

## DRUG FREE ~~WORKPLACE~~ POLICY

DRAFT

AND

Board Policy: P-6

Revised: September 17, 2007

Revised: Date Pending

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### I. General Statement of Policy

The Haywood County Board of Education recognizes that alcohol and other drug abuse can affect an employee's personal life and contribute to problems on the job. This policy is ~~therefore~~ established to ensure the safety and well-being of employees and students, to assure employees ~~and students~~ the right to a workplace which is free of alcohol and controlled ~~substances~~ ~~other drugs~~, and to educate employees ~~about~~ the harmful effects and dangers of alcohol and drug abuse ~~in the workplace~~. ~~Lawful~~ ~~Lawful~~ and proper use of over the counter and prescription drugs as authorized by an employee's physician or health professional is not affected by this policy. The Board has "zero" tolerance for the unlawful use of controlled substances. The use of alcohol is prohibited when the employee is on duty or on school property, or when such use adversely affects the performance of an employee. This policy or a summary of it shall be communicated to all employees annually.

### II. Definitions

The terms listed below are used throughout this policy and are defined as follows:

1. ~~"Abuse" occurs when a person either consists of the following: using prescription drugs or any controlled substance — (as defined in Section III. A.) other controlled substances in a manner contrary to the directions of a prescribing — physician, or uses alcohol to such an extent that the performance of the employee is adversely affected.~~
2. ~~"As charged", including but not limited to arrested, cited, indicted, summonsed, or otherwise haveing a criminal matters levied against.~~
3. ~~"On duty" will include the following:~~
  - a. ~~Compensation being received~~
  - b. ~~Supervising/instructing students~~
  - c. ~~Representing the school system in a official capacity~~
  - d. ~~But, shall not mean preparation or self-study or off duty status while at a training conference~~
  - e. ~~Supervisors will be sensitive to needs of employees when they are asked to return to the workplace during off duty hours~~
4. ~~"School event" is defined as a school sponsored functions for students, where students are present or being — supervised/monitored by the employee.~~
5. ~~"Under the influence/inflnee" is when an employee's breath alcohol concentration is detectable or when the controlled substance or alcohol alters the employee's behavior to any appreciable or observable extent. The phrase "under the influence" includes but is not limited to an employee who is "drunk".~~
6. ~~"Use" is drinking alcohol, inhaling, consuming, ingesting, injecting, or smoking a controlled substance or alcohol.~~

### III. Prohibited Acts

~~An employee working under the influence of alcohol may create unsafe conditions for other employees and students; may perform unsatisfactorily and therefore adversely affect the performance of other employees; and~~

~~may discredit the school system with the students, parents and at large public. Therefore, specific acts are prohibited as follows:~~

1. The Board prohibits the unlawful manufacture, distribution, sale, dispensing, possession, or use of ~~any alcoholic beverage or~~ any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, and any other controlled substances as defined in schedules I through V of section 202 of the United States Controlled Substances Act, at 21 U.S.C. Section 812, and as further defined in federal regulations at 21 C.F.R. Section 1308.11 through Section 1308.15 and in the North Carolina Controlled Substances Act, G.S. 90-86 et seq. This policy shall govern and apply to the conduct of each employee at ~~all any times, during which the employee is acting in the course and scope of his/her employment with the Board both on and off the property of the Board.~~
2. The use of alcohol is prohibited at such times as the employee is on duty or on school property or when such use adversely affects the performance of an employee.
3. The Board further prohibits the unlawful possession, manufacture, delivery, or advertisement of drug paraphernalia, as those terms are defined in G.S. 90-113.20 et seq. (the "North Carolina Drug Paraphernalia Act"). The policy shall govern and apply to the conduct of each employee at all times. ~~The Board prohibits the illegal sale (or possession with the intent to sell) of alcohol and/or controlled substances at any time, either during or not during the course and scope of employment.~~

#### ~~VI.V. III.~~ Duty To Report Violations

~~All school system personnel are required to report violations as follows:~~  
~~A. ——— All school personnel ———~~  
Any school employee who is ~~charged with convicted of or pleads guilty, no contest or "nolo contendere"~~ ~~to~~ a violation of either the federal or state Controlled Substances Act, the North Carolina Drug Paraphernalia Act, or any offense involving alcohol including any moving vehicle violation involving alcohol shall report such a charge conviction to his/her supervisor on the next workday, but no later than within five calendar days. The charge itself shall not be the sole basis for determining determining that a violation of this policy has occurred occurred (See Section V.).

~~B. ——— Personnel employed under a Federal grant ——— It is a condition of employment and continuing employment by the Board under any federal grant that each employee shall comply with this policy and shall notify his/her supervisor of his/her conviction of violating any controlled substances act no later than five (5) days after any such conviction, when the violation occurred in the workplace or in the scope of employment. — A plea of guilty, no contest or "nolo contendere" is a conviction for the purposes of this policy and federal law. — Within ten (10) days of receiving a notice of conviction by an employee under a federal grant, the funding agency shall be notified by the school system with respect to the drug free violation occurring in the workplace.~~

#### ~~V. IV.~~ Penalties for Non-Compliance

~~Any employee who violates this policy may be disciplined, up to and including dismissal, and/or may be required to participate in a drug intervention or treatment program approved by the Superintendent; more specifically:~~

1. Any employee who is ~~convicted of or who pleads guilty, no contest or "nolo contendere" to a felony involving the sale, determined to have used, possessed, distributed, the or possession~~ with intent to distribute sell, the possession or the use of alcohol or a controlled substance in violation of federal or state law shall be terminated from employment dismissed. In addition the appropriate law enforcement agency will be notified. A positive drug test without any other corroborative information will not automatically require law enforcement notification.
2. Any employee who is determined to have been in violation of the North Carolina Drug Paraphernalia Act shall be terminated from employment. In addition, the appropriate law enforcement agency will be notified. ~~2. — Any employee who sells, distributes, or possesses with the intent to sell or distribute a controlled substance in the workplace shall be subject to~~

~~dismissal. In addition, the appropriate law enforcement agency shall be notified of the employee's alleged sale, distribution or possession with intent to sell of a controlled substance.~~

3.3- Any school bus driver, activity bus driver or van driver, monitor, mechanic or any person who is assigned a school vehicle or who drives a school vehicle in the normal or regular course and scope of their employment, who possesses, uses, abuses, or is under the influence of alcohol or a controlled substance while on duty shall be ~~terminated from employment-dismissed~~.

4.4- Any employee who possesses, uses, abuses or is under the influence of alcohol ~~or a controlled substance~~ in the workplace, ~~at school events, or on school premises or property~~ shall be subject to a disciplinary action. **This disciplinary action shall result in sanctions ranging from oral reprimand up to dismissal.** ~~This action, for a first offense, may range from an oral reprimand to a suspension without pay for a period of up to 60 workdays to dismissal and/or a requirement that the employee participate in an alcohol or drug rehabilitation program approved by the Superintendent. The cost of treatment shall be borne by the employee. a first offense or non egregious violation depending on the severity and circumstances of the offense. In the event of an egregious or subsequent successive offense, the employee shall be subject to termination of employment dismissal~~

5. ~~Any employee who has not been charged or is not otherwise under suspicion of violating Section III. of this policy possessing or using a controlled substance may voluntarily and confidentially admit a violation to the Human Resource Officer. The knowledge admitted violation will be between the employee and the Human Resource Officer. A confidentiality agreement will be executed (signed) by both parties. The employee shall be placed on probationary status and shall be required to participate in a drug treatment program. The employee shall be subjected to random drug testing during this treatment period. The probation is ended when the employee has successfully completed the treatment program. If the employee does not successfully complete the program, he/she shall be terminated from employment. The cost of such a treatment shall be borne by the employee.~~

6. Any employee who has refused any test required by this policy or who did not meet the testing deadline will be subjected to disciplinary action up to and including dismissal.

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~~5. Any employee may voluntarily and confidentially report an alcohol problem to the Human Resource Officer. A confidentiality agreement will be executed (signed) by both parties. The Human Resource Officer will assist the employee in securing a confidential treatment/counseling program. The cost of such a treatment shall be borne by the employee. VI. V. Drug Free Awareness Program~~

A. A Drug-Free Awareness program shall be established by the Superintendent or his designee to inform all school personnel of:

1. The Board's policy on maintaining a drug-free workplace;
2. The dangers and harmful effects of workplace alcohol and drug use and abuse;
3. The penalties that may or will be imposed for violations of the laws pertaining to controlled substances and this policy; and
4. Any available drug counseling, rehabilitation, treatment, or employee assistance program.

- B. Principals, teachers and other school personnel who supervise employees and students shall receive training periodically on how to identify controlled substances; how to detect the signs and symptoms of alcohol and drug use and/or abuse among students and school personnel; and how to assist students or employees who may be using or abusing alcohol and/or controlled substances.
- C. Any employee who believes he/she would benefit from an alcohol treatment program may seek assistance from the Human Resource Officer. Knowledge of such assistance shall be limited to the employee and the Officer by the signing of a confidentiality statement. The cost of such counseling or treatment program shall be borne by the employee.
- D. This policy or a summary of it shall be communicated to all employees annually.

VII.VI. Authority to Search and/or Test Employees for Possession or Use of Drugs

- A. Pre-employment Testing of Job Applicants  
All persons offered employment by the Haywood County School System Job applicants may will be required to undergo a drug test. upon offer of employment and prior to their final employment. If the test is refused, the applicant will not be employed. If the test results are positive, the employee will be terminated from employment. The Omnibus Transportation Employee Testing Act of 1991 requires alcohol and drug testing of safety-sensitive employees in mass transit industries which include any employee who drives a school bus or activity bus or who supports the operation of the school transportation system. All applicants for a job which involves transportation of students shall undergo a drug test prior to final employment.
- B. Reasonable Suspicion Searches  
Any employee of this Board may be subjected to a search of his/her person, possessions, automobile, locker, desk or other school system property under his/her control in the workplace when the employee's supervisor(s) have reasonable grounds (suspicion) for suspecting that the employee is selling, possessing, using or is under the influence of alcohol or a controlled substance in the workplace. Searches will be conducted after consultation with the Superintendent's office and/or Board attorney if possible.
- C. Reasonable Suspicion Drug and Alcohol Testing  
Any employee of this Board may be subjected to a test for the use of alcohol or of a controlled substance in the workplace when the employee's superior(s) supervisor has reasonable grounds (suspicion) to suspect that the employee is using or has under the influence of alcohol or any controlled substance in the workplace recently used any controlled substance.
- D. Reasonable Suspicion Alcohol Testing  
Any employee of this board may be subjected to a test for the use of alcohol when the employee's superior(s) supervisor has reasonable grounds (suspicion) that the employee is using or is under the influence of alcohol in the workplace.
- DE. Standard/Criteria for Requiring a Reasonable Suspicion Alcohol and/or Drug Test  
The Superintendent or his designees may require an employee to undergo a drug test when an employee's superior(s) has reasonable grounds (suspicion) for suspecting that the employee is using or under the influence of alcohol or a controlled substance while on duty or in the course and scope of employment. A reasonable suspicion must is one be based on some specific objective fact(s) and the rational or logical inferences drawn from those facts to include, but not limited to:
  1. Observable occurrences, such as direct observation of drug or alcohol use and/or the physical symptoms of being under the influence of alcohol or a controlled substance;
  2. A pattern of excessive absenteeism, tardiness or deterioration in work performance and abnormal conduct or erratic behavior while at work;

3. A report of ~~prohibited~~ alcohol or drug use by an employee ~~while at work~~ provided by a reliable and credible source;
4. A pattern of unexplained preventable accidents and/or information based on specific objective facts that an employee has caused, or contributed to an accident ~~at work~~ while under the influence of alcohol or drugs; and/or
5. ~~Credible Evidence received~~ that an employee is involved in the unauthorized possession, sale, solicitation or transfer of alcohol or drugs ~~while working~~.
6. Charges made against a school bus driver, activity bus driver or van driver for a moving violation by a law enforcement officer in connection with a motor vehicle accident involving a school bus or activity bus, or van.

~~EFD~~. Post Accident Alcohol and Drug Testing

1. Any school bus driver, activity bus driver, or van driver who is charged with a moving violation by a law enforcement officer in connection with a motor vehicle accident involving a school bus, activity bus, or van shall be subject to alcohol and/or drug testing.
2. Any employee who files an accident report following an injury on the job shall be required to report to Occupational Health for alcohol and/or drug testing.

~~FGE~~. Random Drug Testing

School bus drivers, activity bus or van drivers, ~~transportation route supervisors~~, school —  
~~bus mechanics~~, and driver education teachers shall be subject to random drug and alcohol testing at any time without cause. This provision shall also include employees who are on confidential probation for an admitted controlled substance policy violation and are participating in a treatment program as defined in Section V., 4. All employees are required to report for these tests during the day in which they are notified to participate during regular lab hours.

~~GH~~. Procedures

The superintendent shall, by administrative regulation, establish specific procedures for conducting the drug tests authorized by this policy. These procedures shall protect the privacy of the individuals, confidentiality of the test results and provide ~~reasonably~~ accurate test results. Reports and other drug test documents will be kept on file by the Human Resource Officer. "PROCEDURES FOR CONDUCTING DRUG-TESTING AUTHORIZED BY THE DRUG FREE WORKPLACE POLICY" are attached and incorporated as a part of this policy.

VIII. Due Process

All personnel action resulting from the enforcement of this policy shall be subject to State Statute 115C-325. Employees must follow Board policies P-20 Grievance Procedures for Employees, Board Policy A-2 Appeals to the Board, and Board Policy P-25 Licensed Employee Dismissal, Demotion, and Nonrenewal if they believe that a misapplication or misinterpretation of this policy has occurred. When an administrator suspects that a violation of this policy has occurred, the employee will be given a copy of the policy.

**PROCEDURES FOR CONDUCTING DRUG-TESTING AUTHORIZED BY THE DRUG  
FREE WORKPLACE POLICY**

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Procedures for conducting drug-testing of employees and job applicants of the Haywood County Consolidated School System are as follows:

1. Selection
  - A. Employees selected to be tested under the Omnibus Transportation Employee Testing Act of 1991 will be selected using a random selection computer software program. All employees are required to report for these tests during the day in which they are notified to participate during regular lab hours.
  - B. All ~~persons applicants~~ selected for ~~employment a job which involves transportation of students~~ shall undergo a pre-employment drug test (section VIII A Section VII. C. and D.).
  - C. All persons who have reported a work related accident shall automatically undergo a drug test. Alcohol testing will be conducted upon the request of the immediate supervisor.
2. Consent - Before a drug test is administered, the employee/~~job applicant selected~~ will be asked to sign a "Drug Testing Consent Form" (copy attached) authorizing the test or tests and permitting the release of the test results to the Superintendent and other school administrators who have a need to know such results.
3. The testing shall be performed by an approved and certified testing laboratory designated by Haywood County Consolidated Schools.
4. A screening test or tests will be administered using a sample of the applicant's urine. The sample shall be collected in a manner which respects the privacy of the individual and maintains the reliability of the test. A follow-up hair test may be required when preliminary urine test results are inconclusive due to a diluted specimen. Samples shall be collected in a manner reasonably calculated to prevent substitution of samples and interference with the collection, examination, or screening of samples (General Statute 95-232).~~5. — The recommended screening test methods are Radio Immunoassay (RIA) and Emit.~~
5. The laboratory shall maintain a strict chain of custody and method of identifying each applicant's urine or hair sample and test results.
6. Confirmation test
  - A. If a ~~drug~~-screening test is positive, the applicant's urine sample shall be given a confirming test.~~, such as gas chromatography and mass spectrometer (GCMS).~~ If a confirmed positive test is reported for an applicant, the applicant shall be notified and given the opportunity to:
    1. Have a portion of his/her urine sample tested by an independent and NIDA certified laboratory of his/her choice at the applicant's expense, and/or
    2. Offer an explanation from his/her physician as to why a positive test was reported. The results of the additional test and any information or explanation provided by the applicant's physician shall be considered in deciding whether or not to employ the applicant.
  - B. If an alcohol-screening test is positive the results will be reported to the Human Resource Officer.
7. Consequences of a positive test result - Job applicants shall be denied employment if their confirming test is positive and no additional information is provided which caused the school system to question the reliability of these test results. Employees who receive positive confirming tests will be subject to discipline under Section ~~IV~~V, Penalties for Non-Compliance.
8. Confidentiality - The school system and the independent laboratory ~~which that it employs to~~ conducts the tests shall keep the test results confidential. The test results shall not be ~~made~~

~~known released~~ to anyone other than the applicant/~~employee~~, the ~~school system~~ Superintendent, and those administrators who have a need to know the results. The results for employees who are on confidential probation for an admitted policy violation will be made known only to the Human Resource Officer and employee unless a confirmed positive test is received. The results of a positive screening test shall not be released by the laboratory to the authorized school officials unless confirmed. The records of unconfirmed positive test results and negative test results shall be destroyed by the testing laboratory. Any school employee who is found to have violated the confidentiality of this information shall be subject to disciplinary action.

940. No right to a hearing--A job applicant offered employment who is denied employment due to a positive test result or for any other reason has no right to a hearing.
10. Any employee who has refused or did not meet the screening deadline for any test required by this policy will be subjected to disciplinary action up to and including dismissal.

**49 U.S.C. app. @ 2717; 49 C.F.R. pts. 40, 382, and North Carolina General Statute 95-232**

### **DRUG TESTING CONSENT FORM**

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As a condition of employment with the Haywood County Consolidated School System, I agree to be tested for use of drugs by a drug test center approved by the Haywood County Consolidated School System and I further agree to the release of the test results to the Superintendent of the Haywood County Consolidated School System.

I acknowledge that I have read and have been given a copy of the Haywood County Consolidated Schools DRUG FREE WORKPLACE POLICY.

Listed below are prescription drugs which I currently take:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name of Applicant \_\_\_\_\_

Date \_\_\_\_\_