

Series 3000 Personnel Section

3100 General Provisions

Policy 3101 Drug Free Work Place

3101.1 STATEMENT OF PURPOSE: The WV Board of Education and the Harrison County Board of Education recognize the need to provide a high quality work environment. The use of alcohol and/or illegal drugs is a health and safety hazard and inhibits productivity. The Harrison County Board of Education, along with the WV Department of Education, shall assure full compliance with all regulations that define a drug-free workplace.

It is the policy of the Harrison County Board of Education to ensure that its workplaces are free of alcohol, intoxicants, look-alike drugs, illegal drugs and legal drugs/controlled substances which have not been lawfully prescribed, and drug paraphernalia by prohibiting: the unlawful manufacture, distribution, possession and/or use, without medical authorization, of the same at its workplaces; the reporting to work under the influence of the same during the workday and/or while on/in property, buildings, and/or vehicles owned or leased by Harrison County Schools.

The Board of Education adopts this policy to establish and maintain a drug-free workplace. The use, misuse and abuse of alcohol and drugs in the workplace present a clear danger to the health, welfare, and safety of the Board's students and employees. All employees shall be made aware of this policy and its requirements.

3101.2 APPLICATION

The policy is applicable to all employees who are engaged in any work related activity which includes performance of agency business during regularly scheduled work day, meal breaks, and/or occasions having a connection the business of Harrison County Schools. Possession and/or distribution of alcohol, intoxicants, look-alike drugs, illegal drugs and legal drugs/controlled substances which have not been lawfully prescribed, and drug paraphernalia will be dealt with promptly in accordance with legal and administrative disciplinary procedures.

3101.3 PROHIBITED AND REQUIRED EMPLOYEE CONDUCT

- A. No employee shall unlawfully manufacture, distribute, possess or use alcohol, intoxicants, look-alike drugs, illegal drugs and/or legal drugs/controlled substances which have not been lawfully prescribed, and/or drug paraphernalia at any time or place subject to this policy.
- B. No employee shall report to work or remain on duty while under the influence of intoxicants, look-alike drugs, illegal drugs and legal drugs/controlled substances which have not been lawfully prescribed except when its use is pursuant to the instructions of a physician who has prescribed for and advised the employee that the substance will not adversely affect the employee's ability to perform his/her duties.
- C. No employee shall report to work or remain on duty while having a detectable blood alcohol concentration.
- D. No employee shall report for duty or remain on duty while under the influence of any amount of intoxicants, look-alike drugs, illegal drugs and/or legal drugs/controlled substances which have not been lawfully prescribed.

- E. No employee shall consume or possess open containers of alcohol on Board of Education property, in a Board of Education vehicle or vehicles rented by the Board of Education.
- F. No employee shall refuse to submit to a post-accident, reasonable suspicion, return-to-duty, or follow-up alcohol or drug test, as applicable. Any such refusal shall be treated as a positive drug test, and the employee will be subject to discipline up to suspension without pay and/or termination.
- G. Employees suspected of engaging in conduct prohibited by this policy shall be deemed unqualified to perform his/her assigned duties and shall be immediately removed from his/her assignment in order to protect the health, safety, and welfare of students and others in the workplace.
- H. Employees who violate any portion of a drug testing facility's protocol for obtaining a sample from the employee, which protocol has been explained to the employee orally or otherwise, are subject to disciplinary action up to and including suspension without pay and termination of their employment with the Board.
- I. No employee shall commit a Criminal Drug Statute offense.
- J. Every employee shall notify his/her immediate supervisor if he/she is arrested for violating a criminal drug statute. The employee shall notify the immediate supervisor of the status of arrest (including pleading no contest) or conviction. Both shall be reported by the employee within five (5) calendar days.

3101.4 PENALTIES

Any employees who engages in conduct prohibited by this policy shall be subject to one or more of the following actions depending upon the circumstances of the violation:

- A. Notification of law enforcement agency
- B. Notification of the West Virginia Department of Education
- C. Notification of the federal department of education or federal grantor (conviction of a criminal drug statute occurring in the workplace)
- D. Suspension with and/or without pay
- E. Termination of employment
- F. Mandated enrollment in the successful completion of a substance abuse/counseling program at the employee's own expense as a condition of continued employment with the Board of Education

3101.5 CONTRACTORS AND SUB-CONTRACTORS

State or county agencies who are contractors or grantees of federal contracts or grants are subject to suspension of payments and termination of the contract or grant for violations of any of the requirements of a drug-free workplace if they make a false initial certification, or if the number of drug related convictions of employees indicates that the employer has not made a good faith effort to maintain a drug-free workplace.

3101.6 COMPLIANCE

- A. As a condition of employment with the Harrison County Board of Education employees shall:
- B. Abide by the terms of this policy; compliance is mandatory
- C. Notify his/her supervisor or department head of any criminal drug statute arrest and/or conviction for a violation occurring in the work place, no later than 5 calendar days after such act
- D. Sign the "Drug-Free Workplace Verification Statement"
- E. Furnish written proof of return to work to legally perform his/her job duties for Harrison County Schools as delineated in the employee's job description and duties
- F. Consent to and complete, at a cost assumed by the employee, a pre-return-to-work urine or blood drug test.
- G. At the discretion of the Superintendent, the employee must furnish a written verification of his/her successful completion of a substance abuse/counseling program or written verification that he/she is drug/alcohol free other than prescription drugs which have been prescribed for the employee in an amount consistent with the prescription)

Failure of any employee to meet any of the forgoing conditions as required by the Superintendent may and likely shall result in a denial of the employee's request to return to work as well as further disciplinary action up to and including termination of the employee's contract with Harrison County Schools.

3101.7 MANDATORY REPORTING REQUIREMENT

Any employee who has a good faith belief that another employee has violated or is violating any portion of this policy while in the workplace or otherwise shall contact his/her supervisor immediately and report all of the following:

- A. The name of the suspected employee
- B. The reasons and circumstances that led the reporting employee to believe that suspected employee has or is violating this policy

3101.8 REASONABLE SUSPICION DOCUMENTATION & ALCOHOL AND DRUG TESTING

A supervisor or administrator (if he/she has received the annual training required by this section) who receives a report of an employee being under the influence of a prohibited substance shall:

- A. Personally interact with and observe the suspected employee and document his/her observations. If the supervisor or administrator who received said report has not received the training required by this section, he/she shall immediately provide this report to an administrator who has received said annual training.
- B. When an employee manifests physical or behavioral symptoms or reactions commonly attributed to the use and/or misuse of alcohol or other prohibited substance as documented, the administrator shall have reasonable suspicion for requiring an employee to submit to drug and/or alcohol testing.
- C. The administrator or his/her designee shall provide transportation for the employee and

accompany him/her to a drug and alcohol testing facility identified by Harrison County Schools. The administrator/designee shall remain at the facility with the employee until the initial test result is completed.

- D. If initial test results will not be available within 60 minutes of providing a sample for testing, the employee shall be instructed not to report to work until
 - 1) the results are provided to the administration
 - 2) he/she is instructed to do so by the Superintendent or his/her designee.

3101.9 REFUSAL TO SUBMIT TO REASONABLE SUSPECTION OR OTHER LAWFUL ALCOHOL AND DRUG TESTING

Refusal of any employee to submit to the types of drug and alcohol tests used by Harrison County Schools shall be deemed a positive drug test result. This shall be sufficient grounds to terminate the employment of such employee.

- A. A refusal to test includes any behavior which is intended to obstruct the proper administration of a test.
- B. An employee's intentional and unreasonable delay in providing urine, breath, blood, or other specimen shall be considered a refusal to submit to testing and may result in the termination of the employee's contract with Harrison County Schools.
- C. In the event that an employee cannot provide a sufficient urine specimen, the testing facility shall start a shy bladder log or similar procedure, and Harrison County Schools may avail itself of other drug testing protocols and/or have the employee examined by a physician immediately.
- D. An employee shall NOT leave any alcohol and drug testing facility for any reason before the facility is able to obtain a sample from the employee or written legitimate medical explanation from the physician or it will be considered a refusal to test.
- E. If an employee violates any portion of a testing facility's protocol for obtaining a sample from the employee, which protocol has been explained to the employee orally or otherwise, the same shall constitute a refusal to submit to testing.

3101.10 CONDITIONS OF EMPLOYMENT

As a condition of employment with Harrison County Schools, each employee shall:

- A. Strictly abide by the terms of this policy; employee compliance is mandatory and cannot be waived or modified by any person
- B. Notify his/her immediate supervisor if he/she is arrested or convicted (including pleading no contest) of violating a criminal drug statute no later than five (5) calendar days after such arrest or conviction
- C. Read and sign a statement evidencing that the employee is aware of this policy, has been provided a copy of this policy, and agrees to abide by the terms of this policy

3101.11 EDUCATION & AWARENESS

It shall be the responsibility of Harrison County Schools to establish a drug-free awareness program for employees and to provide information on the following: a) alcohol and drug abuse referral/treatment services available through PEIA; b) the establishment and maintenance of a drug-free workplace as

outlined in this policy; and c) literature about the health risks and dangers of drug and alcohol abuse.

3101.12 ADMINISTRATIVE GUIDELINES

The board of education authorizes the Superintendent to establish written administrative guidelines to facilitate enforcement of and compliance with this policy.

3101.13 DEFINITIONS:

Alcohol – ethyl alcohol whatever its origin and shall include synthetic ethyl alcohol but not denatured alcohol

Contractor – any department, division, unit, or any person responsible for the performance or work under a contract with Harrison County Schools

Controlled Substance – any substance that is designated as a controlled substance under State or Federal laws

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

Criminal Drug Statute – a criminal statute involving the manufacture, distribution, dispersion, use or possession of any controlled substance

Drug-Free Workplace --a work site where work is performed in connection with the employee's contract with Harrison County Schools. This workplace shall include facilities, property, buildings, offices, structures, automobiles, trucks, trailers, other vehicles, and parking areas, whether owned or leased by Harrison County School as well as any other place at which the employee is being compensated by the Board to perform any work

Drug – articles/substances recognized as drugs for the use in the diagnosis, cure, mitigation, treatment or prevention of disease in human or other animals as recognized by the United States Pharmacopeia Convention, and/or as noted by the American Society of Health-System Pharmacists-Facts and Comparisons, the American Society of Health-System Pharmacists drug information database, the Physicians' Desk Reference, and/or any similar recognized authoritative text; articles, other than food, intended to affect the structure or any function of the body of a human or animal; articles intended for use as a component of any articles specified above

Illegal Drug – any drug which is not legally obtainable and/or is being used in a manner or for a purpose other than as prescribed

Intoxicants – any intoxicating substance

Legal Drug – nonprescription medication (medication that may be sold without 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 any of the following statements: 1) Caution: Federal law prohibits dispensing without prescription" or "Rx only"; "Caution: Federal law restricts this drug to use by, or on the order of a licensed veterinarian"; as well as any drug which is required by any applicable Federal or State law or rule to be dispensed on prescription only or is restricted to use by practitioners only

Look-Alike Drugs – tablets or capsules or other substances that are made to look like authentic drugs and are intended to imitate their effects

Work Day – the work day includes all times when an employee is engaged in any activity related to his/her employment with the Board and shall include but not be limited to all times from the moment the employee is required to report to work until the employee is permitted to end his/her work day. The work day includes but is not necessarily limited to any day on which the employee reports to work, all meal breaks or rest periods taken during any day on which the employee reports to work and any time the employee is being compensated by the Board of Education to perform any kind of work at any board-sponsored/related events as well as all times the employee is on/in any board-owned or leased properties, buildings, and or vehicles

SOURCE: 41 U.S.C. 701, et seq., Drug Free Workplace Act of 1988; Drug-Free Schools and Communities Act Amendments of 1989; WV Board of Education Policy 1461; 20 U.S.C. 3224A

Approved by Harrison County Board of Education

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