

## Drug and Alcohol Testing Policy

### POLICY SUMMARY

~Employees who violate Harpursville Central School District drug and alcohol policy are subject to disciplinary action, up to and including termination.

~Employees or applicants regulated by the U. S. Department of Transportation are subject to drug and alcohol testing.

~Employees who use, are in possession of, or are involved in the sale or purchase of any substances covered under the federal controlled substances act, while on **Harpursville Central School District** property, **Harpursville Central School District** business engaged as an employee of **Harpursville Central School District** working on a contracted job-site or operating **Harpursville Central School District** equipment, including vehicles contracted to or leased to **Harpursville Central School District** are considered to be in violation of the drug and alcohol policy. (Including lunch and break times.)

~Employee use of any prescribed or over-the-counter medication that is legally obtained but not used as prescribed is prohibited. Prohibited conduct also includes an employee's use of medications prescribed for individuals other than the employee.

~**Harpursville Central School District** is not required to provide rehabilitative services to any employee group. However, employees will be made aware of such services if required.

~**Harpursville Central School District** reserves the right to conduct unannounced searches for controlled substances or alcohol anywhere on **Harpursville Central School District** property, or contracted job-site (including the employee's personal belongings), or in vehicles owned or operated by or under contract to or leased to the **Harpursville Central School District**.

~**Harpursville Central School District** drug and alcohol policy also applies to independent contractors, contract personnel, and leased drivers.

~**Harpursville Central School District** will comply with terms of the Drug Free Workplace Act of 1988. This act requires employees convicted of any violation of criminal drug statutes that occur on company property (including vehicles), to notify their supervisors within five (5) days of that conviction.

### EMPLOYEES AFFECTED (Safety-Sensitive)

As defined by the U.S. Department of Transportation, the employee designation "Safety-Sensitive" includes holders of commercial drivers' licenses who operate commercial motor vehicles, including those CDL holders that normally do not drive, but could be called upon to do so. Also included in this group are mechanics, and supervisors that perform safety-sensitive functions.

A commercial motor vehicle is a vehicle used to transport passengers or property if the vehicle:

1) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross weight rating of more than 10,000 pounds;

- 2) Has a gross weight rating of 26,001 pounds or more; or
- 3) Is designed to transport 16 or more passengers, including the driver; or
- 4) Is of any size and is used in the transportation of materials found to be hazardous for the purpose of the *Hazardous Materials Transportation Act* and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

As defined in this section, Employees Affected, all employees of **Harpurville Central School District** will be included and made part of drug and alcohol testing procedures mandated by the U.S. Department of Transportation. All employees of **Harpurville Central School District** are expected, as a condition of employment, to comply with the provisions of this policy.

### **CONTROLLED SUBSTANCES**

At present, **Harpurville Central School District** drug testing procedures are primarily intended to test for the presence of marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP); in accordance with the Federal Controlled Substances Act. These substances are illegal for consumption or sale. This term also applies to over-the-counter, or prescription medications that are legally obtained but are not used as specifically prescribed. In addition, any over-the-counter or prescribed medications that cause an individual to be impaired is considered a controlled substance.

### **PROHIBITED CONDUCT**

Employees covered by the **Harpurville Central School District** drug and alcohol policy **SHALL NOT:**

- ~Refuse to take a required drug or alcohol test
- ~Use a controlled substance without medical authorization.
- ~Be on duty or operate a commercial motor vehicle or a vehicle on contract with **Harpurville Central School District** while possessing alcohol.
- ~Report for or remain on duty performing a safety-sensitive function while having a breath alcohol concentration of 0.02 or greater.
- ~Perform safety-sensitive functions within EIGHT hours of using alcohol.
- ~Use alcohol while performing safety-sensitive functions.
- ~Use alcohol for eight hours following an accident unless the employee has been given Post-Accident test.

### **TESTING**

~Random urine testing will be used to detect the presence of illegal drugs and Random breath alcohol tests will be used to detect the presence of alcohol. The **Harpurville Central School District** will test all employees on a random basis, and all such test will be unannounced. Under the **Harpurville Central School District** computerized random selection process, every employee will have an equal chance of being selected each time the selection is conducted. Appropriate safeguards are also present to ensure that the identity of individual employees cannot be determined prior to the time of computerized selection.

~An employee who tests positive or refuses to submit to a test is deemed to be unqualified to return to work. In addition to the penalties imposed by the U.S. Department of Transportation to safety sensitive employees, any employee who refuses to submit to random test, who fails to report for the test as directed, or who tests positive, may be subject to disciplinary action, up to and including termination.

~Pre-employment tests for drugs for final candidates in any safety-sensitive position within the **Harpurville Central School District** or for an employee who transfers from a non safety-sensitive position to a safety-sensitive position prior to the individual assuming his or her new position. This test must be negative for the prospective employee to be considered for employment in a safety-sensitive position.

~Post-accident drug and alcohol tests following an accident that involves a commercial motor vehicle, and if the accident involves a fatality; or the driver receives a citation; or it is believed that he or she WILL receive one under state or local law, for a moving violation arising from the accident. (An alcohol breath test is required within two (2) hours following the accident. If this time frame cannot be met, a test must be done within eight (8) hours following the accident.) It will be considered a refusal to test if the employee fails to disclose to a supervisor the issuance of a citation for a moving violation.

~Random drug and alcohol tests as determined by a non-biased computer selection. (Due to the nature of randomized testing, an employee could be required to test for alcohol and/or drugs more than once a year.)

~Return-to-Duty alcohol and/or drug test will be administered following a violation of the **Harpurville Central School District** drug and alcohol policy before an employee can return to a duty of performing a safety-sensitive function.

~Return-to-work alcohol and drug test following any type of leave of ninety (90) days or more including, but not limited to leave for pregnancy, serving in the military, personal reasons, or workers' compensation.

~Follow-Up drug and alcohol test as determined by a substance abuse professional (SAP).

~Reasonable suspicion drug and/or alcohol tests based on exhibited behavior, speech, appearance and body odor as observed by a trained supervisor.

\*While supervisors will receive training to recognize the symptoms of drug abuse and alcohol misuse, they will not personally conduct tests. All tests will be conducted and processed by independent authorized testing facilities.

\*Adulterated drug test, in any fashion will be considered a refusal to test and the employee who performed the adulteration will be subject to immediate termination. Also, anyone involved in the falsification of identity or identification of an employee will result in the immediate termination of all employees involved in the falsification attempt.

### **POSITIVE DRUG TESTS**

If an employee's drug test comes back positive, the employee will be notified by a medical review officer (MRO)- A licensed physician designated by the **Harpurville Central School District** who has knowledge and training to interpret and evaluate confirmed positive test results. This medical review officer will review the positive test results with the employee so as they can determine whether or not there is an alternative explanation medically for the positive test results. Such as use of a prescribed medication that an employee might be taking at the time of the test. **All employees MUST** notify the **Harpurville Central School District** drug and alcohol program administrator of **ANY** prescription medication prescribed by their physician. Notification must include prescription name and date prescribed. A copy will be kept in the "confidential" drivers' files.

Once the medical review officer has made a final determination of a positive test, the MRO will refer the employee to a substance abuse professional (SAP), a licensed physician, licensed or certified psychologist, (MOS) master in social work, or certified addiction counselor; all of which must be knowledgeable of and clinically experienced in the diagnoses and treatment of controlled substances related disorders.

Employees who test positive will be allowed seventy two (72) hours following notification of their drug test results to request a *re-test of the original test sample* by a testing facility approved by the Department of Health and Human Services (DHHS). **Any re-test will be at the employee's expense.** The employee will be suspended without pay. If re-test results are negative, initial test results will be canceled. The employee will be fully reinstated with back pay. However, in the event that the re-test is positive, or if a re-test is not requested within the designated seventy- two (72) hour time period, the employee will be subject to disciplinary action up to and including termination.

### **POSITIVE ALCOHOL TESTS**

Depending on the level of alcohol in the employee's system, the U.S. Department of Transportation requires the **Harpurville Central School District** to act as follows:

#### **0.02 – 0.04 LEVEL**

The employee will be prohibited from performing a safety-sensitive function for 24 hours. A **Harpurville Central School District** supervisor will be notified and the employee must be driven home from the collection site. The employee will be prohibited from performing safety-sensitive functions until he or she has submitted to another test scheduled by the **Harpurville Central School District** at least 24 hours later and has tested below **0.02**.

#### **0.04 OR GREATER**

The employee will be suspended from duty pending an investigation by the **Harpurville Central School District** management. The employee will be given the name and phone number of a substance abuse professional (SAP). The employee will be subject to immediate suspension without pay and will be subject to disciplinary action up to and including termination. In addition to the U.S. Department of Transportation Regulations listed above, the **Harpurville Central School District** and, at management's discretion, **any** breath alcohol concentration level may subject the employee to disciplinary action, up to and including termination.

### **CONSEQUENCES**

~Employees who violate or refuse to cooperate with the implementation of the **Harpurville School District** drug & alcohol policy will be subject to immediate termination.

~Employees who refuse to submit to alcohol and/or drug testing will be subject to immediate termination.

~Employees in safety-sensitive positions who test positive for drug use will be terminated, not be eligible for re-employment, unless it is a first offense and all of the requirements listed under positive drug or alcohol tests are met.

~Where reasonable suspicion exists, contract or supplier personnel will be escorted from **Harpurville Central School District** property or contracted job-site and denied Further access to the property and equipment.

~In accordance with the Drug Free Workplace Act of 1988, disciplinary action will be taken against employees convicted of violations of criminal drug statutes that occur on company property. The **Harpurville Central School District** will suspend any employee that violates this law, and he will be terminated within thirty (30) days of that notification. The termination of any individual would be in accordance with the statutory requirements, if applicable.

## CONFIDENTIALITY

All tests will be conducted in accordance with U.S. Department of Transportation regulations that ensure reliability, accuracy, employee privacy, discretion, and confidentiality. Results of test results to anyone other than the employee, the MRO, and the employer is prohibited unless the employee signs a written release or required by law.

## GETTING HELP

### **(Symptoms and signs of an alcohol or drug problem)**

Some of the symptoms and signs of alcohol misuse are; the odor of alcohol, the slurring of speech, tremors, vomiting, disoriented behavior, staggering, leaning against walls or doorways, using the arms for balance, swaying while attempting to maintain balance. Some of the symptoms and signs of drug abuse are: constricted pupils, slurred speech, drowsiness, loss of appetite, watery eyes, chills and sweating, runny nose, excitement, depression, disoriented behavior, poor perception of time and distance, and the use of drug paraphernalia. Abuse involving multiple substances will be especially dangerous because of the way different substances interact with each other and create unexpected effects. People who abuse more than one substance are at a more increased risk of becoming tolerant and dependant on other controlled substances.

### **(The effects of alcohol and drugs on work, health, and personal life)**

The threats and hazards of alcohol misuse and drug abuse go far beyond the individual abuser. People who are impaired are endangering fellow workers, family members, fellow motorists, as well as themselves. Abusers of alcohol and drugs increase the costs associated with the loss of productivity, accidents, absenteeism, and theft and deterrence programs. Also, medical costs are higher and this increase is passed on to the employer in the form of higher health insurance rates, and then ultimately passed on to all workers! Alcohol at any level can and will impair judgment and coordination required for driving motor vehicles. High doses can cause respiratory failure and even death. If low doses are combined with other “depressant” drugs. This too can cause respiratory failure and death. (Alcohol is the most widely abused drug in the United States.)

## INTERVENTION

Alcohol and drug problems are serious and complex problems calling for special care and treatment.

- 1. Don't enable fellow workers to continue the alcohol or drug problem.**
  - 2. Don't do their work and cover for them.**
  - 3. Don't make excuses for them, if you think they have a problem.**
  - 4. DO leave counseling and treatment of people with an alcohol and/or drug problem to professional counselors.**
- U.S. Department of Transportation regulations do not require **Harpurville Central School District will not** provide rehabilitation benefits for employees with alcohol and drug abuse problems. **Harpurville Central School District** is also not required to and will not keep an employee's job available or pay an employee's salary while an employee undergoes treatment for alcohol misuse and/or drug abuse.
  - These procedures are combined rules and regulations set forth by the U.S. Department of Transportation and the **Harpurville Central School District** company policy and in no way are intended to alter the relationship between company and driver.

Employees can consult **Jean Brennan, drug and alcohol program administrator**, regarding the **Harpursville Central School District** drug and alcohol policy, or services which may be available to them. For help, employees may also call:

**NATIONAL COUNCIL ON ALCOHOLISM**  
**1 (800) 622-4537**

**OR THE**

**NATIONAL INSTITUTE ON DRUG ABUSE**  
**1 (800) 662-4357**

**Harpursville Central School District**  
**Drug-free Workplace Procedures.**

**Intent**

It is the intent of Harpursville Central School District to promote drug-free workplace in order that employers in Harpursville School District may maximize their levels of productivity, enhance their competitive positions within the workforce, and reach their desired levels of success without experiencing the costs, delays, and tragedies associated with work-related accidents resulting from substance abuse by employees.

**Definitions**

As used in this Article:

- 1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source and by whatever process produced.
- 2) "Chain of custody" means the methodology of tracking specified materials, specimens, or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials, specimens, or substances and providing for accountability at each stage in handling, testing, and storing materials, specimens, or substances and reporting test results.
- 3) "Confirmation test", "confirmed test", or "confirmed substance abuse test" means a second analytical procedure used to identify the presence of a specific drug or metabolic in a specimen. A confirmation test is different in scientific principle from that of the initial test procedure and is capable of providing requisite specificity, sensitivity, and quantitative accuracy.
- 4) "Drug" means amphetamine, cannabinoids, cocaine, phencyclidine (PCP), methadone, methaqualene, opiates, barbiturates, benzodiazepines, propoxyphene, or a metabolite of any such substance.
- 5) "Employee" is any person employed and covered under workers' compensation insurance.

- 6) “Employee assistance program” means a program designed to assist in the identification and resolution of job performance problems associated with employees impaired by personal concerns and includes consultation and training services: professional, confidential, appropriate, and timely problem assessment services; short-term problem resolution; referrals for appropriate diagnosis, treatment, and assistance; follow-up and monitoring; employee education; and quality assurance.
- 7) “Employer” means a person or entity that is subject to the provisions of this Chapter, Harpursville Central School District.
- 8) “Initial test” means a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens.
- 9) “Job applicant” means a person who has applied for a position with an employer and has been offered employment subject to the Workers’ Compensation Act conditioned upon successfully passing a substance abuse test and may have begun work pending the results of the substance abuse test.
- 10) “Nonprescription medication” means a drug or medication authorized pursuant to federal or State law for general distribution and use without a prescription in the treatment of human disease, ailments, or injuries.
- 11) “Prescription medication” means a drug or medication lawfully prescribed by a physician for an individual and taken in accordance with the prescription.
- 12) “Reasonable suspicion testing” means substance abuse testing based on a belief that an employee is using or has used drugs or alcohol in violation of the Harpursville Central School District policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, these facts and inferences may be based upon, but not limited to, the following:
  - a. Observable phenomena while at work, such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance abuse;
  - b. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
  - c. A report of substance abuse provided by a reliable and credible source;
  - d. Evidence that an individual has tampered with any substance abuse test during the employment with the current Harpursville Central School District;
  - e. Information that an employee has caused or contributed to an accident while at work; or
  - f. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer’s premises or while operating the employer’s vehicle, machinery, or equipment.
- 13) “Rehabilitation program” means an established program capable of providing expert identification, assessment, and resolution of employee drug or alcohol abuse in a confidential and timely service and provided by persons licensed or appropriately certified as health professionals to provide drug and alcohol rehabilitative services.

- 14) "Specimen" means breath or urine capable of revealing the presence of drugs or their metabolites or of alcohol.
- 15) "Substance" means drugs or alcohol.
- 16) "Substance abuse test" or "test" means any chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence or absence of a drug or of alcohol.
- 17) "Threshold detection level" means the level at which the presence of a drug or alcohol can reasonably be expected to be detected by an initial and confirmation test performed by a laboratory meeting the standards specified in this Article.

### **Drug-free workplace program**

The Harpursville Central School District drug-free workplace program shall contain the following elements:

- 1) A written policy statement
- 2) Substance abuse testing
- 3) Resources of employee assistance providers
- 4) Employee education
- 5) Supervisor training
- 6) Confidentiality standards
- 7) Third party Drug and Alcohol program administrator

### **Written policy statement**

One time only, prior to testing, all employee and job applicants for employment shall be given a notice of testing. In addition, all employees shall be given a written policy statement from the Harpursville Central School District that contains:

- 1) A general statement of the Harpursville Central School District policy on employee substance abuse that shall identify:
  - a. The types of testing an employee or job applicant may be required to submit to, including reasonable suspicion or other basis used to determine when this testing will be required; and
  - b. The actions the Harpursville Central School District may take against an employee or job applicant on the basis of a positive confirmed test result;
- 2) A statement advising an employee or job applicant of the provisions of this Article;
- 3) A general statement concerning confidentiality;
- 4) The consequences of refusing to submit to a drug test;

- 5) A statement advising an employee of the employee assistance program, if offered by the employer, or a statement advising the employee of the Harpursville Central School District resource file of assistance programs and other persons, entities, or organizations designed to assist employees with personal or behavioral problems;
  - 6) A statement that an employee or job applicant who receives a positive confirmed test result may contest or explain the result to the employer within five working days after written notification of the positive test result; and
  - 7) A statement informing an employee of the provisions of the Drug-Free Workplace Act of 1988, if applicable to the employer.
- a. Harpursville Central School District shall produce a general one-time notice to all employees that a substance abuse testing program is being implemented no less than 60 days prior to the beginning of the actual testing.

### **Substance-abuse testing**

- a) Any testing conducted by Harpursville Central School District third party administrator shall be in conformity with the standards and procedures established in this Article and any applicable rules adopted by the Harpursville Central School District pursuant to this Article.
  - 1) After extending an offer of employment, the Harpursville Central School District shall require job applicants to submit to a substance abuse test or to limited testing of job applicants if limited testing is conducted on the basis of reasonable classifications of job positions.
  - 2) Harpursville Central School District shall require an employee to submit to pre-employment, post-accident, reasonable suspicion, return to duty, and follow up testing.
  - 3) Harpursville Central School District random selection pool shall consist of all Harpursville Central School District Employees. The random selection shall be done on a quarterly basis drawn by the third party administrator. 50% of the workforce shall be selected per year for drug testing and 10% of the workforce shall be selected per year for alcohol testing.
  - 4) If the employee has caused or contributed to an on-the-job injury that resulted in a loss of work time, Harpursville Central School District shall require the employee to submit to a substance abuse test.
- b) A third party administrator shall conduct all lawful testing of employees.
- c) All specimen collection and testing under this section shall be performed in accordance with the following procedures:
  - 1) a specimen shall be collected with due regard to the privacy of the individual providing the specimen, and in a manner reasonably calculated to prevent substitution or contamination of the specimen

- 2) Specimen collection shall be documented, and the documentation procedures shall include:
  - a. Labeling of specimen containers so as to reasonably preclude the likelihood of erroneous identification of test results; and
  - b. An opportunity for the employee or job applicant to record any information he or she considers relevant to the test, including identification of currently or recently used prescription or nonprescription medication or other relevant medical information. The providing of information shall not preclude the administration of the test, but shall be taken into account in interpreting any positive confirmed results.
- 3) Specimen collection, storage, and transportation to the testing site shall be performed in a manner that will reasonably preclude specimen contamination or adulteration.
- 4) Each initial and confirmation test conducted under this section, not including the taking or collecting of a specimen to be tested, shall be conducted by a laboratory that complies with subsection (e) of this section.
- 5) A specimen for a test shall be taken or collected by any of the following persons:
  - a. A qualified person certified or employed by the third party administrator or agent thereof.
- 6) Within five working days after receipt of a positive confirmed test result from the laboratory, the Harpursville Central School District shall inform an employee or job applicant in writing of positive test results, the consequences of positive test results, and the options available to the employee or job applicant.
- 7) Harpursville Central School District shall provide to the employee or job applicant, upon request, a copy of the test results.
- 8) An initial test having a positive result shall be verified by a confirmation test.
- 9) The third party administrator who performs drug testing or specimen collection shall use chain of custody procedures to ensure proper record keeping, handling, labeling, and identification of all specimens to be tested.
- 10) Harpursville Central School District shall pay the cost of all drug tests, initial and confirmation, that Harpursville School District requires of the employees.
- 11) An employee or job applicant shall pay the cost of any additional tests not required by Harpursville Central School District.
- 12) If the testing is being conducted based on reasonable suspicion, the shift supervisor shall immediately contact the third party administrator for a drug and alcohol evaluation and promptly detail in writing the circumstances that formed the basis of the determination that reasonable suspicion existed to warrant the testing. All reasonable suspicion testing will be held in strict confidence. A copy of this documentation and evaluation result shall be given to the employee upon request and

the original documentation shall be kept confidential by the employer and retained by the employer for at least two years.

- e) No laboratory shall analyze initial or confirmation drug specimens unless:
  - 1) The laboratory is approved by the National Institute on Drug Abuse or by the College of American Pathologists;
  - 2) The laboratory has written procedures to ensure the chain of custody; and
  - 3) The laboratory follows proper quality control procedures including:
    - a. The use of internal quality controls, including the use of samples of known concentrations that are used to check the performance and calibration of testing equipment and the periodic use of blind samples for overall accuracy;
    - b. An internal review and certification process for drug test results, conducted by a person qualified to perform that function in the testing laboratory;
    - c. Security measures implemented by the testing laboratory to preclude adulteration of specimens and drug test results.
- f) A laboratory shall disclose to Harpursville Central School District a written test result report within seven working days after receipt of the sample. All laboratory reports of a substance abuse test result shall, at a minimum, state:
  - 1) The name and address of the laboratory that performed the test and the positive identification of the person tested;
  - 2) Positive results on confirmation tests only, or negative results, as applicable;
  - 3) A list of the drugs for which the drug analyses were conducted; and
  - 4) The type of tests conducted for both initial and confirmation tests, and the minimum cutoff levels of the tests.

No report shall disclose the presence or absence of any drug other than alcohol, a specific drug listed in the Harpursville Central School District policy or its metabolites.

- g) Laboratories shall provide technical assistance to the employer, employee, or job applicant for the purpose of interpreting any positive confirmed test results that could have been caused by prescription or nonprescription medication taken by the employee or job applicant.
- h) All initial tests shall use an immunoassay procedure or an equivalent procedure or shall use a more accurate scientifically accepted method approved by the National Institute on Drug Abuse as such more accurate technology becomes available in a cost-effective form. All confirmation tests shall use the gas chromatography/mass spectrometry (GC/MC) method or an equivalent or more accurate scientifically accepted methods approved by the national Institute on Drug Abuse that is available in a cost effective form.

### **Employee education on substance abuse**

Harpursville Central School District shall provide all employees with annual education program on substance abuse, in general, and its effects on the workplace, specifically. An education program for a minimum of one hour should include, but is not limited, to the following information:

- 1) The explanation of the disease model of addiction for alcohol and drugs;
- 2) The effects and dangers of the commonly abused substances in the workplace; and
- 3) Harpursville Central School District's policies and procedures regarding substance abuse in the workplace and how employees who wish to obtain substance abuse treatment can do so.

### **Supervisor training on substance abuse.**

In addition to the education program provided, in Harpursville Central School District shall provide all supervisory personnel with a minimum of two hours of supervisor training, that shall include, but is not limited to, the following information:

- 1) How to recognize signs of employee substance abuse;
- 2) How to document and collaborate signs of employee substance abuse; and
- 3) How to refer substance abusing employees to the proper treatment providers.

### **Limitations of Articles.**

- a) No physician-patient relationship is created between an employee or job applicant and Harpursville Central School District, medical review officer, or any person performing or evaluating a drug test solely by the establishment, implementation, or administration of a drug-testing program.
- b) Nothing in this Article shall be construed to prevent Harpursville Central School District from establishing reasonable work rules related to employee possession, use, sale, or solicitation of drugs, including convictions for drug-related offenses, and taking action based upon a violation of any of those rules.
- c) Nothing in this Article shall be construed to operate retroactively, and nothing in this Article shall abrogate the right of the Harpursville Central School District under state or federal law to conduct drug tests, or implement employee drug-testing programs.
- d) Nothing in this Article shall be construed to prohibit Harpursville Central School District from conducting medical screening or other tests required, permitted, or not disallowed by any statute or rule for the purpose of monitoring exposure or employees to toxic or other unhealthy materials in the workplace or in the performance of job responsibilities. Such screening or test shall be limited to the specific materials expressly identified in the statute or rule, unless prior written consent of the employee is obtained for other tests.

- e) No cause of action shall arise in favor of any person based upon the failure of Harpursville Central School District to establish or conduct a program or policy for substance abuse testing.

### **Confidentiality**

- a) All information, interviews, reports, statements, memoranda, and test results, written or otherwise, received by Harpursville Central School District through a substance abuse testing program are confidential communications, but may be used or received in evidence, obtained in discovery, or disclosed in any civil or administrative proceeding, except as provided in subsection (d) of this section.
- b) Harpursville Central School District, laboratories, medical review officers, employee assistance programs, drug or alcohol rehabilitation programs, and their agents who receive or have access to information concerning test results shall keep all information confidential. Release of such information under any other circumstance shall be solely pursuant to a written consent form signed voluntarily by the person tested, unless such release is compelled by the State or a court of competent jurisdiction or unless deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding. The consent form shall contain at a minimum:
  - 1) The name of the person who is authorized to obtain the information;
  - 2) The purpose of the disclosure;
  - 3) The precise information to be disclosed;
  - 4) The duration of the consent; and
  - 5) The signature of the person authorizing release of the information.
- c) Information on test results shall not be released or used in any criminal proceeding against the employee or job applicant. Information released contrary to this subsection shall be inadmissible as evidence in any such criminal proceeding.
- d) Nothing contained in this Article shall be construed to prohibit Harpursville Central School District or laboratory conducting a test from having access to employee test information when consulting with legal counsel when the information is relevant to its defense in a civil or administrative matter.

### **Authority to adopt rules.**

Harpursville Central School District may adopt rules, procedures, and forms regarding the certification of Harpursville Central School District, who establish and maintain a drug-free workplace that complies with the provisions of this Article.

### **Use of intoxicants or controlled substance; willful neglect; willful disobedience of statutory duty, safety regulation or rule**

- a) No compensation shall be payable if the injury or death to the employee was proximately caused by:
  - 1) His intoxication, provided the intoxicant was not supplied by the employer or his agent in a supervisory capacity to the employee; or
  - 2) His being under the influence of any controlled substance listed in the Controlled Substances Act, where such controlled substance was not by prescription by a practitioner and that affected the employee to such an extent that the employee's normal faculties were impaired; or
  - 3) His willful intention to injure or kill himself or another.
- b) If there was at the time of the injury one-tenth percent (.1%) or more by weight of alcohol in the employee's blood, or if the employee has a positive confirmation of a drug, it shall be presumed that the injury was occasioned primarily by the intoxication of, or by the influence of the drug upon, the employee.
- c) To ensure that the workplace is a drug and alcohol-free environment and to deter the use of drugs and alcohol at the workplace, if Harpursville Central School District has reason to suspect that the injury was occasioned primarily by the intoxication of the employee or by the use of any drug that affected the employee to the extent that the employee's normal faculties were impaired, Harpursville Central School District may require the employee to submit to a test for the presence of any or all drugs or alcohol in his/her system. This test shall be completed only after an evaluation by the third party administrator or physician treating the injured employee proves positive. If the injured worker refuses to submit to a test or nonprescription controlled substances or alcohol, it shall be presumed in the absence of clear and convincing evidence to the contrary that the injury was occasioned primarily by the influence of a nonprescription controlled substance or alcohol.
- d) Harpursville Central School District shall adopt rules regarding the authorization and regulation of drug testing policies, procedures, and methods. Testing of injured employees shall be pursuant to the Harpursville Central School District Drug & Alcohol Policy and this article.

3541.26

Policy amended 10/25/99

ACKNOWLEDGEMENT OF THE DRUG FREE WORKPLACE PROGRAM AGREEMENT TO  
SUBMIT TO DRUG TESTING  
AGREEMENT TO RELEASE DRUG TEST RESULT

I, \_\_\_\_\_ understand that The Harpursville Central School District maintains a Drug Free Workplace requiring all employees to report to work in a substance free condition.

I have read, or had read to me, a copy of this policy and I understand the consequences of violating the policy, including my obligations under the Drug Free Workplace Act. If I did not understand the policy, I have asked for and have received an explanation. I specifically understand that if I am injured on the job and either refuse to be tested or test positive for drugs or alcohol that I thereby forfeit eligibility for all Workers' Compensation Medical and Indemnity benefits.

I understand that as a condition of my initial and/or continued employment, I will participate in routinely scheduled drug and alcohol testing when required by the Harpursville Central School District. Testing randomly and where reasonable suspicion of drug or alcohol use exists, it will require me to undergo substance screening by urinalysis for drug, breath for alcohol, and I hereby agree to submit to such tests including required post accident testing.

I further consent to the results of any such drug screen(s) being released to the District's authorized representative by the Medical Review Officer (MRO) and understand that I am legally authorized to receive a copy of this consent form if requested. The results will not be released to any additional parties without my written authorization, except that I acknowledge that the District, agents of the District, and the testing laboratory will have access to the drug test results and may disclose such results to its attorney in connection with Workers' Compensation proceedings, and may use the test results when relevant to its defense in other civil or administrative matters.

I release any testing facility personnel and/or physicians who have tested me from any liability arising from a release or use of any and all test results, written reports, medical records and data concerning my test(s) to the appropriate District officials. I further release all District officials from liability arising from the release or use of the test results.

I also understand that the Drug Free Workplace Policy and related documents are not intended to constitute a contract between me and the District./

I acknowledge receipt of a copy of this policy.

SIGNATURE	PRINTED NAME	SS#	DATE
_____	_____	____-____-____	_____

WITNESS SIGNATURE	PRINTED NAME	DATE
_____	_____	_____