

BOONE COUNTY SCHOOLS DRUG-FREE WORKPLACE POLICY

Purpose

The Boone County Board of Education 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 Boone 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 Boone County Schools 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. In order to achieve these goals and objectives, the Board will seek, therefore, to establish and maintain an educational setting which is not tainted by the use or evidence of use of alcohol and/or any illegal drug and/or misuse of any legal drug, and thus, hereby establishes the Boone County Drug-Free Workplace Policy (the "Policy").

Additionally, the Federal Drug-Free Workplace Act of 1988 requires a written policy and drug awareness program. The employer is required to report any convictions for drug related crimes committed in the workplace.

Scope

This policy is intended to apply to all employees, regular and substitute; temporary, full and part time; and/or otherwise under contract with the Boone County Board of Education. However, the Policy is intended to be supplemental to and not in substitution for Board of Education Policy GBJAJ (Transportation Employees Alcohol and Controlled Substance Policy) which is applicable to Boone County School's transportation department.

Policy Statement

The Boone County Board of Education is committed to a safe working environment for all employees and a safe learning environment for all students. It is further committed to providing adequate provisions for the safety and health of its employees at their place of employment as well as the safety and health of the students served. The Boone County Board of Education regards its employees as individuals as well as employees. Accordingly, 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 other drug addictions can be helped to recover and should be offered assistance where appropriate. For such reason, it is in the best interest of the employee and the Board that when alcoholism or drug addiction is present, it 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 Boone County Board of Education recognizes that substance abuse in our nation and community creates tremendous 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. Additionally, the illegal use of drugs or the abuse of alcohol is inconsistent with the professional and responsible behavior expected of employees. The Boone County Board of Education and its employees share a commitment to create and maintain a drug-free workplace.

The Boone County Board of Education 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 abuse of alcohol, and the misuse of prescription drugs are unacceptable.

Definitions

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

Alcohol Test: an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol (a result of .04 or greater) in his or her system.

Collection Site: a place designated by the Board where individuals present themselves for the purpose of providing a breath and/or urine sample for drug and/or alcohol testing.

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

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

Conviction: a finding of guilt (including a plea or 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: (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.

Drug Test: any chemical, biological, or physical instrument analysis administered by a certified laboratory for the purpose of determining the presence or absence of a drug or its metabolites.

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

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

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

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 substances such as, but not limited to, inhalants.

Legal Drug: nonprescription 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 pursuant to a prescription drug order that is restricted to use by practitioners only).

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

Medical Review Officer (MRO): a licensed medical physician who is certified by a nationally recognized board for Medical Review Officers.

Possession: to have on one's person, in/on one's personnel effects, or in one's vehicle or other property on Boone County School's property. To "have on one's person" includes the ingestion of the same.

Reasonable Suspicion: observance of physical or behavioral symptoms exhibited by an employee which are reactions commonly attributed to the use of controlled substances, look-a-like drugs, intoxicants, illegal drugs, alcohol, or prescription drugs used in a non-therapeutic manner.

Under the Influence: the condition wherein any of the body's sensory, cognitive, or motor functions or capabilities are 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 .04 or greater alcohol concentration of blood or breath, and/or having a positive test for other substances. This includes any test result identifying a prescription drug for which the employee has a prescription that is above the therapeutic level.

Voluntary Referral: referring oneself to the Superintendent or his/her designee as having an addiction problem to drugs or alcohol and requesting Employee Assistance.

Work Day: for the purpose 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.

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

Content:

- A. It is the policy of the Boone County Board of Education 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 alcohol; the reporting to work under the influence of illegal drugs, non-medically prescribed drugs, controlled substance, intoxicants, look-alike drugs, or alcohol; and/or the possession of non-medically prescribed paraphernalia.
- B. The Policy is applicable to all Boone County Schools employees while they are at the workplace or during the work day. In addition, the 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.
- C. The following shall be considered "prohibited conduct" for the purposes of the Policy:
 1. No employee shall unlawfully manufacture, distribute, possess, or use illegal drugs, controlled substances, non-medically prescribed drugs, medically prescribed drugs in a non-therapeutic manner, look-alike drugs, and/or alcohol while on school property or while otherwise engaged in school business.
 2. No employee shall report to work under the influence of illegal drugs, non-medically prescribed drugs, intoxicants, look-alike drugs, or alcohol. Furthermore, no employee shall report to work under the influence of a medically prescribed drug which is being used in a non-therapeutic manner.
 3. No employee shall possess any non-medically prescribed paraphernalia.
 4. No employee shall report for duty or remain on duty while having an alcohol concentration of .04 or greater.

5. No employee shall consume or possess any alcohol in the workplace, including but not limited to, on Boone County Board of Education property, in a Board of Education vehicle, in vehicles rented by the Boone County Board of Education, or in private vehicles when in use in furtherance of the Board of Education's purposes.
6. No employee shall refuse to submit to a reasonable suspicion, return-to-duty, or follow-up alcohol or drug test.
7. No employee shall report for duty or remain on duty when the employee uses any illegal or prescription drug, except when use of the prescription drug is pursuant to the instruction of a physician or other medical professional who has advised the employee that the substance does not adversely affect the employee's ability to perform assigned duties.

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 the assignment.

D. Consequences – First Offense: If any employee engages in conduct prohibited by the Policy, s/he shall be subject to the following:

1. Notification of law enforcement agency.
2. Notification, by certified mail, to the West Virginia Department of Education.
3. Suspension with or without pay pending investigation, including an opportunity to respond to charged violation.
4. Written notification of the charge and an opportunity for a hearing before the Board of Education.
5. Upon being found to be in violation of the Policy by the Board of Education, appropriate disciplinary action will be sought which may include, but not be limited to, suspension without pay or termination of employment. Such determination shall be based, not only on violation of this policy, but also the prior employment history of the employee and the related actions of the employee and whether such actions are determined to have caused significant property damage, serious injury or death and/or other serious ramifications.
6. Required enrollment in a substance abuse counseling program at the employee's expense. Failure to enroll may be grounds for termination of employment.
7. Return to duties from a period of suspension shall be conditioned on the following:
 - a. Employee furnished written verification of successful completion of a substance abuse counseling program;
 - b. Employee furnished physician's statement verifying the employee is drug/alcohol free; and
 - c. Restoration and/or maintenance of any certification or license that are requisite to the ability of an employee to perform his or her duties;
8. Failure of an employee to meet the foregoing conditions for return to work prior to the end of a suspension may be grounds for termination of employment.
9. Submission to a random drug and/or alcohol test for a period of time not to exceed 12 calendar months following a return-to-duty.

E. Consequences – Second and Subsequent Offense: If any employee engages in conduct prohibited by the Policy, s/he shall be subject to the following:

1. Notification of law enforcement agency.
2. Notification, by certified mail, to the West Virginia Department of Education.
3. Suspension with or without pay pending investigation, including an opportunity to respond to charged violation.
4. Written notification of the charge and an opportunity for a hearing before the Board of Education.
5. Upon being found to be in violation of the Policy, the Board of Education and the superintendent may recommend termination of employment for consideration by the Board. Such determination shall be based, not only on violation of this policy, but also the prior employment history of the employee and the related actions of the employee and whether such actions are determined to have caused significant property damage, serious injury or death and/or other serious ramifications.
6. If the contract of an employee is not terminated as a result of a second or subsequent offense of the Policy, but is suspended without pay, he or she is subject to the same requirements found in Section D of the Policy, above, with regard to returning to work.

F. 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 at the 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 shall be witnessed by at least one supervisor trained in compliance with the Policy and/or a law enforcement representative. Should a supervisor or law enforcement representative observe such symptoms or reactions, the employee must submit to testing. An employee who observes suspicious behavior by a supervisor should report such to the Superintendent.

Additionally, an employee shall be required to submit to drug and/or alcohol testing if he or she is found to be in the possession of a controlled substance, look-alike drug, intoxicant, illegal drug or alcohol at the workplace.

Anonymous tips alone, without reasonable suspicion, are insufficient to require drug and/or alcohol testing.

G. Pre-Entry Into Employment Duties Substance Testing

In the furtherance of achieving the Boone County Board of Education's goals and objectives as outlined or implied in the Policy, all applicants for regular and substitute positions who are offered employment by the Boone County Board of Education will be required to submit to a urinalysis test for the detection of the illegal use of drugs. Applicants will acknowledge having read or had the Policy explained to them and should understand that as a condition of employment they are subject to the contents of such. New conditional hires will sign an acknowledgement prior to substance screening, permitting the summary result to be transmitted to the Office of the Superintendent and/or the Human Resources Officer / Personnel Director of Boone County Schools. A new conditional hire refusing to complete any part of the drug testing procedure will not be considered appropriate for employment with the Boone County Board of Education and such will be considered as a withdrawal of the individual's acceptance of employment. A new conditional hire who receives a positive test result for the use of illegal drugs will not be considered appropriate for the position and such will be considered as a withdrawal of the individual's acceptance of employment. In the event an applicant is approved by the Board for employment pending the receipt of a negative test result for the use of illegal drugs, a new conditional hire, and a positive test result is received, the employee will immediately be suspended without pay and the Superintendent shall recommend to the board the termination of said contract.

H. Refusal to Test

Refusal to submit to the types of drug and alcohol tests employed by and/or at the request of the Boone County Board of Education will be grounds to terminate employment of existing employees as well as grounds to terminate conditional hires as no longer being considered appropriate for hire. A refusal to test would include behavior which is intended to obstruct the proper administration of a test. Unreasonable delay in providing urine or breath specimen could be considered a refusal. In the event that an employee cannot provide a sufficient specimen, the Boone 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.

In addition to the above stated actions constituting a refusal to test, specimens reported by the testing laboratory as altered or substituted will be considered a refusal to test and therefore grounds for termination of employment as well as grounds to terminate conditional hires as no longer being considered appropriate for hire.

I. Off of Premise Use

The Boone County Board of Education reserves the right to suspend with or without pay an employee who has been arrested for criminal offenses related to the manufacture, possession, sale, use, distribution, dispensation, receipt, or transportation of any illegal substance pending resolution of the charges to the Board's satisfaction and an internal investigation. Employees who are convicted of any substance related violation under state or federal law or who plead guilty or nolo contendere (i.e., no contest) to such charges must inform the Superintendent in writing within five (5) days of the conviction or plea. Failure to do so will be a violation of the Policy and result in disciplinary action up to and including a termination of employment. In the event of an employee's conviction or plea to charges relating to the manufacture, possession, sale, use, distribution, dispensation, receipt, or transportation of any illegal substance, the Board shall determine whether disciplinary action will be taken; including the appropriateness of continued employment.

J. Employee Assistance

The Boone County Board of Education recognizes that chemical dependency is an illness that may be successfully treated. As such, it is the policy of the Boone County Board of Education, when appropriate to refer an employee with a self-admitted drug or alcohol problem for rehabilitation.

The Boone County Board of Education strongly encourages employees using illegal drugs and/or abusing legal drugs or alcohol to voluntarily refer themselves for assistance. This referral may be made to the Superintendent or may be made directly to a treatment program with the notification of such made to the Superintendent. A voluntary referral is defined as being one that occurs prior to any positive tests for illegal drugs or alcohol as described in the Policy and/or prior to any violation of the Policy. This also includes an offense leading to criminal conviction of an individual on a drug charge. Employees are not subject to disciplinary action for a voluntary referral and admittance into rehabilitation; even where rehabilitation is for the use of illegal drugs or alcohol.

Employees seeking medical attention for chemical dependency may be entitled to benefits to the extent covered under the West Virginia Public Employees Insurance Agency if they have chosen to be covered by such insurance. If the employee has not elected to be covered by the West Virginia Public Employees Insurance Agency, any costs related to the treatment or rehabilitation program will be borne by the employee and/or the employee's insurance provider and not the Boone County Board of Education.

For employees enrolled in a formal treatment or rehabilitation program, the Boone County Board of Education may grant sick leave until exhausted and then may grant a leave without pay, a leave of absence, not to exceed one (1) year.

K. Conditions of Employment

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

1. Abide by the terms of the Policy: compliance is mandatory.
2. Sign a statement indicating they are aware of the Policy and shall abide by the terms of the Policy.
3. 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.

L. Employee Awareness

It shall be the responsibility of the Boone County Board of Education to establish an awareness program for all Boone County School's employees whereby information will be provided regarding the following:

1. Drug and/or alcohol treatment providers
2. The establishment and maintenance of a drug-free workplace, including the Policy
3. The penalties for violation of the Policy
4. Drug-free literature including dangers of drug abuse
5. Established guidelines that ensure compliance with the Policy and such guidelines shall include, but not be limited to, the provision that each employee is given a copy of the Policy which outlines standards regarding unlawful possession, use, or distribution of illegal drugs and alcohol by staff and informed that compliance with this requirement is mandatory, and the receipt of a signed document from every employee acknowledging that they have had the opportunity to read or had the Policy explained.

M. Implementation

The Boone County Board of Education shall cause a contract to be developed and entered into with at least one approved collection site. The cost associated for any drug and/or alcohol testing required by the Boone County Board of Education shall be funded by the Boone County Board of Education.

N. Legal Compliance

The provisions of the Policy are subject to any federal, state, or local laws that may prohibit or restrict their applicability and testing for substances shall be conducted in accordance with and limited by such laws notwithstanding any terms of this policy to the contrary. The Board further recognizes the provision of this Policy to be separate and severable. If any provision of this policy is determined to be invalid or unenforceable, the remaining provisions are to remain in effect.

SOURCE: Boone County Board of Education

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