

General Personnel

5:52 Employee Drug Testing Policy

This policy does not apply to employees covered under collective bargaining agreements.

Purpose

1. The Board of Education of Belleville Township High School District No. 201 (hereinafter "the Board") recognizes the dangers associated with the use of illegal drugs and the abuse of alcohol.
2. The Board recognizes that the use of illegal drugs and the abuse of alcohol pose a serious threat to the school system, the employees, the students, and the community as whole.
3. The Board recognizes that the District employees are essential to the Board's goal of providing the best possible education for the children of our community. To achieve this goal, it is imperative that every employee understands the dangers of drug and alcohol abuse.
4. The Board recognizes that alcohol and drug abuse can directly affect all aspects of an employee's life, including job performance, health, family, and friendship. Early diagnosis and immediate confidential treatment are in the best interest of the employee.
5. The Board and the employees of Belleville Township High School District No. 201 are committed to maintaining a drug-free workplace for the safety and health of the students and the employees, consistent with the provisions of the Illinois Drug Free Workplace Act, 30 ILCS 580, which are applicable to all organizations which receive grants from the State of Illinois.
6. Adoption of a Drug and Alcohol Free Workplace Policy is necessary to further the Board's policy regarding disciplinary action for employees "under the influence of alcohol or an illegal drug while on duty" or for the "consumption of alcohol or illegal drugs while on duty".

Policy

It is the policy of the Board to maintain an alcohol and drug-free working environment. Pursuant to this policy, the Board prohibits employees from being under the influence of illegal substances and alcohol during working hours and prohibits the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance or alcohol by employees during work hours, on or in school district property, or at school-related functions.

The use of alcohol at employee social functions occurring off school property is not encompassed within this policy.

Consistent with the Illinois Right to Privacy in the Workplace Act, an applicant shall not be subject to an adverse hiring decision nor an employee subject to disciplinary action for using a "lawful product" off school district premises during nonworking hours. Belleville Township High School District No. 201 shall maintain a drug free workplace program consistent with the requirements of the Illinois Drug Free Workplace Act, 30 ILCS 580.

Belleville Township High School District No. 201 shall cooperate fully with local, state, and federal authorities in matters pertaining to the use, possession, or sale of controlled substances by anyone on District premises.

Penalty

Any employee who violates this policy shall be subject to disciplinary action, including dismissal, in accordance with Board policy and applicable state law.

- A First offense for refusal to submit to testing will result in a 10 day suspension without pay. However, if the employee agrees to voluntarily enroll in the Self Help program, is eligible for the Self Help program, and seeks treatment at an alcohol/drug addiction rehabilitation program, at his/her own expense, the first offense will be reduced to a 5 day suspension without pay.
- A Second offense for refusal to submit to testing will result in dismissal.
- A First offense for a positive test will result in a 10 day suspension without pay. However, if the employee agrees to voluntarily enroll in the Self Help program, is eligible for the Self Help program, and seeks treatment at an alcohol/drug addiction rehabilitation program, at his/her own expense, the first offense will be reduced to a 5 day suspension without pay.
- A Second offense for a positive test will result in dismissal.

Testing

Any employee may be subject to drug and alcohol testing if:

- The employee is provided an initial offer of employment with the District; or
- The employee is injured while at work or is involved in an accident occurring during his/her work assignment; or
- The employee is suspected of being intoxicated or under the influence of a controlled substance during work hours, on or in school district property, or at school-related functions; or
- The employee is employed in a safety-sensitive position within the District, including bus drivers, bus mechanics, and any employee who transports students in a district vehicle or privately owned vehicle while performing such transportation duties within the scope of employment.

For non-safety-sensitive positions, if an applicant or employee is found to have identifiable levels of a controlled substance in his/her system (not including cannabis or tetrahydrocannabinol (THC) effective January 1, 2020) or a blood alcohol level in excess of .02 percent, the employee will be in violation of this policy.

For safety-sensitive positions, if an applicant or employee is found to have any identifiable levels of a controlled substance in his/her system, including any level of cannabis or active tetrahydrocannabinol (THC), or a blood alcohol level of any amount, the employee will be in violation of this policy.

Effective January 1, 2020, applicants for non-safety sensitive positions will not be tested for cannabis or THC. After employment commences, employee drug tests will include a test for cannabis and THC, but a positive cannabis or THC test will not automatically constitute a violation of this policy.

An employee that violates this policy will be removed from District premises, and will be subject to disciplinary action as set forth

in the penalty section of this policy. Any employee who refuses to undergo testing will be considered in violation of this policy and will be subject to disciplinary action as set forth in the penalty section of this policy.

The administrator shall arrange for the employee to be transported to his/her home if the administrator determines that testing is appropriate (even if the employee refuses testing) at no cost to the employee.

Definitions

For the purpose of this policy, a "controlled substance" means a controlled substance as defined under Federal Law or in the Illinois Controlled Substances Act, 720 ILCS 570/100, or cannabis as defined under Federal Law or in the Cannabis Control Act, 720 ILCS 550/1.

The proper use of medication prescribed by a physician is not prohibited. However, employees shall not use or take prescription drugs above the level recommended by the prescribing physician and shall not use prescribed drugs for purposes other than those for which they are intended. Furthermore, an employee shall not distribute or dispense prescription drugs except when doing so as part of the employee's job duties with the District. An employee who misuses prescription drugs shall be in violation of this policy and subject to disciplinary action, as set forth in the penalty section of this policy.

Pursuant to the Cannabis Regulation and Taxation Act, as of January 1, 2020, the lawful use of cannabis during a non-safety-sensitive employee's personal time shall not be considered a violation of this policy. However, employees in a safety-sensitive position are prohibited from using cannabis when not working. All employees are prohibited from the consumption, storage, or use of cannabis in the workplace or while working. All employees are prohibited from being under the influence of cannabis in the workplace or while working.

Drug Conviction

For the purpose of this policy, any employee convicted of a Federal drug offense or a drug offense listed under 105 ILCS 5/10-21.9(c) will be dismissed – conviction under that statute means a finding of guilty and a guilty plea, including a plea of nolo contendere, court supervision, or suspended imposition of sentence that results in probation. See *Younge v. Board of Education of The City of Chicago*, 788 N.E. 2nd 1153 (Ill. App. 2003).

Any employee who engages in criminal drug or alcohol misconduct, that results in a conviction not listed under 105 ILCS 5/10-21.9(c) or even in the absence of a criminal conviction, is subject to discipline, including dismissal, if the preponderance of evidence establishes that the employee engaged in the criminal misconduct, and there is a nexus between the criminal misconduct and the employee's duties. See *Younge v. Board of Education of The City of Chicago*, 788 N.E. 2nd 1153 (Ill. App. 2003) and *Scott v. Board of Education of Alton C.U.S.D. 11*, 156 N.E.2d 1. An employee convicted of any criminal drug law shall notify the superintendent no later than 5 calendar days after the conviction.

If an employee fails to report the conviction within the above prescribed time period, the employee will be subject to an immediate suspension without pay pending board action to dismiss the employee.

Establishment of Procedure

The Superintendent of Schools shall be responsible for developing and implementing procedures in conformance with this Policy. It shall be the Superintendent's responsibility to:

1. Establish procedures for drug and alcohol testing of employees based on a reasonable suspicion that an employee is under the influence of a controlled substance or alcohol.
2. Establish procedures for drug and alcohol testing of employees injured or involved in an accident during their work assignment or work times.
3. Establish a Self Help Program for employees who choose to voluntarily seek treatment for an addiction to drugs or alcohol.

SELF HELP PROGRAM

An employee who has developed an addiction to drugs or alcohol is encouraged to voluntarily seek treatment.

An employee's eligibility for the Self Help program is subject to the following:

1. The employee is not under reasonable suspicion for violating this policy; has not previously violated this policy and is voluntarily seeking assistance through the Self Help program.
2. The employee has violated the policy on one prior occasion and is voluntarily seeking assistance through the Self Help program prior to being under reasonable suspicion for committing a second offense or in violation of this policy for a second offense as defined in this policy.
3. An employee that violates this policy for a second time, as defined in this policy, shall not be eligible for the Self Help program and shall be dismissed from employment consistent with the Penalty section of this policy.
4. An employee convicted of a drug offense, as specified in this policy, shall not be eligible for the Self Help program.
5. An employee that distributes alcohol or illegal substances in the workplace shall not be eligible for the Self Help program.
6. An eligible employee shall only be allowed to enroll in the Self Help program one time.

An eligible employee who voluntarily enrolls in, or is accepted as a patient in, a rehabilitation program shall comply with the following:

1. Must provide the Superintendent with written evidence of his/her enrollment or acceptance in a rehabilitation program.
2. Must consent to the release of information from his/her physician or counselor, upon the District's request, concerning the employee's diagnosis, prognosis, treatment regimen, whether or not the employee is successfully participating in the program and the results of any drug/alcohol tests the program administers to the employee.
3. The employee will be granted use of accumulated vacation, personal, sick leave or FMLA (if eligible) to participate in the rehabilitation program. Employees who do not have accumulated leave or are not eligible for FMLA leave may request up to a maximum of 30 workdays of an unpaid leave of absence to attend the rehabilitation program. The cost of the rehabilitation program shall be borne by the employee and/or the employee's insurer.
4. An employee's leave will be terminated if the employee leaves a treatment program prior to proper discharge and will be subject to immediate dismissal from employment.

The District must receive written notification from a Substance Abuse Professional (see definition below) that the employee has

successfully completed the rehabilitation program and passed (negative result) a drug and/or alcohol test in order to return to work.

5. The employee will be subject to unannounced/random tests for twelve months following release from rehabilitation. Any employee who tests positive after returning to work or who refuses to submit to a drug and alcohol test after returning to work will be considered in violation of this policy and will be subject to discipline consistent with the Penalty section of this policy.

6. "Substance Abuse Professional" (SAP) is a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders. The SAP evaluates employees who have violated drug and alcohol regulations, or voluntarily enrolled in drug and alcohol treatment, and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

7. An employee's failure to comply with any of the Self Help program procedures, above, shall be subject to immediate dismissal.

BELLEVILLE TOWNSHIP HIGH SCHOOL DISTRICT NO. 201 PROCEDURE FOR DRUG AND ALCOHOL TESTING

In compliance with the Board of Education's Drug and Alcohol Free Workplace Policy, the Superintendent of Schools has established the following procedures with regard to drug and alcohol testing:

Testing Situations

1. Pre-employment Drug Testing

All applicants must pass a pre-employment, post-offer drug test as part of the requirements for employment. For non-safety sensitive positions, this drug test will exclude screening for the presence of cannabis and THC effective January 1, 2020. However, all applicants for safety sensitive positions will be tested for the presence of cannabis and THC. All newly hired employees must undergo testing within fourteen (14) days after being hired. Any applicant who refuses to take a drug test or tests positive will be considered to have failed to meet the criteria for employment.

2. Reasonable Suspicion

When a supervisor has a reasonable suspicion that an employee is under the influence of a controlled substance or alcohol, the supervisor shall immediately notify the building administrator or other administrator. If the employee is a member of a labor organization, the Union will be notified of all occurrences, and offered the opportunity to attend any such meetings with the employee. If the incident occurs after the regular school day and a Union representative cannot attend the meeting, a Union representative will be provided the opportunity to attend/participate in the meeting via conference call at the same time the meeting occurs. The Union will provide the District a current list of available representatives with all contact numbers.

A supervisor's reasonable suspicion shall be based on objective criteria, including, but not limited to, the employee's speech, physical dexterity, agility, coordination, demeanor, behavior, bodily odor, negligence, carelessness or disregard for safety. The supervisor/administrator reporting a reasonable suspicion of an employee being under the influence of a controlled substance or alcohol shall complete and sign the "FITNESS FOR DUTY" form documenting the circumstances and evidence upon which the supervisor relied. The administrator receiving the report shall review the completed "FITNESS FOR DUTY" form if it has been completed by a supervisor to verify completeness and/or make additional comments if necessary. (form attached) The circumstances under which the reasonable suspicion procedure shall be invoked are strictly limited in time and place to employee conduct during work hours, on or in School District property, or at school-related functions.

Upon receiving notification of reasonable suspicion from a supervisor, and reviewing the "FITNESS FOR DUTY REPORT" the administrator may order an employee to submit to a drug and/or alcohol test (following instructions listed below under Drug Testing and/or Alcohol Testing):

3. Accident or Injury

When an accident or injury occurs at the worksite involving employees, the supervisor, or administrator will immediately complete a "FITNESS FOR DUTY" report for each party involved in the accident. If it is determined that there is reasonable suspicion, the administrator will immediately order a drug and/or alcohol test for the employee. If the accident is of a severity that requires immediate transportation of the employee to a medical facility, the administrator shall arrange for the drug and alcohol test to be administered at that site as soon as it is practical.

4. Employees in Safety-Sensitive Positions

For the purpose of this Policy, safety-sensitive work includes positions where the employee is responsible for his or her own safety or other people's safety, and it would be particularly dangerous if such an employee is using drugs or alcohol while on the job. The positions of bus driver and bus mechanic are considered safety-sensitive positions. An employee is also considered to be performing a safety-sensitive function when inspecting, servicing, or conditioning any commercial motor vehicle or school bus at any time. Finally, a safety sensitive position includes any employee who transports students in a district vehicle or privately owned vehicle while performing such transportation duties within the scope of employment. An employee is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive position.

In addition to pre-employment, reasonable suspicion, and accident or injury testing, employees in safety-sensitive positions are also subject to random drug and alcohol testing. The Random selection process shall ensure each employee has the same fair and equal chance of being selected. Selection of employees for random testing will be conducted through the use of a third party random number generator selection process. An employee randomly selected will be notified by the administration of the selection and instructed to immediately go to the designated collection site. Random testing is conducted on a monthly basis.

In addition to pre-employment, reasonable suspicion, and accident or injury testing, employees in safety-sensitive positions are also subject to random drug and alcohol testing. The Random selection process shall ensure each employee has the same fair and equal chance of being selected. Selection of employees for random testing will be conducted through the use of a third party random number generator selection process. An employee randomly selected will be notified by the administration of the

selection and instructed to immediately go to the designated collection site. Random testing is conducted on a monthly basis.

Drug Testing Procedures

Once the administrator has made the determination that an employee is to be tested, the administrator shall set up a test by either arranging transportation of the employee, at no cost to the employee, to a testing site or contacting a testing agency to arrange onsite testing. Under either scenario, the employee must sign the necessary authorization "CONFIDENTIAL DRUG TESTING CONSENT FORM" or other documents as necessary for the performance of the test and the release of the test results to the Superintendent of Schools or his/her designee. If the employee is being tested due to reasonable suspicion of drug or alcohol use or an accident or injury, the administrator must also sign and complete the "FITNESS FOR DUTY" form.

Once the specimen collection has been completed, the employee shall be transported (if necessary) to his/her work site where the employee shall be placed on administrative leave with pay until the results of the tests are available. The administrator shall arrange for the employee to be transported to the employee's home at no cost to the employee.

If the employee refuses to undergo testing, the employee shall be subject to disciplinary action specified in this policy. Upon refusal of an employee to submit to a drug and/or alcohol test the administrator shall advise the employee that he/she is suspended without pay for 10 days and is subject to additional disciplinary action in accordance with Board policy and applicable state law. After informing the employee of the disciplinary action the administrator shall arrange for the employee to be transported to his/her home at no cost to the employee.

Test Results

Upon receipt of the test results, the Superintendent or his/her designee, shall meet with the employee, in person, to notify the employee of the test results. At the time of notification, the employee shall sign an acknowledgement form containing the date and time that the employee was notified of the results. If the employee is a member of a labor organization, the employee may request a union representative to be present at this meeting.

The employee will be provided a copy of the test results and the form used by the administration that identifies the specific physical symptoms that were observed that resulted in the reasonable suspicion test.

If the results are negative, the employee shall be reinstated without loss of pay or benefits and any and all documentation related to the incident will be expunged from any and all personnel files maintained on the employee. If the results are positive for impairment, the employee will be given a reasonable opportunity to contest the basis of the determination. If the District determines that the employee was unable to reasonably contest the test results, the employee shall be suspended, without pay, for 10 days and informed that he/she is subject to additional disciplinary action, including discharge, in accordance with Board policy and applicable state law.

Record Retention and Confidentiality

Records of drug and alcohol test results shall be maintained in a secure fashion to maintain confidentiality. The records shall be maintained by the Superintendent or his/her designee in a file separate from the employee's personnel file. Records of drug and alcohol tests will be maintained and released by the District only in accordance with state law.

The proper use of medication prescribed by a physician is not prohibited. However, employees shall not use or take prescription drugs above the level recommended by the prescribing physician and shall not use prescribed drugs for purposes other than those for which they are intended. An employee subject to drug testing shall provide the medical facility with information regarding prescription medications at the time the specimen is taken. An employee who misuses prescription drugs shall be in violation of this policy and subject to disciplinary action, including dismissal, in accordance with Board policy and applicable state law.

Alcohol Violation

A. Non-Safety-Sensitive Employees

If an employee employed in a non-safety-sensitive position is found to have a blood alcohol level in excess of .02, the employee shall be considered in violation of this policy.

B. Safety-Sensitive Employees

If an employee employed in a safety-sensitive position is found to have any level of alcohol in their system, the employee shall be considered in violation of this policy.

Cannabis Violation

A. Non-Safety-Sensitive Employees

Pursuant to the Cannabis Regulation and Taxation Act, as of January 1, 2020, the presence of cannabis or THC in a non-safety-sensitive employee's specimen shall not be, in itself, a violation of this policy. However, the District will consider it a violation of this policy if the District has a good faith belief that an employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; or carelessness that results in any injury to the employee or others. If the District has a good faith belief that the employee is manifesting any of these symptoms, the administrator must record these symptoms and sign and complete the "FITNESS FOR DUTY" form.

B. Safety-Sensitive Employees

The presence of any level of cannabis or active tetrahydrocannabinol (THC) in the specimen of an employee occupying a safety-sensitive position shall be a violation of this policy.

Controlled Substance Violation (Excludes Cannabis)

If an employee in either a safety-sensitive or non-safety-sensitive position is found to have a controlled substance, other than lawfully prescribed medication, in his or her system, the employee shall be considered in violation of this policy.

Right to Retest

All collections of urine and/or blood will include split specimens. An employee has the right to request a retest of the split

specimen within 72 hours of notification of the test result. All requests for retest shall be submitted to the Superintendent in writing.

The employee requesting a retest shall pay the costs associated with the retest. However, if the results of the retest are negative, the employee shall be reinstated without loss of pay or benefits and any and all documentation related to the incident will be expunged from any and all personnel files maintained on the employee. The employee will be reimbursed for the cost of the negative retest and paid any back pay/benefits no later than ten (10) workdays from the date the District receives the negative retest.

If the District determines, based on a good faith belief that an employee is under the influence of or impaired by cannabis, the employee shall be given a reasonable opportunity to contest the basis of the District's determination.

Test Result Meeting

Employee name

Time and Date

Employee's work category

Employee's work assignment (location and hours)

Location of meeting

Administrator holding meeting

I have received a copy of the results of the drug and/or alcohol test that I submitted to. If the test was performed due to reasonable suspicion, I have received a copy of the Fitness for Duty Form used that identifies the specific physical symptoms that were observed that resulted in the reasonable suspicion test.

Employee's signature:

Date:

Association/Union Representative signature:

(if applicable)

Date:

Adopted: November 18, 2019

Belleville THSD 201