

KP2

PERSONNEL

Alcohol, Drug and Tobacco-Free Workplace

All employees and students of the School Division are entitled to a healthy, safe, and productive work and learning environment free of alcohol, marijuana, drugs, tobacco, other intoxicating substances, and imitations of such products. Employees must be prepared and fit to perform their assigned duties upon arriving to the workplace and while performing school related activities. Any employee who is impaired from performing assigned duties because the employee is under the influence of alcohol, marijuana, or a controlled substance is determined to be unfit for duty. Therefore, the School Board and the School Division strictly enforce the provisions of this Regulation.

A. Application

This Regulation applies to all employees, except when related to alcohol, marijuana, or controlled substances/illegal drugs for employees that operate commercial motor vehicles and who are required by federal law to maintain a commercial driver's license. Employees that operate commercial motor vehicles must adhere to School Board Policy 4-22 and School Board Regulation 4-22.1.

All employees are expected to adhere to the following guidelines as a condition of their employment with the School Board. Any employee who violates this Regulation will be recommended for discipline up to and including dismissal.

B. Prohibitions

1. Controlled Substances/Illegal Drugs

Employees are strictly prohibited from unlawfully manufacturing, distributing, dispensing, possessing, using, or being under the influence of cocaine, amphetamines, opiates, phencyclidine, anabolic steroids and any other

substance maintained on Schedules I through VI of the Drug Control Act (Virginia Code § 54.1-3400, et seq., as amended), or possessing, dispensing, or distributing drug paraphernalia and/or imitation controlled substances in violation of law.

2. Improper Use of Prescription Drugs

Medically authorized use of prescription drugs are not prohibited by this Regulation except where an employee was not prescribed the substance by a healthcare provider; the employee intentionally misuses the medication; or, the employee otherwise uses the medication in a manner that violates state or federal law.

Employees are required to notify their supervisors, before beginning work, when taking prescription medications which may interfere with the safe and effective performance of duties or operations. The employee is not required to disclose the name of the medication(s) but must submit documentation from the prescribing physician of the side effects of the medication and whether the employee is able to perform assigned job duties.

3. Alcohol and Marijuana

Employees will not possess, use or be under the influence of alcohol or marijuana (including cannabis oil) while in or upon the school property, during school hours or during School Division-sponsored activities, or while performing work-related activities. Violation of this Regulation may result in discipline up to and including dismissal.

Possession of imitation alcohol or marijuana products is also prohibited while in or upon school property, during school hours or school sponsored activities, or while performing work-related activities.

4. Performance of Duty While Impaired

No employee shall report to work, perform assigned duties, engage in School Division business, or participate in an activity involving students while the employee has detectable amounts of alcohol, marijuana, illegal drugs, unauthorized prescription drugs, or illegal drug metabolites in the employee's system.

No employee shall operate a School Board vehicle while the employee is under the influence of alcohol, marijuana, illegal drugs, unauthorized prescription drugs, or illegal drug metabolites in the employee's system.

C. Reasonable Suspicion

The phrase "reasonable suspicion" refers to circumstances that would lead a reasonable person to conclude that the suspected employee may be under the influence of alcohol, marijuana, cocaine, amphetamines, opiates, phencyclidine, anabolic steroids and any other substance maintained on Schedules I through VI of the Drug Control Act (Virginia Code § 54.1-3400 et seq., as amended).

Reasonable suspicion is based on specific observations concerning the suspected employee's appearance, behavior, speech, or odor.

Observations supporting reasonable suspicion may include, but are not limited to: observation of drug, marijuana, or alcohol use or possession; a pattern of bizarre, abnormal or erratic behavior; glassy or bloodshot eyes; slurred speech; poor coordination and/or reflexes; onset of unusual perspiration or shakes; unusual drowsiness; or, sluggishness; excessive absenteeism, tardiness or other significant changes in job performance; damage to School Board property when there is no reasonable explanation for the occurrence of the damage; other circumstances that reasonably suggest that an employee is impaired.

D. Traffic Accidents

An employee involved in an accident in a School Board vehicle shall be tested in cases of personal injury, fatality or when a traffic ticket is issued to the employee. An employee driving a School Board vehicle

may be tested in cases of damage to the School Board vehicle when there is no reasonable explanation for the occurrence of the damage. If there is reason to believe that an employee other than the purported driver was operating the vehicle at the time of the accident, all School Board employees in the vehicle at the time of the accident will be tested.

E. Investigative Process/Procedures

1. A principal or other school official who has a reasonable suspicion that an employee has violated any of the prohibitions stated in Section B of this Regulation shall immediately contact the Office of Employee Relations, Department of Human Resources. The principal or school official and the Employee Relations Specialist shall collaboratively review the information collected and determine whether reasonable suspicion exists.
2. If reasonable suspicion exists, the suspected employee shall be directed to submit to testing. If the employee is suspected of being under the influence of alcohol, a School Resource Officer or other trained personnel will conduct a breath test at the school or other site. In the event a School Resource Officer or other trained personnel is not available, the test will be conducted at a facility to be determined by the School Division. In the event the employee is suspected of being under the influence of marijuana or drugs, the employee shall submit to a drug test at a facility of the School Division's choice.
3. Employees who perform safety-sensitive functions are subject to random alcohol, marijuana, and controlled substance testing. Employees will be notified by a designated member of their school or department and given instructions on reporting for testing. Employees must report to the designated site within one (1) hour of being so notified of the testing requirement. Failure to report within the designated time will be investigated as a refusal to test. The Department of Human

Resources maintains a list of positions defined as safety-sensitive.

4. Applicants selected to fill a safety-sensitive position will be subject to drug and alcohol testing as a condition of employment. Selected applicants will be notified by a designated School Division employee and given instructions on reporting for testing. Applicants that fail to report for testing within the designated time will be denied employment. Applicants that test positive for drugs, marijuana, or alcohol will be denied employment.

F. Refusal to Submit to Drug/Alcohol Testing

1. An employee shall be required to submit to a breath, urine, blood or other applicable test for analysis to determine the presence of drugs, marijuana, and/or alcohol in the employee's system when there is a reasonable suspicion that the employee has violated any of the prohibitions stated in Section B of this Regulation.
2. Refusal to submit shall include, but shall not be limited to: failing to appear for testing within a reasonable time (as determined by the School Division); failing to remain at testing site until testing is complete; failing to cooperate during testing process; failing to permit observation or monitoring of specimen when observation is required; failing to provide sufficient urine required for properly administering test; failing to provide sufficient breath for properly administering test; altering or substituting urine test; or other actions done for the purpose of interfering with the testing.
3. An employee who refuses a drug and/or alcohol test shall be deemed to have a positive test and will be subject to discipline up to and including dismissal.

G. Alcohol/Drug Testing Procedures

1. Alcohol Testing

- a. Alcohol testing shall be conducted using federally approved evidential breath testing (EBT). This test may be conducted by qualified personnel, including but not limited to School Resource Officers, at any site designated by the School Division.
- b. Once the employee is notified that alcohol testing is required, he/she shall refrain from consuming any substance containing alcohol and must not eat, drink or put anything (e.g. cigarette, chewing gum) into his/her mouth until testing is complete.
- c. A test result less than 0.02 alcohol concentration is considered a negative test result. A test result between 0.02 – 0.039 will result in the employee's immediate relief of duty until the employee's next regular workday, but not less than 24 hours after the test. The employee will be required to submit to another alcohol test before returning to work. The employee may be recommended for disciplinary action. A test result of 0.04 or greater will subject an employee to disciplinary action up to and including dismissal.
- d. Employees shall not be permitted to drive themselves to or from the test site with suspected alcohol in their systems.

2. Marijuana Testing

- a. Marijuana testing shall be performed at a medical laboratory or facility chosen by the School Division.
- b. Once it is determined that an employee will undergo testing, the employee shall not eat, drink

or put anything (e.g. cigarette, chewing gum) into his/her mouth until testing is complete.

- c. A positive marijuana test shall be defined as any amount that is reported at or above the current, approved cut-off limitations as determined by a medical laboratory or facility to be chosen by the School Division. Employees should be mindful of the extended period during which marijuana remains detectable in sufficient concentration to produce a positive drug test. At this time, any positive test for marijuana will be considered a violation of this regulation regardless of when or where the employee last used marijuana.
- d. Whenever a screening test of an employee's urine sample is positive for the presence of marijuana, a confirmatory test shall be conducted by the laboratory. The School Division shall bear the cost for the initial and confirmatory tests.
- e. An employee who requests a second independent confirmatory test shall bear the cost of the test. Further, the request must be made, in writing, to the Director of Employee Relations within seventy-two (72) hours of the date in which the employee received the results of the initial confirmatory test.

3. Controlled Substances

- a. Drug testing shall be performed at a medical laboratory or facility chosen by the School Division.
- b. Once it is determined that an employee will undergo drug testing, the employee shall not eat, drink or put anything (e.g. cigarette, chewing gum) into his/her mouth until testing is complete.

- c. A drug test may include an analysis for any substance which could impair an employee's ability to safely and/or effectively perform the duties and responsibilities required of the job, including, but not limited to the following:
 - 1. Heroin;
 - 2. Cocaine;
 - 3. Morphine and its derivatives;
 - 4. Phencyclidine (PCP);
 - 5. Methadone;
 - 6. Barbiturates;
 - 7. Amphetamines;
 - 8. Methaqualone;
 - 9. Anabolic steroids, androgenic steroids; and
 - 10. Any other controlled substance used to enhance physical development or athletic performance.
- d. A positive drug test shall be defined as any measurable amount of a controlled substance without proof of a valid prescription held by the employee tested, or any illegal substance that is reported at or above the current, approved cut-off limitations as determined by a medical laboratory or facility to be chosen by the School Division.
- e. Whenever a screening test of an employee's urine sample is positive for the presence of drugs, a confirmatory test shall be conducted by the

laboratory. The School Division shall bear the cost for the initial and confirmatory drug tests.

- f. An employee who requests a second independent confirmatory test shall bear the cost of the test. Further, the request must be made, in writing, to the Director of Employee Relations within forty-eight (48) hours of the date in which the employee received the results of the initial confirmatory test.

H. Searches

Employees should not have an expectation of privacy while on School Division Property or participating in school sponsored activities. An employee suspected of manufacturing, distributing, dispensing, possessing, using, or being under the influence of drugs or alcohol may be subject to searches. Searches may include:

1. Lockers;
2. Workstations;
3. Desks;
4. Classrooms or offices;
5. Any School Division property, equipment or computer systems;
6. Motor vehicles, including the employee's vehicle on property;
7. The employee's property brought onto the School Division premises, including purses, backpacks, or briefcases; and
8. Employee's outerwear (i.e., an employee may be asked to empty their pockets)

An employee who refuses to cooperate in a search may be subject to disciplinary action, up to and including dismissal.

I. Enforcement

Any employee who tests positive for alcohol, marijuana, or drugs shall be recommended for discipline, up to and including dismissal.

J. Notification of Arrest or Conviction

When any School Board employee has been charged by summons, warrant, indictment or information with the commission of any drug or alcohol-related felony or misdemeanor, the employee shall notify the Superintendent/Designee of the charge in accordance with Policy 4-5. If convicted (including a plea of "nolo contendere") of the offense(s), the employee must notify the Office of Employee Relations within one (1) working day of the employee's conviction(s). Deferred findings must also be reported to the Office of Employee Relations. Failure to report the arrest, conviction or deferred finding may be grounds for dismissal.

K. Voluntary Admission of Substance and/or Alcohol Abuse

1. In the absence of reasonable suspicion or any other conduct that would otherwise subject the employee to discipline, an employee who voluntarily admits to drug or alcohol abuse may be referred to the Employee Assistance Program (EAP). After the employee is referred to the EAP based on a voluntary admission, the employee shall comply with the guidelines established by the EAP. Any additional counseling or treatment recommended by the EAP must be undertaken at the employee's expense.
2. An employee's failure to comply with the recommended guidelines and procedures shall result in disciplinary action, up to and including dismissal.
3. An employee may not avoid discipline by admitting to an alcohol or substance abuse problem if reasonable suspicion that the employee was under the influence of drugs, marijuana, or alcohol pre-existed the employee's admission or if the employee violated any School Board Policy or Regulation that would subject the employee to discipline.

L. Document Retention

All procedures for testing, analysis, labeling, handling, retention, and storage of testing documentation shall be in accordance with standards established by the appropriate state and federal agencies.

M. Smoking and Use of Tobacco Products or Electronic Cigarettes

1. Policy Statement

Smoking and the use of tobacco products (including vaping related products or electronic cigarettes, or similar items) represent a serious health and safety problem for users and non-users. In an effort to establish a "smoke-free and smokeless tobacco-free" environment on School Board property, buses and at school-sponsored events at all times, smoking and the use of tobacco products, vaping related products, or electronic cigarettes are prohibited in all School Board buildings, vehicles and facilities, including the property on which those buildings and facilities are located, as well as at all school sponsored events.

- a. This Policy covers, but is not limited to, the smoking of any tobacco product, the use of oral tobacco products, "spit" tobacco, electronic cigarettes (electronic cigarettes, or e-cigarettes, includes personal vaporizers and electronic nicotine delivery systems) and it applies to both employees and non-employee visitors of Virginia Beach City Public Schools.
- b. Smoking and use of tobacco products or electronic cigarettes are prohibited in School Board owned vehicles.

2. Enforcement

- a. A community-wide educational campaign is to be developed that will promote and advertise a "smoke-free and smokeless tobacco-free school" environment.

- b. Public address announcements are to be made at extra-curricular events on school property noting the "smoke-free and smokeless tobacco-free" environment on school property.
- c. A "smoke-free and smokeless tobacco-free" clause is to be included in all contracts for use of School Board property and vehicles, including recreational and after-school hours activities.
- d. Complaints from patrons, employees, or students are to be directed to the principal or department director for handling and corrective action. If a complaint involves a principal or department director, such complaint is to be directed to the next level supervisor.
- e. Employees who smoke or use tobacco products, vaping devices, or electronic cigarettes in or about School Board property, in School Board owned vehicles or at school-sponsored events are in violation of this Regulation and, in accordance with Code of Virginia § 22.1-307, as amended, for noncompliance with school laws and regulations and other good and just cause evidenced by failure to follow School Board policy and insubordination.

3. Employee Assistance

The Employee Assistance Program will provide cessation and related support programs for employees who smoke or use tobacco products.

Legal Reference

Code of Virginia § 4.1-309, as amended. Drinking or possessing alcoholic beverages in or on public school grounds; penalty.

Code of Virginia § 4.1-309.1, as amended. Possessing or consuming alcoholic beverage while operating a school bus; penalty.

Code of Virginia § 18.2-255.2, as amended. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.

Code of Virginia § 54.1-3400, et seq., as amended. The Drug Control Act.

Code of Virginia § 19.2-83.1, as amended. Report of arrest of school employees and adult students for certain offenses.

Related Links

School Board [Policy 4-2](#)

School Board [Policy 4-9](#)

School Board [Policy 4-22](#)

School Board [Regulation 4-22.1](#)

Virginia Beach [City Code at Chapter 28.5](#)

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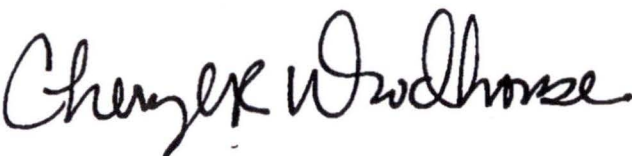
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APPROVED AS TO
LEGAL SUFFICIENCY

