

**BOARD OF EDUCATION OF HOWARD COUNTY
MEETING AGENDA ITEM**

TITLE: Policy 7040 Abuse of Alcohol and Other Noncontrolled Substances by Employees **DATE:** January 14, 2010
PRESENTER: Susan Mascaro, Director of Staff Relations

OVERVIEW:

Policy 7040 was reviewed under the guidelines for policy development and adoption. The Committee Charter was approved by the Superintendent on October 8, 2009. A committee of stakeholders, chaired by Susan Mascaro, was convened to make recommendations for revisions to the policy. The committee was charged with the following tasks:

- Review all parts of the policy to update legal references as needed and to ensure compliance with legal and regulatory mandates
- Align Policy 7040 Abuse of Alcohol and Other Noncontrolled Substance by Employees and Policy 7050 Prohibition of Illegal Drugs and Drug Paraphernalia for Employees for consistency and clarity while considering the possibility of merging the policies into one policy that covers alcohol and drug abuse and/or possession by employees
- Review the policy for consistency with other HCPSS policies, with particular attention to those developed or revised since the last revision of the policy
- Make recommendations as appropriate in accordance with current best practices and system requirements
- Revise and recommend language as needed to address policy standards outlined in Policy 2020 Policy Development and Adoption
- Note any implications or follow-up work that may be necessary as a result of the committee's recommendations.

Attached are highlights of the committee's work and proposed changes, as well as the proposed policy and procedures. The markup copy includes original language from the current policy. The committee's recommendation was submitted to the Superintendent's Cabinet on December 7, 2009. A public hearing will be held on February 11, 2010.

RECOMMENDATION/FUTURE DIRECTION:

Following a public hearing on February 11, 2010, take action to adopt revised Policy 7040 Abuse of Alcohol and Other Noncontrolled Substances by Employees, including a change of title to Alcohol and Other Noncontrolled Substance Abuse by Employees, on March 11, 2010. The revised policy would become effective July 1, 2010.

**Submitted
by:**

 Susan Mascaro
 Director
 Staff Relations

**Approval/
Concurrence:**

 Sandra Erickson
 Deputy Superintendent

 Mamie Perkins
 Chief of Staff

Policy 7040
Abuse of Alcohol and Other Noncontrolled Substances by Employees

Highlights

Policy

- Moves sections of the current Policy Statement to Standards and updates language
- Adds a Purpose Statement
- Adds definitions, including Constructive Possession, Intent to Distribute, and Service Providers
- Changes “Administrative Actions” section to updated Standards
- Adds clarity and specificity to Standards and moves sections to Implementation Procedures
- Adds a compliance section
- Adds legal and other references
- Changes title to Alcohol and Other Noncontrolled Substance Abuse by Employees.

Implementation Procedures

- Adds a definition section which contains definitions for Currently Engaged, Employee Assistance Program (EAP), Reasonable Suspicion, and Rehabilitation
- Lists processes used for investigation of alleged violations
- Adds outline of actions taken at the conclusion of an investigation
- Adds a section on drug and alcohol testing
- Includes state regulations regarding drug testing
- Adds clarity and specificity to referral/treatment programs and requirements for employees
- Adds a section regarding Non-Discrimination Against Prior Users.

**Committee for the Revision of
Policy 7040 Abuse of Alcohol and Other Noncontrolled Substances
by Employees**

Sue Mascaro, Director of Staff Relations*

Clare Boczon, Howard County Association of Student Councils (HCASC) (alternate)

Ronnie Bohn, School Administration-Secondary

Lisa Booth, Elementary Principal

Kevin Burnett, Coordinator of School Security

Catherine Chapman, Howard County Education Association (HCEA), Pupil Personnel Worker

Olivia Claus, Custodial Services Manager

Steve Estomin, Community Advisory Council (CAC)

Dan Furman, Legal Counsel

Filipa Gomes-Nwaeze, Health Services

James Hackett, American Federation of State, County, and Municipal Employees (AFSCME)

Claire Hafets, Secondary Principal

Rhonda Jones, Equity Council

Min Kim, Equity Assurance Coordinator

Marion Miller, Elementary Administrative Director

Johnnie Nussbaum, PTA Council of Howard County (PTACHC)

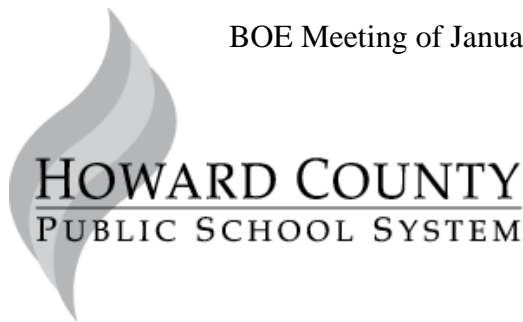
Jeannie Prevosto, Howard County Administrators Association (HCAA), Athletics & Activities Manager, MHHS

Rachel Ryan, HCASC

Rebecca Salerno, Manager, Instructional Support, Employee Services

Cynthia Schulmeyer, Student Services

* *Committee Chairperson*



I. Policy Statement

The Board of Education is committed to ensuring a safe and nurturing environment for its employees. The Board values a work environment free of any use, possession, or distribution of alcoholic beverages or abuse of noncontrolled substances, recognizing that such conduct compromises the well being of students and staff and impairs performance.

All employees are to be respectful of this work environment and are expected to abstain from the use, possession, or distribution of alcoholic beverages or being under the influence of alcoholic beverages and/or the abuse of noncontrolled substances while engaged in Howard County Public School System (HCPSS) duties.

II. Purpose

The purpose of this policy is to establish standards and procedures for employees and service providers regarding the possession, use, or distribution of alcoholic beverages and/or the abuse of noncontrolled substances.

III. Definitions

Within the context of this policy, the following definitions apply:

- A. Abuse – The ingestion, inhalation, injection, or absorption of an alcoholic beverage or noncontrolled substance in a manner or degree at any time that compromises workplace safety, job performance, and/or the work environment.
- B. Alcoholic Beverage – Ale, beer, wine, whiskey, rum, gin, or any other spirituous, vinous, malt, or fermented liquor or compound by whatever name called.
- C. Constructive Possession – Exercising dominion or control over an alcoholic beverage. More than one person may have possession at the same time.
- D. Distribution – The sale, transfer, trade, giving or exchange in any manner of an alcoholic beverage, noncontrolled substance, or a noncontrolled substance that is represented as a controlled dangerous substance.
- E. Intent to Distribute – Possession of alcoholic beverages, in or on any item or belonging under the control of the employee or owned by the employee, in such

quantity and under such circumstances, observed or discovered, indicating the strong likelihood of distribution.

- F. Noncontrolled Substances – Any substance not classified as a controlled substance by law or regulation, including but not limited to over-the-counter drugs and select prescription drugs.
- G. Possession – The presence of an alcoholic beverage on an employee, however small the amount, or in or on any item under the control of the employee or owned by the employee.
- H. Service Provider – An individual who provides services to the Howard County Public School System (HCPSS) through contract or volunteer service, including student teachers and interns.
- I. Use – The ingestion of an alcoholic beverage; a condition or state of being of an employee indicating that the employee is under the influence of an alcoholic beverage.

IV. Standards

- A. An employee or service provider may not use or be under the influence of alcoholic beverages while engaged in HCPSS duties.
- B. An employee or service provider may not abuse noncontrolled substances while engaged in HCPSS duties.
- C. The HCPSS will not hire anyone who is known to currently abuse alcoholic beverages or a noncontrolled substance.
- D. An employee or service provider may not possess, distribute, or intend to distribute alcoholic beverages on school system property or at an HCPSS-sponsored event.
- E. An employee or service provider may not be in constructive possession of alcoholic beverages on school system property or at an HCPSS-sponsored event.
- F. An employee or service provider may not distribute noncontrolled substances to students except when specified by job description.
- G. An employee or service provider may not engage in conduct that would constitute a violation of federal or state law concerning the use, distribution, or intended distribution of alcoholic beverages.

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- H. Any employee who operates an HCPSS vehicle is required to report any alcohol or noncontrolled substance-related charges to their immediate supervisor prior to the start of their next work day following the charges.
 - I. Any employee who operates an HCPSS vehicle who is convicted of alcohol or noncontrolled substance-related offenses will be subject to disciplinary action up to and including termination.
 - J. Employees or service providers must report within three (3) workdays to their supervisor or principal any violation or suspected violation of this policy. Failure to report policy violations or suspected policy violations may result in disciplinary action.
 - K. Every supervisor and/or principal must report immediately any violations or alleged violations of this policy to the Superintendent/Designee for investigation.
 - L. Any employee who aids, abets, and/or conspires with any person to violate this policy may be subject to disciplinary action.
 - M. Any employee who knowingly gives false information, fails to cooperate, or in any way impedes any investigation conducted by the Superintendent/Designee may be subject to disciplinary action.
 - N. An employee may be required to participate in a treatment program designed to address alcoholic beverage or noncontrolled substance abuse and related problems.
 - O. Compliance with this policy is a condition of employment, and violations of this policy will constitute grounds for disciplinary action.

V. Compliance

- A. The Office of Human Resources will ensure that all newly hired employees receive a copy of this policy.
- B. The Superintendent/Designee will ensure that all service providers receive a copy of this policy.
- C. All employees are responsible for reporting any suspected violations of this policy or implementation procedures to their immediate supervisor.
- D. Supervisors and principals are responsible for reporting alleged violations to the Superintendent/Designee.

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- E. The Superintendent/Designee will investigate and make decisions regarding any alleged violations of this policy.

VI. Delegation of Authority

The Superintendent is authorized to develop appropriate procedures to implement this policy.

VII. Reference

A. Legal

Controlled Substances Act, 21 U.S.C. Section 812
The Americans With Disabilities Act, 42 U.S.C. Section 12114
The Drug-Free Workplace Act of 1988, 41 U.S.C. Sections 702-707
34 C.F.R. 84.100-115
34 C.F.R. 84.200-230
34 C.F.R. 84.605-670
The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (f)
The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (l)
The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (o)
The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (s)
The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (u)
The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (v)
The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (y-z)
The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (aa-cc)
The Annotated Code of Maryland, Criminal Law Article, Sections 5-402 through 5-406
The Annotated Code of Maryland, Criminal Law Article, Section 10-111
The Annotated Code of Maryland, Education Article, Section 4-205
The Annotated Code of Maryland, Education Article, Section 6-202
The Annotated Code of Maryland, Education Article, Section 26-103
The Annotated Code of Maryland, Health General Article, Section 17-214
COMAR 10.10.10.01-.10
COMAR 13A.12.05.02
COMAR 13A.12.05.03

B. Other Board Policies

Policy 7030 Employee Discipline
Policy 7050 Use of Illegal Drugs and Drug Paraphernalia
Policy 9230 Alcohol, Other Drugs, Prescription Medication, and Over the Counter Products

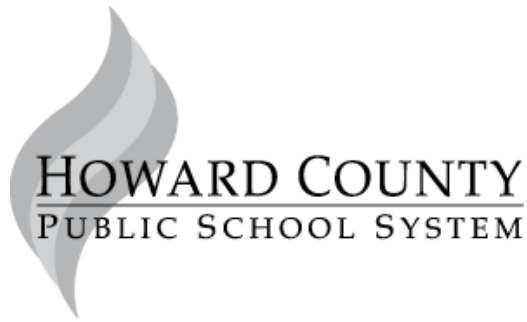
C. Other

Employee Assistance Program (EAP) brochure

ADOPTED: September 13, 1990

AMENDED: March 11, 2010

EFFECTIVE: July 1, 2010



POLICY 7040-PR
IMPLEMENTATION PROCEDURES
ALCOHOL AND OTHER
NONCONTROLLED SUBSTANCE
ABUSE BY EMPLOYEES

Effective: July 1, 2010

I. Definitions

Within the context of this policy, the following definitions apply:

- A. Currently Engaged – Abusing alcohol or noncontrolled substances recently enough to justify the Superintendent/Designee’s reasonable suspicion that involvement with alcohol or noncontrolled substances is an ongoing problem. Current engagement is not limited to the day of use, or recent week or days in terms of an employment action.
- B. Employee Assistance Program (EAP) – A program designed to identify employee needs and provide subsequent referral recommendations, services, and/or resources in areas including but not limited to drug and substance abuse, alcoholism, and interpersonal, financial, or legal concerns.
- C. Reasonable Suspicion – A belief based on facts or on the rational inferences that may be drawn from such facts.
- D. Rehabilitation – The method used (including medical and psychological) to address the treatment and/or regression of any aspect connected with the use of alcohol or the abuse of a noncontrolled substance.

II. Investigation of Alleged Violations

- A. When the Superintendent/Designee receives notice of an alleged violation of the provisions of Policy 7040, the following actions will be taken:

The Superintendent/Designee will conduct an investigation into the alleged violation and make a determination regarding the employee's involvement in the alleged violation.

- 1. The investigation will be conducted promptly.
- 2. The employee may be placed on administrative leave with or without pay while the investigation is being conducted.
- 3. Physical evidence will be preserved for later use during the investigation and/or by the proper authorities.

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4. Due process will be utilized during the investigation. Due process includes the following steps:
 - a. The Superintendent/Designee will specify, to the employee, the portion(s) of the policy allegedly violated, the date(s) of the alleged violation(s), and the specific action(s) that constitutes the alleged violation.
 - b. The employee will be notified of the date, time, and place to respond to the charges of the alleged violation.
 5. An employee has the right to respond to the allegations; however, failure to respond does not preclude the Superintendent/Designee from taking disciplinary action.
- B. At the conclusion of the investigation, which will include a conference with the employee, the Superintendent/Designee will provide the employee a written decision containing:
1. A brief finding of facts
 2. A determination as to whether there has been a policy violation; any such determination must specify the part of the policy violated
 3. Any disciplinary action to be taken and the effective date of such action. Such disciplinary action may include but is not limited to:
 - a. Verbal and/or written reprimand
 - b. Suspension from employment with or without pay
 - c. Termination from employment.
- C. If an employee has been placed on administrative leave without pay during the course of the investigation and it is determined that no policy violation occurred, the employee will be awarded all back pay lost during the period of administrative leave without pay.

III. Drug or Alcohol Testing

- A. The Howard County Public School System (HCPSS) has the right to conduct drug or alcohol testing on any employee based on reasonable suspicion of a policy violation and/or to ensure compliance with any aspect of a disciplinary action. Failure to comply with a drug or alcohol test notification or the alteration of a sample may result in disciplinary action, up to and including termination.

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- B. All drug testing of employees shall comply with Section 17-214 of the Health General Article of the Annotated Code of Maryland and COMAR 10.10.10.01-.10 regarding the certification of any laboratory testing specimen.
 - C. If the employee has tested positive for the use of alcoholic beverages or the abuse of any noncontrolled substance, the HCPSS will, after confirmation of the test results, supply the employee with:
 - 1. A copy of the test result
 - 2. A copy of the Howard County Public School System's written policy and implementation procedures on drug abuse
 - 3. If applicable, written notice of the Howard County Public School System's intention to take disciplinary action
 - 4. A statement or copy of the Annotated Code, Health General Article, Section 17-214 (e), which permits an employee to request independent testing of the same sample for verification of the test result.

This statement will be delivered to the employee in person or by certified mail within seven (7) days from the date the test was performed. (COMAR 10.10.10.08)

IV. Referral/Treatment for Employees

- A. An employee may be required to participate in a fitness for duty evaluation and any resulting treatment recommendations designed to address alcohol or noncontrolled substance abuse and related problems.
 - 1. This participation may be required as a condition of returning to employment, continued employment, or as associated with disciplinary action.
 - 2. The employee may be required to provide the Superintendent/Designee with evidence of participation and compliance with recommendations as a condition of continued employment or returning to employment.
- B. Participation in a treatment program will be treated in a confidential manner. Treatment programs may include, but are not limited to, the following:
 - 1. Individual and/or group counseling with an individual and/or agency approved by the Superintendent/Designee or through the Employee Assistance Program

2. Medical treatment prescribed by or through a licensed health care provider or medical program
 3. Treatment programs available through and/or prescribed by an approved health maintenance organization or health insurance provider
 4. Group programs such as Alcoholics Anonymous.
- C. Participation in a treatment program does not exempt an employee from performing their assigned job responsibilities in a satisfactory manner.

V. Non-Discrimination Against Prior Users

- A. HCPSS will not take disciplinary action against an employee who has abused noncontrolled substances or alcohol if they meet all of the following conditions:

The employee:

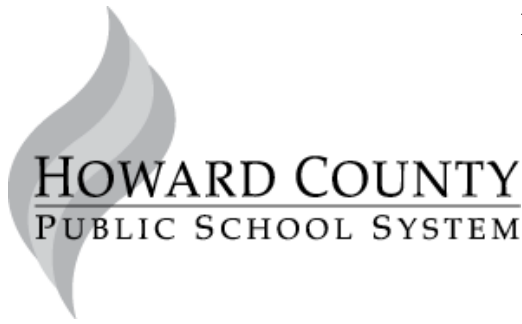
1. voluntarily admits that they have abused noncontrolled substances or alcoholic beverages prior to being identified through other means
2. is not currently engaged in the abuse of noncontrolled substances or alcoholic beverages
3. has completed, or is in the process of completing, a treatment or rehabilitation program
4. did not endanger any student or other employee through his/her abuse of noncontrolled substances or alcoholic beverages
5. did not abuse noncontrolled substances or use alcoholic beverages on school system property or at a school-sponsored event
6. thereafter refrains from abusing noncontrolled substances or alcoholic beverages.
 - a. The Superintendent/Designee will set terms and conditions for continued employment.
 - b. Such terms and conditions may include participation in a treatment program as outlined in Section IV.

- B. Any employee who meets the criteria set forth above in V.A. will not be subject to disciplinary action, unless the employee fails to comply with the terms and conditions for continued employment.
1. In the event the employee is charged with failure to comply with the terms and conditions of continued employment, the employee shall be afforded due process as outlined in Section II.A.4.
 2. If it is determined that the employee violated the terms and conditions for continued employment, then the employee will be subject to disciplinary action, up to and including termination.

ADOPTED: September 13, 1990

AMENDED: March 11, 2010

EFFECTIVE: July 1, 2010



BOARD OF EDUCATION
POLICY 7040
ABUSE OF ALCOHOL AND OTHER
NONCONTROLLED SUBSTANCES
ABUSE BY EMPLOYEES

Effective: July 1, 2010

I. Policy Statement

~~Every attempt will be made to create and maintain~~ The Board of Education is committed to ensuring a safe and healthful nurturing school and work environment for its employees of the Howard County Public School System. The Board values a work environment free of any use, possession, or distribution of alcoholic beverages or abuse of noncontrolled substances, recognizing that such conduct compromises the well being of students and staff and impairs performance.

~~All employees are to be respectful of this work environment and are expected to abstain from the~~ Therefore, all employees on official business, both on and off the workplace, are prohibited from the abuse use, possession, or distribution of alcoholic beverages or being under the influence of alcoholic beverages and/or the abuse of noncontrolled substances while engaged in Howard County Public School System (HCPSS) duties.

~~The Howard County Public School System will not hire anyone who is known to currently abuse alcohol or noncontrolled substances.~~

~~No employee may abuse use alcohol and/or abuse noncontrolled substances on the job or be under the influence of alcoholic beverages or noncontrolled substances during work hours or at any HCPSS sponsored activity to the extent that job performance is impacted negatively and/or safety is compromised. All employees will be made aware that compliance with this policy is a condition of continued employment.~~

~~The abuse of alcohol or noncontrolled substances on the job or an employee's being under the influence of alcoholic beverages or noncontrolled substances during work hours to the extent that job performance is impaired negatively and/or safety is compromised will be in violation of this policy. These behaviors will constitute grounds for disciplinary action. Employees may be directed, through the Employee Assistance Program when operational, to participate in an appropriate treatment and/or rehabilitation program as a condition of returning to work and/or as a condition of continued employment.~~

II. Purpose

The purpose of this policy is to establish standards and procedures for employees and service providers regarding the possession, use, or distribution of alcoholic beverages and/or the abuse of noncontrolled substances.

III. Definitions

Within the context of this policy, the following definitions apply:

- A. ~~“Abuse” shall mean~~ The ingestion, inhalation, injection, or absorption of any legal or illegal drug, alcoholic beverage, or any noncontrolled substances to the extent that in a manner or degree at any time that compromises workplace safety, job performance, and/or the work environment are compromised.
- B. ~~“Alcoholic Beverages” shall mean~~ Ale, beer, wine, whiskey, rum, gin, or any other spirituous, vinous, malt, or fermented liquor or compound by whatever name called.
- C. ~~“Disciplinary Action” shall mean action taken as a result of the decision of the Superintendent/designee upon reasonable investigation that an employee is in violation of this policy. Such disciplinary action may include, but is not limited to:~~
- ~~• Verbal and/or written reprimand~~
 - ~~• Suspension from employment with or without pay~~
 - ~~• Termination from employment.~~
- C. Constructive Possession – Exercising dominion or control over an alcoholic beverage. More than one person may have possession at the same time.
- D. ~~“Distribute/Distribution” (as defined exclusively from both "Use" or "Possession") shall mean –~~ The sale, transfer, trade, dispensing, giving or exchange in any matter manner of any an alcoholic beverage, noncontrolled substance, or a noncontrolled substance that is represented as a controlled dangerous substance, by an employee to any person, whether or not an employee, when such distribution takes place on or off a Howard County Public School System property.
- E. ~~“Due Process” is the process whereby before any disciplinary action is taken against an employee, he/she shall receive notice of the charges. An employee denying such charges shall have the right to provide an explanation directed to the evidence supporting the charges and to submit any related information.~~
- F. ~~“Employee Assistance Program (EAP),” shall mean a program designed to identify employee needs and provide subsequent referral recommendations and services as needed in the areas including, but not limited to, drug and substance abuse, alcoholism, and family or financial problems. The EAP program for Howard County Public School System employees is anticipated to be operational in FY91.~~

- E. Intent to Distribute – Possession of alcoholic beverages, in or on any item or belonging under the control of the employee or owned by the employee, in such quantity and under such circumstances, observed or discovered, indicating the strong likelihood of distribution.
- ~~GF.~~ “Noncontrolled Substances” ~~– shall mean~~ Any substance not classified as a controlled substance by State Law or regulation or a substance represented as a controlled dangerous substance., including but not limited to ~~These substances may include over-the-counter drugs; and select prescription drugs. and/or any other substance capable of modifying the employee's behavior or physically altering a person's ability to the extent that the result is a negative impact on safety or job performance.~~
- ~~HG.~~ “Possess/Possession” ~~as defined exclusively from "Use," shall mean –~~ The presence of an alcoholic beverage or a noncontrolled substance on the person of an employee, however small the amount, or in or on any item or belonging under the control of the employee or owned by the employee, when such presence of an alcoholic beverage or a noncontrolled substance being abused or misused is observed or discovered or has occurred in any work related setting or facility.
- ~~I.~~ “Rehabilitation” ~~shall mean the treatment (medical and/or psychological) utilized to address the treatment and/or regression of any aspect connected with the use of alcohol.~~
- H. Service Provider – An individual who provides services to the Howard County Public School System (HCPSS) through contract or volunteer service, including student teachers and interns.
- ~~J.~~ “Use” ~~– shall mean~~ The ingestion of an alcoholic beverage; or noneontrolld substance and shall also mean a condition or state of being of an employee indicating that the employee is under the influence of an alcoholic beverage or noncontrolled substance when the ingestion is performed or observed.

IV. Standards

~~A.~~ Administrative Actions

- ~~1.~~ ~~It is a violation of Policy 7040 for any employee to distribute alcoholic beverages to any other employee or student while on work assignment or to use any alcoholic beverages at the workplace site during duty hours or at HCPSS-sponsored functions.~~

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- ~~2. It shall be is a violation of this policy to abuse and/or distribute noncontrolled substances.~~
- ~~3. The Howard County Public School System will not hire anyone who is known to currently abuse alcohol or noncontrolled substances.~~
- BA. An employee or service provider may not use or be under the influence of alcoholic beverages while engaged in HCPSS duties.
- B. An employee or service provider may not abuse noncontrolled substances while engaged in HCPSS duties.
- C. The HCPSS will not hire anyone who is known to currently abuse alcoholic beverages or a noncontrolled substance.
- D. An employee or service provider may not possess, distribute, or intend to distribute alcoholic beverages on school system property or at an HCPSS-sponsored event.
- E. An employee or service provider may not be in constructive possession of alcoholic beverages on school system property or at an HCPSS-sponsored event.
- F. An employee or service provider may not distribute noncontrolled substances to students except when specified by job description.
- G. An employee or service provider may not engage in conduct that would constitute a violation of federal or state law concerning the use, distribution, or intended distribution of alcoholic beverages.
- ~~4H. Any Eemployees who operates an HCPSS Howard County Public Schools System vehicles are is required to report any alcohol or noncontrolled substance-related conviction charges to their immediate supervisor within five days. prior to the start of their next work day following the charges.~~
- ~~5I. Any Eemployee who operates an HCPSS Howard County Public School System vehicles who are is convicted of off the job alcohol or noncontrolled substance-related offenses also will be in violation of this policy subject to disciplinary action up to and including termination.~~
- J. Employees or service providers must report within three (3) workdays to their supervisor or principal any violation or suspected violation of this policy. Failure to report policy violations or suspected policy violations may result in disciplinary action.

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- K. Every supervisor and/or principal must report immediately any violations or alleged violations of this policy to the Superintendent/Designee for investigation.
- L. Any employee who aids, abets, and/or conspires with any person to violate this policy may be subject to disciplinary action.
- M. Any employee who knowingly gives false information, fails to cooperate, or in any way impedes any investigation conducted by the Superintendent/Designee may be subject to disciplinary action.
- ~~BN. Referral/Treatment for Employees~~ ~~As part of Policy 7040, a~~An employee may be required to participate in a treatment program designed to address any alcoholic beverage or noncontrolled substance abuse and related problems. ~~The treatment may be initiated by employee self-referral or supervisory referral. The employee may be required to participate in a treatment program as a condition of returning to employment, continued employment, or as associated with any disciplinary action. The employee may also be required to provide the Superintendent/designee with evidence of participation and progress related to any treatment program as a requirement relative to continued employment or as a condition of returning to employment status.~~
- ~~C. Employee information related to the Employee Assistance Program, when operational, and accompanying referral and/or treatment program shall be held in strict confidence by the EAP provider and the department administration.~~
- ~~D. Nothing described herein shall in any way relieve the employee from arrest and conviction for violation of any local, state, and/or federal laws in this regard.~~
- O. Compliance with this policy is a condition of employment, and violations of this policy will constitute grounds for disciplinary action.

V. Compliance

- A. The Office of Human Resources will ensure that all newly hired employees receive a copy of this policy.
- B. The Superintendent/Designee will ensure that all service providers receive a copy of this policy.
- C. All employees are responsible for reporting any suspected violations of this policy or implementation procedures to their immediate supervisor.
- D. Supervisors and principals are responsible for reporting alleged violations to the Superintendent/Designee.

- E. The Superintendent/Designee will investigate and make decisions regarding any alleged violations of this policy.

VI. Delegation of Authority

The Superintendent is authorized to develop appropriate procedures to implement this policy.

VII. Reference

A. Legal

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34 C.F.R. 84.100-115

34 C.F.R. 84.200-230

34 C.F.R. 84.605-670

The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (f)

The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (l)

The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (o)

The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (s)

The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (u)

The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (v)

The Annotated Code of Maryland, Criminal Law Article, Section 5-101 (y-z)

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COMAR 10.10.10.01-.10

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COMAR 13A.12.05.03

B. Other Board Policies

Policy 7040

Policy 7030 Employee Discipline

Policy 7050 Use of Illegal Drugs and Drug Paraphernalia

Policy 9230 Alcohol, Other Drugs, Prescription Medication, and Over the Counter Products

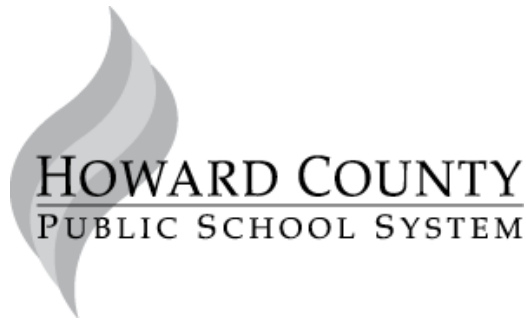
C. Other

Employee Assistance Program (EAP) brochure

ADOPTED: September 13, 1990

AMENDED: March 11, 2010

EFFECTIVE: July 1, 2010



POLICY 7040-PR
IMPLEMENTATION PROCEDURES
ABUSE OF ALCOHOL AND OTHER
NONCONTROLLED SUBSTANCES
ABUSE BY EMPLOYEES

Effective: July 1, 2010

I. Definitions

Within the context of this policy, the following definitions apply:

- A. Currently Engaged – Abusing alcohol or noncontrolled substances recently enough to justify the Superintendent/Designee’s reasonable suspicion that involvement with alcohol or noncontrolled substances is an ongoing problem. Current engagement is not limited to the day of use, or recent week or days in terms of an employment action.
- B. Employee Assistance Program (EAP) – A program designed to identify employee needs and provide subsequent referral recommendations, services, and/or resources in areas including but not limited to drug and substance abuse, alcoholism, and interpersonal, financial, or legal concerns.
- C. Reasonable Suspicion – A belief based on facts or on the rational inferences that may be drawn from such facts.
- D. Rehabilitation – The method used (including medical and psychological) to address the treatment and/or regression of any aspect connected with the use of alcohol or the abuse of a noncontrolled substance.

II. Investigation of Alleged Violations

- A. ~~Upon determining the occurrence~~ When the Superintendent/Designee receives notice of an alleged violation of any of the provisions of ~~p~~Policy 7040, the following actions will be taken:

 - A. The Superintendent/Designee will conduct ~~A~~an ~~thorough~~ investigation ~~will be conducted~~ into the alleged ~~policy~~ violation(s), and make a determination ~~will be made~~ regarding the employee’s involvement in the alleged violation ~~charges in relation to the existing policy.~~

 - 1. The investigation will be conducted promptly.
 - B. 2. The ~~E~~employees may be placed on administrative leave with or without pay while ~~an~~ the investigation is being conducted.

3. Physical evidence will be preserved for later use during the investigation and/or by the proper authorities.
 4. Due process will be utilized during the investigation. Due process includes the following steps:
 - a. The Superintendent/Designee will specify, to the employee, the portion(s) of the policy allegedly violated, the date(s) of the alleged violation(s), and the specific action(s) that constitutes the alleged violation.
 - b. The employee will be notified of the date, time, and place to respond to the charges of the alleged violation.
 5. An employee has the right to respond to the allegations; however, failure to respond does not preclude the Superintendent/Designee from taking disciplinary action.
- B. At the conclusion of the investigation, which will include a conference with the employee, the Superintendent/Designee will provide the employee a written decision containing:
1. A brief finding of facts
 2. A determination as to whether there has been a policy violation; any such determination must specify the part of the policy violated
 3. Any disciplinary action to be taken and the effective date of such action. Such disciplinary action may include but is not limited to:
 - a. Verbal and/or written reprimand
 - b. Suspension from employment with or without pay
 - c. Termination from employment.
- ~~C. After the investigation and a conference with the employee, the employee may be placed on extended leave without pay or may be terminated. If an employee is placed on extended leave without pay, a determination will be made at that time regarding the employee's present and future position assignment.~~
- C. If an employee has been placed on administrative leave without pay during the course of the investigation and it is determined that no policy violation occurred, the employee will be awarded all back pay lost during the period of administrative leave without pay.

III. Drug or Alcohol Testing

- A. The Howard County Public School System (HCPSS) has the right to conduct drug or alcohol testing on any employee based on reasonable suspicion of a policy violation and/or to ensure compliance with any aspect of a disciplinary action. Failure to comply with a drug or alcohol test notification or the alteration of a sample may result in disciplinary action, up to and including termination.
- B. All drug testing of employees shall comply with Section 17-214 of the Health General Article of the Annotated Code of Maryland and COMAR 10.10.10.01-.10 regarding the certification of any laboratory testing specimen.
- C. If the employee has tested positive for the use of alcoholic beverages or the abuse of any noncontrolled substance, the HCPSS must will, after confirmation of the test results, supply the employee with:
1. A copy of the test result
 2. A copy of the Howard County Public School System's written policy and implementation procedures on drug abuse
 3. If applicable, written notice of the Howard County Public School System's intention to take disciplinary action
 4. A statement or copy of the Annotated Code, Health General Article, Section 17-214 (e), which permits an employee to request independent testing of the same sample for verification of the test result.

This statement will be delivered to the employee in person or by certified mail within seven (7) days from the date the test was performed. (COMAR 10.10.10.08)

IV. Referral/Treatment for Employees

~~IV. As the result of on the job behaviors, the employer may refer the employee to the EAP, when operational for rehabilitation assistance. If the situation warrants treatment, the employee may be required to participate in a treatment program as a condition of continued employment.~~

- A. An employee may be required to participate in a fitness for duty evaluation and any resulting treatment recommendations designed to address alcohol or noncontrolled substance abuse and related problems.

1. This participation may be required as a condition of returning to employment, continued employment, or as associated with disciplinary action.
2. The employee may be required to provide the Superintendent/Designee with evidence of participation and compliance with recommendations as a condition of continued employment or returning to employment.

~~V~~ B. Participation in a The treatment programs referenced in this procedure shall will be treated in a confidential manner. Treatment programs and may include, but not be are not limited to, the following:

- ~~A~~1. Individual and/or group counseling with an individual and/or agency approved by the Superintendent/~~D~~esignee or ~~an~~ through the Employee Assistance Program, when operational.
- ~~B~~. ~~Treatment program as prescribed by the Superintendent/designee or an~~ through the Employee Assistance Program, when operational.
- ~~C~~2. ~~Medical treatment prescribed by or through an approved medical person, a licensed health care provider or medical program, or group person.~~
- ~~D~~3. ~~Treatment programs available through and/or prescribed by an approved health maintenance organization or health insurance provider.~~
- ~~E~~4. ~~Group programs such as Alcoholics Anonymous.~~

~~H~~ C. Participation in a treatment or rehabilitation program does not exempt an employee from adhering to established practices, regulations, and policies concerning job performance, attendance, and other related matters. performing their assigned job responsibilities in a satisfactory manner.

~~III.~~ ~~Rehabilitation may not be allowed as an alternative to termination after an employee has been involved in known criminal activity resulting from a violation of this policy.~~

V. Non-Discrimination Against Prior Users

A. HCPSS will not take disciplinary action against an employee who has abused noncontrolled substances or alcohol if they meet all of the following conditions:

The employee:

1. voluntarily admits that they have abused noncontrolled substances or alcoholic beverages prior to being identified through other means

2. is not currently engaged in the abuse of noncontrolled substances or alcoholic beverages
 3. has completed, or is in the process of completing, a treatment or rehabilitation program
 4. did not endanger any student or other employee through his/her abuse of noncontrolled substances or alcoholic beverages
 5. did not abuse noncontrolled substances or use alcoholic beverages on school system property or at a school-sponsored event
 6. thereafter refrains from abusing noncontrolled substances or alcoholic beverages.
 - a. The Superintendent/Designee will set terms and conditions for continued employment.
 - b. Such terms and conditions may include participation in a treatment program as outlined in Section IV.
- B. Any employee who meets the criteria set forth above in V.A. will not be subject to disciplinary action, unless the employee fails to comply with the terms and conditions for continued employment.
1. In the event the employee is charged with failure to comply with the terms and conditions of continued employment, the employee shall be afforded due process as outlined in Section II.A.4.
 2. If it is determined that the employee violated the terms and conditions for continued employment, then the employee will be subject to disciplinary action, up to and including termination.

ADOPTED: September 13, 1990

AMENDED: March 11, 2010

EFFECTIVE: ~~September 13, 1990~~
July 1, 2010