

- CERTIFIED PERSONNEL -**Drug-Free/Alcohol-Free Schools****DRUGS, ALCOHOL AND OTHER PROHIBITED SUBSTANCES**

District employees shall not manufacture, distribute, dispense, be under the influence of, purchase, possess, use, or attempt to purchase or obtain, sell or transfer any of the following in the workplace or in the performance of duties:

1. Alcoholic beverages;
2. Controlled substances, prohibited drugs and substances, and drug paraphernalia; and
3. Substances that look like a controlled substance. In instances involving look-alike substances, there must be evidence of the employee's intent to pass off the item as a controlled substance.

In addition, employees shall not possess prescription drugs for the purpose of sale or distribution.

DEFINITIONS

Controlled substance shall mean any substance or immediate precursor listed in Chapter 218A of the Kentucky Revised Statutes or any other substance added by the Kentucky Cabinet for Health and Human Services under regulations pursuant to [KRS 218A.020](#).

Prohibited drugs include, but are not limited to, any substance that an individual may not sell, possess, use, distribute or purchase under Federal or Kentucky law.

Prohibited substances include:

1. All prescription drugs obtained without authorization, and
2. All prohibited substances however taken or used, including but not limited to, inhaling, ingesting, and/or injecting. These include, but are not limited to, prescribed and over-the-counter drugs, prohibited volatile substances as defined in [KRS 217.900](#) or synthetic compounds/substances that are used or intended for use for an abusive and/or intoxicating purpose.

AUTHORIZED DRUGS

Employees who personally use or who are designated to administer to a student a drug authorized by and administered in accordance with a prescription from a health professional shall not be considered in violation of this policy.

WORKPLACE DEFINED

Workplace shall mean the site for the performance of work done for the District including any place where work on a District program, project or activity is performed, including, but not limited to, a school building or other school premises and any school-owned vehicle or any other school-approved vehicle used to transport students to and from school or school activities. "Workplace" shall also include school-sponsored or school-approved activities, events or functions which are held off school property and in which students are under District jurisdiction including, but not limited to, field trips and athletic events.

SUSPENSION/TERMINATION/NON-RENEWAL

Any employee who violates the terms of this policy may be suspended, non-renewed or terminated. In addition, violations may result in notification of appropriate legal officials.

Drug-Free/Alcohol-Free Schools**ALTERNATIVE**

As an alternative, the Superintendent may choose that an employee who violates the terms of the District's drug-free/alcohol-free workplace policies shall satisfactorily participate in a Board-approved drug/alcohol abuse assistance or rehabilitation program. If the employee fails to satisfactorily participate in such a program, the employee may be suspended, non-renewed or terminated.

REPORTING

Employees of the District shall promptly make a report to the local police department, sheriff, or Kentucky State Police, by telephone or otherwise, if they know or have reasonable cause to believe that conduct has occurred which constitutes the use, possession, or sale of controlled substances on the school premises or within one thousand (1,000) feet of school premises, on a school bus, or at a school sponsored or sanctioned event.

NOTIFICATION BY EMPLOYEE

Any employee convicted of a workplace violation of criminal drug statutes shall, within five (5) working days, provide notification of the conviction to the Superintendent.

POST-DISCIPLINE DRUG TESTING

Following determination by an administrative or judicial proceeding that s/he engaged in misconduct involving the illegal use of controlled substances, a teacher who has been reprimanded or disciplined for misconduct involving illegal use of controlled substances shall submit to random or periodic drug testing in accordance with applicable Kentucky Administrative Regulation for a period not to exceed twelve (12) months from the date of such reprimand or disciplinary action.

PREVENTION PROGRAM

The Superintendent shall establish a comprehensive and on-going drug-free/alcohol-free prevention program for all employees which shall include notice of the following:

1. The dangers of drug/alcohol/substance abuse in the schools;
2. The District's policies and related procedures on drug-free/alcohol-free schools;
3. The requirement for mandatory compliance with the District's established standards of conduct, including those that prohibit use of alcohol, drugs and other controlled and prohibited substances;
4. Information about available drug/alcohol counseling programs and available rehabilitation/employee assistance programs; and
5. Penalties that may be imposed upon employees for violations of this policy.

Drug-Free/Alcohol-Free Schools**DRUG/ALCOHOL TESTING PROGRAM****PURPOSE**

The Board is committed to a safe working environment, to making adequate provisions for the safety and health of its employees at their place of employment, and to the safety and health of the students we serve as well as the general public. The Board regards its personnel as individuals as well as employees. Therefore, the Board believes that alcoholism and drug addiction are illnesses and should be treated as such. The Board further believes that employees who develop alcoholism or drug addictions can be helped to recover and should be offered appropriate assistance. It is in the best interest of the employee and the Board that, when present, alcoholism or drug addiction should be diagnosed and treated at the earliest possible date. Confidential treatment of the diagnosis and recovery process for alcoholism or drug addiction is essential.

The Board recognizes that substance abuse in our nation and in our community exacts staggering costs in both human and economic terms. Substance abuse can be reasonably expected to produce impaired job performance, lost productivity, absenteeism, accidents, wasted materials, lowered morale, rising health-care costs, and diminished interpersonal relationship skills. The Board and its employees share a commitment to create and maintain a drug-free workplace.

The Board is responsible for the instruction and well-being of the students entrusted to its care. A consistent message needs to be communicated by the Board that the use of illegal drugs, the use of prohibited substances, the abuse of alcohol, and the misuse of prescription drugs are unacceptable.

Provisions of the Federal Anti-Drug Act, 41 U.S.C.A. §702, require federal grant recipients to establish a drug-free workplace. Employees must be provided with a statement notifying them of the prohibitions pertaining to controlled substances, consequences of violations, and compliance with the drug-free policy as a condition of employment. Employers must inform employees of drug-free requirements through an awareness program.

POLICY GOALS AND OBJECTIVES

1. To establish, promote, and maintain a safe, healthy working and learning environment for employees and students.
2. To aid the affected employee in locating a rehabilitation program for employees with a self-admitted or detected substance abuse problem.
3. To promote the reputation of the District and its employees as responsible citizens of public trust and employment.
4. To eliminate substance abuse problems in the workplace.
5. To aid in the reduction of absenteeism, tardiness, and performance work-related apathy.
6. To provide a clear standard of job performance for District employees.
7. To provide a consistent model of substance-free behavior for students.

Drug-Free/Alcohol-Free Schools

PRE-EMPLOYMENT TESTING

In the furtherance of achieving the Board's goals and objectives as enumerated above, all applicants to whom an offer of employment has been extended shall be required to submit to a urinalysis test for the detection of the illegal use of drugs as part of the currently required post-offer, pre-employment process. Applicants shall be given a copy of this policy in advance of the post-offer, pre-employment process. Pre-employment testing does not apply to those who were in the random drug-testing pool the previous school year.

Applicants shall acknowledge having read or had this policy explained to them and should understand that as a condition of employment they are subject to its contents. Applicants shall sign an acknowledgment prior to substance screening, permitting the summary result to be transmitted to the Random Drug Testing Coordinator (RDTC) and the Superintendent. An applicant refusing to complete any part of the drug-testing procedure shall not be considered a valid candidate for employment with the District, and such refusal shall be considered as a withdrawal of the individual's application for employment. The applicant shall not be permitted to reapply for employment with the District for at least twelve (12) months and not until the applicant shows proof of successful completion of a drug rehabilitation program or proof that the applicant is otherwise no longer engaging in illegal drug use.

If substance screening shows a confirmed positive result for which there is no current physician's prescription, a second confirming test may be requested by the RDTC. If the second confirming test is positive, any job offer shall be revoked.

NOTICE TO PARTICIPANTS

A written copy of this substance testing policy and corresponding procedures is available at the Central Office of the District for review and copying. Employees shall be required to sign a statement indicating that they have read and understood and are in complete agreement to be bound by the terms, conditions and procedures under this policy.

A written copy of policy and corresponding procedures may be available from the District Web Page.

BOARD CONTRACTED FACILITY

Drug screening shall be conducted by a Board approved, independent, certified laboratory utilizing recognized techniques and procedures. The contract with such facility shall specify the substances to be tested.

RANDOM SCREENING

The Board also has established a random drug testing program for employees in a safety sensitive position. The Board has several positions that are considered safety-sensitive. In general, these are positions where a single mistake by such employee can create an immediate threat of serious harm to students and fellow employees.

Safety-sensitive positions requiring random drug testing may be but are not limited to: Principal, Assistant Principal, teacher, traveling teacher, teacher aide, substitute teacher, paraprofessionals (i.e., coaches and assistant coaches), school secretary and any staff that may assist with supervision of students at any time during the school year or assist in implementation of student safety protocol district-wide at any time during the school year. Testing of school bus drivers and other transportation employees is covered under other policies/regulations.

Drug-Free/Alcohol-Free Schools**RANDOM SCREENING (CONTINUED)**

The Mercer County Board of Education has identified certain classified and certified positions that are subject to the substance testing policy(ies) for the District. The testing under these policies shall be in addition to any other policies of the District or per federal and/or state law (i.e., those subject to testing per transportation of District personnel and/or students will be in both testing “pools”.) District employees, whether for certified or classified positions, may be subject to being included in both pools for testing as required under the policies of the District. The effective date of the removal from any respective District employee from the respective testing pool shall be determined based on the terms of each respective position.

Many certified and classified positions will have safety sensitive job requirements as defined in the District Policies. All employees of the Mercer County School District are subject to all District policies, including but not limited to the Drug Free Alcohol Free Schools’ policies (03.13251 & 03.23251) as set forth by the Mercer County Board of Education.

A plan to implement the drug and alcohol testing program shall be developed by District personnel in cooperation with the testing laboratory and shall be provided to all schools and kept on file in the Central Office.

Any and all administrative policies on the testing shall be available to any certified personnel and/or their counsel, heirs, their personal representatives of their respective estates.

Any challenges to the testing, including but not limited to the selection process for those certified personnel to be tested, manner in which the test is conducted, the processes under which the test results were obtained are subject to review. Any such review shall be preserved upon the certified employee and/or their counsel or personal representative achieving actual delivery written notice of the challenge the later of either of the following to occur:

1. The written request for review be hand delivered or served by certified mail or its equivalent [example UPS, Fed Ex or other expedited service the service of which can be identified by independent verification] to the Superintendent and/or his/her designee, within 3 days of the delivery of the result(s) from the any test herein authorized to the certified employee, OR
2. The actual delivery of written request for review within 5 business days, excluding nationally recognized holidays and weekends, to the Superintendent and/or his/her designee by any means.

Testing Program. Testing shall be accomplished by the analysis of a urine specimen obtained from staff. Collection and testing procedures shall be established, maintained, and administered by a Board approved testing vendor to ensure, among other things, the following:

1. Randomness of selection procedures
2. Proper staff identification
3. Identification of each specimen with the appropriate staff participant
4. Integrity of the collection and testing process, as well as the confidentiality of test results (The specific testing process shall be on file at the testing laboratory approved by the Board.)

Drug-Free/Alcohol-Free Schools**RANDOM SCREENING (CONTINUED)**

5. Information regarding this policy, including but not limited to, the collection procedure(s) will be made available upon request.

Substances Tested. Urine specimens of participating staff shall be tested for the following which include, but may not be limited to:

1. Amphetamines	1. Barbituates
2. Benzodiazepines	2. Cocaine Metabolite
3. Opiates	3. Oxycodone
4. Phencyclidine	Marijuana Metabolite
5. Methadone	Methaqualone
6. Synthetic Drugs	* KRS 218A.010 * KRS 217.900 (Referenced below)

*Controlled substance means any substance or immediate precursor listed in Chapter 218A of the Kentucky Revised Statutes or any other substance added by regulation under [KRS 218A.010](#).

*[KRS 217.900](#) – All prohibited substances however taken or used, including, but not limited to, inhaling, ingesting, and/or injecting. These include, but are not limited to, prescribed and over-the-counter drugs, prohibited volatile substances as defined in [KRS 217.900](#) or synthetic compounds/substances that are used or intended for use for an abusive and/or intoxicating purpose.

Any staff participant who tests positive may contest the test result by informing the Superintendent/designee within seventy-two (72) hours of receipt of notice of the positive test result.

EMPLOYEE CONDUCT

“Substance abuse” is the misuse or illicit use of alcohol, drugs, prohibited substances, or controlled substances, including marijuana, heroin, or cocaine.

Use of illegal drugs, prohibited substances, or alcohol by employees interferes with the educational and work process, and such use shall not be tolerated. Further, employees on duty, or on District property, or in attendance at system-approved or school-related functions shall not manufacture, distribute, dispense, possess, use, sell or transfer illegal drugs, prohibited substances, or drug paraphernalia; nor shall they be under the influence of such drugs.

Failure of the employee to report the conviction within the time prescribed shall lead to disciplinary action up to and including discharge. Convictions of a criminal drug law can result in disciplinary action up to and including discharge.

From time to time it is acknowledged that school employees may be in possession of lawful and proper prescription drug(s) belonging to someone other than themselves. The only time possession of such prescriptions shall be permitted is when the possession is for the sole and exclusive administration of the prescription for an immediate family member and/or student for whom the prescription has been provided by a licensed doctor and/or medical professional.

Drug-Free/Alcohol-Free Schools**ALCOHOL AND DRUGS**

Alcohol, prescription drugs, many prohibited substances, and over-the-counter drugs are legal and readily available. These drugs, when abused over time or used in combination with one another, can result in chemical dependency or poly-drug addiction. Employees are expected to conduct themselves in a manner consistent with the following provisions:

- Employees on duty, or on District property, or in attendance at system-approved or school-related functions shall not be under any degree of intoxication or odor from alcohol. Employees shall not manufacture, sell, or use alcoholic beverages or possess open alcoholic beverage containers while on duty, on-District property, or in attendance at system-approved or school-related functions.
- Employees on duty shall not use or take prescription drugs above the level recommended by the prescribing physician and shall not use prescribed drugs or prohibited substances for purposes other than those for which they are intended. Employees shall not dispense such drugs except as provided in Board Policy 09.2241.
- An employee convicted of any criminal drug law involving the use of alcohol, prescription drugs, or over-the-counter drugs shall notify the Superintendent no later than five (5) days after such conviction. Within thirty (30) days after receiving notice of a conviction, the Superintendent shall take appropriate disciplinary action and/or refer the employee to an appropriate substance-abuse rehabilitation program.

Failure of the employee to report the conviction within the time prescribed shall lead to disciplinary action up to and including discharge. Convictions of a criminal drug law involving the use of alcohol, prescription drugs, or over-the-counter drugs can result in disciplinary action up to and including discharge.

PHYSICAL EXAMINATIONS/SCREENING BASED UPON REASONABLE SUSPICION

Whenever the Board, through its Superintendent or the person authorized to act in the Superintendent's absence, and/or the RDTC reasonably suspects that an employee's work performance or on-the-job behavior may have been affected in any way by illegal drugs, abuse of prescription drugs or alcohol, or that an employee has otherwise violated this policy, the employee may be required to submit a breath and/or urine sample for drug and alcohol testing. When the supervisor observes or is notified of behaviors or events that lead the supervisor to believe that the employee is in violation of this policy, the supervisor should notify the RDTC.

An employee who tests positive on a reasonable suspicion test shall be in violation of this policy. Violation of this policy shall constitute grounds for disciplinary action up to and including termination in accordance with Board policy and state law.

The Superintendent/designee or the RDTC is the only individual in the District authorized to make the determination that reasonable suspicion or cause exists to order a drug screen and are the only individuals in the District who may order an employee to submit to a drug screen test.

Drug-Free/Alcohol-Free Schools**PHYSICAL EXAMINATIONS/SCREENING BASED UPON REASONABLE SUSPICION (CONTINUED)**

Circumstances, under which substance screening may be considered, include but are not limited to the following:

1. Observed use, possession, or sale of illegal drugs and/or illegal use, possession, sale, or abuse of alcohol and/or the illegal use or sale of prescription drugs;
2. Apparent physical state of impairment of motor functions;
3. Marked changes in personal behavior not attributable to other factors;
4. Employee involvement in or contribution to an accident where the use of alcohol or drugs is reasonably suspected or employee involvement in a pattern of repetitive accidents, whether or not they involve actual or potential injury; and
5. Violations of criminal drug law statutes involving the use of illegal drugs, alcohol, or prescription drugs and/or violations of drug statutes.

The circumstances, under which substance screening may be considered, as outlined above, are strictly limited in time and place to employee conduct on duty or during work hours, or on or in District property, or at school-related functions of the District.

Prior to substance screening, employees shall sign an acknowledgment that the summary result shall be transmitted to the RDTC and the Superintendent.

Drug and/or alcohol screening shall be conducted by Board-approved, independent, certified laboratories utilizing recognized techniques and procedures.

RETURN-TO-DUTY TESTING

An employee who has been given the opportunity to undergo rehabilitation for drugs or alcohol shall, as a condition of returning to duty, be required to agree to reasonable follow-up testing established by the Superintendent. The extent and duration of the follow-up testing shall depend upon the safety or security nature of the employee's position and the nature and extent of the employee's substance abuse or alcohol problem. The Superintendent is to review the conditions of continued employment with the employee prior to the employee's return to work. Any such condition for continued employment shall be given to the employee in writing. The Superintendent shall consult with the employee's rehabilitation program in determining an appropriate follow-up program, including the frequency of any substance screening contained in a follow-up testing program. In no instance shall such screening be ordered by the Superintendent more than one (1) time within a seventy-two (72)-hour period.

Any employee subject to return-to-duty testing who has a confirmed positive drug test or under the influence of alcohol shall be in violation of this policy. Violation of this policy shall constitute grounds for disciplinary action up to and including immediate termination in accordance with Board policy and state law.

POST ADMINISTRATIVE/JUDICIAL FINDING DRUG TESTING

Following determination by an administrative or judicial proceeding that s/he engaged in misconduct involving the illegal use of controlled substances, an employee who has been reprimanded or disciplined for misconduct involving illegal use of controlled substances or alcohol shall submit to random or periodic drug testing in accordance with applicable Kentucky Administrative Regulation for a period not to exceed twelve (12) months from the date of such reprimand or disciplinary action.

Drug-Free/Alcohol-Free Schools**REHABILITATION**

The Board of Education recognizes that chemical dependency is an illness that may be successfully treated.

It is the policy of the Board, where possible in addition to appropriate personnel action, to refer for rehabilitation an employee with a self-admitted or detected drug or alcohol problem.

Employees seeking medical attention for chemical dependency shall be entitled to benefits to the extent covered under the District's group medical insurance plans, if they have chosen to be covered by said plans.

For employees enrolled in a formal treatment/rehabilitation program, the Board may grant sick leave and other leave as appropriate until the same are exhausted and then may grant leave without pay not to exceed one (1) year.

The cost of the drug rehabilitation or treatment provider shall be borne by the employee and/or the employee's insurance provider.

Safe Harbor-The Board strongly encourages employees using illegal drugs or alcohol to voluntarily refer themselves to a treatment program. A "voluntary referral" is defined as being one that occurs prior to any positive test for illegal drugs under this policy or prior to any other violation of this policy, including a criminal conviction of that individual on a drug-related offense. Employees are not subject to disciplinary action for the act of voluntary referral to rehabilitation, even where rehabilitation is for the use of illegal drugs or alcohol. However, this rehabilitation section of the policy shall not be construed to prevent discipline of employees for conduct in violation of this policy.

DISCIPLINARY ACTION

Employees in violation of the provisions of this policy shall be subject to disciplinary action up to and including termination.

The fact that an employee has been referred for assistance and his/her willingness or ability to rehabilitate are appropriate considerations as to what, if any, personnel action may be taken.

REFUSAL TO BE TESTED

Employees who are required to undergo but refuse a drug/alcohol testing based on reasonable suspicion or on selection for safety-sensitive random testing shall be subject to disciplinary action for insubordination up to and including termination.

CONFIDENTIALITY

Records that pertain to required substance screens are recognized as private and sensitive records. They shall be maintained by the RDTC in a secure fashion to ensure confidentiality and privacy and be disclosed to the Superintendent only to the extent necessary to address any work-related safety risks occasioned by either the drug or alcohol use. The Superintendent shall maintain any and all such records in a secure fashion to ensure confidentiality and privacy. Medical records, and information relating directly thereto, shall be maintained in accordance with provisions of Kentucky law and used with the highest regard for employee privacy consistent with law and the purpose of achieving and maintaining a drug-free workplace. All personnel records and information regarding referral, evaluation, substance screen results, and treatment shall be maintained in a confidential manner separate from the employee's personnel file.

Drug-Free/Alcohol-Free Schools**CHANGES TO POLICY**

This policy may be amended from time to time to facilitate needed changes in the Board's Drug-Free Workplace Substance Abuse Program.

DEFINITIONS AS USED IN THIS POLICY

1. "Illegal use of drugs" means the use or purchase of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. A. §812). Such term does not include the use of a drug taken under the supervision by a licensed health-care professional or other uses authorized by the Controlled Substances Act.
2. "Drug" or "illegal drug" means a controlled substance as defined in Schedules through V of §202 of the Controlled Substances Act.
3. "Conviction" means a finding of guilt, including a plea of no-contest, or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
4. "Criminal drug law" means a federal or non-federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.
5. "Controlled substance" shall mean any substance or immediate precursor listed in Chapter 218A of the Kentucky Revised Statutes or any other substance which may be added by the Kentucky Cabinet for Health and Human Services under regulations pursuant to [KRS 218A.020](#).
6. "Prohibited drugs" include, but are not limited to, any substance that an individual may not sell, possess, use, distribute or purchase under Federal or Kentucky law.
"Prohibited substances" include:
 - a. All prescription drugs obtained without authorization, and
 - b. All prohibited substances however taken or used, including but not limited to, inhaling, ingesting, and/or injecting. These include, but are not limited to, prescribed and over-the-counter drugs, alcohol, prohibited volatile substances as defined in [KRS 217.900](#), or synthetic compounds/substances that are used or intended for use for an abusive and/or intoxicating purpose.

REFERENCES:

[KRS 160.290](#); [KRS 160.380](#)
[KRS 161.120](#); [KRS 161.175](#); [KRS 161.790](#)
[KRS 217.900](#); [KRS 218A.1430](#); [KRS 218A.1447](#)
[016 KAR 001:030](#); [701 KAR 005:130](#); 34 C.F.R Part 85
P. L. 101-226 (Improving America's Schools Act of 1994 (Title IV): Safe and Drug-Free Schools and Communities)

RELATED POLICIES:

03.1325; 08.1345; 09.2241

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