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ALCOHOL AND DRUG FREE WORKPLACE

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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, as well as adjuncts, 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. Transportation Department Drug and Alcohol Testing. Individuals who operate a commercial motor vehicle in their employment with the School Board are also subject to the School Board's Transportation Drug and Alcohol Policy.
3. 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 and who has received a conditional offer of employment, in a special-risk, mandatory testing, or safety-sensitive position.

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- 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 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" or "Mandatory-testing 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 work with children, 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. Because of the likelihood that all School Board employees will have occasion to work with children, all School Board employment positions are designated as Mandatory-testing positions.
- 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.

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- j. "Workplace" means the site for the performance of any work done in connection with the duties of an employee of the School Board, including a school-owned or leased property, a school-owned or provided vehicle, and an off-campus event or function.
4. Prohibited Conduct. The following conduct is prohibited:
 - a. No employee shall possess, consume, deliver, provide to another, or sell alcoholic beverages, or be under the influence of alcohol in the workplace or while on duty.
 - 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 workplace.
 5. Covered Employees. This policy covers all employees, including but not limited to those employees eligible for benefits pursuant to the provisions of Chapter 440, Florida Statutes, generally known as the Florida Workers' Compensation Law, and adjuncts.
 6. 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 arrest, charges, or conviction for sale and/or possession of a controlled substance within forty-eight (48) hours.
 7. 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 who have received a conditional offer of employment 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, or refusal to submit within the allotted time, as a basis for refusing to hire a job applicant.
 - b. Reasonable-Suspicion Drug and Alcohol Testing. All employees are required to submit to reasonable-suspicion drug and/or alcohol testing.
 - c. Routine Fitness-for-Duty Drug and Alcohol Testing. An employee must submit to a drug and/or alcohol test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is

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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 and Alcohol Testing. If the employee, in the course of employment, enters an employee assistance program for drug or alcohol - related problems, or a drug or alcohol rehabilitation program, the employee may be required to submit to drug and/or alcohol test as a follow-up to ensure compliance with such program and upon completion of 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.

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 information to verify compliance with the rehabilitation, counseling, or treatment program and this policy.

8. The School Board may test for the following drugs (identified by chemical name, as well as brand or common name)*:

Alcohol (ethanol, beer, wine, booze, alley juice, fire water, grog, hooch, rocket fuel)

Amphetamines (methamphetamine, amp, cinnamon, lemon drop, trash, tweak, crystal, crank, biphphetamine, desoxyn, dexedrine, speed)

Cannabinoids (marijuana, blunt, columbo, hash, hay, pot, joint, indo, roach, grass, weed, reefer)

Cocaine (coke, blast, flake, railers, ringer, toot, blow, nose candy, snow, crack, rock)

Phencyclidine (PCP, angel dust, LSD, beast, blaze, Superman, tab, trips, hog)

Opiates (opium, codeine, morphine, heroin, dover's powder, paregoric, parepectolin, school boy, smack, tar, chasing the tiger)

Barbiturates (phenobarbital, tuinal, amytal, barbs, downers, tranqs)

Benzodiazepines (bennies, rophies, ativan, azene, clonopin, dalmane, diazeam, halcion, librium, poxipam, remestan, serax, tranxene, valium, veratrine, vivol, xanax)

Methadone (dolophine, methadose, amidone, fizzies)

Propoxyphene (darvocet, darvon N, dolene, novopropoxyn)

* The drugs tested may change and this list is not intended to be all-inclusive.

Over-the-Counter and Prescription Drugs Which Could Alter or Affect Drug Test Results *

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| Category | |
|-----------------|---|
| Alcohol | All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vick's Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contact Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof) |
| Amphetamines | Obetrol, Biphphetamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastine |
| Cannabinoids | Marinol (Dronabinol, THC) |
| Cocaine | Cocaine HCl topical solution (Roxanne) |
| Phencyclidine | Not legal by prescription |
| Methaqualone | Not legal by prescription |
| Opiates | Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Emprin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guaiatuss AC, Novahistine DH, Novahistine Expectorant, dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussi-organidin, etc. |
| Barbituates | Phenobarbitol, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebral, Butabarbital, Butalbital, Phenrinin, Triad, etc. |
| Benzodiazepines | Ativan, Azene, Clonopin, dalmine, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax |
| Methadone | Dolphine, Metadose |
| Propoxyphene | Darvocet, Darvon N, Dolene, etc. |

*Due to the large number of obscure brand names and constant marketing of new products, this list cannot and is not intended to be all-inclusive.

9. 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.

Employees and applicants may provide information they consider relevant to a test to the medical review officer. Such information may include current or recently used prescription or non-prescription medications, or other relevant

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medical information. Employees and applicants will have the opportunity to consult with a medical review officer regarding technical information related to medications and the test.

When a test result is reported to the School Board as negative dilute, a recollection may be required at either the direction of the MRO or School Board. In these cases, failure of the employee or applicant to submit for the recollection may be deemed a refusal to test.

Employees and applicants who receive a positive confirmed test result may contest or explain the result to the MRO within five (5) working days after written notification from the MRO. If the challenge or explanation is unsatisfactory, the MRO will report the positive result to the School Board and the individual may contest the result in accordance with rules adopted by the Agency for Health Care Administration.

Employees and applicants may request a portion of their specimen for retesting up to 180 days after written notification of a positive test result. The employee or applicant who provided the specimen shall be permitted to have a portion of the specimen retested, at the employee's or applicant's expense, at another laboratory, licensed and approved by the Agency for Health Care Administration, chosen by the employee or job applicant.

Employees and applicants have the right to pursue administrative and/or legal challenges to their test results and must notify the lab if they file any administrative or civil actions regarding the test results.

All information, interviews, reports, statements, memoranda and drug test results, written or otherwise, received or produced as part of the School Board's drug and alcohol testing program are confidential and exempt from the provisions of 119.07(1). Unless authorized by law, rule, or regulations, the School Board will not release such information without a written consent form signed voluntarily by the person tested.

10. 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 4 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.
11. Use of Drug Test Results. A positive drug test shall be a violation of Section 4 of this policy.

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12. Prescription or Over-the-Counter Drugs.

Any employee who is taking any prescription or over-the-counter drug, which might impair the employee from safely performing his or her job duties, must notify Human Resources. If it is determined that use of prescription or over the counter drugs impairs the employee's ability to safely and/or effectively perform his/her job, an employee may be required to use leave during the period medication is taken.

13. 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 4 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 4 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 has received a conditional offer of employment and who violates the provisions of Section 4. 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 4 of this policy, may be subject to rejection of his or her application for employment.
- c. Refusal to submit to a drug test may include:
 - Failure to submit within the allotted time frame;
 - Failure to provide an adequate specimen for testing without valid medical explanation;
 - Failure to submit to a recollection;
 - Providing an adulterated or substituted specimen;
 - Delaying or failing to appear or remain at the testing facility within a reasonable time after being instructed to do so;
 - Leaving the scene of an accident or failing to remain available for testing after an accident;
 - Failure to respond to an MRO within a reasonable period of time;
 - Refusal to cooperate in and complete the collection process, including refusal to sign the necessary testing forms, or refusal to be driven by or accompanied by another School Board employee as directed.
- d. An employee in a safety-sensitive, special risk, or mandatory testing position who enters an employee assistance program or drug rehabilitation

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program will either be assigned to a different position or placed on leave while the employee is participating in the program.

14. 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, after receiving notice of a criminal drug conviction or violation of this Policy in accordance with applicable requirements or legal obligations.
 - 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.

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;
 - ii. Take other appropriate personnel action against such an employee, as recommended by the Superintendent; and/or
 - iii. 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.
15. 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.
16. A sample of Drug Rehabilitation Programs in the area can be obtained from Human Resources. The School Board's EAP program may also be a resource.
17. Collective Bargaining Agreements. Employees covered by a collective bargaining agreement should also consult that Agreement for any provisions pertaining to drug and alcohol testing, discipline, and discharge.

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18. Employer Protection. The employer protection provisions of Florida Statute 440.102(7), as amended from time to time, are hereby incorporated by reference.
19. 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:

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