

PERSONNEL

03.13251

- CERTIFIED PERSONNEL -

Drug-Free/Alcohol-Free Schools**PURPOSE**

The Clay County Board of Education is committed to a safe working environment, to making adequate provisions for the safety and health of its employees at their place of employment, and to the safety and health of the students we serve as well as the general public. The Clay County Board of Education regards its personnel as individuals as well as employees. Therefore, the Board believes that alcoholism and drug addiction are illnesses and should be treated as such. The Board further believes that employees who develop alcoholism or other drug addictions can be helped to recover. It is in the best interest of the employee and the Board that when alcoholism or drug addiction is present, it should be diagnosed and treated at the earliest possible date. Confidential treatment of the diagnosis and recovery process for alcoholism or drug addiction is essential.

The Clay County Board of Education recognizes that substance abuse in our nation and our community exacts staggering costs in both human and economic terms. Substance abuse can be reasonably expected to produce impaired job performance, lost productivity, absenteeism, accidents, wasted materials, lowered morale, rising health care costs, and diminished interpersonal relationship skills. The Clay County Board of Education and its employees share a commitment to create and maintain a drug-free workplace.

The Clay County Board of Education is responsible for the instruction and well-being of the students entrusted to its care. A consistent message needs to be communicated by the Board that the use of illegal drugs, the use of prohibited substances, the abuse of alcohol, and the misuse of prescription drugs are unacceptable.

Provisions of the Federal Anti-Drug Act, 41 U.S.C.A. §702, require federal grant recipients to establish a drug-free workplace. Employees must be provided with a statement notifying them of the prohibitions pertaining to controlled substances, consequences of violations, and compliance with the drug-free policy as a condition of employment. Employers must inform employees of drug-free requirements through an awareness program.

POLICY GOALS AND OBJECTIVES

1. To establish, promote, and maintain a safe, healthy working and learning environment for employees and students.
2. To aid the affected employee in locating a rehabilitation program for employees with a self-admitted or detected substance abuse problem.
3. To promote the reputation of the Clay County Public School System and its employees as responsible citizens of public trust and employment.
4. To eliminate substance abuse problems in the workplace.
5. To aid in the reduction of absenteeism, tardiness and apathetic job performance.
6. To provide a clear standard of job performance for Clay County Public employees.
7. To provide a consistent model of substance-free behavior for students.

Drug-Free/Alcohol-Free Schools**EMPLOYEE CONDUCT**

Substance abuse is the misuse or illicit use of alcohol, drugs, prohibited substances, or controlled substances, including marijuana, heroin, or cocaine.

Use of illegal drugs, prohibited substances, or alcohol by employees interferes with the educational and work process. Employees on duty, or on or in the Board of Education's property, or in attendance at system-approved or school related functions will not manufacture, distribute, dispense, purchase, possess, attempt to possess or obtain, use, sell or transfer illegal drugs, prohibited substances, or drug paraphernalia, nor will they be under the influence of such drugs.

Employees shall not engage in the illegal use of drugs or prohibited substances at any time, and such use will not be tolerated. Further, employees on duty, or on or in Clay County Board of Education property, or in attendance at system-approved or school-related functions will not manufacture, distribute, dispense, purchase possess, attempt to possess or obtain use, sell or transfer, illegal drugs, prohibited substances, or drug paraphernalia, nor will they be under the influence of such drugs.

An employee convicted of any criminal drug law shall notify the Superintendent of such conviction no later than five (5) days after such conviction. Within thirty (30) days after receiving notice of a conviction, Clay County Public Schools will take appropriate disciplinary action and/or refer the employee to an appropriate substance abuse rehabilitation program.

Failure of the employee to report the conviction within the time prescribed will lead to disciplinary action up to and including discharge. Convictions of a criminal drug law can result in disciplinary action up to and including discharge. In determining whether and to what extent an employee will be disciplined or discharged for the conviction of a criminal drug law, the Board will consider the following factors: the degree to which the nature of the criminal offense reduces the Clay County Board of Education's ability to maintain a safe working environment; the degree to which the nature of the criminal offense unreasonably endangers the safety of other employees and/or students; the degree to which the conviction unreasonably undermines the public confidence in the Clay County Board of Education's operations; the nature of the criminal offense; the nature of the mitigating facts or circumstances; whether the employee promptly reports the conviction; and any other facts relevant to the employee, including but not limited to years of service and record of performance with the Clay County Board of Education.

REPORTING

Employees of the District shall promptly make a report to the local police department, sheriff, or Kentucky State Police, by telephone or otherwise, if they know or have reasonable cause to believe that conduct has occurred which constitutes the use, possession, or sale of controlled substances on the school premises or within one thousand (1,000) feet of school premises, on a school bus, or at a school sponsored or sanctioned event.

Drug-Free/Alcohol-Free Schools**ALCOHOL AND DRUGS**

Alcohol, many prohibited substances, prescription drugs, and over-the-counter drugs are readily available. These drugs, when abused over time or used in combination with one another, can result in chemical dependency or poly-drug addiction. Employees are expected to conduct themselves in a manner consistent with the following provisions:

Employees on duty, ~~shall not be under any degree of intoxication or odor from alcohol on Clay County Board of Education property, or in attendance at system-approved or school-related functions will not be under any degree of intoxication or odor from alcohol.~~ Employees on duty will not manufacture, sell, or use alcoholic beverages or possess open alcoholic beverage containers ~~while on duty, or on Clay County Board of Education property, or in attendance at system-approved or school-related functions.~~

Employees on Clay County Board of Education property shall not be under any degree of intoxication from alcohol. Employees on Clay County Board of Education property will not manufacture sell or use alcoholic beverages or possess open alcoholic beverage containers. Employees in attendance at District approved or school-related functions shall not be under any degree of intoxication from alcohol.

Employees on duty will not use or take prescription drugs above the level recommended by the prescribing physician and will not use prescribed drugs or prohibited substances for purposes other than those for which they are intended.

An employee convicted of any criminal drug law involving the use of alcohol, prescription drugs, or over-the-counter drugs shall notify the Superintendent no later than five (5) days after such conviction. Within thirty (30) days after receiving notice of a conviction, the Superintendent will take appropriate disciplinary action and/or refer the employee to an appropriate substance abuse rehabilitation program.

Failure of the employee to report the conviction within the time prescribed will lead to disciplinary action up to and including discharge. Convictions of a criminal drug law involving the use of alcohol, prescriptions drugs, or over-the-counter drugs can result in disciplinary action up to and including discharge.

In determining whether and to what extent an employee will be disciplined or discharged for the conviction of a criminal drug law involving the use of alcohol, prescription drugs, or over-the-counter drugs, the Board will consider the following factors: the degree to which the nature of the criminal offense reduces the Clay County Board of Education's ability to maintain a safe working environment; the degree to which the nature of the criminal offense unreasonably endangers the safety of other employees and/or students; the degree to which the conviction unreasonably undermines the public confidence in the Clay County Board of Education's operations; the nature of the criminal offense; the nature of the employee's job with the Clay County Board of Education; the existence of any explanatory or mitigating facts or circumstances, whether the employee promptly reports the conviction; and any other facts relevant to the employee, including but not limited to years of service and record of performance with the Clay County Board of Education.

Drug-Free/Alcohol-Free Schools**PRE-EMPLOYMENT AND CURRENT EMPLOYEE TESTING**

All applicants being considered for employment positions and all currently employed persons identified as being safety-sensitive will be required to submit to a urinalysis test for the purpose of detecting illegal use of drugs, as part of the currently required pre-employment physical. "Safety-sensitive" shall refer to positions where a single mistake by such employee can create an immediate threat of serious harm to students and fellow employees. Safety-sensitive positions requiring pre-employment drug testing shall include, but not be limited to: Principal, assistant principal, teacher, traveling teacher, teacher aide, substitute teacher, school secretary, and others as indicated on the job description for the position.

An employee who has a positive drug test the first time shall be placed on continuous drug testing, for a period not to exceed twelve (12) months, as a discipline measure if the employee agrees. If the employee does not agree to continuous drug testing, the Board will send, at the Board's expense, the split sample to a different lab. If the test from the split sample is positive, the employee will be terminated. During the testing time for the split sample, the employee will be suspended with pay.

If the employee agrees to the continuous drug testing and a second positive test occurs, the split sample will be sent at the Board's expense to a different lab. During the testing time for the split sample, the employee will be suspended with pay. If the split sample also tests positive, the employee will be terminated. Otherwise, the employee will return to duty.

RANDOM SCREENING

The Board has established a random drug-testing program for employees in a safety sensitive position. Classified and Certified employees will be separated into two random pools and at least three (3) percent of classified and three (3) percent of certified employees will be testing each month.

PHYSICAL EXAMINATIONS/SCREENING BASED UPON REASONABLE SUSPICION

Whenever the Clay County Board of Education, through its Superintendent of Clay County Public Schools or the Assistant Superintendent (hereafter "Assistant"), and/or immediate Supervisor, reasonably suspects that an employee's work performance or on-the-job behavior may have been affected in any way by illegal drugs, abuse of prescription drugs, or alcohol or that an employee has otherwise violated the Clay County Board of Education Drug-Free Workplace Substance Abuse Policy, the employee may be required to submit to a field sobriety test. When the supervisor observes or is notified of behaviors or events that lead the supervisor to believe that the employee is in violation of the Drug Free Workplace Substance Abuse Policy, the supervisor should notify the Superintendent, Assistant, or School Resource Officer.

If an employee is required to submit to a field sobriety test based upon reasonable suspicion but refuses to submit to such test, he/she will be charged with insubordination and necessary procedures will be taken to terminate the employee in accordance with Board Policy and the applicable laws of the Commonwealth of Kentucky.

An employee who fails a field sobriety test will be in violation of this Policy and in violation of state law. Violation of this Policy will constitute grounds for termination in accordance with Board Policy and state law.

Drug-Free/Alcohol-Free Schools**PHYSICAL EXAMINATIONS/SCREENING BASED UPON REASONABLE SUSPICION (CONTINUED)**

The Superintendent, Assistant, or School Resource Officer are the only individuals in the Clay County Public School System authorized to make the determination that reasonable suspicion or cause exists to order a field sobriety test and are the only individuals in the Clay County Public School System who may order an employee to submit to a field sobriety test.

Two types of cases for which reasonable suspicion procedures may be invoked are:

1. Chronic Case

Deteriorating job performance or changes in personal traits or characteristics where the use of alcohol or drugs may be reasonably suspected as the cause. These cases may develop over a fairly long period of time.

2. Acute Case

Appearing in a specific incident or observation to then be under the influence of alcohol and/or drugs or investigation of an accident where the use of alcohol or drugs is reasonably suspected to be a contributing cause. Regardless of any previous history, immediate action is necessary.

Circumstances under which substance screening may be considered, in either the chronic or acute cases, include but are not limited to the following:

1. Observed use, purchase, possession, attempts to possess, or sale of illegal drugs and/or use, possession, sale, or abuse of alcohol and/or the illegal use or sale of prescription drugs.
2. Apparent physical state of impairment of motor functions.
3. Marked changes in personal behavior not attributable to other factors.
4. Employee involvement in or contribution to an accident where the use of alcohol or drugs is reasonably suspected or employee involvement in a pattern of repetitive accidents, whether or not they involve actual or potential injury.
5. Violations of criminal drug law statutes involving the use of illegal drugs, alcohol, or prescription drugs and/or violations of drug statutes.

The circumstance under which substance screening may be considered, as outlined above, are strictly limited in time and place to employee conduct on duty or during work hours, or on or in Clay County Board of Education property, or at school-related functions of the Clay County Public Schools.

FIELD SOBRIETY TEST

A field sobriety test will be conducted by a Sworn Law Enforcement Officer. The field sobriety test will be composed of a series of three (3) tests (including but not limited to One Leg Stand, Walk and Turn, and Horizontal Gaze Nystagmus), which have been approved by the Kentucky Department of Criminal Justice Training (KDCJT). The prescribed guidelines provided by the KDCJT will be followed and documented by the Sworn Law Enforcement Officer. The Field Sobriety Test will be conducted out of the presences of all person(s) except the person(s) directing the test.

Drug-Free/Alcohol-Free Schools**FIELD SOBRIETY TEST (CONTINUED)**

A positive field sobriety test will be considered positive when an individual fails a prescribed portion of each of the three (3) separate tests.

The employee may secure a blood test to challenge the field sobriety test. Any such test must be made within a three (3) hour time period of the field sobriety test. Any and all costs for securing blood work will be the employee's responsibility.

REHABILITATION

The Clay County Board of Education recognizes that chemical dependency is an illness that may be successfully treated.

It is the policy of the Clay County Board of Education, where possible, in addition to appropriate personnel action, for an employee with a self-admitted or detected drug or alcohol problem to be referred for rehabilitation.

Employees seeking medical attention for chemical dependency will be entitled to benefits to the extent covered under the Clay County Public Schools group medical insurance plans, if they have chosen to be covered by said plans.

For employees enrolled in a formal treatment/rehabilitation program, Clay County Board of Education may grant sick leave/personal leave until the same are exhausted and then may grant leave without pay not to exceed one (1) year.

The cost of the drug rehabilitation or treatment provider shall be borne by the employee and/or the employee's insurance provider.

The Clay County Board of Education strongly encourages employees using illegal drugs or alcohol to voluntarily refer themselves to a treatment program. A voluntary referral is defined as being one that occurs prior to any positive test for illegal drugs under this Policy or prior to any other violation of this Policy, including a criminal conviction of that individual on a drug related offense. Employees are not subject to disciplinary action for voluntary referral to rehabilitation, even where rehabilitation is for the use of illegal drugs or alcohol.

DISCIPLINARY ACTION

Employees in violation of the provisions of this Policy will be subject to disciplinary action up to and including termination.

POST-DISCIPLINE DRUG TESTING

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

Drug-Free/Alcohol-Free Schools**CONFIDENTIALITY**

All Personnel records and information regarding referral, evaluation, and treatment will be maintained in a confidential manner and no entries concerning such will be placed in an employee's personnel file. Information pertaining to the implementation of this policy on an individual basis, will be handled in such a fashion to insure confidentiality and privacy and such information will be disclosed only to the extent necessary to address any work-related safety risks occasioned by either drug and/or alcohol use.

CHANGES TO POLICY AND PROCEDURES

This policy and these procedures may be amended from time to time to facilitate changes in the Clay County Board of Education's Drug Free Workplace Substance Abuse Policy as necessary.

DEFINITIONS AS USED IN THIS POLICY

1. "Illegal use of drugs" means the use or purchase of drugs, the possession of distribution of which is unlawful under the Controlled Substance Act (21 U.S.C.A. §812). Such term does not include the use of a drug taken under the supervision by a licensed health care professional or other uses authorized by the Controlled Substances Act.
2. "Drug" or "illegal drug" means a controlled substance as defined in Schedules through V of §202 of the Controlled Substances Act.
3. "Conviction" means a finding of guilt, including a pleas of no-contest, or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
4. "Criminal Drug Law" means a federal or non-federal criminal statute involving the manufacture, distribution, dispensing, possessions, or use of any controlled substance.
5. *Controlled substance* shall mean any substance or immediate precursor listed in Chapter 218A of the Kentucky Revised Statutes or any other substance which may be added by the Kentucky Cabinet for Health and Human Services under regulations pursuant to [KRS 218A.020](#).
6. *Prohibited drugs* include, but are not limited to, any substance that an individual may not sell, possess, use, distribute or purchase under Federal or Kentucky law.

Prohibited substances include:

- a. All prescription drugs obtained without authorization, and
- b. All prohibited substances however taken or used, including but not limited to, inhaling, ingesting, and/or injecting. These include, but are not limited to, prescribed and over-the-counter drugs, prohibited volatile substances as defined in [KRS 217.900](#) or synthetic compounds/substances that are used or intended for use for an abusive and/or intoxicating purpose.

NOTE: *All documents referenced in this policy are available for inspection in the Office of the Superintendent, Clay County Board of Education.*

PERSONNEL

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(CONTINUED)

Drug-Free/Alcohol-Free Schools

REFERENCES:

[KRS 160.290](#); [KRS 160.380](#); [KRS 161.120](#); [KRS 161.175](#)

[KRS 161.790](#); [KRS 217.900](#); [KRS 218A.1430](#)

[016 KAR 001:030](#); [701 KAR 005:130](#); 34 CFR Part 85

PL 101-226 (Improving America's Schools Act of 1994 (Title IV): Safe and Drug-Free
Schools and Communities)

RELATED POLICIES:

03.1325, 08.1345, 09.2241

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