

## **NHCS Policy Code: 7240 Drug-Free and Alcohol-Free Workplace**

It is the policy of the board that a drug-free and alcohol-free workplace must be maintained.

### **A. Prohibited Activities**

The board prohibits all employees, volunteers and independent contractors are prohibited from possessing, using, selling, delivering, manufacturing, or being under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, anabolic steroid, alcohol, stimulants, synthetic cannabinoids, counterfeit substance, or any other controlled substance as defined in (1) Schedules I through VI of the North Carolina Controlled Substances Act or in (2) Schedules I through V of section 202 of the Controlled Substances Act ([21 U.S.C. 812](#)) and further defined by regulation at [21 C.F.R. 1300.01 through 1300.04](#) and [21 C.F.R. 1308.11 through 1308.15](#) at any time this policy is applicable. Employees are prohibited from possessing, using, selling, delivering, manufacturing, or being under the influence of a substance containing cannabidiol (CBD) or tetrahydrocannabinol (THC) at any time this policy is applicable, regardless of whether it constitutes a controlled substance under state or federal law. Employees must not, at any time this policy is applicable, be impaired by the use of substances intended to induce exhilaration or euphoria or alter mood or behavior or be impaired by the excessive use of prescription or nonprescription drugs. This policy is not violated by an individual's possession of or proper use of a drug lawfully prescribed for that individual by a licensed health-care provider.

### **B. Applicability**

This policy governs each employee before, during, and after school hours while the employee is on any property owned or leased by the board; at any time during which the employee is acting in the course and scope of their employment with the board; and at any time that the employee's violation of this policy has a direct and adverse effect upon his or her job performance. This policy does not apply to an employee's consumption of alcoholic beverages that are served at a reception or other similar function that occurs outside the regular workday and that the employee is authorized or required to attend as a part of his or her employment duties.

Independent contractors, volunteers, and visitors are subject to all requirements of this policy while on school property or at a school-sponsored event.

### **C. Reasonable Suspicion to Search**

An employee may be subjected to a search of his or her person or belongings or of school property under the employee's control if there is reasonable suspicion that the employee has violated this policy. An employee also may be required to submit to a drug or alcohol test when there is reasonable suspicion of drug or alcohol use by the employee in violation of this policy. Reasonable suspicion shall be based on specific, contemporaneous observations concerning the physical, behavioral, speech, and/or performance indicators of drug or alcohol use. The observations must be made by a supervisor or other school system official with training or experience in such indicators.

All drug and alcohol testing will be done with procedures that ensure the confidentiality and privacy interests of the employee and in accordance with law. Employees who refuse to submit to a search or a test to detect alcohol or drug use after reasonable suspicion is established may be suspended immediately pending consideration of a decision to

terminate employment.

In addition, any employee, volunteer, or independent contractor who operates a commercial motor vehicle or performs other safety-sensitive functions in the course of duties for the board may be subject to drug and alcohol testing in accordance with policy 7241, Drug and Alcohol Testing of Commercial Motor Vehicle Operators.

The board will cover the cost of any required employee testing.

#### **D. Duty to Report**

An employee must notify their supervisor in writing of any arrest, charge, or conviction under any criminal drug statute. (See also policy 7300, Staff Responsibilities.) Notification must be given no later than the next scheduled business day after such arrest, charge, or conviction unless the employee is hospitalized or incarcerated, in which case the employee must report the alleged violation within 24 hours after release. The notification must be given before the employee reports to work. Immediately after receiving the notification, the supervisor shall inform the assistant superintendent of human resources. Within 10 days of receiving notice of a criminal drug statute conviction for a violation occurring in the workplace by an employee whose position is funded in any part by a federal grant, the assistant superintendent of human resources or designee shall notify the funding agency of the conviction. "Conviction" as used in this policy includes the entry in a court of law or military tribunal of: (1) a plea of guilty, *nolo contendere*, no contest, or the equivalent; (2) a verdict or finding of guilty; or (3) a prayer for judgment continued ("PJC") or a deferred prosecution.

#### **E. Consequences**

Violation of this policy will subject an individual to disciplinary action by the board that could result in non-renewal or termination of employment with the school system or the requirement that the employee participate satisfactorily in a drug or alcohol abuse assistance or rehabilitation program approved by the board or federal, state, or local health, law enforcement, or other appropriate agency. Employees may be subject to disciplinary action for violating criminal drug laws, engaging in impaired driving, or displaying a pattern of excessive alcohol or illegal drug use, even if such behavior occurs while the employee is off duty.

Information concerning available counseling, rehabilitation, and re-entry programs will be provided to employees.

Any illegal [activities](#), will be reported to law enforcement authorities [in accordance with policies 7270 \(School Safety\) and 4335 \(Criminal Behavior\)](#).

Deleted: drug activity

All employees shall receive a copy of this policy.

Legal References: [21 U.S.C. 812](#); [41 U.S.C. 8101 et seq.](#); [21 C.F.R. 1300.01-.04](#) and [1308.11-.15](#); [G.S. 20-138.2B](#); [90-89 to -94](#); [115C-36](#); [O'Connor v. Ortega](#), 480 U.S. 709 (1987)

Cross References: Drug and Alcohol Testing of Commercial Motor Vehicle Operators (policy 7241), Staff Responsibilities (policy 7300), [School Safety \(policy 7270\)](#), [Criminal Behavior \(policy 4335\)](#).

Adopted: March 1, 2022

**New Hanover County Public Schools**

