

PERSONNEL: General

Drug-Free Workplace

I. [A. General Prohibitions] Purpose

- A. Consistent with the Federal Drug-Free Workplace Act of 1988, [Board of Education policy prohibits] the unlawful manufacture, distribution, possession, or use of a controlled substance or alcohol in any quantity in the workplace OR AT ANY SCHOOL-SPONSORED EVENT IS PROHIBITED. [This rule implements the Board of Education’s policy to ensure that the highest standards of personal conduct and behavior are followed by all employees in the workplace.]

[As used in this rule, “workplace” consists of any Board of Education owned, controlled, or leased property, or the location where any work is performed on behalf of the Board of Education, e.g. field trips.] Violations of this rule [’s prohibitions on controlled dangerous substances] in the workplace OR AT ANY SCHOOL-SPONSORED EVENT will result in disciplinary action up to and including termination. Employees [engaged in prohibited conduct] WHO HAVE VIOLATED POLICY 4001 and who [have not been terminated] CONTINUE EMPLOYMENT WITH BCPS shall attend a prescribed [drug] SUBSTANCE abuse EDUCATION AND/OR treatment program, as determined appropriate by the [administration] SUBSTANCE ABUSE PROFESSIONAL, as a condition of returning to work or as a condition of continued employment. Failure to comply with the requirements of a prescribed [drug] SUBSTANCE abuse EDUCATION AND/OR treatment program OR A SECOND VIOLATION OF POLICY 4001 will [subject an employee to disciplinary action] RESULT IN A RECOMMENDATION FOR TERMINATION.

- B. Employees have a duty to inform the Board of Education OF BALTIMORE COUNTY(BOARD) of any criminal drug statute conviction for a violation occurring in the workplace OR AT A SCHOOL-SPONSORED EVENT no later than five (5) BUSINESS days after such conviction.
- C. The Superintendent [, by his] or designee shall provide a copy of this rule to [each] new [hire] EMPLOYEES of the Board of Education of Baltimore County. Adherence to [the dictates] this rule [are] is a condition of employment.

II. DEFINITIONS

- A. BREATH ALCOHOL TECHNICIAN (BAT) MEANS AN INDIVIDUAL WHO INSTRUCTS AND ASSISTS INDIVIDUALS IN THE ALCOHOL TESTING PROCESS AND OPERATES AN EVIDENTIAL BREATH TESTING DEVICE (EBT) OR OTHER APPROVED ALCOHOL MEASUREMENT DEVICE.
- B. DESIGNATED EMPLOYER REPRESENTATIVE (DER) IS THE PERSON(S) DESIGNATED BY THE BALTIMORE COUNTY PUBLIC SCHOOLS TO ANSWER QUESTIONS ABOUT THE REGULATIONS; TO EXCHANGE INFORMATION; AND, TO WHOM THE MEDICAL REVIEW OFFICER AND THE BREATH ALCOHOL TECHNICIAN REPORT A PASS/FAIL TEST RESULT. THE DER IS ALSO AUTHORIZED TO TAKE IMMEDIATE STEPS TO REMOVE EMPLOYEES FROM SAFETY SENSITIVE DUTIES, OR CAUSE EMPLOYEES TO BE REMOVED FROM THESE COVERED DUTIES.
- C. MEDICAL REVIEW OFFICER IS A LICENSED PHYSICIAN RESPONSIBLE FOR RECEIVING LABORATORY RESULTS GENERATED BY THE BCPS DRUG TESTING PROGRAM, WHO HAS KNOWLEDGE OF SUBSTANCE ABUSE DISORDERS AND HAS APPROPRIATE MEDICAL TRAINING TO INTERPRET AND EVALUATE A DONOR'S CONFIRMED POSITIVE TEST RESULT WITH HIS/HER MEDICAL HISTORY AND ANY OTHER RELEVANT BIOMEDICAL INFORMATION.
- D. WORKPLACE IS ANY BOARD OF EDUCATION OWNED, CONTROLLED, OR LEASED PROPERTY OR VEHICLE.
- E. SCHOOL-SPONSORED EVENT IS ONE THAT IS PLANNED AND/OR CONTROLLED BY SCHOOL PERSONNEL REGARDLESS OF WHETHER IT TAKES PLACE ON OR OFF SCHOOL PROPERTY OR OCCURS DURING NORMAL SCHOOL HOURS.
- F. TRAINED ADMINISTRATOR IS AN ADMINISTRATOR WHO HAS TAKEN AND PASSED THE ONLINE COURSE FOR REASONABLE SUSPICION PROVIDED BY THE OFFICE OF RISK MANAGEMENT.

- G. VIOLATION IS: (1) A POSITIVE DRUG OR ALCOHOL TEST CONDUCTED BY AN APPROVED MEDICAL CENTER BY BALTIMORE COUNTY PUBLIC SCHOOLS AS A RESULT OF REASONABLE SUSPICION FOR DRUG AND/OR ALCOHOL USE OR (2) THE UNLAWFUL MANUFACTURE, DISTRIBUTION, POSSESSION OF A CONTROLLED SUBSTANCE OR ALCOHOL IN ANY QUANTITY IN THE WORKPLACE.

III. [B.]Drug and/or Alcohol Testing

A. [1.]Cause for Testing

1. Employees may be tested for drugs and/or alcohol when a[n] TRAINED administrator who has completed [in-service] training on REASONABLE SUSPICION [the detection of drug and alcohol use,] has [a reasonable suspicion of on the job or job-related drug and/or alcohol use or impairment] REASON TO BELIEVE THAT AN EMPLOYEE MAY BE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL AT THE WORKPLACE OR AT A SCHOOL-SPONSORED EVENT.
2. Such reasonable suspicion may be, but will not be limited to, any of the following [criteria]:
 - a. Physical evidence exists which indicates drug or alcohol use by an employee while on duty OR WHILE ATTENDING A SCHOOL-SPONSORED EVENT;
 - b. [Reports] NOTIFICATION that [the] AN employee is using or is under the influence of drugs or alcohol [are] IS received;
 - c. Observable behaviorS of [the] AN employee [is under the influence of drugs or alcohol] INDICATIVE OF DRUG OR ALCOHOL USE, [and] WHICH the employee cannot reasonably explain [such behavior];
 - d. An on-duty accident BY AN EMPLOYEE resulting in personal injury or significant property damage [is caused by the employee,] and it is determined that drug or alcohol use by the employee may have contributed to the cause of the accident;
 - e. A documented deterioration of the employee's job performance is determined to be caused, in part or in whole.

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3. UPON DIRECTION FROM A TRAINED ADMINISTRATOR, [T]he employee shall [report] BE TRANSPORTED to a designated laboratory, certified by the Department of Health and Mental Hygiene, [to] FOR THE [administer] ADMINISTRATION OF drug and/OR alcohol [testing] TESTS [within two hours after being instructed to do so] IMMEDIATELY. Refusal to submit to drug AND/or alcohol testing after being [so instructed] DIRECTED [or failure to arrive at the designated laboratory within two hours,] will be considered an act of insubordination, subject to disciplinary action up to and including termination. FAILURE TO ADHERE TO ALL REQUIRED DRUG AND/OR ALCOHOL TESTING PROCEDURES WILL BE CONSIDERED INSUBORDINATION, SUBJECT TO DISCIPLINARY ACTION UP TO AND INCLUDING TERMINATION.

B. [2]Drug Testing Procedure

1. [Once] At the designated laboratory, the employee will be required to provide a urine sample. The employee's urine sample will be tested for [amphetamines, cannabinoids, cocaine, opiates, phencyclidine, and any other] ANY illegal drug or controlled substance for which testing is possible. Results will be reported to the approved Medical Review Officer (MRO). [In the case of negative] IF THE test results ARE NEGATIVE, the MRO will report such results [both] to the DER FOR BCPS [the Board of Education of Baltimore County] and to the employee. IF THE RESULTS ARE NEGATIVE AND DILUTE, THE EMPLOYEE WILL BE SCHEDULED FOR ANOTHER DRUG TEST WITH THE PROVISION THAT THE COLLECTION OF THE URINE SAMPLE WILL BE UNDER "DIRECT OBSERVATION."
2. IF THE TEST RESULTS ARE POSITIVE, a confirmation test will be performed [on all samples that screen positive]. In the case of confirmed positive tests, the MRO will contact the employee to determine whether the use of valid prescription or non-prescription drugs or substances [could explain the] IS THE CAUSE OF the positive [tests] RESULTS. If the MRO's investigation reveals a valid reason for the POSITIVE test results, the MRO shall contact the laboratory, and the test results shall be reported as negative to the DER FOR BCPS [in the Board of Education of Baltimore County]. If the MRO's investigation does not reveal a valid reason for the test

results, the MRO shall report the test results as positive to the DER FOR BCPS [in the Board of Education].

C. Alcohol Testing Procedure

[Once] At the designated laboratory, the employee will be required to give a breath sample to a certified Breath Alcohol Technician (BAT). If the breath alcohol test records a level of 0.02 or above, it will be considered a positive test, and the employee will be required to remain at the laboratory for a second test within fifteen minutes. A second breath test result of 0.02 will result in the BAT or approved laboratory personnel reporting a positive test result to the DER FOR BCPS [the Board of Education of Baltimore County]. Refusal to submit to alcohol testing, or failure to remain for a second test after being instructed to do so by the BAT, will be reported to the DER FOR BCPS [Board of Education of Baltimore County] and considered an act of insubordination resulting in appropriate disciplinary action, up to and including termination.

D. Positive Test Results

1. ANY EMPLOYEE WHO HAS A POSITIVE DRUG OR ALCOHOL TEST WILL RECEIVE AN INITIAL LETTER DIRECTING THE EMPLOYEE TO CONTACT THE SUBSTANCE ABUSE PROFESSIONAL FOR THE EMPLOYEE ASSISTANCE PROGRAM TO SCHEDULE AN INITIAL MEETING WITHIN TEN (10) BUSINESS DAYS.
2. Any employee who has a positive drug or alcohol test result shall be entitled to a copy of the following INFORMATION [which shall be delivered to the employee in person, or by certified mail] within thirty days (30) from the date the test was performed. THE FOLLOWING INFORMATION SHALL BE DELIVERED TO THE EMPLOYEE IN PERSON BY AN ADMINISTRATOR OR BY CERTIFIED MAIL.
 - a. A copy of the laboratory test indicating the results.
 - b. A copy of [this] SUPERINTENDENT'S Rule 4001.
 - c. Written notice of any disciplinary action.
 - d. A copy of Section 17-214(d) of the Health General Article of the Annotated Code of Maryland (which permits the

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employee to request independent testing of the sample for verification of the test result.)

- e. NOTIFICATION THAT THE EMPLOYEE WILL BE UNPAID UNTIL THE INITIAL EVALUATION BY THE EMPLOYEE ASSISTANCE COUNSELOR AND WILL BE TERMINATED IF CONTACT HAS NOT BEEN MADE WITH THE SUBSTANCE ABUSE PROFESSIONAL WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF THE LETTER.

3. Employees are advised that the Superintendent OR DESIGNEE retains the right to seek and impose any discipline [which s/he, or his/her designee, determines to be appropriate], including, but not limited to, the suspension or termination of non-certificated employees or the recommendation to the Board of Education of Baltimore County that certificated employees be suspended or terminated.
4. UPON NOTIFICATION OF POSITIVE TEST RESULTS FOR A TEMPORARY AT-WILL EMPLOYEE, THE OFFICE OF TEMPORARY SERVICES WILL BE NOTIFIED AND THE EMPLOYEE'S SERVICES WILL BE TERMINATED. THE EMPLOYEE WILL NOT BE ELIGIBLE FOR FUTURE EMPLOYMENT BY BCPS.

E. Employee's Right to Verify Positive Drug Test

1. Under Section 17-214 of the Health General Article of the Annotated Code of Maryland, an employee who is required to submit to drug testing under this rule has the right to obtain independent testing of the same urine sample for verification of the test results at the employee's request at an approved laboratory. If an employee elects to obtain independent verification of a positive test result, any permanent disciplinary action, e.g., termination, but not suspension with pay, will NOT be taken [stayed] pending receipt of the independent test results.

F. Confidentiality

1. [The Board of Education of Baltimore County and the Superintendent will take steps to assure the confidentiality of] ALL ATTEMPTS WILL BE MADE TO MAINTAIN THE

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CONFIDENTIALITY OF medical information concerning the employee that is revealed during the testing procedures, subsequent investigation, or any related disciplinary procedure. [However,] The Superintendent OR DESIGNEE reserves the right to use any drug OR ALCOHOL test results, records, or documents that demonstrate the employee's failure to adhere to this rule.

G. Bus Drivers and OTHER COMMERCIAL DRIVERS LICENSE HOLDERS [CDL License]

1. The provisions of this rule with respect to drug and alcohol testing procedures are [in] applicable to [any] ALL employees. THIS RULE SHALL NOT SUPERSEDE THE REQUIREMENTS FOR EMPLOYEES who [is] ARE subject to other FEDERAL AND STATE REGULATIONS or school system rules concerning the drug and alcohol testing of bus drivers and person who hold a Commercial Driver's License (CDL).

H. [C.] Drug /Alcohol Assistance and Awareness Services

1. [The Board of Education] BCPS supports the concept of making all employees aware of the harmful effects and legal consequences of drug and/or alcohol use. Employees who may have a drug or alcohol problem are strongly encouraged to seek assistance through the [wellness program or the] Employee Assistance Program.

I. Reservation of Rights

1. [The purpose of this rule is to familiarize the employees of the Board of Education of Baltimore County with the school system's prohibitions and rules concerning the Board's Drug-Free Workplace and Drug and Alcohol Testing.] This rule is not intended to, and shall not, constitute a waiver of any rights possessed by the Board [of Education] or the Superintendent [of Schools] derived from any source whatsoever. [Nothing in t]This rule shall not be construed as limiting the Board'S [of Education of Baltimore County's] or the SUPERINTENDENT'S [OF SCHOOLS] OR DESIGNEE'S right to take disciplinary action, up to and including suspension or termination, for any involvement with drugs and/or alcohol not specifically addressed in this rule.

Legal References: *Annotated Code of Maryland, Health General Article, § 17-214*
Drug-Free Workplace Act of 1988, 41 U.S.C. Section 701
Safe and Drug Free Schools and Community Act of 1994, 20 U.S.C.
section 7-101

Rule

Superintendent of Schools

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