

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

TITLE: Policy 7050 Prohibition of Illegal Drugs and Drug Paraphernalia for Employees **DATE:** January 14, 2010

PRESENTER: Susan Mascaro, Director of Staff Relations

OVERVIEW:

Policy 7050 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 Substances by Employees and Policy 7050 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 school system 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 7050 Prohibition of Illegal Drugs and Drug Paraphernalia for Employees, including a change of title to Drug use by Employees: Illegal Drugs, Drug Paraphernalia and Controlled Substances, 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 7050
Prohibition of Illegal Drugs and Drug Paraphernalia for Employees

Highlights

Policy

- Moves sections of the current Policy Statement to Standards and updates language
- Adds a Purpose Statement
- Adds definitions, including Abuse, Constructive Possession, Intent to Distribute, and Controlled Substance
- Adds new Standards IV.A. – IV.I. and IV.N. – IV.P.
- Moves sections of current Standards to the Implementation Procedures
- Adds a compliance section
- Adds legal and other references
- Changes title to Drug Use by Employees: Illegal Drugs, Drug Paraphernalia, and Controlled Substances.

Implementation Procedures

- Adds a definition section which includes Currently Engaged, Employee Assistance Program (EAP), Reasonable Suspicion, and Rehabilitation
- Delineates processes used for investigation of alleged violations
- Eliminates information regarding a hearing and administrative leave
- Clarifies circumstances requiring drug testing
- Adds a section clarifying referral/treatment programs for employees
- Clarifies voluntary admission, rehabilitation and protection processes, renaming as Non-Discrimination Against Prior Users.

**Committee for the Revision of
Policy 7050 Prohibition of Illegal Drugs and Drug Paraphernalia
For 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)

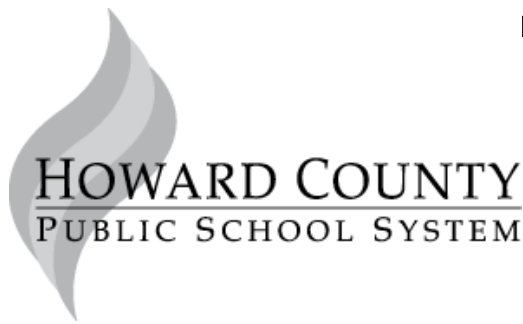
Jeannie Prevosto, Howard County Administrators Association (HCAA), Athletics & Activities Manager, MHHS

Rachel Ryan, HCASC

Rebecca Salerno, Manager, Instructional Support, Employee Services

Cynthia Schulmeyer, Student Services

* *Committee Chairperson*



**DRUG USE BY EMPLOYEES:
ILLEGAL DRUGS, DRUG
PARAPHERNALIA, AND
CONTROLLED SUBSTANCES**

Effective: July 1, 2010

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 illegal drugs and the abuse of controlled substances, recognizing that such conduct compromises the well being of students and staff and impairs performance.

All employees are to be respectful of this environment and are expected to abstain from the use of illegal drugs and/or drug paraphernalia and the abuse of controlled substances.

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 illegal drugs and the abuse or distribution of controlled substances.

III. Definitions

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

- A. Abuse – The ingestion, inhalation, injection, or absorption of a controlled substance in a manner or degree at any time that compromises workplace safety, job performance, and/or the work environment.
- B. Constructive Possession – Exercising dominion or control over illegal drugs or controlled substances. More than one person may have possession at the same time.
- C. Controlled Substance – Those substances, including prescription drugs and over-the-counter drugs, as listed in Sections 5-101 (f) (1) and Sections 5-403 through 5-406 of the Criminal Law Article of the Annotated Code of Maryland. Controlled substances also include any substance represented as a controlled substance.
- D. Distribution – The sale, transfer, trade, giving, exchange, and/or dispensing in any manner of any illegal drug, drug paraphernalia, or controlled substance, or any substance that is represented as an illegal drug/controlled substance.

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- E. Drug Conviction —The final judgment by a court of competent jurisdiction that an employee has been found guilty of an illegal drug/controlled substance and/or a drug paraphernalia criminal offense.
 - F. Illegal Drug – Those illegal substances, as listed in Sections 5-101 (f) (1) and Section 5-402 of the Criminal Law Article of the Annotated Code of Maryland. Illegal drugs also include any substance that is represented as an illegal drug.
 - G. Intent to Distribute – Possession of illegal drugs, drug paraphernalia, or controlled substances, 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.
 - H. Paraphernalia/Drug Paraphernalia – Any equipment or material of any kind that is used or intended for use in manufacturing, packaging, storing, concealing, and/or introducing into the human body an illegal drug. Drug paraphernalia will also include those items listed in Section 5-101(o) of the Criminal Law Article of the Annotated Code of Maryland.
 - I. Possession – The presence of illegal drugs or drug paraphernalia, however small the amount, on an employee or in or on any item under the control of the employee or owned by the employee.
 - J. 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.
 - K. Use – The ingestion, injection, inhalation, absorption, and/or other introduction into the human body of any illegal drug; a condition or state of being of an employee indicating that the employee is under the influence of an illegal drug.

IV. Standards

- A. An employee or service provider may not use illegal drugs or drug paraphernalia or be under the influence of illegal drugs.
- B. The Howard County Public School System (HCPSS) will not hire anyone who is known to currently use illegal drugs or drug paraphernalia and/or abuse controlled substances.
- C. An employee or service provider may not abuse controlled substances while engaged in HCPSS duties.

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- D. An employee or service provider may not possess, distribute, or intend to distribute illegal drugs.
 - E. An employee or service provider may not be in constructive possession of illegal drugs.
 - F. An employee or service provider may not distribute or intend to distribute controlled substances on school system property or at an HCPSS-sponsored event.
 - G. An employee or service provider may not engage in conduct that is a violation of any federal or state law concerning the possession, use, distribution, or intent to distribute illegal drugs or drug paraphernalia or the abuse, distribution, or intent to distribute controlled substances.
 - H. An employee or service provider is required to report any illegal drug, drug paraphernalia, or controlled substance-related charge to their immediate supervisor prior to the start of their next work day following the charge.
 - I. An employee who is convicted of illegal drug, drug paraphernalia, or controlled substance-related offenses will be subject to disciplinary action, up to and including termination.
 - J. Employees or service providers must report as soon as possible to their supervisor or principal any violation or suspected violation of this policy. Failure to report violations or suspected 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 an 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 illegal drug use or controlled substance abuse and related problems.
 - O. Conduct constituting a potential criminal violation regarding illegal drugs or controlled substances will be reported to the police by the Superintendent/Designee.

- P. Compliance with this policy is a condition of continued employment, and violations of this policy will constitute grounds for disciplinary action.

V. Compliance

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

VI. Delegation of Authority

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

VII. References

- 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, Health General Article, Section 17-214
COMAR 10.10.10.01-.10
COMAR 13A.12.05.02
COMAR 13A.12.05.03

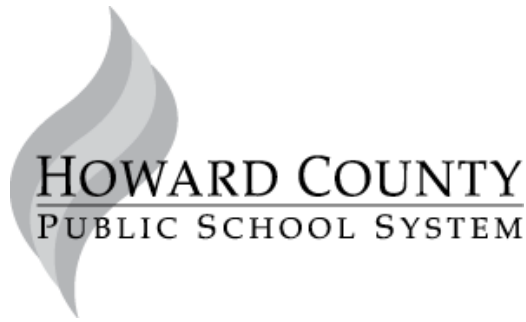
- B. Other Board Policies
 - Policy 7030 Employee Discipline
 - Policy 7040 Abuse of Alcohol and Other Noncontrolled Substances by Employees
 - Policy 9230 Alcohol, Other Drugs, Prescription Medication and Over the Counter Products

- C. Other
 - Employee Assistance Program (EAP) brochure

ADOPTED: September 13, 1990

AMENDED: August 22, 1996
March 12, 2010

EFFECTIVE: July 1, 2010



I. Definitions

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

- A. Currently Engaged – Using illegal drugs or abusing controlled substances recently enough to justify the Superintendent/Designee’s reasonable suspicion that involvement with illegal drugs or controlled 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 illegal drugs or the abuse of a controlled substance.

II. Investigation of Alleged Violations

- A. When the Superintendent/Designee receives notice of an alleged violation of the provisions of Policy 7050, 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.

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, including the part of policy violated if applicable
 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.
- D. The Superintendent will comply with the State Board of Education, the Maryland Board of Nursing regulations, and any other licensing boards regarding the suspension and revocation of teaching certificates and/or licenses in applicable cases.

III. Drug and 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, Section 17-214, The Annotated Code of Maryland, and with 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 any illegal drug and/or the abuse of any controlled 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, and
 - 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 and 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 illegal drug use or controlled 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 Narcotics 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 used illegal drugs or abused controlled substances if they meet the following conditions:

The employee:

1. voluntarily admits that they have used illegal drugs or abused controlled substances prior to being identified through other means
2. is not currently engaged in the use of illegal drugs or the abuse of controlled substances
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 use of illegal drugs or abuse of controlled substances
5. did not use illegal drugs or abuse controlled substances on school system property or at a school-sponsored event

6. thereafter refrains from using illegal drugs or abusing noncontrolled substances.
 - 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.

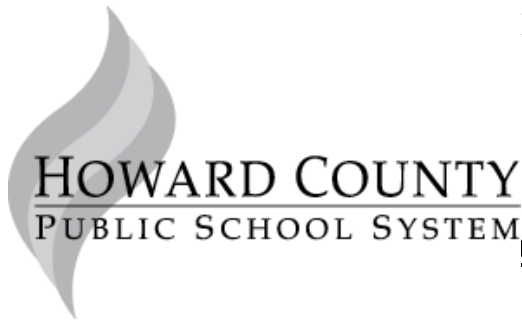
ADOPTED: September 13, 1990

AMENDED: August 22, 1996

June 12, 2007

March 11, 2010

EFFECTIVE: July 1, 2010



**DRUG USE BY EMPLOYEES: PROHIBITION OF
ILLEGAL DRUGS, AND DRUG
PARAPHERNALIA, AND
CONTROLLED SUBSTANCES FOR EMPLOYEES**

Effective: July 1, 2010

I. Policy Statement

~~It is the intention of The Board of Education Howard County Public School System to create and is committed to ensuring maintain a healthy and safe and nurturing school and work environment in which students can learn and for its employees. The Board values a work environment free of illegal drugs and the abuse of controlled substances, recognizing that such conduct compromises the well being of students and staff and impairs performance. 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.~~

All employees are to be respectful of this environment and are expected to abstain from the use of illegal drugs and/or drug paraphernalia and the abuse of controlled substances.

~~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.~~

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 illegal drugs and the abuse or distribution of controlled substances.

III. 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.

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

- 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.~~
- A. Abuse – The ingestion, inhalation, injection, or absorption of a controlled substance in a manner or degree at any time that compromises workplace safety, job performance, and/or the work environment.
- B. ~~“Contraband” shall mean illegal drugs, controlled dangerous substances, drug paraphernalia and/or prescription drugs prescribed to a person other than the employee.~~
- B. Constructive Possession – Exercising dominion or control over illegal drugs or controlled substances. More than one person may have possession at the same time.
- GC. ~~“Illegal Drugs/Controlled Dangerous Substances” – shall mean †Those illegal and controlled dangerous substances, listed under Section 279 of Article 27 including prescription drugs and over-the-counter drugs, as listed in Sections 5-101 (f) (1) and Sections 5-403 through 5-406 of the Criminal Law Article 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. Controlled substances also include any substance represented as a controlled substance.~~
- 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~~

~~ED. "Distribution/Distribute" – shall mean Tthe sale, transfer, gift, delivery, trade, giving, exchange, and/or dispensing in any manner of any ~~contraband illegal drug, drug paraphernalia, or controlled substance~~ (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.~~

~~FE. "Drug Conviction" – shall mean Tthe final adjudication judgment 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."~~

~~GF. "Illegal Drugs/Controlled Dangerous Substances" – shall mean Tthose illegal and controlled dangerous substances, as listed under Section 279 of Article 27 listed in Sections 5-101 (f) (1) and Section 5-402 of the Criminal Law Article 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.~~

~~G. Intent to Distribute – Possession of illegal drugs, drug paraphernalia, or controlled substances, 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.

- H. ~~“Paraphernalia/Drug Paraphernalia” – shall mean~~ Any equipment or material of any kind ~~which that~~ is used or intended for use in manufacturing, packaging, storing, concealing, and/or introducing into the human body an illegal drug controlled dangerous substance. Drug paraphernalia ~~shall will~~ also include those items listed in Section ~~5-101(o) of the Criminal Law Article 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~~ The presence of dominion or control over contraband illegal drugs or drug paraphernalia, however small the amount, on an employee or in or on any item under the control of the employee or owned by the employee (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 method 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.~~
- J. 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.
- ~~L.K.~~ “Use” – shall mean ~~T~~he unlawful ingestion, injection, ~~or~~ inhalation, absorption, and/or other introduction into the human body of any illegal drug; a condition or state of being of an employee indicating that the employee is under the influence of an 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, injection, inhalation, 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.~~

IV. Standards

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- A. An employee or service provider may not use illegal drugs or drug paraphernalia or be under the influence of illegal drugs.
 - B. The Howard County Public School System (HCPSS) will not hire anyone who is known to currently use illegal drugs or drug paraphernalia and/or abuse controlled substances.
 - C. An employee or service provider may not abuse controlled substances while engaged in HCPSS duties.
 - D. An employee or service provider may not possess, distribute, or intend to distribute illegal drugs.-
 - E. An employee or service provider may not be in constructive possession of illegal drugs.
 - F. An employee or service provider may not distribute or intend to distribute controlled substances on school system property or at an HCPSS-sponsored event.
 - G. An employee or service provider may not engage in conduct that is a violation of any federal or state law concerning the possession, use, distribution, or intent to distribute illegal drugs or drug paraphernalia or the abuse, distribution, or intent to distribute controlled substances.
 - H. An employee or service provider is required to report any illegal drug, drug paraphernalia, or controlled substance-related charge to their immediate supervisor prior to the start of their next work day following the charge.
 - I. An employee who is convicted of illegal drug, drug paraphernalia, or controlled substance-related offenses will be subject to disciplinary action, up to and including termination.

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.~~

3J. ~~Each eEmployees or service providers is hereby charged with a duty to must report within three (3) days as soon as possible to his/her their supervisor or principal any violation or suspected violation of the this policy. Failure to report violations or suspected violations may result in disciplinary action. 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.~~

4K. ~~Every supervisor and/or principal is hereby charged with a duty to must report immediately any and all violations or alleged violations of the this policy or these regulations to the Superintendent/dDesignee 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 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.L.~~ Any employee who aids, abets, and/or conspires with any person to violate ~~the~~ this policy and/or these regulations is in violation of these regulations and shall may be subject to disciplinary action.
- ~~3M.~~ Any employee who knowingly gives false information, ~~or fails to cooperate, or in any way impedes an~~ investigation conducted by the Superintendent/~~d~~Designee or in any way impedes such an investigation is in violation of these regulations and shall may 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.
- N. An employee may be required to participate in a treatment program designed to address illegal drug use or controlled substance abuse and related problems.

~~H.~~ Reports to the Police

- ~~1.~~ Violations of the policy occurring on school property or at school-sponsored events or that involve any student(s) 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.~~

- O. Conduct constituting a potential criminal violation regarding illegal drugs or controlled substances will be reported to the police by the Superintendent/Designee.
- P. Compliance with this policy is a condition of continued employment, and violations of this policy will constitute grounds for disciplinary action.

V. Compliance

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

VI. Delegation of Authority

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

VII. References

- 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, Article 27, Section 287A (a)~~
~~The Annotated Code of Maryland, Article 27, Section 279~~
The Annotated Code of Maryland, Health General Article, Section 17-214
~~The Annotated Code of Maryland, Health General Article, Section 17-214 (e)~~
~~The Annotated Code of Maryland, Health General Article, Section 17-214 (d)~~
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 7040 Abuse of Alcohol and Other Noncontrolled Substances by Employees
Policy 9230 Alcohol, Other Drugs, Prescription Medication and Over the Counter Products
- C. Other
~~Continued Employment Status Agreement~~
Employee Assistance Program (EAP) brochure

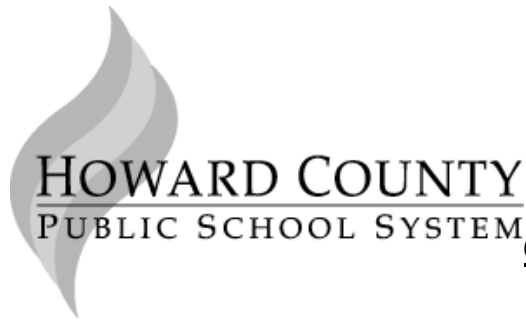
ADOPTED: September 13, 1990

AMENDED: August 22, 1996

March 12, 2010

EFFECTIVE: ~~August 22, 1996~~

July 1, 2010



POLICY 7050-PR
IMPLEMENTATION PROCEDURES
DRUG USE BY EMPLOYEES: PROHIBITION OF
ILLEGAL DRUGS, AND DRUG
PARAPHERNALIA, AND
CONTROLLED SUBSTANCES FOR EMPLOYEES

Effective: July 1, 2010

I. Definitions

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

- A. Currently Engaged – Using illegal drugs or abusing controlled substances recently enough to justify the Superintendent/Designee’s reasonable suspicion that involvement with illegal drugs or controlled 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 illegal drugs or the abuse of a controlled substance.

II. Investigation of Alleged Violations and Notice to Employee

- A. When ~~the~~ Superintendent/Designee receives notice of an ~~may~~ conduct the ~~investigation of any~~ alleged violation of the provisions of ~~p~~Policy 7050, the following actions will be taken: ~~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.

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

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- ~~C~~1. The investigation ~~should~~ will be conducted promptly ~~after receiving the report of the alleged violation.~~
2. The employee may be placed on administrative leave with or without pay while the investigation is being conducted.
- ~~D~~3. ~~Every attempt shall be made to preserve p~~Physical evidence will be preserved for later use at the hearing during the investigation 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.~~
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.
- e5. 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, including the part of policy violated if applicable.
 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.

~~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.~~

~~**H. 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.~~

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- 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 facie 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.~~
- D. The Superintendent will comply with the State Board of Education, the Maryland Board of Nursing regulations, and any other licensing boards regarding the suspension and revocation of teaching certificates and/or licenses in applicable cases.

III. Administrative Leave

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- 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.~~

IVIII. Drug and Alcohol Testing

- A. The Howard County Public School System (HCPSS) ~~shall have~~ has the right to conduct drug or alcohol testing on any employee based on reasonable suspicion of a policy violation ~~the use of contraband~~ and/or to ensure compliance with any final disposition in aspect of a disciplinary hearing action 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 comply with a drug or alcohol test notification or the alteration of a sample 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~~ Section 17-214 of the Health General Article, Section 17-214, The Annotated Code of Maryland, ~~(as amended from time to time)~~ and with COMAR 10.10.10.01-.10 regarding the certification of any laboratory testing specimen.
- C. If the employee has tested positive for the use ~~or abuse~~ of any illegal drug ~~and/or the abuse of any controlled dangerous~~ substance, the ~~Howard County Public School System~~ HCPSS ~~must~~ will, 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 the Howard County Public School System's intention to take disciplinary action, and

4. A statement or copy of the Annotated Code, Health General Article, Section 17-214 (de), which permits an employee to request independent testing of the same sample for verification of the test result.

~~This notification shall~~ statement will be delivered to the employee in person or by certified mail and within ~~thirty seven (307)~~ thirty seven (307) days from the date the test was performed. (See ~~Health General Article, Section 17-214 (e) 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 illegal drug use or controlled 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 Narcotics Anonymous.
- BC. 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 used illegal drugs or abused controlled substances if they meet the following conditions:

The employee:

1. voluntarily admits that they have used illegal drugs or abused controlled substances prior to being identified through other means
2. is not currently engaged in the use of illegal drugs or the abuse of controlled substances
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 use of illegal drugs or abuse of controlled substances
5. did not use illegal drugs or abuse controlled substances on school system property or at a school-sponsored event
6. thereafter refrains from using illegal drugs or abusing noncontrolled substances.
 - 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: August 22, 1996

June 12, 2007

March 11, 2010

EFFECTIVE: ~~June 12, 1997~~

July 1, 2010