

**- CLASSIFIED PERSONNEL -****Drug-Free/Alcohol-Free Schools****NEW EMPLOYEE**

As a condition of employment, each employee shall pass a medical examination as indicated in [702 KAR 001:160](#) Section 1 (3). The examination shall be provided by the County Health Department or a physician designated by the Superintendent. The applicant may also elect to have an examination by a private physician of their choosing. The examination required by the school and the examination selected by the applicant to be conducted by a physician of their own choosing shall be paid for by the applicant. As a part of that medical examination, the employee shall have their blood and urine tested for alcohol, drugs, and/or controlled substances. The employee may notify the physician or facility of any prescribed medication he or she may be taking. The results of the tests shall be released only to the Superintendent or his designee.

Alcohol, drugs, and/or controlled substances shall be defined as a hallucinogenic drug, amphetamine, barbiturate, marijuana, and/or any other items listed and/or defined by Federal Regulation and/or defined or listed in Chapter 218A of the Kentucky Revised Statutes which is now listed and/or may be added by the Kentucky Cabinet for Health and Human Services under regulation and/or by legislative act.

**REQUIRED EXAMINATION**

As a condition of employment (including a substitute teacher, a student teacher, or an athletic department volunteer with the Harlan County Board of Education) all employees may be subject to drug testing. Any person testing positive for drugs, alcohol, or controlled substances, or abusing prescribed medication shall not be hired. Any person taking prescribed medication may notify the examining physician and/or facility of the medication being taken. The physician or facility chosen by the Harlan County Board shall notify the Superintendent or his/her designee if the medication taken would prevent the employee's ability to perform their job duties while employed with the Harlan County Board of Education.

**SUSPICION TESTING**

When, in the opinion of an employee's supervisor, there is evidence that an employee, substitute teacher, student teacher, or athletic department volunteer is using or under the influence of alcohol, drugs, and/or a controlled substance, that person shall be directed by the supervisor to go immediately to a health department, hospital, physician's office, or facility hired by the Board and at the cost of the Board, to have a blood or urine test taken in order to determine whether or not the employee is under the influence of prescribed medication, alcohol, drugs, and/or controlled substances. The employee shall have the right to have his or her blood and urine tested by a physician or facility of his or her choice after the employer requests an examination by a physician or facility of his or her choice after the employer requests an examination by a physician or facility chosen by the Board.

If any administrator or supervisor should receive a complaint about an employee violating the drug and alcohol free policy, either directly or anonymously, the administrator/supervisor, or his or her designee shall investigate the complaint. If the administrator/supervisor or his or her designee feels warranted, they shall request the assistance of an SRO officer or other trained person to investigate the complaint which shall include sufficient observation to rule out the complaint and/or to take appropriate action under this policy. The administrator/supervisor or his or her designee for the Superintendent's consideration and that record shall be indexed and kept and only be available to the Superintendent or his designee.

The Supervisor shall place, in writing, the basis for the reasonable suspicion which shall be in the personnel file of the individual in a separate sealed envelope. The results of the test shall be released only to the Superintendent or his designee. The physician hired by the Harlan County Board of Education shall provide the Superintendent with an opinion as to whether or not the employee is using or under the influence of drugs, alcohol, or a controlled substance.

If a reasonable suspicion test is not administered within two (2) hours following the observations, the supervisor shall prepare and file a record with the Superintendent stating the reasons the test was not administered properly. If the test is not administered within eight (8) hours, the District shall cease attempts to administer the test, and shall prepare and maintain the record listed above.

### **SUPERVISOR TRAINING**

The required observations for alcohol and/or controlled substance reasonable suspicion testing shall be made by a supervisor or District official or other person who is trained in accordance with the requirements listed below.

- 1.) Districts must ensure persons designated to determine whether reasonable suspicion exists are trained and shall require that person to undergo alcohol or controlled substances training and receive at least sixty (60) minutes of training on alcohol misuse and at least sixty (60) minutes of training on controlled substance use.
- 2.) The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.
- 3.) The training shall be a total of one hundred twenty (120) minutes.

The Superintendent shall direct at least one (1) certified and one (1) classified and one (1) administrator/supervisor from each school to be trained as an observer for alcohol and/or controlled substance.

### **RANDOM TESTING**

As a condition of employment with the Harlan County Board of Education, all employees, substitute teachers, student teachers, and all volunteers for athletic departments shall be subject to random drug testing. The Superintendent shall select, at random (\_\_\_\_) persons per school month, per school year from the Harlan County Board of Education's list of all employees, including athletic department volunteers to present themselves to a health clinic, hospital, physician's office, or facility hired by the Board for a voluntary blood or urine test to determine if there is alcohol (if suspected) drugs, or controlled substances present. Bus drivers shall be exempt from this section and remain under random testing for bus drivers.

### **RANDOM CONTROLLED SUBSTANCE TESTING**

Random controlled substance testing shall be conducted in accordance with the requirements as listed below:

1. The Superintendent must use a scientifically valid method, such as a random number which is matched with an employee's number.
2. The Superintendent shall ensure that random controlled substance tests are unannounced and spread reasonably throughout the calendar year.
3. The Superintendent shall ensure that the employees selected for random controlled substance test proceed immediately and as soon as practicable to the testing site upon notification of being selected.
4. If the test is not administered within two (2) hours following the random selection, the reasons for the test not being performed shall be prepared and filed of record stating the reason it was not administered.
5. If the test is not administered within eight (8) hours following the random selection, the District shall cease attempts to administer and shall prepare an internal record providing the reason the test was not administered.
6. In the event a person who is selected for a random controlled substance test is on vacation or an extended medical absence, or absent for any reason, the Superintendent may either select another employee for testing or keep the original selection confidential until the employee returns.

The testing procedures by the facility hired by the Harlan County Board shall comply with CFR Part 40 regulations to ensure a proper chain of custody and confidentiality. The test results by the physician, clinic or facility doing the testing shall be released only to the Superintendent or his or her designee. The facility hired by the Harlan County Board of Education shall provide the Superintendent with an opinion as to whether or not the employee is in possession of or using alcohol, drugs, or controlled substances or abusing prescription medication.

## **WORK INJURY**

Any employee injured on the job shall immediately notify their immediate supervisor who in turn shall immediately notify the central office. Either the supervisor or the central office shall have the injured employee tested for alcohol and drugs under the same criteria as set out above and used to test bus drivers. The testing shall be performed at the medical facility where the employee is transported for treatment of their injuries. If for any reason, that facility is unable to test for alcohol and drugs, a sample of urine and blood shall be taken which shall be transported by the School Safety Coordinator to the physician's office that the Board has under contract for such testing. The sample shall be transported under the conditions directed by the physician. If the employee does not seek immediate treatment, they shall go to the medical facility that is under contract with the Harlan County Board of Education and if this office is closed, the Harlan Appalachian Regional Hospital. The cost of the drug screening shall be paid by the Harlan County Board of Education.

## **SPLIT SAMPLE TESTING**

Controlled substance tests must follow split sample procedures. Under this provision, an employee substitute teacher, student teacher, or athletic program volunteer whose urine or blood sample has tested positive for a controlled substance has the option (within of seventy-two (72) hours of being notified by the Superintendent or his designee) of having the other portion of the split sample tested at a laboratory of their choosing and at their expense. The sample will only be released to the facility chosen by the employee, ensuring safeguard of proper chain of custody.

If the employee, student teacher, substitute teacher, or athletic department volunteer desires the results of his or her test to be considered by the Superintendent, the facility chosen by the employee/volunteer shall provide the Superintendent or his or her designee a copy of that test result along with an affidavit ensuring a proper chain of custody has been followed. For test results of the employee/volunteer to be considered, the results shall be provided to the Superintendent within fifteen (15) days of the test unless an extension by the Superintendent is granted for unforeseen reasons.

## **TEST PROCEDURES**

All urine tests shall be provided in private and under the directions of the tester rules unless there is suspicion of alteration which shall allow the testing facility the ability to take appropriate action to ensure valid samples.

- ▶ Donor must have a valid photograph identification available
- ▶ The drug testing facility will secure the testing area by removing anything that could be used to adulterate the specimen and secure the water sources in the bathroom.
- ▶ The testing process will be explained verbally.
- ▶ The donor will be asked to remove any coat they may have on and may be asked to empty pockets at the drug testing facilities' discretion. This is the extent of the searching that may be performed.
- ▶ The donor will wash and dry hands.
- ▶ The donor will be afforded as much privacy as possible.
- ▶ The donor must provide at least 45ml of urine.
- ▶ If the donor does not provide enough urine, the specimen will be discarded and the donor offered water and the opportunity to retest until 45 ml is obtained.
- ▶ There is a three (3) hour time limit from the time the first "quantity not sufficient" (QNS) specimen is received. IF the donor does not give a specimen in the three (3) hours, the test is reported as a refusal to test.
- ▶ The donor will be given the opportunity to be evaluated by a medical doctor to get documentation that states he/she has a medical condition which accounts for the decrease in urinary output and may need special consideration. The donor then will be given the opportunity to retest.
- ▶ If a specimen appears to have been adulterated, the donor will be required to provide an "observed collection".

- ▶ A person of the same gender will observe the collection process to ensure the specimen integrity.
- ▶ The donor may ask the technician questions as to what medications will show up or specific testing questions, but they do so at their own choosing.
- ▶ The drug testing facility will assist the donor in any way to make their testing as easy and free of embarrassment as possible.

A chain of custody form will be completed to ensure that the specimen is actually that of the donor. Each donor must present photo identification prior to being tested.

#### **EMPLOYEE NOTIFICATION**

Prior to notifying the Superintendent or his designee of a positive result or for an abuse of prescribed medication, the MRO officer shall contact the employee and the employee's treating physician to discuss the facts; if the facts reveal no adverse impact on the employee's ability to perform their job duties and/or no abuse of prescribed medication, then there shall be no notification to the Superintendent or his or her designee. If the Superintendent or his or her designee is notified of a "positive" result, the Superintendent or his or her designee shall make every reasonable effort to contact the employee confidentially, and afford him/her the opportunity to discuss the test result. If, after making all reasonable efforts and documenting them, the Superintendent or his/her designee is unable to reach the employee directly, the Superintendent or his or her designee shall contact a designated district official who shall direct the employee to contact the Superintendent or his or her designee as soon as possible (within twenty-four (24) hours).

#### **CONSEQUENCES TO PERSONS ENGAGED IN SUBSTANCE ABUSE**

Any employee who violates the terms of the District's drug-free/alcohol-free/controlled substance-free policy may be suspended, non-renewed or terminated. In addition, violations may result in notification of appropriate legal officials as required by law.

Persons who violate the District's drug-free/alcohol-free policy are subject to the following consequences:

- 1.) Employees shall not be permitted to perform safety-sensitive functions. The employee shall be suspended without pay immediately following confirmation of violation subject to termination pending results of a hearing with representation.
- 2.) The employee may be evaluated by a Substance Abuse Professional who may determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse, controlled substance use, or abuse of prescribed medication.
- 3.) Employees shall be advised by the Superintendent of the resources available to them in evaluating and resolving problems associated with the misuse of alcohol or use of controlled substances.
- 4.) Any employee violating any of these provisions shall enter a drug program approved by the Superintendent and provide proof of completion. Consequences to Persons Engaged in Substance Abuse
- 5.) Upon proof of completion of a rehabilitation alcohol/drug program approved by the Superintendent, the Superintendent may allow the employee to return to some form of employment with the Harlan County Board of Education.
- 6.) If the employee should fail to attend or satisfactorily complete the program, their employment shall be terminated.
- 7.) Any person violating the policy provisions a second time shall be terminated from their employment with the Harlan County Board of Education.
- 8.) Violations of this policy shall result in notification to appropriate agencies as required by law.
- 9.) Any employee trafficking in a controlled substance shall have their employment with the Harlan County Board of Education terminated.

## **TYPES OF RECORDS REQUIRED TO BE MAINTAINED**

The following records are to be maintained in a secured and confidential place and can only be released by court order.

- Records related to the collection process;
- Documents related to the random selection process;
- Records related to a person's test results;
- District's copy of any test form, including results;
- District's copy of the drug test chain of custody form;
- Documents sent to the District by the medical facility;
- Any other documents relating to the drug testing procedure set out herein.

All records and information regarding selection, referral, evaluation, substance screen results, treatment and any other document relating to the drug testing policy are to be maintained in a confidential manner and no entries concerning such will be placed in the employee's personnel file. Only the Superintendent and his/her designee shall have access to all records kept under the drug-free/alcohol-free schools policy. These records shall be kept under lock and key in a separate cabinet from any other records of employees. Only the Superintendent and his/her designee shall have keys to this cabinet and to the room where the drug-free/alcohol-free school policy records are stored.

## **POST-DISCIPLINE DRUG TESTING**

Following determination by an administrative or judicial proceeding that s/he engaged in misconduct involving the illegal use of controlled substances, a teacher who has been reprimanded or disciplined for misconduct involving illegal use of controlled substances shall submit to random or periodic drug testing in accordance with applicable Kentucky Administrative Regulation for a period not to exceed twelve (12) months from the date of such reprimand or disciplinary action.

## **SUSPENSION/TERMINATION/NON-RENEWAL AND ALTERNATIVE**

Any employee who violates the terms of the District's drug-free/alcohol-free/controlled substance-free policy may be suspended, non-renewed or terminated. In addition, violations may result in notification of appropriate legal officials.

## **ALTERNATIVE**

As an alternative, the Superintendent may require an employee who violates the terms of this District's drug-free/alcohol-free/controlled substance-free workplace policies shall satisfactorily participate in a Board-approved drug/alcohol/controlled substance abuse assistance or rehabilitation program. If the employee fails to satisfactorily participate in such a program, the employee may be suspended, non-renewed or terminated.

## **REFERENCES:**

[KRS 160.290](#); [KRS 218A.1447](#)  
34 C.F.R. Part 85

## **RELATED POLICIES:**

03.2325  
03.6  
08.1345  
09.2241

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