

BOARD OF EDUCATION  
**POLICY 7050**  
**PROHIBITION OF ILLEGAL DRUGS AND**  
**DRUG PARAPHERNALIA FOR EMPLOYEES**

Effective: August 22, 1996

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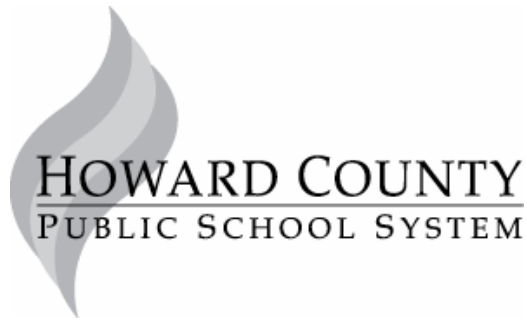
### **Policy Statement**

It is the intention of The Howard County Public School System to create and maintain a healthy and safe school and work environment in which students can learn and employees can work without being subjected to the safety and health hazards created by the presence of illegal drugs and/or drug paraphernalia. Therefore, the presence of all illegal drugs and/or drug paraphernalia on school property and/or at school-sponsored events, whether on or off school property, is strictly prohibited. Furthermore, no employee whether on or off school property, shall engage in the use of illegal drugs and/or drug paraphernalia at any time (whether on or off duty hours). Any employee found to be in violation of this policy and/or any of the regulations adopted to implement this policy shall be subject to disciplinary action, which may include termination from employment.

The Howard County Public School System shall not employ anyone who is known to engage in the current use of illegal drugs and/or drug paraphernalia.

Compliance with this Policy 7050 and with the Regulations (7050-R) shall be an essential function of each employee's job. The terms used in this policy shall have the definitions set forth in the ensuing regulations.

Original Approval: September 13, 1990  
Revised: August 22, 1996



**POLICY 7050-R**  
REGULATIONS  
**PROHIBITION OF ILLEGAL DRUGS AND  
DRUG PARAPHERNALIA FOR EMPLOYEES**

Effective: August 22, 1996

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**I. Definitions**

The following terms, as used in Policy 7050 (hereinafter referred to as the policy), these Regulations (7050-R) and the Implementation Procedures (7050-PR), shall have the definitions set forth below. In the event a term is not defined below, it shall have its common and ordinary meaning.

- A. “Continued Employment” shall mean an employment status in which an employee has been placed as an alternative to termination of employment. In order to be eligible for “continued employment,” an employee shall not be currently engaged in the use of illegal drugs, as defined in these regulations, and shall comply with certain conditions determined by the Superintendent/designee. An employee placed on “continued employment” shall be held to the same job performance and behavioral standards to which all other employees in the same job classification and/or position are held. The employee shall remain drug free in order to continue in employment, and the Howard County Public School System shall have the right, at its sole discretion, to require the employee to submit to drug testing to ensure compliance.
- B. “Contraband” shall mean illegal drugs, controlled dangerous substances, drug paraphernalia and/or prescription drugs prescribed to a person other than the employee.
- C. “Currently Engaged in Drug Use” shall mean testing positive on a test for illegal use of drugs, where the test correctly indicates that the individual is engaging in the illegal use of a controlled dangerous substance. The illegal use of drugs and/or drug paraphernalia shall have occurred recently enough to justify a reasonable belief by the Superintendent/designee that the use of drugs and/or drug paraphernalia (as defined in these regulations) is an ongoing problem. The Superintendent/designee’s determination as to “current drug use” shall not necessarily be limited to a consideration of the day of use or recent weeks or days of drug use, and the determination of “currently engaged in drug use” may also result from an admission by the employee or other convincing evidence.
- D. “Disciplinary Action” shall mean action taken by the Superintendent after a determination has been made that an employee is in violation of this policy and/or these regulations. 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
- E. “Distribution/Distribute” shall mean the sale, transfer, gift, delivery, trade, exchange, and/or dispensing of any contraband (as defined in these regulations), or any substance that is represented as an illegal drug/controlled dangerous substance by one or more persons to any person no matter when or where such distribution takes place.
- F. “Drug Conviction” shall mean the final adjudication by a court of competent jurisdiction that an employee has been found guilty of an illegal drug/controlled dangerous substance and/or a drug paraphernalia criminal offense. The granting of probation before judgment in such a court adjudication shall not be deemed a “drug conviction.”
- G. “Illegal Drugs/Controlled Dangerous Substances” shall mean those illegal and controlled dangerous substances listed under Section 279 of Article 27 of The Annotated Code of Maryland, as amended from time to time. Illegal drugs/controlled dangerous substances shall also include any substance that is represented as an illegal drug or controlled dangerous substance. This term shall include any drug or controlled substance that is prescribed by and authorized by a licensed physician for a particular individual and is not used as directed by the said physician and include any over-the-counter drug that is used in a manner inconsistent with the manufacturer’s instructions.
- H. “Paraphernalia/drug paraphernalia” shall mean any equipment or material of any kind which is used or intended for use in manufacturing, packaging, storing, concealing, and/or introducing into the human body a controlled dangerous substance. Drug paraphernalia shall also include those items listed in Section 287A (a) of Article 27, of The Annotated Code of Maryland, as amended from time to time.
- I. “Possession/Possess” shall mean the exercising of actual or constructive dominion or control over contraband (as defined in these regulations). More than one person may have possession of the contraband at the same time. An employee has “possession” if the employee knowingly has both the power and intention to exercise control over the contraband, either personally or through another person, and the employee must have knowledge of the general character or illicit nature of the contraband.
- J. “Rehabilitation” shall mean the treatment (medical and/or psychological) utilized to help the employee overcome his/her use of illegal or legal over-the-counter drugs and to cope with any related behavioral and/or medical problems.

- K. “Reasonable Suspicion” shall mean a belief based on facts and the rational inferences which may be drawn from such facts and/or based on direct or reported observations.
- L. “Use” shall mean the unlawful ingestion, injection, or inhalation and/or other introduction into the human body of any illegal drug/controlled dangerous substance on or off the work place at any time. Use shall also include the distribution (as defined in these regulations), manufacturing, processing, packaging, storing, and/or concealing of any illegal drug, controlled dangerous substance, and/or drug paraphernalia. The term “use” shall also include the ingestion, inhalation, injection, and/or other introduction into the human body of any prescription drug and/or legal over-the-counter drugs, in a manner inconsistent with the manufacturer’s instructions and/or as prescribed by a physician.

## II. Regulations

### A. Duties

1. The Superintendent/designee shall publish and provide each employee with a copy of Policy 7050 (Prohibition of Illegal Drugs and Drug Paraphernalia For Employees), these Regulations, and the Implementation Procedures and shall direct all employees to read and familiarize themselves with the said policy, regulations and implementation procedures. The Superintendent/designee shall file a written certification with the Board of Education within sixty (60) days following the Board’s adoption of the said policy, regulations, and implementation procedures evidencing compliance with this duty.
2. The Superintendent/designee shall publish and provide to each new employee hired after the adoption of Policy 7050 (hereinafter referred to as the policy), these Regulations, and the Implementation Procedures with a copy of the said policy, regulations, and implementation procedures. In addition, the Superintendent/designee shall direct all newly hired employees to read and familiarize themselves with the said policy, regulations, and implementation procedures. The Superintendent/designee shall file annually with the Board of Education a written certification evidencing compliance with this duty since the date of the last certification filed with the Board.
3. Each employee is hereby charged with a duty to report within three (3) days to his/her supervisor or principal any violation of the policy and/or these regulations, including but not limited to those incidents where an

employee has reasonable suspicion to believe that a violation may have occurred.

4. Every supervisor and/or principal is hereby charged with a duty to report immediately any and all violations or alleged violations of the policy or these regulations to the Superintendent/designee for immediate investigation.

B. Investigation

1. The Superintendent/designee shall investigate all reports of violations and/or alleged violations of the policy and/or these regulations.
2. If the Superintendent/designee determines that there is “reasonable suspicion” to believe that a violation of this policy or the regulations has occurred, then the employee(s) shall be notified of the charged violation(s) and shall be given a prompt hearing to respond to the charged violation(s). (See implementation procedures regarding the hearing.)

C. Disciplinary Action

1. Any employee, after an appropriate hearing, as provided for in the implementation procedures, found by the Superintendent and/or his designee to have violated the policy and/or these regulations shall be subject to immediate disciplinary action.
2. An employee shall be immediately suspended or terminated subject to suspension or termination from employment pursuant to paragraph II.C.3. of these regulations in the event that there is a finding of fact by the Superintendent/designee conducting the hearing that any one of the following events occurred: that the violation of the policy and/or these regulations took place on school property, that the violation took place at a school-sponsored event at any place or time, or that the violation in any way involved any student(s) or endangered the life and/or safety of any student.
3. Where the Superintendent has made, approved, or adopted findings of fact containing one or more the of the events described in paragraph II.C.2. of these regulations, then the Superintendent shall take the following action:
  - a. If the finding of fact pertains to a certificated employee, then the Superintendent shall promptly recommend to the Board of Education that the certificated employee be suspended or dismissed pursuant to

Education Article, Section 6-202, of The Annotated Code of Maryland.

- b. If the finding of fact pertains to a noncertificated employee, then the Superintendent shall immediately suspend or terminate from employment the noncertificated employee. The Superintendent's decision shall be subject to the provisions of Education Article, Section 4-205, of The Annotated Code of Maryland.

D. Continued Employment Status

1. In those cases where the disciplinary action taken does not include termination of employment, the Superintendent/designee conducting the hearing shall have the right to place the employee on continued employment status, subject to such conditions as the Superintendent/designee may deem in the best interests of the Howard County Public School System and/or the employee. The duration of such continued employment status shall be specified by the Superintendent/designee and may be reviewed and revised from time to time. No employee shall be placed on continued employment status unless the Superintendent/designee conducting the hearing determines that the employee is not currently engaging in the use of drugs and/or drug paraphernalia as defined under these regulations.
2. No employee shall be placed on continued employment status where the violation of the policy and/or these regulations took place on school property, at a school-sponsored event at any time or place, or in any way involved any student(s) or endangered the life and/or safety of the student.
3. As a pre-condition to being placed on continued employment status, the employee shall sign a written consent form consenting to all the conditions, including but not limited to taking random drug tests as directed, submitting to treatment for rehabilitation purposes as directed by the Howard County Public School System or its agent, and permitting the drug test results and information to confirm that the employee is participating as directed in the certified drug treatment program to be provided to the Superintendent/designee. Such information and drug test results may be used as evidence for disciplinary action.
4. The Continued Employment Status Agreement shall be in writing, signed by the Superintendent/designee and the employee, and the agreement shall provide at a minimum the following terms and conditions:

- a. The length of the continued employment status, which may be adjusted to accommodate the employee's treatment and rehabilitation progress.
- b. The employee shall refrain from any future use of illegal drugs and/or drug paraphernalia as defined in the policy and these regulations.
- c. The employee shall submit to random drug testing and/or treatment for rehabilitation purposes as directed by the Howard County Public School System or its agents during the period of continued employment status and shall consent to the health care provider and/or drug testing laboratory providing the Howard County Public School System or its designated agent with the drug test results and information to confirm that the employee is participating in the certified drug treatment program as directed.
- d. The employee shall attend or continue attendance at a certified drug treatment program approved by the Howard County Public School System or its duly authorized agents.
- e. The employee shall agree to perform the duties of his/her position at an acceptable level of performance as determined by the Superintendent/designee.
- f. The employee shall acknowledge that any breach of this agreement by the employee shall result in the employee's being subjected to disciplinary action, including but not limited to suspension and/or termination from employment.

E. Voluntary Admission, Rehabilitation, and Protection

1. Any employee who voluntarily comes forward and admits that he/she is a former user and/or is engaged in rehabilitation from the use of illegal drugs, and who is not currently engaged in the use of illegal drugs and/or drug paraphernalia, as defined in these regulations, and whose past use of illegal drugs, and/or drug paraphernalia did not take place on school property, at a school-sponsored event at any time or place, and did not in any way involve students or in any way endanger the life and/or safety of any student, shall be placed on continued employment status, subject to such terms and conditions as are determined necessary to ensure the employee's complete treatment, rehabilitation, and recovery from illegal drug use and the best interests of the Howard County Public School System.

2. Any employee who meets the criteria set forth above in II.E.1., shall not be subject to disciplinary action, unless the said employee fails to comply with the terms and conditions of the Continued Employment Status Agreement. In the event the employee shall be charged with failure to comply with the terms and conditions of the Continued Employment Status Agreement, the employee shall be afforded a prompt hearing before the Superintendent/designee, and if it is determined that the employee violated the terms and conditions of the Continued Employment Status Agreement, then the employee shall be subject to immediate disciplinary action as defined in these regulations.
3. No formal warning and/or reprimand shall be issued to any employee meeting the criteria in II.E.1., however, the said employee shall be subject to the terms and conditions of the Continued Employment Status Agreement for the duration of the agreement.

F. Confidentiality

1. With respect to employees placed on continued employment status, all information, documents, and records received from the employee's health care provider, and from drug tests shall be held in the strictest confidence and shall not be placed in the employee's personnel file. However, the Superintendent/designee shall have the right to use all such information, documents, records, and drug test results at any hearing or adjudication involving or arising out of the alleged violation of the terms and conditions of the Continued Employment Status Agreement by the employee.
2. The Howard County Public School System is without power in any way to relieve or protect any employee from being arrested, charged, prosecuted, and/or convicted in a court of law for a violation of any local, state, and/or federal law, and nothing in the policy and/or these regulations is meant to imply any such relief and/or protection.

G. Violations of these Regulations

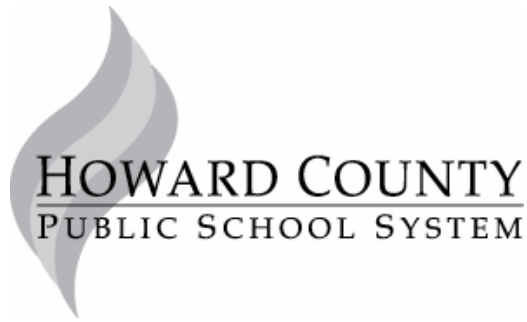
1. Any employee who fails to report violation of the policy or these regulations to his/her immediate supervisor or principal within three (3) days of having such knowledge is in violation of these regulations and shall be subject to disciplinary action.
2. Any employee who aids, abets, and/or conspires with any person to violate the policy and/or these regulations is in violation of these regulations and shall be subject to disciplinary action.

3. Any employee who knowingly gives false information or fails to cooperate in any investigation conducted by the Superintendent/designee or in any way impedes such an investigation is in violation of these regulations and shall be subject to disciplinary action.
4. Any violation of the policy by an employee shall constitute a violation of these regulations and shall subject an employee to disciplinary action.
5. Ignorance of the employee of the contents of the policy and/or these regulations shall not constitute a defense to any charge of a violation, since all employees have been charged with reading and familiarizing themselves with the policy, these regulations, and the implementation procedures.

H. Reports to the Police

1. Violations of the policy occurring on school property or at school-sponsored events or that involve any student or in any way endanger the life and/or safety of any student shall be reported to the police by the Superintendent/designee.
2. Whenever possible, the Superintendent/designee shall attempt to complete the investigation on the matter, hold a hearing, and make a specific determination or finding as to whether a violation of the policy and/or regulations has occurred before reporting the matter to the police. This expeditious investigation and hearing process is meant to protect the employee and the Howard County Public School System from the damage that may result from an erroneous report to the police.
3. Where it is clear that there is insufficient time to complete an investigation and hold a hearing without jeopardizing the health, safety, and welfare of others or endangering school property, then the Superintendent/designee should report the incident immediately to the police. However, an investigation shall still be conducted by the Superintendent/designee, and a hearing shall be conducted where there appears to be violations of the policy and/or regulations.

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**POLICY 7050-PR**  
IMPLEMENTATION PROCEDURES  
**PROHIBITION OF ILLEGAL DRUGS AND  
DRUG PARAPHERNALIA FOR EMPLOYEES**

Effective: June 12, 1997

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- I. Investigation of Alleged Violations and Notice to Employee
- A. The Superintendent may conduct the investigation of any alleged violation of the policy and/or regulations.
  - B. The Superintendent shall also name in writing no less than two designees to conduct investigations of reported violations of the policy and/or regulations. The designee(s) shall conduct any investigation in the Superintendent's absence or on an ongoing basis as the Superintendent's designee.
  - C. The investigation should be conducted promptly after receiving the report of the alleged violation.
  - D. Every attempt shall be made to preserve physical evidence for later use at the hearing and/or by the proper authorities in any criminal prosecution.
  - E. The investigator is encouraged to make contemporaneous notes with respect to interviews with prospective witnesses, or in the alternative and with the express consent of the prospective witness, the investigator may tape record his interview and/or pertinent parts of it with the prospective witness.
  - F. At the conclusion of the investigation, the Superintendent/designee shall determine in his/her judgment and discretion whether charges for violating the policy and/or regulations should be brought against any person(s).
  - G. These guidelines with respect to the conducting of any investigation are for the sole benefit of the Howard County Public School System and the Superintendent/designee and shall not in any way be construed as conferring any rights (substantive or procedural) on any person being investigated or subsequently charged.
  - H. The Superintendent/designee shall specify each charge in writing setting forth to the extent possible the following:
    - 1. The specific portion or section of the policy and/or regulations violated.
    - 2. The alleged date or dates of each violation, if known.

3. The specific action by the employee that constitutes the violation of each charge specified.
4. The date, time, and place of the employee's hearing before the Superintendent/ designee.
5. A statement advising the employee that he/she may respond to the charges at the above referenced hearing and that failure to respond may result in disciplinary action being taken against the employee, including but not limited to suspension and/or termination of employment.

The above charges and notice shall be delivered to the employee at the school, the work site, and/or at his/her residence as shown on Howard County Public School System records. If the employee cannot be located, the charges and notice shall be mailed to the employee's last known address.

## II. The Hearing

- A. The Superintendent may conduct any hearing afforded to an employee to respond to charge(s) of a violation(s) of the policy and/or the regulations.
- B. The Superintendent shall also name in writing not less than two designees to serve as hearing officers. Any such designee shall conduct the hearing in the absence of the Superintendent or on an on-going basis as the Superintendent's permanent designee.
- C. The hearing shall be held in an informal manner and shall be conducted on a fair, impartial basis. Formal rules of evidence shall not apply. The Superintendent /designee shall hear and/or receive documentary and/or other evidence from the investigation and/ or testimony from the investigator and/or any other witness as well as any testimony, documentary evidence, and/or any other evidence presented by the employee and/or any witnesses on his/her behalf.
- D. A certified copy of a court record from the clerk of the court, which evidences a final judgment of guilty as to the employee with respect to an illegal drug and/or drug paraphernalia charge shall be prima facia evidence of a violation of the policy and/or regulations relating to the said conviction.
- E. After hearing all testimony and receiving all of the other evidence, the Superintendent/designee shall render and have delivered to the employee a written decision containing:
  1. A brief finding of facts.

2. A conclusion as to whether there has been a violation of any policy and/or regulation, and the conclusions should specify the part of the policy and/or regulation violated.
  3. A concise statement of what his/her decision is as to any disciplinary action to be taken, if any, and/or the effective date of such disciplinary action and/or other disposition.
- F. The Superintendent shall approve in written form the findings of fact, conclusions, and decision in each case heard by the Superintendent/designee.
- G. The decision of the Superintendent shall be subject to the provisions of Education Article, Section 4-205, of *The Annotated Code of Maryland*.
- III. Administrative Leave
- A. The Superintendent/designee may place an employee charged under the policy and/or regulations on administrative leave with or without pay pending the outcome of any investigation and/or final decision.
  - B. Whether the administrative leave shall be with or without pay shall be in the sole discretion of the Superintendent/designee.
  - C. When an employee has been placed on administrative leave without pay and thereafter prevails on the merits of the case pursuant to a final adjudication of the matter, the employee shall be awarded any and all back pay lost during the administrative leave without pay.
- IV. Drug Testing
- A. The Howard County Public School System shall have the right to conduct drug testing on any employee based on reasonable suspicion of the use of contraband and/or to ensure compliance with any final disposition in a disciplinary hearing requiring drug abstinence and/or to ensure compliance with any Continued Employment Status Agreement. The employee must report to the drug testing facility within two hours of notification. Failure to report for a drug test within two hours may result in disciplinary action, up to and including a recommendation for termination or termination.
  - B. All drug testing of employees shall comply with the provisions of Health General Article, Section 17-214, The Annotated Code of Maryland (as amended from time to time) and with COMAR 10.10.01 regarding the certification of any laboratory testing specimen.

- C. If the employee has tested positive for the use or abuse of any illegal drug/controlled dangerous substance, the Howard County Public School System must, after confirmation of the test results, supply the employees with:
1. A copy of the test result;
  2. A copy of the Howard County Public School System's written policy, regulations, and implementation procedures on drug abuse;
  3. If applicable, written notice of Howard County Public School System's intention to take disciplinary action; and
  4. A statement or copy of Health General Article, Section 17-214 (d), which permits an employee to request independent testing of the same sample for verification of the test result.

This notification shall be delivered to the employee in person or by certified mail and within thirty (30) days from the date the test was performed. See Health General Article, Section 17-214 (e).

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