobacco products in any form as these terms are used by Utah Code Ann., Section 76-10-101.

**3.3.** It is not a violation of this policy for an employee to possess, use, or be under the influence of an over-the-counter drug or a prescription drug legally prescribed to the employee, so long as the employee has not used more than the prescribed or recommended dosage or the effects of the drug do not interfere with the employee's ability to perform required job functions.

#### **4. NOTIFICATION AND REPORTING**

**4.1.** Employees must notify the Director of Human Resources of any drug or alcohol related arrest within 48 hours of the arrest or as soon as possible consistent with Nebo School District Policy #GBN – Employment Background Checks and Utah Admin. Code, R277-516-1, et seq.

**4.2.** Employees must notify the Director of Human Resources of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

**4.3.** The Director of Human Resources shall report drug or alcohol conviction, arrest, or offense information received from a licensed educator to the USOE within 48 hours of receipt of the information from the licensed educator.

#### **5. EMPLOYEE DISCIPLINE**

**5.1.** Employees found in violation of this policy will be subject to disciplinary action, up to and including termination, consistent with Nebo School District Policy #GCPD – Employee Discipline, Administrative Leave, and Orderly Termination, the applicable Employee Agreement or Memorandum of Understanding, and the Utah Public Education Human Resource Management Act, Utah Code Ann., Section 53A-8a-101 through 804.

**5.2.** Investigation and Due Process

**5.2.1.** Upon being apprised of a possible violation of this policy, the administrator at the lowest appropriate level shall promptly and thoroughly investigate the alleged misconduct and document the findings.

**5.2.2.** Prior to taking any disciplinary action beyond a verbal directive/written summary, the District must, consistent with Nebo School District Policy #GCPD – Employee Discipline, Administrative Leave, and Orderly Termination, provide career employees and provisional employees with minimal due process. Such due process includes notice of the accusation, evidence of the misconduct, and the opportunity to present the employee's side of the story to the supervisor. The notice and informal hearing must precede the imposition of disciplinary action.

**5.3.** If a supervisor or administrator has reason to believe that an employee has committed a crime and may be under the influence of a Prohibited Substance, law enforcement should be contacted.

**5.4.** An employee may be referred by the Director of Human Resources to a drug or alcohol counseling and rehabilitation program as part of the disciplinary action taken for violation of this policy.

- 5.4.1.** In such cases the employee may be required to use sick or vacation leave, or may be granted administrative leave, for inpatient treatment. Continued discretion of the principal, supervisor or Director of Human Resources based on an evaluation of the employee's ability to perform adequately during this time is required. Employees undergoing rehabilitation must sign a release to allow the transmittal of verbal and/or written progress reports between the District and inpatient/outpatient provider. All such communication shall be classified as confidential information.
- 5.4.2.** An employee receiving outpatient treatment must complete such treatment on the employee's own time; however, reasonable accommodations should be made for treatment related to disability as defined under the ADA Amendments Act of 2008 ("ADAAA") and Section 504 of the Rehabilitation Act of 1973 ("Section 504").
- 5.4.2.1.** Alcoholism may constitute a disability under the law, but accommodations may not permit an employee to use, possess, sell, or be under the influence of alcohol as prohibited by this policy, and all employees must maintain the ability to perform the essential functions of their jobs.
- 5.4.2.2.** Likewise, a history of drug addiction may constitute a disability and require certain accommodations related to treatment. Nevertheless, current illegal drug use exempts an individual from protection under the ADAAA and Section 504.

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**EXHIBITS**

None

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**REFERENCES**

Controlled Substances Act, 21 U.S.C. § 801 et seq.  
Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794(a); 34 C.F.R. Part 104, et seq.  
Drug Free Workplace Act, 41 U.S.C. § 8101 et seq.; 34 C.F.R. Part 84.  
ADA Amendments Act of 2008, 42 U.S.C. § 12101 et seq.; 28 C.F.R. Parts 35-36; 29 C.F.R. Part 1600, et seq.  
Alcoholic Beverage Control Act, Utah Code Ann. § 32B-1-101, et seq.  
Public Education Human Resource Management Act, Utah Code Ann. § 53A-8a-101, et seq.  
Utah Controlled Substances Act, Utah Code Ann. § 58-37-1, et seq.  
Utah Drug Paraphernalia Act, Utah Code Ann. § 58-37a-1, et seq.  
Imitation Controlled Substances Act, Utah Code Ann. § 58-37b-1, et seq.  
Utah Code Ann. § 76-10-101.  
Utah Code Ann. § 76-10-107.  
Utah Code Ann. § 76-10-107.5.  
Utah Admin. Code R477-14-1, et seq.  
Utah Admin. Code R277-516-1, et seq.  
Nebo School District Policy #GBN – Employment Background Checks.  
Nebo School District Policy #GCPD – Employee Discipline, Administrative Leave, and Orderly Termination.  
Nebo School District Policy #ICA – Student Educational Travel.  
Nebo School District Policy #JDB – Student Use of Tobacco, Alcohol, and Drugs.

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**FORMS**

HIPAA Release

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