

## INDIAN TOWNSHIP AND PLEASANT POINT PASSAMAQUODDY SCHOOL COMMITTEES' SUBSTANCE ABUSE TESTING PROCEDURES

The purpose of these procedures is to set forth guidelines for fair substance abuse testing of employees of the Indian Township and Pleasant Point School Departments. These procedures are guidelines and do not create contractual obligations on the part of the Indian Township and Pleasant Point School Committees, the Passamaquoddy Tribe, or any of their agents, officers, employees or representatives.

### A. Voluntary Admission of a Substance Abuse Problem

Since it is in the best interest of the Passamaquoddy Tribe, the Indian Township and Pleasant Point School Committees, and the children of the Passamaquoddy Tribe to address and solve any substance abuse problems affecting the tribal community, the School Committees encourage employees to voluntarily seek assistance for substance abuse problems. An employee who voluntarily admits to a substance abuse problem will be directed to the Indian Township or Pleasant Point Passamaquoddy School Committees' employee assistance program (EAP).

The School Committees will encourage the employee to voluntarily participate in a rehabilitation program. At its discretion, the School Committees will suspend the employee and allow the employee to voluntarily participate in a rehabilitation program. An employee who admits to a substance abuse problem and fails to take immediate steps toward rehabilitation will be subject to disciplinary action, including suspension or termination.

### B. Substance Abuse Testing and Consequences for Refusing Tests

#### 1. Applicants and Transfers

Any applicant who has been offered employment with the School Departments and any current employees who apply for different positions will be subject to substance abuse testing. Employment will be conditional upon the applicant receiving a negative test result.

An applicant who refuses to participate in substance abuse testing will be denied an offer of employment.

#### 2. Probable Cause Testing of Employees

An employee will be required to submit to a substance abuse test if

there is probable cause to test the employee. The employee's immediate supervisor, other supervisory personnel, a licensed physician or nurse or school security personnel shall make the determination of probable cause.

The supervisor or other person must state, in writing, the facts upon which this determination is based and provide a copy of the statement to the employee.

An employee who refuses to participate in substance abuse testing after a determination of probable cause will be subject to disciplinary action, including suspension or termination.

For the purpose of this procedure, "probable cause" means facts giving rise to a belief that an employee may be under the influence of a substance, alcohol or an illegal substance, provided that the existence of probable cause may not be based exclusively upon information from an anonymous source, a single work-related accident, or information that the employee possessed or used a substance of abuse off-duty or off school premises (except when the employee is observed possessing or ingesting any substance of abuse either while on school premises or in the proximity of the school premises during or immediately before the employee's working hours).

### 3. Random Testing of Employees

The Passamaquoddy Tribe, through the Indian Township and Pleasant Point Tribal Councils, has declared substance abuse to be a hazard to the health and welfare of the Tribe and has declared that tribal government has a significant and compelling interest to implement random testing for substance abuse by teachers and school personnel responsible for the instruction, care and safety of Passamaquoddy children. The Indian Township and Pleasant Point Passamaquoddy School Committees find that if an Indian Township or Beatrice Rafferty School Department employee engages in work while under the influence of a substance of abuse, such a person will create an unreasonable threat to the emotional and/or physical health or safety of Passamaquoddy children. Thus, in addition to testing employees on a probable cause basis under subsection 2, the School Committees will require school employees to submit to substance abuse testing on a random basis.

The School Committees will utilize an established process (e.g., Affiliated Health Care Systems Computer-Assisted Random Sampling) for random selection of employees for substance abuse testing. An employee who refuses to participate in the School Committees' random substance abuse testing program will be subject to disciplinary action, including suspension or termination.

4. Testing While Undergoing Rehabilitation or Treatment

An employee participating in a substance abuse rehabilitation program may be required by the School Committees to submit to periodic substance abuse testing by the rehabilitation provider as required, requested or suggested by that provider.

5. Testing Upon Return to Work

An employee who has received a confirmed positive result and who returns to work after completing a rehabilitation program, or otherwise, may be required to submit to a subsequent substance abuse test anytime up to one year after the date of the employee's prior test. A test may be administered under this subsection in addition to any tests conducted under subsections 2 and 3.

C. Collection of Samples

The collection of any sample for use in a substance abuse test will be conducted by a certified drug screener. The School Committees will maximize the privacy of sample collection, consistent with current protocol used by the United States Committee on Transportation (49 CFR, Part 40, subpart B) ("DOT protocol").

The School Committees may take actions necessary to ensure the integrity of a urine sample if the sample collector or testing laboratory determines that the sample may have been substituted, adulterated, diluted or otherwise tampered with in an attempt to influence test results. If in accordance with DOT protocol, an employee or applicant is found to have tampered with the urine sample, the employee or applicant is deemed to have refused to submit to a substance abuse test and will be terminated. A current list of sample collection facilities will be maintained at the Office of Maine Indian Education and will be available for review by employees. Labeling, storage and chain of custody procedures for samples collected will be consistent with DOT protocol.

The testing process for employees and applicants includes testing to determine if a person has “purged” his/her body prior to the test. If the “purging” has occurred, the result will be considered to be a positive test for drugs.

D. Substances Tested and Cutoff Levels

The substance of abuse to be tested for and the cutoff levels above which will be considered a positive test result (in urine unless otherwise specified) are:

<b>Compound</b>	<b>Screening Test Cutoff Level</b>	<b>Confirmation Test/Cutoff Level</b>
Amphetamines/Methamphetamine	1000 ng/ml	500 ng/ml
Cocaine Metabolite(s)	300 ng/ml	150 ng/ml
Opiates/Metabolites	300 ng/ml	300 ng/ml
Marijuana/Cannabinoids (urine)	100 ng/ml	20 ng/ml
Benzodiazepines	300 ng/ml	200 ng/ml
Alcohol (urine or blood)	.08g/100 ml	.08g/100 ml
Phencyclidine (PCP)	25 ng/ml	25 ng/ml

E. Qualified Testing Laboratories, Procedures and Reports

Any substance abuse testing required by the individual School Committee shall be done by a laboratory that meets the qualifications under Maine law, and shall follow the Maine law standards for testing procedures and reports (26 MRSA §§ 683(6), 683(7), and 683(8)(A)). The employee or applicant shall promptly notified if there is a positive result. Upon written request of an employee or applicant, the School Committee shall promptly provide a legible copy of the laboratory report to the employee or applicant together with any descriptions of procedures followed. Within three working days after notice of a confirmed positive test result, the employee or applicant may submit information to the School Committees explaining or contesting the results.

F. Right to Obtain Other Samples

At the request of the employee or applicant at the time the test sample is taken, the certified drug screener shall segregate a portion of the sample for that person’s own testing. Within five days after notice of the test result is given to the employee or applicant, the employee or applicant shall notify Maine Indian Education of the testing laboratory selected by the employee or applicant.

This laboratory must comply with the requirements of Maine law (26 MRSA § 683(6)) related to testing laboratories. When Maine Indian Education receives notice of the employee or applicant's selection, it shall promptly send the segregated portion of the sample to the named testing laboratory, subject to the same chain of custody requirements applicable to testing of Maine Indian Education's portion of the sample. The employee or applicant shall pay the costs of these tests. Payment for these tests may not be required earlier than when notice of the choice of laboratory is given to Maine Indian Education.

An employee may request that he/she be tested by means of a blood sample rather than by urine. If the employee makes such a request, Maine Indian Education shall have a blood sample taken from the employee by a licensed physician, registered physician's assistant, registered nurse or a person certified by state or federal law to draw blood samples and test only that sample for the presence of substances of abuse.

#### G. Costs

The School Committee shall pay the costs of all substance abuse tests that it requires. Except as provided in paragraph 1 below, the employee or applicant shall pay the costs of any additional substance abuse tests. Costs of a substance abuse test administered at the request of an employee under section F, shall be paid:

1. By the School Committee if the test results are negative for all substances of abuse tested for in the sample; and
2. By the employee if the test results in a confirmed positive result for any of the substances of abuse tested for in the sample.

#### H. Action to be Taken Between Test and Receipt of Test Results

The School Committee may suspend an employee with full pay and benefits while awaiting an employee's test result. Applicants will not be employed and employees seeking transfers will not be assigned to new positions until a negative test result is received.

#### I. Consequences, Rehabilitation Opportunities and Procedures Following Positive Test Results

Employees who receive an initial confirmed positive substance abuse test result will be offered services of the School Committee's EAP for counseling and/or rehabilitation. The School Committee will provide the employee with an opportunity to participate for up to six months in a rehabilitation program designed to enable the employee to avoid future use of a substance of abuse. If the required services are not available from the School Committee's EAP or if the employee chooses not to participate in that program, the employee may enter a public or private rehabilitation program that is excepted by and approved of by Maine Indian Education's health insurance program. If the employee chooses not to participate in a rehabilitation program or does not comply with the rehabilitation, the employee will be terminated.

J. Limitation on Use of Tests

The School Committee may administer substance abuse tests to employees or applicants only for the purpose of discovering the use of any substance abuse likely to cause impairment. The School Committee will not cause substance abuse tests administered to an employee or applicant for the purpose of discovering any other information.

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