

CHAPTER 6.00 - PERSONNEL

ALCOHOL AND DRUG FREE WORKPLACE

6.45

1. Purpose. The St. Johns County School Board hereby adopted an Alcohol and Drug-Free Workplace policy and enacts procedures to implement that policy in accordance with Florida Statutes 440.101 and 440.102. The policy and procedures have been adopted to ensure that all employees remain drug free as a condition of employment. They prohibit the possession or use of alcohol or drugs by any employee under circumstances that will or may affect the efficient operation of the business of the School Board, the safety of its employees, volunteers, students parents, persons having business with the School Board or any school, and the public it serves. The policy and procedures are intended to meet or exceed the minimal requirements of Florida Statute 440.102.
2. Definitions. The following definitions apply to this policy and procedures:
 - a. “Drug” means alcohol, including distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume as defined by Florida Statute 561.01, as amended from time to time; a cannabinoid; cocaine; phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug; or a metabolite of any of the substances listed in this paragraph or any other controlled substance, as defined in the Controlled Substances Act (21 USC § 812) and 21 CFR § 1301, et seq. or Chapter 893, Florida Statutes, as amended from time to time.
 - b. “Drug test or test” means any chemical, biological, or physical instrumental analysis administered, by a laboratory certified by the United States Department of Health and Human Services or licensed by the Agency for Health Care Administration, for the purpose of determining the presence or absence of a drug or its metabolites.
 - c. “Employee” means any person who works for salary, wages, or other remuneration or compensation for the School Board.
 - d. “Employer” means the School Board.
 - e. “Job applicant” means a person who has been recommended for employment by the School Board, including but not limited to employment in a special-risk or safety-sensitive position.
 - f. “Reasonable-suspicion drug testing” means drug/alcohol testing based on a belief that an employee is using or has used drugs or alcohol in violation

CHAPTER 6.00 - PERSONNEL

of this policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

- i. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug.
 - ii. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
 - iii. A report of drug use, provided by a reliable and credible source.
 - iv. Evidence that an individual has tampered with a drug test during his or her employment with the current employer.
 - v. Information that an employee has caused, contributed to, or been involved in an accident while at work.
 - vi. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.
- g. "Safety-sensitive position" means a position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; a position subject to Florida Statute 110.1127; or a position in which a momentary lapse in attention could result in injury or death to another person.
- h. "Special-risk position" means, with respect to a public employer, a position that is required to be filled by a person who is certified under Chapter 633 or Chapter 943, Florida Statutes.
- i. "Specimen" means tissue, hair, or a product of the human body capable of revealing the presence of drugs or their metabolites, as approved by the United States Food and Drug Administration the Agency for Health Care Administration or other federal or state agency.
3. Prohibited Conduct. The following conduct is prohibited:

CHAPTER 6.00 - PERSONNEL

- a. No employee shall possess, consume deliver, provide to another or sell alcoholic beverages or be under the influence of alcohol, while in the operation of, in control of, or while a passenger in any vehicle owned by or leased to the School Board, or while at any School Board owned or operated facility, while on duty or in the process of arriving at or departing from the employee's primary workplace assignment.
 - b. No employee shall unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any drug, narcotic, amphetamine, barbiturate, marijuana, cocaine, heroin, or any other controlled substance, as defined in the Controlled Substances Act (21 USC § 812) and 21 CFR § 1301, et seq. or Chapter 893, Florida Statutes, as amended from time to time, while on duty or in the process of arriving at or departing from the employee's primary workplace assignment for the start or the end of the duty day.
4. Covered Employees. This policy covers all employees, including but not limited to those employees entitled to benefits pursuant to the provisions of Chapter 440, Florida Statutes, generally known as the Florida Workers' Compensation Law.
 5. Conditions of Employment. As a condition of employment, each employee shall:
 - a. Abide by the terms of this policy.
 - b. Notify the Superintendent of any criminal drug statute arrest or conviction for a violation occurring on the premises of the School Board, at the workplace, or during the conduct of any official activity related to the School Board within forty-eight (48) hours.
 6. Drug/Alcohol Testing. The Superintendent may, and, to the extent required by law, will require testing as one of the several means of enforcing this drug and alcohol abuse policy. Testing will be conducted in the manner and circumstances listed below and as otherwise allowed by law. Required testing shall include:
 - a. Job Applicant Drug Testing. All job applicants must submit to a drug test and the School Board may use a refusal to submit to a drug test or a positive confirmed drug test as a basis for refusing to hire a job applicant.
 - b. Reasonable-Suspicion Drug Testing. All employees are required to submit to reasonable-suspicion drug testing.

CHAPTER 6.00 - PERSONNEL

- c. Routine Fitness-for-Duty Drug Testing. An employee must submit to a drug test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group.
 - d. Follow-Up Drug Testing. If the employee in the course of employment enters an employee assistance program for drug-related problems, or a drug rehabilitation program, the employee must submit to a drug test as a follow-up to such program, unless the employee voluntarily entered the program. In those cases, the School Board has the option to not require follow-up testing. If follow-up testing is required, it must be conducted at least once a year for a 2-year period after completion of the program. Advance notice of a follow-up testing date must not be given to the employee to be tested.
 - e. Treatment-Related Testing. Employees who are undergoing rehabilitation, counseling or other treatment for drugs or alcohol which is known to or required by the Superintendent, as a condition of continued employment, shall authorize the Superintendent to obtain all information from any source, including medical or psychological reports relating to the problem and follow the instructions of those providing assistance, including doctors and psychologists they may be required to see by the Superintendent.
 - f. Transportation Staff Testing. Transportation Department employees may be tested as provided by School Board Rule 6.111.
7. Testing Procedures and Employee Protection. The provisions of Florida Statutes 440.102(5)-(6) and (8)-(9), governing (a) testing procedures, specimen collection procedures and employee protection; (b) confirmation testing; (c) confidentiality; (d) drug-testing standards for laboratories; and (e) other terms and conditions of the drug testing program, are adopted and incorporated by reference into this rule.
8. Use of Alcohol Test Results. For the purposes of this policy, if an alcohol test reveals the presence of alcohol in a level defined by state statutes as illegal for driving in Florida, the employee shall be deemed to have violated Section 3 of this policy. If a test reveals the presence of alcohol in a level more than a trace, but less than that defined by statute as illegal for driving purposes, the results of the test will be considered along with all other relevant information, e.g., employee conduct, speech, performance, and the factors listed in Section 2(f), in determining whether the employee was under the influence of alcohol.

CHAPTER 6.00 - PERSONNEL

9. Use of Drug Test Results. A positive drug test shall be a violation of Section 3 of this policy.
10. Discipline for Violation of Policy. The employees and job applicants shall be subject to discipline, as follows:
 - a. An employee who violates the provisions of Section 3 or who is directed to take a physical examination, blood, breathalyzer, urinalysis or other test allowed by law, and refuses or fails to do so when and as directed; or who, after having taken such examination and/or test is determined to have violated Section 3 of this policy, shall be subject to disciplinary action up to and including termination, as recommended by the Superintendent. An employee who is subject to termination under this section shall be entitled to such procedural rights as are established by law or collective bargaining agreement.
 - b. A job applicant who violates the provisions of Section 3. or who is directed to take a physical examination, blood, breathalyzer, urinalysis or other test allowed by law or this policy, and refuses or fails to do so when and as directed; or who, after having taken such examination and/or test is determined to have violated Section 3 of this policy, may be subject to rejection of his or her application for employment.
11. Additional or Other Action. The Superintendent is responsible for taking the following action:
 - a. The Superintendent shall notify the appropriate agency, such as the Department of Education, Professional Practices Services, within ten (10) days after receiving notice from an employee or otherwise receiving notice of an employee's conviction of a criminal violation, suspected criminal violation, or noncriminal violation of Section 3.
 - b. The Superintendent may take one of the following actions, within thirty (30) days of receiving notice, with respect to any employee who violates Section 3:
 - i. Require such an employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

CHAPTER 6.00 - PERSONNEL

- ii. If the employee fails to participate satisfactorily in such program, the employee may be non-renewed or his/her employment may be suspended or terminated, upon recommendation of the Superintendent and discretion of the School Board;
 - iii. Take other appropriate personnel action against such an employee, as recommended by the Superintendent; or
 - iv. Offer assistance and information on alcohol and drug abuse in order to maintain an alcohol and a drug-free workplace. Employee assistance will be available through the Human Resources Department and the Employee Assistance Program. The School Board shall also conduct periodic workshops on drug and alcohol abuse in the workplace to inform employees and supervisors of the dangers of substance abuse and of the provisions in this policy.
12. Notice to Employees and Job Applicants. One time, prior to testing, employees and job applicants shall be provided with the written statement required by Florida Statute 440.102(3), as amended from time to time.
13. Employer Protection. The employer protection provisions of Florida Statute 440.102(7), as amended from time to time, are hereby incorporated by reference.
14. Procedures and Guidelines. The Superintendent is authorized to enact procedures and guidelines to further implement this rule.

STATUTORY AUTHORITY:

1001.43, F.S.

LAWS IMPLEMENTED:

**440.101, 440.102,
1001.42(5), 1012.23,
1012.34, 1012.33, F.S.**

HISTORY:

**ADOPTED: 08/18/1998
REVISED: 08/08/2006; 06/14/2011**