

KANAWHA COUNTY BOARD OF EDUCATION POLICY

Series G81 - Employee Drug Use Prevention Policy

81.01 Purpose. The safety and security of personnel, students, and visitors as well as property of Kanawha County Schools is of vital importance to the Kanawha County Board of Education. The purpose of this policy is to create and maintain a drug and alcohol-free work environment.

81.02 Scope.

This policy applies to all Kanawha County Schools' facilities and property, to all faculty, staff, students, and visitors to school property. This policy is intended to be supplemental to and not in substitution for Board of Education Policy Series G37 which is applicable only to Kanawha County Schools' transportation department. This policy to inform employees about the prohibitions pertaining to controlled substances, consequences of violations, and compliance with the drug-free policy as a condition of employment.

81.03 Definitions.

- "Conviction" means a finding of guilt (including a plea of nolo contendere) 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. "Conviction" shall also mean and include any finding of guilt that results in probation and conditional discharge as provided in 21 USC 44.
- "Criminal drug statute" means a Federal or non-Federal Criminal statute involving the manufacture, distribution, dispensing, use or possession of any controlled substance.
- "Possession" means to have on one's person, in one's personal effects, in one's vehicle or otherwise under one's care, custody, or control.
- "Substance" means any alcohol, drugs, other substances (whether ingested, inhaled, injected subcutaneously, or otherwise) that have known mind altering or function-altering effects upon the human body or that impair one's ability to safely perform his or her work, specifically including, but not limited to, prescriptions drugs and over the-counter medications; alcohol, drugs, and other substances made illegal under federal or state law; "synthetic or designer" drugs: illegal inhalants; "look-alike" drugs; amphetamines, cannabinoids (marijuana and hashish), cocaine, phencyclidine (PCP), and opiates; and any drugs or other substances references in Schedule I through V of 21 C.F.R. Part 1308 (whether or not such drugs or other substances are narcotics).
- "Premises" means, for the purpose of this policy, all property, facilities, buildings, structures, installations, work locations, work areas, or vehicles owned, operated, leased, or under the control of Kanawha County Schools. Private vehicles used for school purposes or parked on school premises or properties are also included under this definition.
- "Under the Influence" means the condition wherein any of the body's sensory, cognitive, or motor functions or capabilities is altered, impaired, diminished, or affected due to substances. This also means the detectable presence of substances within the body, regardless of when or where they may have been

- consumed, having an alcohol test result of 0.02 or greater alcohol concentration of blood or breath, and/or having a positive test for other substances.
- “Prescription” means a issued to the employee by a licensed health care provider authorized to issue such medication and used for its intended purpose as prescribed before any expiration date.
 - “Safety Sensitive” Positions Defined” means positions which involve the care and supervision of students or where a single mistake by such an employee could create an immediate threat of serious harm to students, to him or herself or to fellow employees. Safety sensitive positions shall include, but not be limited to, the following positions:
 - Anyone who operates dangerous machinery
 - Anyone who operates a county-owned vehicle
 - Anyone who job duties include administering medication to students
 - Anyone who drives his or her own vehicle on school business on a routine or regular basis. Use of an individual’s vehicle for commuting to or from school or other workplace shall not be considered school business.
 - Any other person who volunteers to be subject to this policy.
 - “Voluntary referral” means an admission or request for treatment that occurs prior to any positive test for illegal drugs under this Policy or prior to any other violation of this Policy, including an offense leading to a criminal conviction of that individual on a drug charge

81.04 General Policy.

The Kanawha County Board of Education is responsible for the instruction and well-being of the students entrusted to its care. In that aim, the Board finds the use of illegal drugs, the abuse of alcohol, and the misuse of prescription drugs are unacceptable. Any person who chooses to take employment with the Board shall show, in accordance with the procedure below, that they do not, at the time of employment, have an issue with substance misuse or abuse. The procedure for this is outlined in the “Pre-Employment Substance Testing Procedure” below.

Further, after a person has been hired by the Board, it is the expectation they continue to not use or misuse illicit substances. In accordance with the “For Cause Testing Procedures” below, the Board will respond to employees who exhibit signs of illicit drug misuse or abuse.

For both the pre-employment testing or the for-cause testing, the testing will be done by a qualified lab or qualified individual. If it is reported by the testing laboratory or individual that the specimen provided is adulterated or substituted, that will be considered a refusal to test, and therefore grounds for termination of employment or ineligibility for hire.

Lastly, it is a violation of the law to manufacture, possess, use, sell, distribute, receive, or transport illicit drugs on Kanawha County Schools’ property or at any school sponsored activity. Illegal possession, distribution, use or being under the influence of illicit drugs, as covered in the policy, or alcohol by employees, faculty, staff, students, visitors, guests, or other individuals on Kanawha County Schools property or at any school sponsored activity will not be tolerated and may subject violators to discipline and/or legal action. With the prior approval of the Superintendent of Schools or his designee, management may conduct searches of school property, including lockers, and, when on school property or while

conducting school business, an employee's personal property, including vehicles, in cases where there is reasonable, good faith, objective suspicion of an employee's drug or alcohol usage in violation of this policy. While no search will be conducted without an employee's consent, consent to a search is a condition of continued employment with the district. An employee who refuses to cooperate in a reasonable suspicion search will be subject to disciplinary action up to and including termination of employment.

81.05 Pre-Employment Substance Testing Policy and Procedure.

All applicants who are offered employment by the Kanawha County Board of Education will 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 but pre-employment.

Applicants will be given a copy of this Policy as a part of the pre-employment process. Applicants will 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. An applicant refusing to complete any part of the drug testing procedure will not be considered a valid candidate for employment with the Kanawha County Board of Education, and such will be considered as a withdrawal of the individual's application for employment.

The Drugs Screened for are: Amphetamines, Barbiturates, Benzodiazepines, Cocaine, Opiates, THC, Methaqualone, Continine, Suboxone/Methadone, Ecstasy, Ethyl Glucyronide, and Phencyclidine.

If substance screening shows a confirmed positive result for which there is no current physician's prescription, a second confirming test from the original sample will be requested. If the first and any requested second confirming test is positive, any job offer will be revoked. The applicant will not be permitted to reapply for employment with the Kanawha County Board of Education 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 has otherwise rehabilitated successfully and is no longer engaging in illegal drug use.

81.06 For Cause Testing Policy and Procedures.

When a supervisor observes or is notified of behaviors or events that lead the supervisor to believe that the employee is in violation of the Drug Free Workplace Substance Abuse Policy, the supervisor should notify the Executive Director of Human Resources, the District Head Nurse, and or any person whom they authorize to evaluate reasonable suspicion. The Executive Director, the District Head Nurse, and or other authorized person will evaluate if there is reasonable suspicion to believe an employee's work performance or on-the-job behavior may have been affected in any way by illegal drugs or alcohol or that an employee has otherwise violated the Kanawha County Board of Education Drug-Free Workplace Substance Abuse Policy. The Executive Director, the District Head Nurse, and or other authorized person are the only people who are authorized to order a reasonable suspicion drug/alcohol screen. If there is reasonable suspicion, the employee will be required to submit to a drug/alcohol screen.

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

test may also be performed by the Kanawha County Sheriff's Department, or any local police department equipped to administer such a test.

Prior to substance screening, employees will sign an acknowledgment that the summary result will be transmitted to the Executive Director for Human Resources. An employee who is required to submit to a drug/alcohol screen based upon reasonable suspicion and refusal will be charged with insubordination, and necessary procedures will be taken to terminate the employee in accordance with Board Policy. An employee who tests positive on a reasonable suspicion test will be in violation of this Policy. Violation of this Policy may constitute grounds for termination in accordance with Board Policy and state law.

There are two types of cases for which reasonable suspicion procedures may be invoked and for cause testing to occur.

1. Chronic Case, which may be characterized by deteriorating job performance or changes in personal traits characteristics where the use of alcohol or drugs may be reasonably suspected as the cause. These cases may develop over a fairly long period of time. This type of testing may be characterized as a fit for duty.
2. Acute Case, which can be the following:
 - (i) appearing in a specific incident or observation to be under the present influence of alcohol and/or drugs while on duty or during working hours. The screening for this type of incident may be referred to as a fitness for duty, as well;
 - (ii) having evidence of a medication administration/handling discrepancy or where a substance is missing, all staff members who were involved in the handling of, or had access to, the missing substance will be screened; or
 - (iii) after investigation of an accident it appears the use of alcohol or drugs is reasonably suspected to be a contributing cause. Regardless of any previous history, immediate action is necessary.

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 Kanawha County Board of Education property, or at school system-approved or school-related functions.

81.07 Promotion and Transfer Testing Policy and Procedure.

When an employee is provisionally offered a position through the Kanawha County Board of Education's selection process for a job that has been identified as being a safety sensitive position, such employee will be subject to drug testing, and notified as such in the posting and again at the time of provisional acceptance of the position before the employee will be given final approval for the position. An employee who tests positive for illegal drugs on a promotion/transfer test will no longer be considered an applicant for that position. If the individual is currently an employee, the employee will also be in violation of this policy and may be terminated in accordance with Board policy and state law.

An employee may withdraw the application for the position at any time up until the employee is scheduled for promotion/transfer testing. Once an employee is scheduled for promotion/transfer testing, if that employee refuses to submit to the test, he/she will be

disqualified for consideration for the position. The employee will not be considered as a viable candidate for any future openings in this classification until the employee has signed a release for drug testing at the time of submitting the application for the position.

81.08 Rehabilitation and Return to Duty Testing Policy and Procedure.

The Kanawha County Board of Education strongly encourages employees using illegal drugs or alcohol to voluntarily refer themselves to a treatment program. Employees are not subject to disciplinary action for voluntary referral to rehabilitation, even where rehabilitation is for the use of illegal drugs or alcohol.

If there is an admission of addiction and need for rehabilitative services after an incident that is discovered following the above procedures, the employee may also be given an opportunity to seek treatment and undergo rehabilitation as a condition of returning to duty. Whether or not this is permitted, in lieu of termination, is entirely dependent on the facts as accessed by the Executive Director of Human Resources and the Superintendent,

If the employee is permitted to return to duty subject to attending a rehabilitation program the employee will be required to agree to a reasonable follow-up testing prior to taking leave from their position. The extent and duration of the follow-up testing will depend upon the safety or security nature of the employee's position and the nature and extent of the employee's substance abuse problem. The Executive Director for Human Resources is to review the conditions of continued employment with the employee prior to the employee's returning to work. Any such condition for continued employment shall be given to the employee in writing. The Executive Director for Human Resources may consult with the employee's rehabilitation program in determining an appropriate follow-up testing 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 Executive Director of Human Resources 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 will be in violation of this Policy. Violation of this Policy will constitute grounds for immediate termination in accordance with Board Policy and state law.

81.09 Confidentiality. All test results and rehabilitation information will be handled on a confidential basis and will be available only to the Kanawha County Schools personnel who have a need to know such results. The Executive Director, Human Resources or his/her designated representative will determine who will have access to these records.

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