

TITLE: DRUG FREE WORKPLACE POLICY

1. General Policy. The Board believes it is imperative to establish, promote and maintain a safe, healthy working and learning environment for employees and students; to promote the reputation of the county school system and its employees as responsible citizens of public trust and employment; to eliminate substance abuse problems in the workplace; to aid in the reduction of absenteeism, tardiness and apathetic job performance; to provide a clear standard of job performance for county school employees; and to provide a consistent model of substance-free behavior for students and a quality educational environment which is not affected by alcohol or drugs. It will seek, therefore, to establish and maintain an educational setting that is not tainted by the use or evidence of use of any controlled substance and, thus, hereby establishes the Drug-Free Workplace Policy (the "Policy").

2. Definitions.

2.1 Alcohol: Ethyl alcohol, whatever its origin, and shall include synthetic ethyl alcohol but not denatured alcohol.

2.2 Contractor: Any department, division, unit or any person responsible for the performance or work under a contract.

2.3 Controlled Substance: Any substance that is designated as a controlled substance under state or federal law.

2.4 Covered Employee: A covered employee means "any person who operates a commercial motor vehicle. This includes, but is not limited to, full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operated contractors who are either directly employed by or under lease to an employer or who operates a commercial motor vehicle at the direction of or with the consent of an employer."

2.5 Conviction: A finding of guilt (including a plea of *nolo contendere*) or the imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.

2.6 Criminal Drug Statue: A criminal statute involving the manufacture, distribution, dispersion, use or possession of any controlled substance.

2.7 Drug: (1) Articles recognized as drugs in the USP-DI, Facts and Comparisons, Physician Desk Reference or supplements thereto, for use in the diagnosis, cure, mitigation, treatment or prevention of disease in human or other animals; (2) articles, other than food,

intended to affect the structure or any function of the body of human or other animals; or (3) articles intended for use as a component of any articles specified in subsection (1) or (2) of this section.

2.8 Employee: Any person who works full-time, part-time or under contract for the County Board of Education, including management of temporary staff who are directly engaged in the performance of work pursuant to the mission of the County Board of Education.

2.9 Federal Agency: Any agency as that term is defined in Section 552(f) of Title IV, United State Code.

2.10 Grantee: Any department, division, unit or any person responsible for the performance of work under the provisions of a federal grant.

2.11 Illegal Drug: Any drug that is not legally obtainable and/or is being used in a manner or for a purpose other than as prescribed.

2.12 Intoxicants: Any intoxicating substances such as inhalants.

2.13 Legal Drug: Non-prescription medication (medication that may be sold without a prescription and which is labeled for use by the consumer in accordance with the requirements of the laws and rules of this state and federal government) and prescription medication (medication, including any controlled substance under state or federal law that is required prior to being dispensed or delivered to be labeled with either of the following statements: (1) "Caution: Federal law prohibits dispensing without prescription"; (2) "Caution: Federal law restricts this drug by, or on the order of, a licensed veterinarian"; or a drug which is required by any applicable federal or state law or rule to be dispensed only to a prescription drug order is restricted to use by practitioners only).

2.14 Look-Alike Drugs: Tablets or capsules that are made to look like real drugs and roughly imitate their effects. They usually contain varying amounts of legal substances such as caffeine, ephedrine, phenylpropanolamine or aspirin and other non-controlled ingredients.

2.15 Work Day: For purposes of this policy, the work day includes all times when an employee is engaged in any work-related activity which includes performance of business during a regularly scheduled work day, meal break and/or any occasion having a connection with the Board of Education and/or the employee's duties, and at all times the employee is on any premises of the Workplace.

2.16 Workplace: A work site where work is performed in connection with the employee's contract with the Board. This workplace shall include facilities, property, buildings, offices, structures, automobiles, trucks, trailers, other vehicles, and parking areas, whether owned or leased by the Board, as well as any other work site neither owned nor leased by the Board, but where the employee is on site in connection with the employee's contract with the Board.

3. Content.

3.1 It is the policy of the Board to ensure that its Workplaces are free of illegal drugs and controlled substances by prohibiting the unlawful manufacture, distribution, possession or use of illegal drugs, non-medically prescribed drugs, controlled substances or alcohols; the reporting to work under the influence of illegal drugs, non-medically prescribed drugs, controlled substances, intoxicants, look-alike drugs, or alcohol; and/or the possession of non-medically prescribed paraphernalia.

3.2 The Policy is applicable while employees are on the Workplace or during the Work Day. In addition, this policy is applicable at any and all times when employees are on Board property or in attendance at any school or school board activity/function, regardless of its occurrence on Board property. It is further applicable during the performance of any and all job-related activities and/or while traveling in any vehicle either owned, leased or rented by the Board of Education.

3.3 The following shall be considered “prohibited conduct” for the purposes of this policy:

3.3.1 No employee shall unlawfully manufacture, distribute, possess or use illegal drugs, controlled substances, non-medically prescribed drugs, look-alike drugs and/or alcohol.

3.3.2 No employee shall report to work under the influence of illegal drugs, non-medically prescribed drugs, intoxicants, look-alike drugs or alcohol.

3.3.3 No employee shall possess any non-medically prescribed paraphernalia.

3.3.4 No employee shall report for duty or remain on duty while abusing legal (prescription or over-the-counter) drugs or alcohol.

3.3.5 No employee shall consume or possess open containers of alcohol on the Workplace, including, but not limited to, on County Board of Education property, in a Board of Education vehicle, in vehicles rented by the County Board of Education or in private vehicles then in use in furtherance of the Board of Education’s purposes.

3.3.6 No employee shall refuse to submit to a post-accident, random, reasonable suspicion, return-to-duty, or follow-up alcohol or drug test.

3.3.7 No employee shall report for duty or remain on duty when the employee uses any illegal or prescription drug, except when use is pursuant to the instruction of a physician who has advised employee that the substance does not adversely affect the employee’s ability to perform assigned duties.

3.3.8 If any employee engages in prohibited conduct as a result of legal medications, the employee is not qualified to perform assigned duties and shall be immediately removed from assignment.

4. Consequences. First Offense: If any employee engages in conduct prohibited by this policy, s/he shall be subject to the following:

4.1 Notification of law enforcement agency.

4.2 Notification, by certified mail, to the West Virginia Department of Education.

4.3 Suspension with pay pending investigation, including an opportunity to respond to charged violation.

4.4 Written notification of the charge and an opportunity for a hearing before the Board of Education.

4.5 Upon a determination of guilt by the Board of Education, suspension for up to ninety (90) days without pay.

4.6 Required enrollment in a substance abuse counseling program at the employee's expense. Failure to enroll shall be grounds for termination of employment.

4.7 Return to duties from a period of suspension without pay shall be conditioned on the following:

4.7.1 Employee furnished written verification of successful completion of a substance abuse counseling program;

4.7.2 Employee furnished physician's statement verifying the employee is drug/alcohol free;

4.7.3 Restoration and/or maintenance of any certification or license that are requisite to the ability of an employee to perform his or her duties;

4.7.4 Failure of an employee to meet the foregoing conditions for return to work within twenty (20) days prior to the end of a suspension without pay shall be grounds for termination of employment.

4.8 Submission to a random drug test on a monthly basis for a period of six (6) months following a return to duty.

4.9 In the event an employee is determined to be guilty of a violation of this policy and related actions of the employee are determined to have caused significant property damage, serious injury or death, the Superintendent may recommend termination of employment in lieu of a suspension without pay.

5. Consequences. Second Offense: If any employee engages in conduct prohibited by this policy, s/he shall be subject to the following:

5.1 Notification of law enforcement.

5.2 Notification, by certified mail, to the West Virginia Department of Education.

5.3 Suspension with pay pending investigation, including an opportunity to respond to charged violation.

5.4 Written notification of the charge and an opportunity for a hearing before the Board of Education.

5.5 Upon a determination of guilt by the Board of Education, termination of employment.

6. Reasonable Suspicion Testing. Reasonable suspicion for requiring an employee to submit to drug and/or alcohol testing shall be deemed to exist when an employee, while on the job or Workplace, manifests physical or behavioral symptoms or reactions commonly attributed to the use of controlled substances, look-alike drugs, intoxicants, illegal drugs or alcohol. Such employee conduct must be witnessed by at least one supervisor trained in compliance with this policy. Should a supervisor observe such symptoms or reactions, the employee must submit to testing. An employee who observes suspicious behavior by a supervisor should report this to the Superintendent.

7. Refusal to Test. Refusal to submit to the types of drug and alcohol tests employed by the county Board of Education will be grounds to terminate employment of existing employees. A refusal to test would include behavior that is intended to obstruct the proper administration of a test. Unreasonable delay in providing urine or a breath specimen could be considered a refusal. In the event that an employee cannot provide a sufficient urine specimen, the county Board of Education may direct the individual to a physician for purposes of evaluation. If the physician cannot find a legitimate medical explanation for the employee's inability to provide a specimen, either urine or breath, it will be considered a refusal to test.

8. Post-Accident Testing Procedures.

8.1 An employee must submit to drug and alcohol testing any time s/he is involved in an accident that occurs while on duty as an employee of the county Board of Education and involves damage to Board of Education property or injury to other employees or students.

8.2 Following any accident, the employee must contact the Board of Education as soon as possible and follow instructions for post-accident drug and alcohol testing.

8.3 Any time a post-accident drug or alcohol test is required, it must be performed as soon as possible following the accident. If no alcohol test can be made within eight (8) hours, attempts to perform an alcohol test shall cease. If no urine collection can be obtained

for the purposes of post-accident drug testing within thirty-two (32) hours, attempts to make such collection shall cease.

8.4 In the event that federal, state or local officials conduct breath or blood tests for the use of alcohol and/or urine tests for the use of controlled substances following an accident, these tests may meet the requirements of this section, provided the tests conform to applicable federal, state or local requirements. The Board of Education may request documentation from such agencies, and may ask the employee to sign a release allowing the Board of Education to obtain such test results.

8.5 In the event an employee is so seriously injured that the employee cannot provide a sample of urine, breath or saliva at the time of the accident, the employee must provide limited, necessary authorization for the Board of Education to obtain hospital records or other documents that would indicate the presence of controlled substances, intoxicants or alcohol in the employee's system at the time of the accident.

9. The District acknowledges that if it is a contractor or grantee under the terms of a federal contract or grant in the amount of \$25,000.00 or more, it shall be subject to suspension of payments and termination of the contract or grant if it makes an initial false certification or if the number of employee drug-related convictions indicates that it has not made a good faith effort to maintain a drug-free workplace.

10. Conditions.

As a condition of employment with the Board, employees shall:

1. Abide by the terms of this Policy: Compliance is mandatory.
2. Notify their supervisor or department head of any criminal drug statute conviction for a violation occurring in/on the Workplace no later than five (5) days after such conviction.
3. Sign a statement indicating the employee is aware of the Policy and shall abide by the terms of the Policy.
4. Education. It shall be the responsibility of Board to establish a drug awareness program for Board employees to provide information on the following:
 - 4.1 Referral services.
 - 4.2 The establishment and maintenance of a drug-free workplace, including this policy.
 - 4.3 The penalties for workplace drug-abuse.
 - 4.4 Available drug-free literature including dangers of drug abuse. The Superintendent shall establish guidelines that ensure compliance with this policy and that each

staff member is given a copy of the standards regarding unlawful possession, use or distribution of illicit drugs and alcohol by staff, and informed that compliance with this requirement is mandatory. Such guidelines shall provide for appropriate disciplinary actions.

5. Review Schedule. This policy shall be reviewed in accordance with the Policy Review Schedule published by the Superintendent.

Legal Authority: West Virginia Board of Education Policy 1461

Board Adoption: July 21, 2014