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TO: Board of Education

FROM: Kevin Lancaster

DATE: December 2, 2019

SUBJ: Agenda Items – Policies for First Read

Attached you will find proposed Policy Code for your consideration.

- Policy 5030 - Community Use Of Facilities
- Policy 7241 – Drug And Alcohol Testing Of Commercial Motor Vehicle Operators

A. GENERAL PRINCIPLES

The board endorses the goals of the Community Schools Act. The use of school facilities by community groups should be consistent with the educational program and the goals and objectives of the board and school system.

Priority for facility use shall be given to community groups as outlined in Section B. For-profit groups are not permitted to use school facilities.

Use of school facilities shall not be approved for activities that do any of the following:

1. violate federal, state or local laws;
2. violate board of education policies or regulations;
3. advocate imminent violence;
4. damage or have the potential to damage school buildings, grounds or equipment; or
5. are in conflict with scheduled school activities.

B. PRIORITY IN USE/FEE STRUCTURE

School-sponsored groups and activities (such as school athletic events and school drama and choral productions) and meeting of student organizations, including organizations permitted to meet under the Equal Access Act, shall have first priority in the use of school facilities.

Priority in the use of school facilities by other groups and the fee structure for such groups will be in accordance with the following user categories. Priority in use among groups within the same user category shall not be based upon the viewpoints of the groups (see policy 1710/4021/7230, Prohibition Against Discrimination, Harassment and Bullying). All groups within the same user category shall be charged for facility use according to the uniform fee structure.

1. School related groups (organizations formed to support the school in some manner, such as the PTA, PTO, teachers and principals organizations and booster clubs)
   Fees: Fees for use of kitchens shall be charged to cover costs. Custodial or other supervisory services may be charged.

2. In accordance with G.S. 115C-527, political parties shall only be charged

custodial and utility fees when using school facilities for the express purpose of annual or biennial precinct meetings and county and district conventions.

3. Local government , community, and youth organizations (including but not limited to scouts, 4-H)
   Fees: Utility fees for the use of facilities will be charged if air conditioning or heat is needed. Custodial, kitchen, and/or supervisory fees shall be charged if necessary.

4. All other non-profit groups (all groups not included in the other categories)
   Fees: Rental, kitchen, utility, custodial, and supervisory fees will be determined by administration.

The superintendent shall submit a fee structure that lists the amount or method of calculating rent and fees to be charged for facility us to the board for approval prior to the beginning of each school year.

Fee Schedule (Standard):

- 1 custodian is required for up to 50 people; more than 50 people will require 2 custodians.
- Custodians will be paid at their hourly rate or a minimum of **$50.00**.
- Cafeteria staff will be paid at their hourly rate or a minimum of **$50.00**. Cafeteria staff is only required if the kitchen is used.
- There will be a charge of **$100.00** if the use of the facility requires the use of heat or air conditioning in a single area of the building.
- There will be a charge of **$200.00** if the use of the facility requires the use of heat or air conditioning in more than one area of the building.
- There will be no charge if there is **NO** heating or air conditioning used.
- There will be a fee of **$25.00** for custodial supplies for events attended by 50-100 people and **$50.00** for events attended by more than 100 people.

C. REQUESTS FOR USE OF FACILITIES

An eligible individual or group that wishes to apply for permission to use a school facility must submit a written application to the principal of the school where the facility is located. Facility use request forms shall be available in the school administrative office.

D. FACILITIES AVAILABLE FOR USE

The board permits eligible individuals or groups to use the facilities of those schools designated by the board as "community schools". A list of community schools and the facilities at each site that are available for community use shall be available to the public at the superintendent's office and each principal's office.

The superintendent is authorized to develop a list of which school facilities are available for community use. Among the types of facilities that may be available for community use are: auditoriums, athletic fields, dining areas, kitchens, designated classrooms, gymnasiums, media centers and playgrounds.

Other school facilities may be used only in exceptional circumstances based on a justified need and as approved by the superintendent or designee. The superintendent is authorized to determine the fees for the use of facilities in such circumstances.

E. RULES GOVERNING USE OF SCHOOL FACILITIES

The superintendent shall develop regulations consistent with this policy. The regulations shall include an application process and provisions regarding supervision of groups using facilities, care of facilities, prohibited conduct and other issues deemed appropriate by the superintendent. A copy of the regulations shall be furnished to all applicants at the time they receive the facilities use application form. In addition to the regulations established by the superintendent, users of school facilities must comply with the following rules:

1. Users must comply with all federal, state and local laws and all rules established by the board, the superintendent or designee, and the principal

2. Users must comply with the requirements of the American With Disabilities Act (ADA) (particularly Subchapter III pertaining to Public Accommodations and Services Operated by Private Entities) and the federal regulations that have been Adopted for the implementation of the ADA.

3. Users must comply with board policy and legal requirements forbidding the use of tobacco products in school facilities and on school grounds (see policy 5026/7250, Smoking and Tobacco Products).

4. Users shall not consume or possess alcohol or drugs on school grounds (see policy 5025, Prohibition of Drugs and Alcohol).

5. Users shall not possess weapons or explosives while on schools grounds, except in the limited circumstances permitted by state law and (policy 5027/7275, Weapons and Explosives Prohibited)

6. Users are responsible for supervising their activity and the people present at their activity. Users are responsible for maintaining order and safety during the activity, except as noted below:

   a) Use of facilities for all funerals and for some other facility uses, in the discretion of the Superintendent, shall also require the applicant to obtain security from the Montgomery County Sheriff's Department. A minimum of one deputy will be required for all funerals; however, additional deputies may be required in the discretion of the Superintendent. Factors that may be used in this determination include, but are not limited to, the anticipated attendance, relevant external circumstances, potential for combative emotional outbursts, and safety of the attendees and the school facility. The applicant is responsible for the payment of security in advance of the event.

7. Any violation by a user of the provisions of this policy or any applicable regulations shall be grounds for the suspension of the user's privilege to use school facilities for such period of time as deemed appropriate by the principal, subject to the review of the superintendent and the board of education.

F. DAMAGES AND LIABILITY INSURANCE

Users of school facilities are responsible for all damage to school facilities, property or equipment that occurs while the facility is being used by the group, regardless of who caused the damage. Users also are responsible for the conduct of all persons involved in the users' activities while on school property.

G. TERM AND ACCEPTANCE OF LEASE

The superintendent is authorized to enter into agreements with community groups for the lease of school property for terms of one year or less. All such leases must be reviewed and approved in advance by the board attorney. The superintendent shall inform the board of the execution of any lease at its next regularly scheduled meeting. Leases may be renewed following the same process.

Absent unusual circumstances, leases shall not be granted for a term longer than one year. A lease for more than one year must be approved in advance by the board.

H. REVIEW OF DECISIONS CONCERNING USE OF SCHOOL FACILITIES

Any person or organization may request a review of any decision made by a school employee pursuant to this policy in accordance with policy 1740/4010, Parent and Student Grievance Procedure.

Legal References: Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.;* 28 C.F.R. pt. 35; Equal Access Act, 20 U.S.C. 4071-4074, 28 C.F.R. pt. 36; Boy Scouts of America Equal Access Act, 20 U.S.C. 7905, 34 C.F.R. pt. 108; 36 U.S.C. 20101 *et seq*.; Community Schools Act, G.S. ;115C-203 to -209.1;115C -524. -527; 160A-274; 163A-1046

Cross References: Prohibition Against Discrimination, Harassment and Bullying (policy 1710/4021/7230), Parent and Student Grievance Procedure (policy 1740/4010), Prohibition of Alcoholic Beverages (policy 5025), Smoking and Tobacco Products (policy 5026/7250), Weapons and Explosives Prohibited (policy 5027/7275), Sale, Disposal and Lease of Board-Owned Real Property (policy 9400)

Adopted: April 10, 2000
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Updated: April 11th, 2016
Updated: June 6, 2017
Updated: December 3, 2018

DRUG AND ALCOHOL TESTING OF COMMERCIAL MOTOR VEHICLE OPERATORS

Policy Code: **7241**

The purposes of this policy are to help ensure the safe operation of school vehicles and to comply with federal law and regulations by establishing a comprehensive program for the drug and alcohol testing of school bus drivers and all other commercial motor vehicle operators employed by the board of education.

A. APPLICABILITY

This policy applies to any driver, which, for purposes of this policy, is defined as any employee, volunteer, or independent contractor ~~who operates a commercial motor vehicle in the course of his or her duties for the board of education, including~~ whose duties for the board of education require a commercial driver's license under federal law. This includes anyone who regularly or intermittently drives a school bus, an activity bus, a vehicle designed to transport 16 or more people (including the driver), or any other vehicle that meets the definition of commercial motor vehicle under 49 C.F.R. 382.107~~federal law or regulation.~~ Employees who operate vehicles for inspection, service, or maintenance purposes are included in this definition.

B. PROHIBITED ACTS

No driver may:

1. operate any school bus or school activity bus while consuming alcohol or while alcohol remains in the driver's body, in violation of G.S. 20-138.2B;

2. use alcohol while performing safety-sensitive functions;

3. perform safety-sensitive functions within four hours after using alcohol;

4. use alcohol following an accident while operating a commercial motor vehicle;

5. report for or remain on duty requiring the performance of safety-sensitive functions when the driver uses any Schedule I drug or substance; or

6. report for or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other federal schedules of controlled drugs, unless such use is pursuant to the instructions of a licensed medical practitioner who is familiar with the driver's medical history and has advised the driver that use of the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

Safety-sensitive functions include, but are not limited to, inspecting, servicing, or conditioning any commercial motor vehicle; operating any commercial motor vehicle;

participating in or supervising the loading or unloading of a commercial motor vehicle; and repairing, obtaining assistance for, or remaining in attendance upon a disabled vehicle.

In addition, drivers and anyone who supervises drivers must not commit any act prohibited by federal law, including the federal regulation entitled "Controlled Substances and Alcohol Use and Testing" (49 C.F.R. pt. 382, hereinafter referred to as Part 382), or by policy 7240, Drug-Free and Alcohol-Free Workplace.

C. TESTING

The human resources office will carry out pre-employment, post-accident, random, reasonable suspicion, return-to-duty, and follow-up testing for drugs and alcohol as required by Part 382.

Federal regulations prohibit a driver who is tested under the provisions of this section and found to have an alcohol concentration of at least .02 from performing safety-sensitive functions for at least 24 hours following administration of the test. Drivers who are tested under the provisions of this section and found to have any alcohol in their system are subject to additional discipline under this policy, including dismissal.

D. EMPLOYEE AND APPLICANT INQUIRIES ~~PRE-EMPLOYMENT INQUIRY~~

All employees subject to this policy, all employees who would become subject to this policy by virtue of a change or expansion of duties, and all applicants who would be subject to this policy if employed by the board must consent in writing to the release of any information gathered pursuant to Part 382 by ~~any of the applicant's~~ previous employers and must give written or electronic consent to any query by school officials of the federal Commercial Driver's License Drug and Alcohol Clearinghouse ("Clearinghouse").

1. Pre-Employment Inquiry

Before employing any applicant subject to this policy, ~~or Part 382~~ school officials ~~the administration~~ shall obtain, pursuant to the applicant's written consent, all records maintained by the applicant's previous employer regarding violations of Part 382 in the three years prior to the inquiry date. ~~of prohibited acts committed by the applicant in the two years prior to the inquiry date~~. School officials shall also conduct a query of the Clearinghouse, pursuant to the applicant's electronic consent submitted through the Clearinghouse, to obtain any information regarding the applicant's violations of Part 382.

If school officials obtain information from the applicant's previous employer or from the Clearinghouse that the applicant committed a violation of Part 382 and has not subsequently completed the return-to-duty process required under federal law, the applicant may be disqualified from employment.

2. Annual Query

School officials shall conduct a limited query of the Clearinghouse at least once per year for each employee subject to this policy, pursuant to the employee's written or electronic consent, to determine whether information exists about the employee regarding violations of Part 382. If information exists about the employee, school officials shall obtain the information in the Clearinghouse within 24 hours of conducting the limited query, subject to the employee's electronic consent submitted through the Clearinghouse.

E. TRAINING AND EDUCATION

Each driver and supervisory employee, including principals and assistant principals, must be provided with educational materials that inform the employees of drug testing procedures, prohibited acts, consequences, and other aspects of Part 382, this policy, and any accompanying administrative procedures. The information also will identify a school system employee who is responsible for providing information on substance abuse. Each employee must sign a statement certifying his or her receipt of these materials.

Each supervisor who is responsible for overseeing the performance of drivers, including principals and assistant principals, must undergo at least one hour of training concerning alcohol misuse and one additional hour of training concerning drug abuse.

F. REFERRALS

Each driver who commits acts prohibited by Part 382 or G.S. 20-138.2B, other than provisions governing pre-employment testing, will be provided with information concerning resources available for evaluating and resolving drug or alcohol misuse. This information will include the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs. ~~Before any drive who has committed a prohibited act under Part 382 or G.S. 20-138.2B will be allowed to drive again, he or she must be evaluated by a substance abuse professional and must satisfactorily complete any appropriate treatment that the substance abuse professional designates.~~

G. ~~PENALTIES~~ CONSEQUENCES

Employees who have committed a prohibited act; refused any test required by this policy; or otherwise violated this policy, G.S. 20-138.2B, or Part 382 will be subject to disciplinary action, up to and including dismissal.

Any employee who has committed a violation of Part 382 will not be allowed to perform any safety-sensitive functions until the employee has completed the return-to-duty process, including an evaluation by a substance abuse professional, completion of any appropriate treatment designated by the substance abuse professional, and achievement of a negative return-to-duty test. Moreover, if the employee's violation of Part 382 has been reported to the Clearinghouse, the employee may not resume safety-sensitive functions until a query of the Clearinghouse demonstrates that the employee completed the return-to-duty process.

H. PROCEDURES

All procedures for collection and testing provided in the Federal Highway Administration's "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 C.F.R. pt. 40) and all requirements in Part 382, including testing, reporting, record retention, training, and confidentiality, will be followed. Copies of these federal regulations will be readily available. The superintendent shall develop any other procedures necessary to carry out these regulations.

Legal References: 49 U.S.C. 31306; 49 C.F.R. pts. 40, 382; G.S. 20-138.2B

Cross References: Drug-Free and Alcohol-Free Workplace (policy 7240)

Adopted: