

<p>PRESTON COUNTY BOARD OF EDUCATION</p> <p>Personnel Management</p> <p>File: 8-38 Drug-Free Workplace</p>	<p>Last Reviewed: 6-28-10</p> <p>Next Review: 7-01-12</p>
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The West Virginia Board of Education has taken the proactive step of enacting *SBP 1461 – Drug-Free Workplace* as a means of assuring a safe, healthy and drug-free work environment for the employees and students at all school sites in West Virginia.

This policy applies to all employees of the Preston County Schools. In addition, those employees who operate a commercial motor vehicle (i.e., bus, truck, etc.) will also be subject to the provisions of *File: R 8-8-1 Transportation Employees’ Alcohol and Controlled Substance Testing*

The authority for this policy is derived from: The Drug- Free Workplace Act 1988 (P.L. 100-690). West Virginia Code 18-2-5 and Section 5145 of the Drug-Free Schools and Communities Act (P.L. 101-226).

Definitions:

- ❖ Drug-Free Workplace - a work site where work is performed in connection with the employee's contract with the Preston 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 Preston County Board of Education.
- ❖ Employee - any person who works full-time, part-time, or under contract, including management or temporary staff who is directly engaged in the performance of work pursuant to the mission of the Preston County Board of Education.
- ❖ Controlled Substance - any substance that is designated as a controlled substance under state or federal laws.
- ❖ Conviction - a finding of guilt (including a plea of 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.
- ❖ Grantee - any department, division, unit, or any person responsible for the performance of work under the provisions of a federal grant.
- ❖ Contractor - any department, division, unit, or any person responsible for the performance or work under a contract.
- ❖ Federal Agency - any agency as that term is defined in Section 552 (f) of Title IV, United States Code.
- ❖ Alcohol - ethyl alcohol whatever its origin and shall include synthetic ethyl alcohol but not denatured alcohol.

- ❖ Drug - means:
 - articles recognized as drugs in the USP-DI, Facts and Comparisons, Physicians Desk Reference or supplements thereto, for use in the diagnosis, cure, mitigation, treatment or prevention of disease in human or other animals;
 - articles, other than food, intended to affect the structure or any function of the body of human or other animals; and
 - articles intended for use as a component of any articles specified in the first two subsections.
- ❖ 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 to a prescription drug order is restricted to use by practitioners only).
- ❖ 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.
- ❖ Look-Alike Drugs - tablets or capsules 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.
- ❖ Work Day - 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 the job site.
- ❖ Intoxicants - any intoxicating substances such as inhalants.
- ❖ Covered Employees - A covered employee means "any person who operates a commercial motor vehicle. This includes, but is not limit to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner operated contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer."

It is the policy of the Preston 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 or non-medically prescribe controlled substances or alcohol; the reporting to work under the influence of a non-medically prescribed controlled substance, intoxicants, look-alike drugs or alcohol; or possession of non-medically prescribed paraphernalia.

The policy is applicable while employees are engaged in any work-related activity which includes performing business during regularly scheduled work days, meal breaks, and/or occasions having a connection with the Board of Education. In addition, this policy is applicable at any and all times when employees are on Board property, in attendance at any school or school board activity/function. It is

further applicable during the performance of any and all job related activities, and/or while traveling in any vehicle owned, leased, or rented by the Board or Education.

The policy's primary goal is to ensure that alcohol, intoxicants, look-alike drugs, and illegal drug and/or medically non-prescribed controlled substance use is eliminated and that the Preston County Board of Education workplace is safe, healthful, productive, and secure for its employees, students, and citizens.

Prohibited Conduct:

The following shall be considered "prohibited conduct" for purposes of this policy:

- ❖ No employee shall unlawfully manufacture, distribute, possess or use, illegal drugs or medically non-prescribed controlled substances and/or alcohol; the reporting to work under the influence of illegal drugs, non-medically prescribed controlled substance, intoxicant, look-alike drugs or alcohol; or possession of non-medically prescribed paraphernalia is prohibited.
- ❖ No employee shall report for duty or remain on duty while having an alcohol concentration of .04 or greater.
- ❖ No employee shall report for duty or remain on duty while abusing legal (prescription or over-the-counter) drugs or alcohol.
- ❖ No employee shall consume or possess open containers of alcohol on Preston County Board of Education property, in a Board of Education vehicle or vehicles rented by the Preston County Board of Education
- ❖ No employee shall refuse to submit to a post-accident, random, reasonable suspicion, return-to-duty, or follow-up alcohol or drug test.
- ❖ No employee shall report for duty or remain on duty when the employee uses any controlled substance, except when use is pursuant to the instruction of a physician who has advised employee that the substance does not adversely affect the employee's ability to perform assigned duties.
- ❖ If an 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 assignment.

Consequences of Misconduct:

Consequences if any employee who engages in conduct prohibited by this policy shall be subject to the following:

- ❖ Notification of law enforcement agency.
- ❖ Notification, by certified mail, to the WV Department of Education.
- ❖ Suspension for up to 15 days with pay pending investigation and opportunity to respond to charged violation.
- ❖ Written notification of charge; opportunity for hearing before the Board.
- ❖ Upon a determination of guilt by the suspension for up to 90 days without pay.

- ❖ Required enrollment in a substance abuse counseling program at the employees' expense. Failure to enroll shall be grounds for termination of employment.
- ❖ Return to duties from a period of suspension without pay shall be conditioned upon the following:
 - Employee furnished written verification of successful completion of a substance abuse counseling program.
 - Employee furnished physician's statement verifying the employee is drug/alcohol free.
 - Restoration and/or maintenance of any certification or license that is requisite to the ability of an employee to perform his or her duties.
 - Failure of an employee to meet the forgoing conditions for return to work within 20 days prior to the end of a suspension without pay shall be grounds for termination of employment.
- ❖ Submission to a random drug test on a monthly basis for a period of 6 months following a return to duty.
- ❖ In the event an employee is determined to be guilty of a violation of this policy and related actions of the employee are determined to have caused significant property damage, serious injury or death, the Superintendent may recommend termination of employment in lieu of a suspension without pay.

Second Offense:

- ❖ Notification of law enforcement.
- ❖ Notification, by certified mail, to the WV Department of Education.
- ❖ Suspension for up to 15 days with pay pending investigation and opportunity to respond to charged violation.
- ❖ Written notification of charge; opportunity for hearing before the Board.
- ❖ Upon a determination of guilt by the Board, termination of employment.

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 on school premises, manifests physical or behavioral symptoms or reactions commonly attributed to the use of controlled substances, lookalike drugs, intoxicants, illegal drugs or alcohol. Such employee conduct must be witnessed by at least one supervisor trained in compliance with this policy. Should a supervisor observe such symptoms or reaction, the employee must submit to testing. An employee who observes suspicious behavior by a supervisor should report this to the superintendent.

Refusal to Test:

Refusal to submit to the types of drug and alcohol tests employed by the Preston County Board of Education will be grounds to terminate employment of existing employees. 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 sufficient urine specimen, the Preston 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.

Post-Accident Testing:

An employee must submit to drug and alcohol testing any time s/he is involved in an accident while on duty as an employee of the Preston County Board of Education and involving damage to Board of Education property or injury to personnel or students. Following any accident, the employee must contact the Employer as soon as possible and follow instructions for post-accident drug and alcohol testing.

Any time a post-accident drug or alcohol test is required, it must be performed as soon as possible following the accident. If no alcohol test can be made within eight (8) hours, attempts to perform an alcohol test shall cease. If no urine collection can be obtained for purposes of post-accident drug testing within thirty-two (32) hours, attempts to make such collection shall cease.

In the event that federal, state, or local officials conduct breath or blood tests for the use of alcohol and/or urine tests for the use of controlled substances following an accident, these tests may meet the requirements of this section, provided the tests conform to applicable federal, state, or local requirements. The Employer may request testing documentation from such agencies, and may ask the employee to sign a release allowing the Employer to obtain such test results.

In the event an employee is so seriously injured that the employee cannot provide a sample of urine, breath or saliva at the time of the accident, the employee may provide necessary authorization for the Employer to obtain hospital records or other documents that would indicate the presence of controlled substances, intoxicants or alcohol in the employee's system at the time of the accident.

School System's Obligation as a Contractor or Grantee:

The school system acknowledges that if it is a contractor or grantee under the terms of a federal contract or grant in the amount of \$25,000.00 or more, it shall be subject to suspension of payments and termination of the contract or grant if it makes an initial false certification or if the number of employee drug-related convictions indicates that it has not made a good faith effort to maintain a drug-free workplace.

Employee Conditions:

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

- ❖ Abide by the terms of this policy; compliance is mandatory.

- ❖ Notify their supervisor or department head of any criminal drug statute conviction for a violation occurring in the workplace, no later than five (5) days after such conviction.
- ❖ Sign a statement indicating the employee is aware of the policy and shall abide by the terms of the policy.

Education:

It shall be the responsibility of the Preston County Board of Education to establish a drug awareness program for Preston County Board of Education employees to provide information on the following:

- ❖ Referral Services
- ❖ The establishment and maintenance of a drug-free workplace
- ❖ The penalties for workplace drug-abuse
- ❖ Available drug-free literature including dangers of drug abuse.

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Adopted: January 13, 2003
Amended/Revised: June 28, 2010