

**AMEND BOARD REPORT 04-0728-PO6
POLICY ON SUBSTANCE ABUSE BY EMPLOYEES AND
RENAME POLICY DRUG AND ALCOHOL FREE WORKPLACE POLICY**

THE CHIEF EXECUTIVE OFFICER RECOMMENDS THE FOLLOWING:

That the Board ~~adopt a new~~ amend the Board's Policy on Substance Abuse by Employees and rename it the "Drug and Alcohol Free Workplace Policy."

PURPOSE: To implement the requirements of Board Rule 4-50 4-4(h) Drug and Alcohol Free Workplace and to align Policy with the Drug Free Workplace Act and existing Board practices.

POLICY TEXT:

- I. **Policy Statement:** All employees of the Board of Education of the City of Chicago are hereby notified that the unlawful manufacture, distribution, possession, consumption or use of drugs or alcohol, on Board of Education property or premises or any site of Board sponsored activities, is prohibited and an employee's presence on Board of Education property or premises or any site of Board sponsored activities while under the influence of alcohol or unlawful drugs or because of the misuse of legally obtainable drugs that have not been legally obtained, or which are not being used for prescribed purposes or taken according to prescribed dosages. For the purposes of this Policy, drugs are defined as any controlled substance pursuant to 21 U.S.C. 812, 720 ILCS 550/1 et seq. and 720 ILCS 570/100 et seq. (1992), or legally obtainable drugs that have not been legally obtained, or which are not being used for prescribed purposes or taken according to prescribed dosages.
- II. **Violations of Policy:** Any employee of the Board of Education who violates the drug and alcohol prohibitions contained in this Policy shall be subject to ~~discharge~~ dismissal in accordance with the Board's Employee Discipline and Due Process Policy as it exists now or as it may hereafter be amended and/or other appropriate action as determined by the Chief Executive Officer or designee. Any employee who is identified as possessing or distributing illegal drugs will be referred to local law enforcement agencies, which may result in fines, imprisonment or both.
- III. **Drug Free Awareness Program:** The Chief Executive Officer or designee shall establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the terms of this Policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance programs; and the penalties that may be imposed upon employees for drug abuse violations in accordance with this Policy.

~~III-~~ **IV. Procedures:**

A.4. Drug and Alcohol Free Statement. Applicants for Employment. All applicants for employment with the Board of Education shall complete and sign a "Drug and Alcohol Free Statement" in the form set forth in Section IV of this Policy, which indicates that the applicant is drug and alcohol free and will remain so during the course of his/her employment. ~~advises the applicant:~~ 1) of the terms of this Policy; 2) that, as a condition of employment, the applicant shall abide by the statement and this Policy; 3) that, as a condition of employment, the applicant shall notify the Board of any criminal conviction in accordance with Board Rule 4-4(c); and 4) that in addition, the statement will notify the applicant that violations of this condition of employment Policy will result in the applicant's discharge dismissal from Board employment. ~~Applicants for employment with the Board of Education may be subject to drug and alcohol tests before beginning employment. The Chief Executive Officer or designee shall establish pre-employment drug and alcohol testing procedures.~~ Board employees who are assigned to work on state or federal grant-funded programs and who did not receive the Drug Free Work Place Statement at the time of their

application for Board employment shall be given a copy of the Drug Free Work Place Statement at the time of they are assigned to perform services under a state or federal grant.

B. 2. Employees Convicted of Criminal Drug Violations. Any employee of the Board of Education who is convicted of a criminal drug violation must report such conviction to the Chief of Human Resources within five (5) days of the conviction in accordance with Board Rule 4-4(c). Conviction for a violation of a criminal drug ~~violation statute~~ means a finding of guilt, ~~a no contest plea or a guilty plea and~~ imposition of sentence (other than a disposition of supervision, withholding of adjudication or their equivalent) by any judicial body for any violation of state or federal criminal statute involving the manufacture, distribution, dispensation, use or possession of any controlled substance. After receiving such notice from an employee or otherwise receiving actual notice of a conviction, the Chief Executive Officer will take appropriate personnel action against the employee up to and including ~~discharge~~ dismissal from employment.

C. 3. Reasonable Suspicion Drug and Alcohol Testing of Employees. Any employee of the Board of Education for whom there is a reasonable suspicion that the employee has used drugs or alcohol or is under the influence of drugs or alcohol ~~abuse or intoxication while~~ on Board property or at school sponsored activities shall be required to submit to drug and alcohol testing ~~in accordance with Board Rule 4-50.~~ The Chief Executive Officer or designee may establish additional guidelines and procedures for reasonable suspicion drug and alcohol testing. Employees who test positive for drugs and/or alcohol, who refuse to submit to drug and alcohol testing, or who submit specimens that have been altered or tampered with shall be subject to ~~termination~~ dismissal and suspension pending ~~termination~~ dismissal in accordance with the Board's Employee Discipline and Due Process Policy.

"Under the influence" is any mental, emotional, sensory or physical impairment due to the use of drugs or alcohol.

"Reasonable suspicion" is a belief that an employee may be under the influence of drugs or alcohol. Such a belief must be based on objective indicia, which may include, but is not limited to the following: erratic or unusual behavior by an employee, including but not limited to, noticeable imbalance, incoherence and disorientation, which would lead a person of ordinary sensibilities to conclude that the employee is under the influence of drugs and/or alcohol; observation of possible ingestion of alcohol or use of drugs; and involvement in an accident; excessively aggressive behavior; or other circumstances which could lead a reasonable person to believe that the use of drugs or alcohol may have been involved.

D. 4. Special Provisions with Respect to Employees who Operate Commercial Vehicles. Pursuant to applicable United States Department of Transportation ("DOT") regulations, all Board employees who operate commercial vehicles as part of their job duties shall be tested for drugs (1) upon application for employment, (2) biennially, as part of the required physical examination required by DOT, (3) when there is reasonable cause to believe that a driver is using drugs, and (4) randomly, as allowed by law. The Board shall follow DOT procedural requirements for drug testing, records maintenance, and disclosure of drug test results as set forth in 40 CFR 40-1 et seq., 49 C.F.R. §382.101 et seq. ~~and as set forth in Board Rule 4-50.~~ Any commercial drivers' license ("CDL") holder who fails to submit to testing shall be subject to ~~discharge~~ dismissal from employment.

Any employee who tests positive for controlled substances or is found to have a breath alcohol level or blood alcohol level greater than .02 while on duty, ~~in accordance with the~~ shall be subject to ~~termination~~ dismissal.

E. 5. Additional Guidelines. The Chief Executive Officer or his/her designee may develop guidelines to implement this Policy consistent with this Policy its terms and Board Rule ~~4-50~~ 4-4(h).

IV. Drug and Alcohol Free Workplace Statement. The following Drug and Alcohol Free Workplace Statement shall be given to all applicants for employment or employees assigned to work on federal or state granted funded programs. The Statement may be incorporated in other Policy acknowledgements.

Drug and Alcohol Free Statement

I understand and agree that as a condition of my employment by the Board of Education, I must abide by all Board rules and policies, specifically the Board's Drug and Alcohol Free Work Place Policy. I understand and agree that under the terms of that Policy:

- that the unlawful manufacture, distribution, possession, consumption or use of drugs or alcohol, on Board of Education property or premises or any site of Board sponsored activities, is prohibited and an employee's presence on Board of Education property or premises or any site of Board sponsored activities while under the influence of alcohol or unlawful drugs or because of the misuse of any drug that is legally obtainable but has not been legally obtained, or that is not being used for prescribed purposes or taken according to prescribed dosages;
- that I am subject to drug and alcohol testing while employed by the Board of Education if there is a reasonable suspicion that I am present at Board of Education property or premises or any site of Board sponsored activities, while under the influence of drugs or alcohol;
- that, in accordance with Board Rule 4-4 (c), I must notify the Board of Education if I am convicted of a felony or any crime involving the consumption, possession, sale, distribution or manufacture of any controlled substance (as defined in 21 U.S.C. §812, 720 ILCS 570/102 (1992) or in the Cannabis Control Act, 720 ILCS 550/1 et seq.) or any drug that is legally obtainable but has not been legally obtained, or that is not being used for prescribed purposes or taken according to prescribed dosages; and,
- that if I violate the Board's Drug and Alcohol Free Workplace Policy, the Board shall dismiss me from employment in accordance with the Employee Discipline and Due Process Policy.

I certify that I will remain drug and alcohol free at the workplace at all times during the course of my employment by the Board of Education.

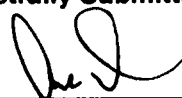
LEGAL REFERENCES: 40 CFR §40.1 ET seq, 49 CFR §382.101 et seq.

Approved for Consideration:



Barbara Eason-Watkins
Chief Education Officer

Respectfully Submitted:



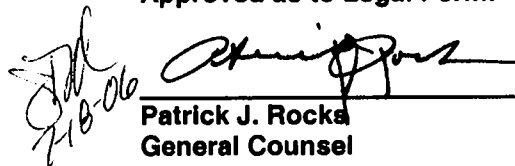
Arne Duncan
Chief Executive Officer

Noted:



John Malorca
Chief Financial Officer

Approved as to Legal Form:



Patrick J. Rocka
General Counsel