

CHAPTER 6.00 – HUMAN RESOURCES

ALCOHOL AND DRUG-FREE WORKPLACE

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I. General Policy Statement

- A. The School Board of Marion County and its employee unions recognize that substance abuse in our nation and our community exacts staggering costs in both human and economic terms. The School Board of Marion County also realizes their responsibility for the instruction and well-being of the students entrusted to its care. A consistent message needs to be communicated to our students that the use of illegal drugs, the abuse of alcohol and the misuse of prescription drugs is unacceptable.
- B. It is further the intent of the School Board of Marion County to comply with the Omnibus Transportation Employee Testing Act (OTETA), regulations of the Federal Highway Administration (FHWA) contained in 49 CFR Parts 40 and 382, *et al*, Section 234.091 Florida Statutes, the provisions of the Drug-Free Workplace Act, and other applicable state and federal safety programs. This policy shall also affirm the Board's position that an employee in a safety sensitive position may be considered impaired at any measurable level by the use of alcohol and/or controlled substances. Pursuant to OTETA and its implementing regulations, drug and alcohol testing is mandated for all safety sensitive identified employees who function in a safety sensitive position.
- C. The School Board of Marion County's Drug-free Workplace fully comports with Chapter 440, Florida Statutes, as well as the Workers' Compensation Drug Testing Rules enacted by the Department of Labor and Employment Security, division of Administrative Code Chapter (59A-24). It is the intent of the Board that this policy complies with all of the aforesaid laws, and that the strictest of the aforesaid shall always apply.

II. Notice of Implementation

- A. The implementation of the Drug-free Workplace Policy, contained within the confines of this document, constitutes general notice to all employees of The School Board of Marion County that each individual is required, as a condition of their continued employment with the School Board, to fully comply with the provisions of the Drug-free Workplace Policy, and to fully cooperate with the implementation and enforcement of the policy, including execution of the necessary authorization forms.
- B. The implementation of this policy further constitutes general notice that all employees of the School Board of Marion County that it is a condition of employment for an employee to refrain from reporting to work or working

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with the presence of drugs or alcohol in his or her body. A notice of this policy is posted on the bulletin board and copies will be made available upon request.

III. Policy Objectives

- A. To promote a healthy, safe working and learning environment.
- B. To seek the rehabilitation of employees with a self-admitted or medically determined substance abuse problem. To eliminate substance abuse problems in the workplace.
- C. To provide a consistent model of substance-free behavior for students.
- D. To provide clear standard of conduct for the School Board of Marion County employees.
- E. To hire drug-free employees.

IV. Illegal Drugs

Employees are expected to conduct themselves in a manner consistent with the following provisions:

- A. Employees on duty or on School Board property will not manufacture, distribute, dispense, possess or use illegal drugs; nor will they be under the influence of such drugs.
- B. Prohibited substances consists of the use of any illegal drug or substance as identified in Schedules I through V of Section 202 of the Controlled Substance Act and as further defined by 21 CFR 1300.11 through 1300.15. This shall include marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine. Illegal use includes the use or possession of any illegal drug, and the misuse of legally prescribed or obtained prescription drugs. In addition, when the use of a controlled substance is pursuant to the instructions of a physician, the employee shall immediately notify his/her supervisor.
- C. An employee convicted of any criminal drug status violation occurring in the workplace shall notify the School Board of Marion County no later than five (5) days after such a conviction.

V. Alcohol and Prescription Drugs

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Alcohol, prescription and over-the-counter drugs are legal and readily available. Generally safe and acceptable, these drugs, when abused over time or used in combination with one another, can result in chemical dependency or poly-drug addiction. Employees are expected to conduct themselves in a manner consistent with the following provisions:

- A. Employees on duty or on School Board property will be free of intoxication from alcohol. Further, employees will not manufacture or use alcoholic beverages while on School Board property or on duty.
- B. Employees on duty will not use or take prescription drugs above the level recommended by the prescribing physician and will not use prescribed drugs for purposes other than what the prescribed drugs were intended. In addition, the employee will not distribute or dispense such drugs, except as provided in School Board Rule JHCD, School Health Services Program.
- C. Pursuant to OTETA for those employees identified as safety sensitive employees, the consumption of any beverage, mixture of preparation, including any medication containing alcohol is prohibited. The use of alcohol is prohibited during the duty day, and for four (4) hours prior to reporting for duty. The consumption of alcohol is also prohibited for up to eight (8) hours, or until tested, following an accident as described herein. Safety sensitive employees may not have any item in their possession which contains alcohol while operating a vehicle, unless that item is a part of the vehicle's official inventory. Alcohol-free medications are available, and safety sensitive employees should advise their physicians of the need for such substitutes.

VI. Employee Physical Examination/Drug and Alcohol Screening

In order to establish and support a clear standard of conduct for employees, The School Board of Marion County adheres to the following provisions:

- A. Drug screening will be included in all physical examinations required under existing labor contracts, statutes and Board rules.
- B. Circumstances under which testing may be considered include but are not limited to the following:
 - 1. Reasonable suspicion as defined by 38F, OTETA and other laws as referenced in this policy and determined by certified and trained supervisor. (See definition in Section IX.)

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2. Accidents on the job causing personal injury to self or others.
 3. Vehicle accidents involving any one using a School Board owned vehicle.
 4. Random drug/alcohol as required under the OTETA rules for all identified safety sensitive positions.
 5. Reasonable suspicion as required under the OTETA rules for all identified safety sensitive positions.
 6. Return to duty/follow-up as required under the OTETA rules for all identified safety sensitive positions.
- C. The District will comply with all alcohol and controlled substance testing protocols as described in applicable law and regulations. The District recognizes the need to protect individual dignity, privacy, and confidentiality during testing. Any specimen analysis shall be conducted in a manner so as to assure a high degree of accuracy and reliability, using laboratory facilities which are certified by the U. S. Department of Health and Human Services and the Florida Agency for Health Care Administration. Refusal to submit to testing, failure to promptly report for testing, or any attempt to adulterate test results shall be considered a positive test finding and a violation of this policy.
- D. Drug and/or alcohol screening shall be conducted by Board approved, independent, certified laboratories utilizing recognized techniques. The protocol for drug screening shall include a split sample and chemical immunoassay screening procedure. In the event initial test results are screened positive, such results will be confirmed and verified by the Gas Chromatography Mass Spectrometry (GC/MS) test. The rules require that screening tests for alcohol be done by an Evidential Breath Testing device (EBT). Both screening and confirmation tests for alcohol are required by the EBT.

Drug testing may take place at any time, with or without proximity to driving. An employee who tests positive for a controlled substance may request that a test of the split sample be conducted. The second test will be conducted by a different laboratory, as selected by the employee from a list provided by the District. The employee shall be responsible for prepayment of the second test by certified check or money order. However, in the event the second test is negative, the District shall reimburse the employee. If performed, the second test shall be controlling.

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- E. If a covered employee tests positive for a controlled substance, a Medical Review Officer will attempt to contact the employee by telephone. The employee will immediately telephone the MRO upon notification that the MRO is attempting to make contact. If the positive test finding is resolved to the satisfaction of the MRO, no further action will take place. If the MRO is unsuccessful in reaching the employee, or if the matter has not been resolved, the program manager will be contacted. The employee will be relieved of duty or suspended until the matter is resolved.
 - F. Medical records, and information relating directly thereto, will be maintained in strict confidentiality. Any laboratory contract shall provide that the contractor's records are to be kept confidential under provisions of Florida Laws. The School Board of Marion County shall establish a system of maintaining records to include both the District's and the contractor's record of applicant and employee urinalysis and alcohol results.
 - G. The contract and the record maintenance system must have specific provisions that require that employee records are maintained and used with the highest regard for employee privacy consistent with Florida's Public Records Act, OTETA and FHWA rules regarding the purpose of achieving and maintaining a Drug-free Workplace.
 - H. The School Board of Marion County recognizes that chemical dependency is an illness that can be successfully treated. It is the policy of The School Board of Marion County to seek rehabilitation of employees with a self-admitted or medically determined drug problem. The School Board of Marion County will make every effort to assist those self-admitted and/or referred employees while being treated. Employees who are unwilling to participate in rehabilitation may be subject to appropriate action, pursuant to School Board policy applicable Florida Statutes, State Board of Education rules, and applicable provisions of collective bargaining agreements.
 - I. Substance Abuse Program - At any time prior to notification of a required test, an employee is encouraged to contact the Employee Assistance program. Such employees may be required to submit to testing as a part of a treatment program.
- VII. Pre-employment Drug Screening
- A. The School Board of Marion County will require pre-employment drug screening of applicants in the manner set forth in this policy.

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- B. Applicants will be referred to Board approved, independent, certified laboratories utilizing recognized techniques and procedures, as described within.
- C. Specimens collected will not be used to conduct any other analysis or test unless otherwise authorized by law.
- D. Applicants will be informed in advance of the requirement of a negative drug screen as a condition of employment. Applicants testing positive will not be eligible for employment by The School Board of Marion County for one year from the date of the test. Applicants for designated positions will be informed of the requirement of screening as a part of all annual physical examinations required after employment, under existing labor contracts, statutes, OTETA rules and Board rules, except as otherwise provided.

VIII. Safety Sensitive Employees Covered Under OTETA

- A. Treatment and Analysis - The District will comply with all alcohol and controlled substance protocols as described in applicable law and regulations. The District recognizes the need to protect individual dignity, privacy, and confidentiality during testing. Any specimen analysis shall be conducted in a manner so as to assure a high degree of accuracy and reliability, using laboratory facilities which are certified by the U. S. Department of Health and Human Services and the Florida Agency for Health Care Administration. Refusal to submit to testing, failure to promptly report or any attempt to adulterate test results shall be considered a positive test finding and a violation of this policy.

Alcohol testing shall take place before, during, or after driving, and within reasonable proximity to driving. When an employee tests positive for alcohol, a second test shall be performed no less than fifteen (15) minutes and no more than twenty (20) minutes later. The results of the second test shall be controlling.

- 1. The rule prohibits covered employees from performing safety sensitive functions
 - a. When the test results indicate a .04 or greater.
 - b. Within four (4) hours after using alcohol.
 - c. While using alcohol on the job.

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- d. During the eight (8) hours following an accident if their involvement has not been discounted as a contributing factor in the accident or until they are tested.
- e. If they refuse to submit to required alcohol test.

- or -

- 2. An employee with an alcohol concentration of .02 or greater but less than .04 is not permitted to perform safety sensitive functions for
 - a. A minimum of twenty-four (24) hours, or
 - b. Until a retest shows that the employee's alcohol concentration has dropped below .02.

If a covered employee tests positive for a controlled substance, a Medical Review Officer will attempt to contact the employee by telephone. The employee will immediately telephone the MRO upon notification that the MRO is attempting to make contact. If the positive test finding is resolved to the satisfaction of the MRO, no further action will take place. If the MRO is unsuccessful in reaching the employee or if the matter has not been resolved, the program manager will be contacted. The employee will be relieved of duty or suspended until the matter is resolved. Employees must disclose to their supervisor any medication which could impair their ability to perform a safety sensitive function prior to performing the function.

Drug testing may take place at any time, with or without proximity to driving. An employee who tests positive for a controlled substance may request that a test of the split sample be conducted. The second test will be conducted by a different laboratory, as selected by the employee from a list provided by the District. The employee shall be responsible for pre-payment of the second test by certified check or money order. However, in the event the second test is negative, the District shall reimburse the employee. If performed, the second test shall be controlling.

- B. Substance Abuse Program - At any time prior to notification of a required test, an employee is encouraged to contact the Employee Assistance Program. Such employees may be required to submit to testing as a part of a treatment program.

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- C. Consequences - Covered employees testing positive at any level for alcohol or controlled substances are in violation of district policy and will immediately be removed from their safety sensitive positions. Any violation of federal, state, or District requirements shall be grounds for dismissal. Those employees with an alcohol concentration of .02 or greater but less than .04 will be placed on unpaid status for a minimum of twenty-four (24) hours and must have completed a retest which shows an alcohol concentration below .02 before they can return to their duties. Any covered employee who is terminated shall be provided a list of substance abuse professionals.

IX. Definitions

- A. Medical Review Officer - The MRO is a physician with knowledge of substance abuse disorders and who has appropriate medical training to interpret and evaluate laboratory positive drug test results in a confidential manner, in conjunction with an individual medical history, and any other relevant biomedical information to determine alternative medical explanations for positive results.
- B. Post Injury/Accident Testing - The School Board of Marion County shall automatically require substance abuse testing for any employee injured while on duty. The School Board of Marion County's concern for its workforce is paramount, therefore, it may be necessary to administer the appropriate medical treatment prior to obtaining specimens for testing. If the required specimens can be obtained at a medical treatment facility which is not a designated collection site, a physician, physician's assistant, registered nurse, nurse practitioner, licensed practical nurse, certified paramedic or licensed collection site person qualified by training and skills, may collect the specimens. If such an individual is not present, the injured employees, as soon as medically permissible, shall be transported to a designated collection site to produce the required specimens.

All employees that have been involved in an incident/accident while driving a Board vehicle will be drug tested immediately following the incident/accident. The employees identified a safety sensitive that are involved in an incident/accident will also be drug and alcohol tested under the guidelines of the OTETA and FHWA rules. Under some circumstances a driver may be tested by law enforcement and such test results may be accepted in lieu of testing required herein. The District reserves the right to conduct drug and alcohol testing, irrespective of testing by law enforcement. Drivers are required to immediately report accidents to the District.

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- C. Post Employment Offer - All applicants offered a safety sensitive position with this District shall undergo drug and alcohol testing. Any person testing positive for alcohol or for a controlled substance shall be disqualified from employment. Any applicant who has previously failed a drug or alcohol test by a covered employer shall also be disqualified for employment with this District, except as otherwise addressed by law. If in conformance with the law such an employee is hired, said employee will at his/her expense be subject to six (6) random drug tests within a twelve (12) month period. All other applicants will be subject to drug screening as per Section VI. of this policy.
- D. Program Manager - The Superintendent shall designate within the office of Employee Relations one or more persons as program managers. The program manager(s) would be responsible for the compliance of all testing rules and regulations as well as the confidentiality of all records.
- E. Random - All identified safety sensitive employees shall be subject to random, unannounced drug and alcohol testing. The number of annual random testings for alcohol and controlled substances shall be set according to OTETA and FHWA rules and guidelines.
- F. Reasonable Suspicion - A trained supervisor outside of the bargaining unit and at least one level higher than the immediate supervisor may require a safety sensitive identified employee to submit to alcohol or drug testing, when there exists reasonable suspicion to believe the employee is in violation of this policy. Reasonable suspicion must be based upon documented objective facts consistent with the long and short term effects of abuse. Such effects include but are not limited to, physical signs and symptoms, traffic accidents, appearance, behavior, speech, odor, and patterns of absenteeism. Supervisors are required to immediately send an employee for testing when reasonable suspicion exists that the employee is in violation of this policy. The required observations for alcohol and/or controlled substance reasonable suspicion testing shall be made by a supervisor who has received one (1) hour of training on alcohol misuse, and an additional hour on substance misuse.
- G. Safety Sensitive Position - Any function for which a commercial driver's license is mandated and in which a driver operates a vehicle designed to carry sixteen (16) or more passengers, a vehicle which weighs 26,000 + 1 pounds, or a vehicle which carries a placard indicating hazardous cargo.

STATUTORY AUTHORITY:

230.22(2); 230.23(5); 230.23(17); 230.33(7);

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231.001; 893.01, F.S.

LAW(S) IMPLEMENTED: 112.0455; 230.22(5); 230.23005(11); 231.2615;
234.091; 440.102, F.S.
349 CFR PART 40, DOT, 49 CFR PARTS 282 & 391
FEDERAL HIGHWAY ADMINISTRATION, DRUG FREE
WORKPLACE ACT OF 1988, 34 CFR PART 85, SUBPART F

HISTORY: **ADOPTED: 03/14/00**
REVISION DATE(S):
FORMERLY: GBCC