



Board of Education

**POLICY 7050
USE OF DRUGS AND DRUG
PARAPHERNALIA BY EMPLOYEES**

Effective: July 1, 2021

Policy Outline

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I. Policy Value Statement

The Board of Education is committed to ensuring a safe, nurturing, and inclusive environment for its employees. The Board values a work environment free of drugs and the abuse of medications, recognizing that such conduct compromises the well being of students and staff.

All employees are expected to abstain from the use of drugs and drug paraphernalia and the abuse of over-the-counter and prescription medications.

II. Purpose

The purpose of this policy is to establish standards and procedures for employees regarding the possession, use, or distribution of drugs and drug paraphernalia and the abuse of over-the-counter and prescription medications.

III. Standards

- A. Compliance with this policy is a condition of continued employment, and violations of this policy constitute grounds for disciplinary action, up to and including termination.
- B. Howard County Public School System (HCPSS) will not hire anyone who is known to currently use drugs or drug paraphernalia.
- C. An employee may not use, possess, or be in constructive possession of drugs or drug paraphernalia.
- D. An employee may not distribute or have the intent to distribute drugs, drug paraphernalia, or prescription medication.

- E. An employee may not distribute or administer over-the counter medications or prescription medications to students except when specified as part of job responsibilities and parent consent, as provided in Policy 9230 Alcohol, Other Drugs, Prescription Medication and Over the Counter Products, and as outlined in the Health Procedures Manual.
- F. An employee may not abuse over-the counter medications or prescription medications.
- G. An employee may not engage in conduct that is a violation of any federal or state law concerning the possession, use, distribution, or intent to distribute drugs or drug paraphernalia.
- H. Employees must report any violation or suspected violation of this policy to the Office of Staff Relations within one (1) workday. Failure to report policy violations or suspected policy violations may result in disciplinary action.
- I. An employee who operates an HCPSS vehicle is required to report any drug or drug paraphernalia charges to the Office of Staff Relations prior to the start of their next workday following the filing of legal charges.
- J. Every supervisor and/or principal must report immediately any violations or alleged violations of this policy to the Superintendent/designee for investigation.
- K. An employee who aids, abets, and/or conspires with any person to violate this policy may be subject to disciplinary action.
- L. An 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.
- M. An employee who is convicted of drug or drug paraphernalia offenses may be subject to disciplinary action, up to and including termination.
- N. Conduct constituting a potential criminal violation regarding drugs will be reported to the police by the Superintendent/designee.
- O. An employee may be required to participate in a treatment program designed to address drug use and related problems.

IV. Responsibilities

- A. The Office of Human Resources will ensure that all newly hired employees receive notification of this policy.
- B. The Superintendent/designee will ensure that all employees are made aware of this policy. Policy updates will be posted on the HCPSS website.

- C. All employees will report alleged violations of this policy or implementation procedures to their immediate supervisor.
- D. Supervisors and principals will report alleged violations of this policy to the Superintendent/designee.
- E. The Superintendent/designee will investigate and make decisions regarding any reports of alleged violations of this policy.

V. Delegation of Authority

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

VI. Definitions

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

- A. Abuse – The ingestion, inhalation, injection, or absorption of a substance in a manner or degree at any time that compromises workplace safety, job performance, and/or the work environment.
- B. Constructive Possession – Having both knowledge of the presence of drugs and/or drug paraphernalia and the ability to control/use them, without having actual physical possession. More than one person may have constructive possession at the same time.
- C. Distribution – The actual or intended sale, transfer, trade, giving, exchange, and/or dispensing in any manner of any drug, drug paraphernalia, prescription medication, or any substance that is represented as a drug. Distribution does not include circumstances where a prohibited substance is possessed or owned collectively by all participants.
- D. Drug – A controlled dangerous substance as listed in Section 5-101(g) of the Criminal Law Article of the Annotated Code of Maryland or a chemical substance when abused or used for unintended and harmful purposes.
- E. Drug Conviction – The final judgment by a court of competent jurisdiction that an employee has been found guilty of a drug/dangerous substance and/or a drug paraphernalia criminal offense.
- F. Employee – An individual who is a permanent or temporary employee whose compensation is paid in whole or part by the Board and/or an individual who is a student teacher, an intern, consultant, or an independent contractor for the school system.
- G. Intent to Distribute – Possession of drugs, drug paraphernalia, or prescription medication, in or 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. Over-the-Counter Medication – Medication available without a prescription.
- I. 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 a drug into the human body. Drug paraphernalia will also include those items listed in Section 5-101(p) of the Criminal Law Article of the Annotated Code of Maryland.
- J. Possession – The presence of 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.
- K. Prescription Medication – Substances that under law may be obtained with a prescription or written certification authorized by a professional licensed by the state to do so.
- L. School System Property – Any property owned or leased by the HCPSS or used by HCPSS for school-related activities. The concept of property extends to school activities such as field trips, use of parks and recreation facilities, proms at hotels, etc. School buses, bus stops, and facilities scheduled by the school system for student use are considered an extension of school property.
- M. Use – The deliberate act of ingesting, injecting, inhaling, absorbing, and/or otherwise introducing into the human body any drug; a condition or state of being of an employee indicating that the employee is under the influence of a drug.

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

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- B. Other Board Policies
 - Policy 5100 Health Services
 - Policy 7030 Employee Conduct and Discipline
 - Policy 7040 Alcohol Use by Employees
 - Policy 9230 Alcohol, Other Drugs, Prescription Medication and Over the Counter Products
 - C. Relevant Data Sources
 - D. Other
 - Health Procedures Manual

VIII. History¹

ADOPTED: September 13, 1990
REVIEWED:
MODIFIED: August 14, 2014
REVISED: August 22, 1996
April 15, 2010
March 11, 2021
EFFECTIVE: July 1, 2021

¹ Key: *Adopted*-Original date the Board took action to approve a policy; *Reviewed*-The date the status of a policy was assessed by the Superintendent's Standing Policy Group; *Modified*-The date the Board took action to alter a policy that based on the recommendation of the Superintendent/designee did not require a comprehensive examination; *Revised*-The date the Board took action on a policy that based on the recommendation of the Superintendent/designee needed a comprehensive examination; *Effective*-The date a policy is implemented throughout the HCPSS, typically July 1 following Board action.

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Effective: July 1, 2021

I. 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 law enforcement.
 4. Circumstantial evidence may be used to prove a violation of this policy, including a violation based on constructive possession.
 5. Due process will be utilized during the investigation.
- 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 all of the following:
1. A brief finding of facts.
 2. A determination as to whether there has been a policy violation. Any such determination must specify the part of policy violated.
 3. Any disciplinary action to be taken and the effective date of such action. Such disciplinary action may include but is not limited to:
 - a. Verbal and/or written warning
 - b. Written reprimand
 - c. Suspension from employment with or without pay
 - d. Termination from employment.

- C. If at the conclusion of an investigation, it is determined that no policy violation occurred and an employee has been placed on administrative leave without pay, the employee will be awarded all back pay lost during the period of administrative leave without pay.
- D. The Superintendent will follow the requirements of the State Board of Education and any other relevant licensing board regarding the suspension and revocation of teaching certificates and/or licenses in applicable cases.

II. Drug Testing

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

The information described in Section II.C.1-4. will be delivered to the employee in person or by certified mail and within seven (7) days from the date the confirmed positive test results are received by the HCPSS. (COMAR 10.10.10.08)

III. 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 drug use and/or over-the-counter medication or prescription medication 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 school system sponsored counseling and support 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.

IV. Non-Discrimination Against Prior Users

- A. HCPSS will not take disciplinary action against an employee who has used drugs if they meet all of the following conditions. The employee:
1. Voluntarily admits that they have used drugs or drug paraphernalia or abused over-the-counter medications or prescription medications prior to being identified through other means.
 2. Is not currently engaged in the use of drugs or drug paraphernalia or the abuse of over-the-counter medications or prescription medications.
 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 drugs or drug paraphernalia or abuse of over-the-counter medications, or prescription medications.
 5. Did not use drugs or drug paraphernalia or abuse over-the-counter medications or prescription medications on school system property, at an HCPSS-sponsored event, or while engaged in HCPSS duties.

6. Thereafter refrains from using drugs or drug paraphernalia or abusing over-the-counter medications or prescription medications.
 - 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 III.
- B. Any employee who meets the criteria set forth above in Section IV.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 will be afforded due process.
 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.

V. Monitoring

Policy 7050 implementation procedures will be overseen by the Division of Human Resources and Professional Development.

VI. Definitions

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

- A. Currently Engaged – Using drugs recently enough to justify the Superintendent/designee’s reasonable suspicion that involvement with drugs is an ongoing problem. Current engagement is not limited to the day of use or recent days/weeks in terms of an employment action.
- B. Reasonable Suspicion – A belief based on facts, which may include a notification/report that an employee is using or abusing drugs or based on the rational inferences that may be drawn from such facts.
- C. Rehabilitation – The method used (including medical and psychological) to address the treatment and/or regression of any aspect connected with the use of drugs or the abuse of over-the-counter medications or prescription medications.
- D. School System Sponsored Counseling and Support Services Program – 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.

VII. History¹

ADOPTED: September 13, 1990

REVIEWED:

MODIFIED:

REVISED: August 22, 1996

June 12, 1997

April 15, 2010

March 11, 2021

EFFECTIVE: July 1, 2021

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