

## **Policy 404.15**

### **TERMS OF EMPLOYMENT**

**404.15**

#### Policy for Drug-Free Schools and Communities Act - Employees

Kimball School District No. 1 is committed to providing an employment environment that is safe and provides appropriate motivation to ensure a creative and productive work force. To this end, the District unequivocally endorses the philosophy that the workplace should be free from the detrimental effects of illicit drugs and alcohol.

It is unlawful and, therefore, absolutely prohibited for any employee of the District to engage in the unlawful possession, use, or distribution of illicit drugs and alcohol on school premises or as a part of any of the school activities.

#### Definitions

As used in this policy, prohibition against the unlawful possession, use, or distribution of illicit drugs and alcohol on school premises or as a part of any of the school's activities shall mean, but not be limited to the following:

1. The possession, use, or distribution of any substance which is declared by the State of Nebraska or any other applicable law to be an illicit substance.
2. The possession, use, or distribution of alcohol on school premises or as a part of any of the school's activities.

As used herein, the term "school premises" shall mean any property whether owned, leased, or in other manner under the control of the Board of Education of the District.

As used herein, the phrase "as a part of any of the school's activities" shall mean any activity or enterprise carried out in whole or in part under the auspices of the District.

#### Procedures

1. All employees and each new employee will receive a copy of this policy.
2. Each employee will acknowledge receipt of this policy and will sign such form acknowledging receipt and acknowledging the District's policy of absolutely prohibiting conduct as set forth in this policy (Policy No. 207), and further acknowledging that serious sanctions can and will be taken against an employee,

- including termination of employment and referral for prosecution for any failure to comply with the above stated standards of conduct and further acknowledging that such compliance is mandatory, and further acknowledging that this policy is adopted pursuant to P.L. 101-226, 34 C.F.R., Part 86, and other applicable statutes, and will further acknowledge that failure to comply with such federal requirements may put the District's receipt of federal funds in jeopardy.
3. In the event the employee does not understand the terms and conditions of this policy, it shall be the duty of the employee to ask for such points of clarification to the Superintendent of Schools or his designee at the time this policy is distributed to the employee.
  4. In the event of any non-compliance by an employee with this policy, it shall be the duty of the Superintendent of Schools or his designee to inform any employee not in compliance about any drug and alcohol counseling and rehabilitation and re-entry programs that are available to employees within fifty (50) miles of the administrative offices of the district. If no such programs are available within 50 miles, then such other programs as may exist in the State of Nebraska shall be made known to such employee. The Superintendent or his designee shall maintain a list of such available services and shall from time to time update such a list.
  5. Sanctions which may be taken against an employee for non-compliance with this policy may be any one or more of the following:
    - a. An oral reprimand.
    - b. A written reprimand.
    - c. Suspension with pay.
    - d. Suspension without pay.
    - e. Termination of employment.
    - f. Cancellation of employment.
    - g. Non-renewal of employment.
    - h. Referral to appropriate authorities for criminal prosecution.
    - i. Mandatory enrollment in in-patient care or otherwise as a term and condition to any continuing employment by the District.
    - j. Mandatory enrollment in any training programs that are or may be provided by the District or others relating to any of the activities prohibited by this policy.

### Clarifications

Nebraska Statute 79-12.110 designates reasons for which the contract of a tenured teacher may be terminated. The list of reasons includes that of unprofessional conduct. For purposes of policy 207, the board shall interpret that violations as defined in the policy will be considered as unprofessional conduct.

1. Disciplinary action sought to be imposed by the Superintendent or his or her designee shall be carried out in accordance with the established policies of the District. However, nothing in this policy shall be construed to vest any right in any employee beyond that required by law and the manner in which each case shall be handled shall be in the sole discretion of the Superintendent or his designee subject to the Superintendent's approval, provided only that such action shall be carried out within the bounds of applicable law.
2. Conviction of an employee of the District of any criminal statute relating to the unlawful use, possession, or distribution, of any controlled substance or alcohol, may result in disciplinary action being taken against such employee. When such conviction shall come to the attention of the Superintendent or other official of the District, any employee convicted as above described may be disciplined in any manner provided by statute, the contract of the employee, any existing policy of the District or any other applicable body of law. As used herein "applicable body of law" shall mean, but shall not be limited to, state and federal statutes, state and federal regulations and any applicable case law.
3. As an alternative to discipline or as a concurrent requirement to the disciplinary action less severe than the maximum disciplinary action that may be carried out against an employee as referred to in the immediately preceding paragraph, the District, by and through its Superintendent or his designee may require the employee to successfully finish a drug abuse program. As used herein, the term "drug abuse program" shall mean a drug abuse program sponsored by an approved private or governmental institution. The Superintendent or his designee may require the employee to provide the Superintendent or his designee written documentation satisfactory to the Superintendent or his designee that the employee has successfully finished such program. If aftercare is recommended by such institution, then the Superintendent or his designee in his sole discretion may require the employee to enroll in such aftercare program and to participate in a manner satisfactory to the provider of such aftercare program. The Superintendent or his designee may require ongoing reporting of such participation as a term and condition of continuing employment by such employee of the District.

The Board will not be required to pay from District funds for any enrollment by the employee in any in-patient care program or drug or alcohol abuse program as may be necessary or mandated by the Board under terms of this policy.

Legal Refs: P.L. 101-226, 34 CFR  
Nebr. Statute 79-12, 110

Adopted: August 1990  
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