

June 12, 2015

STATE OF WEST VIRGINIA
COUNTY OF FAYETTE, TO-WIT:

The Board of Education of the County of Fayette, West Virginia, met in special session at 8:00 a.m. on Friday, June 12, 2015, in the George M. Edwards Conference Room of the Board of Education Office, 111 Fayette Avenue, Fayetteville, West Virginia. Board members and Central Office personnel present were:

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| Steve Bush | President |
| Pat Gray | Vice-President |
| Patsy Holliday | Members |
| Leon Ivey | |
| Lou Jones | |
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| Dr. Serena Starcher | Superintendent |
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| David Keffer | Director of Operations |
| Margaret Pennington | Director of Personnel |
| | |
| Jackie Mollohan | Executive Secretary |

CALL TO ORDER:

Mr. Bush called the meeting to order following with The Pledge of Allegiance led by Mrs. Jones. All members were present. Mr. Gray arrived at approximately 8:05.

BOARD ACTION:

Upon action by Mr. Bush, second by Mr. Ivey and approved 5-0, the following items were approved after a brief discussion. *Mrs. Holliday asked why the airline checks were written before we had a meeting to vote on the trips. She stated she wants the students to go and have the opportunity but we should have voted on it previously. Mrs. Jones asked if there was any way to give students \$100 spending money. Dr. Starcher stated the money for the trips are completely paid for out of the excess levy. Mr. Gray reported some of the students have been fundraising.*

- A. Approval for eight Health Occupations high school students and five adult LPN students from FIT to take a trip to Anaheim, CA on June 22-28, 2015, and one Skills USA student from FIT to take a trip to Louisville, KY on June 22-27, 2015, to compete in their respective National Competitions.
- B. Approval for one student from FIT to take a trip to Chicago, IL from June 29-July 3, 2015, to compete in the FBLA-NLC Conference.

POLICY DEVELOPMENT AND REVIEW:

Upon action by Mr. Ivey, second by Mrs. Jones and carried 5-0, the following was approved:

First Reading Approval:

- A. Policy 3-5: Student Drug Testing [Revision of Policy] (See Attachment)

FUTURE BOARD MEETINGS:

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| Special Meeting for Bond Election Canvass | Monday, June 22, 2015 – 9:00 a.m.
Fayette County Courthouse |
| Special Meeting for Oath of Office | Monday, June 29, 2015 – 9:00 a.m.
Board of Education Office |
| Regular Meeting | Monday, July 6, 2015 – 6:00 p.m.
Board of Education Office |

FAYETTE COUNTY BOARD OF EDUCATION
Fayetteville, West Virginia

Board Policy: STUDENT DRUG TESTING

Adopted: October 6, 2014
[Month, date], 2015

1. PURPOSE.

- 1.1. In an effort to protect the health and safety of its students, the Fayette County Board of Education (FCBOE) believes drug testing of students who choose to participate in athletics, extra-curricular activities and simulated workplace as well as all student drivers is critical. Students who choose to participate in the activities specified in this section have a responsibility to be drug-free. Sanctions imposed for testing positive for drugs will limit the participating student's privileges to participate in the activities described herein.
- 1.2. In addition to the students who choose to participate in athletics, extra-curricular activities and simulated workplace as well as all student drivers, parents/guardians may elect to include their child in the random student drug testing selection process.
- 1.3. Through this policy, the FCBOE strives to achieve the following:
 - (a) To educate students of the serious physical, mental and emotional harm caused by illegal drug use, including performance-enhancing drugs;
 - (b) To alert students with possible substance abuse problems and their parent/guardian of the potential harms that drug use poses for their physical, mental and emotional well-being, and to offer them the privileges, as described above, as an incentive to stop using illegal substances;
 - (c) To ensure that students adhere to a program that bars the intake of illegal and performance-enhancing drugs;
 - (d) To prevent injury, illness and harm to students that may arise as a result of illegal and performance-enhancing drug use;
 - (e) To reduce the effects of negative peer pressure by providing an additional, legitimate reason for students to refuse illegal and performance-enhancing drugs;
 - (f) To offer students practices, competition and school activities free of the effects of illegal and performance-enhancing drug use;

(g) To maintain a safe school environment for all students, staff and visitors; and

(h) To assure the safe operation of student-driven vehicles on campus.

2. DEFINITIONS.

2.1. Activity student. A member of any middle or high school sponsored extra-curricular activity including, but not limited to, academic teams, school-sponsored clubs and athletics.

2.2. Driving student. A student who is permitted to drive to school and is issued parking privileges on school property. A student may become a driving student participant at any time during the school year.

2.3. Drug use test. A scientifically substantiated method to test for the presence of illegal or performance-enhancing drugs or the metabolites thereof in a person's saliva or urine.

2.4. Extra-curricular activity. An organized student activity that does not fall within the scope of a regular curriculum, is officially or semiofficially approved, and carries no academic credit.

2.5. Illegal drugs. Any substance that an individual may not sell, possess, use, distribute or purchase under either federal or West Virginia law. Illegal drugs include, but are not limited to, all scheduled drugs as defined by the West Virginia Uniform Controlled Substances Act, all prescription drugs obtained without authorization, all prescribed and over-the-counter drugs being used for an abusive purpose, and alcohol.

2.6. Medical Review Officer. A licensed physician trained and certified in the process and interpretation of drug testing results.

2.7. Monitor. An employee of the drug testing company responsible for obtaining the specimen.

2.8. Opt-in participant. Any student in grades 6-12, who is not an activity student, student driver or a simulated workplace student, whose parent/guardian elects to include the student in the random selection for testing.

2.9. Participating student. Any student included in the random testing pool.

2.10. Performance-enhancing drugs. Includes anabolic steroids and any other natural or synthetic substance used to increase muscle mass, strength, endurance, speed or other athletic ability. Performance-enhancing drugs do not include dietary or nutritional supplements such as vitamins, minerals and proteins that can be lawfully purchased in over-the-counter transactions.

2.11. Positive result. A toxicological test result that demonstrates the presence of an illegal or performance-enhancing drug or the metabolites thereof using the standards customarily established by the testing laboratory administering the drug use test.

2.12. Random selection basis. A mechanism for selecting participating students for drug testing that results in an equal probability that any participating student from the total pool will be selected and prevents school system discretion to waive the selection of any participating student.

2.13. Season. Any time that the student is meeting, practicing, scrimmaging or competing in the sport or extra-curricular activity.

2.14. Simulated Workplace student. A student of any district high school who is a member of any CTE class program participating in the West Virginia Department of Education simulated workplace program.

2.15. Student driver. A student who is permitted to drive to and from school and is issued parking privileges on the campus.

2.16. Superintendent's designee. The Director of Secondary Schools shall serve as the superintendent's designee for implementation of this policy. In the event that the coordinator is unavailable, the associate superintendent shall serve as the designee.

3. PROCEDURES.

3.1. Distribution of policy. Each student in grades 6-12 shall receive, on an annual basis, a flyer outlining this policy. The principal, head coach or sponsor shall be responsible for explaining the policy to all prospective participants and for conducting an educational presentation to acquaint students with the harmful consequences of drug and alcohol use and abuse.

3.2. Orientation session. Prior to the commencement of drug testing, an orientation session will be held with all activity students, simulated workplace students, student drivers, and opt-in participants to educate them about the sample collection process, privacy arrangements, drug testing procedures, and other concerns that may help to reassure the students and help avoid embarrassment or uncomfortable feelings about the drug testing process.

3.3. Consent form.

- (a) Each participating student shall be provided a copy of the Student Drug Testing Consent form which shall be read, signed, and dated by the student, parent/guardian and the applicable administrator/coach/sponsor.

- (b) The consent form must be signed before an activity student is eligible to practice or participate in any extra-curricular activities and/or the simulated workplace and before issuance of a parking pass to a student driver. This consent form will remain on file for the student for the remainder of his/her programmatic level and will only be removed from the Random Drug Testing Program by signed consent of the parent/guardian, delivered to the superintendent's designee.
- (c) The consent form requires the activity student, simulated workplace student, student driver or opt-in participant to provide a ~~saliva~~urine sample when the activity student, simulated workplace student, student driver or opt-in participant is selected by the random selection process.
- (d) A student athlete whose season is over may be removed from the Random Drug Testing Program by signed consent of the parent/guardian, delivered to the superintendent's designee, but the student shall be ineligible for extra-curricular activities for the remainder of the school year.

3.4. Random sample. Drug use testing will be completed on a random selection basis from a list of all participating students. The FCBOE's administration will determine the number of students who will participate in the random testing at any given time and the frequency of the testing.

3.5. Drug testing service. All drug tests will be administered by or at the discretion of a drug testing service chosen by the FCBOE's administration. The drug testing service shall be required to use scientifically validated toxicological testing methods and have detailed, written specifications to assure chain of custody of the specimens, proper laboratory control and scientific testing. The drug testing service shall provide all collection materials used in the drug testing process.

3.6. Privacy. All aspects of the drug testing program, including the collection of specimens, will be conducted so as to safeguard the personal and privacy rights of the student to the maximum degree possible.

3.7. Obtaining samples.

- (a) The test specimen shall be obtained in a manner designed to minimize intrusiveness of the procedure. ~~In particular, the specimen must be collected in a room behind a closed door.~~
- (b) The drug testing service shall provide an employee to collect the sample(s) subject to drug testing. ~~This individual will also monitor the collection of the sample(s).~~

- (c) Any participating student randomly selected for drug testing, who is not in school on the day of testing, will be tested at the next available testing time.
- (d) **Tampering.** If at any time during the testing procedure the monitor has reason to believe or suspect that a student is tampering with the specimen, the monitor may stop the procedure and inform the principal or designee who will then determine if a new sample should be obtained.
- (e) **List of medications taken.** Participating students and/or their parent/guardian will be provided the opportunity to inform the testing company of any medications legally prescribed for the student that he/she has taken in the preceding 30 days. The medications listed will remain confidential and will not be viewed by district employees.

3.8. Confidentiality.

- (a) **Notification by drug testing service.** The Medical Review Officer (MRO) shall notify the superintendent's designee, in writing, of any positive test result.
- (b) **Notification to student and parent/guardian.** To keep the positive test results confidential, the superintendent's designee shall provide written notification only to the individuals identified in section 4 of this policy. The FCBOE's administration will rely on the opinion of the drug testing service that performed the test in determining if the positive test result was produced by something other than the taking of an illegal or performance-enhancing drug.
- (c) **Record of test results.** Test results will be kept in files maintained by the Director of Secondary Schools, shall be disclosed only to those school personnel who have a need to know, and will not be turned over to any law enforcement authority unless the law enforcement authority presents a valid court subpoena, search warrant or signed consent form from the parent/guardian or student, if of age to do so. Records of positive test results maintained by the superintendent's designee shall be destroyed upon the student's graduation from high school.

3.9. Appeal process.

- (a) The parent/guardian of a participating student or the participating student, if of age, who has been identified as having a positive test result, shall have the right to appeal the decision to the superintendent.
- (b) The appeal must be submitted to the superintendent, in writing, within five (5) working days of notice of the positive test results.

- (c) The superintendent shall determine if the original finding was justified. Any necessary interpretation or application of this policy shall be in the sole and exclusive judgment and discretion of the superintendent and shall be final and non-appealable.

4. CONSEQUENCES.

4.1. Restrictions of participating students. Any participating student who tests positive in a drug test conducted in accordance with this policy shall be subject to the following restrictions. The restrictions shall be cumulative in grades 6-8 and again in grades 9-12.

4.2. For the first positive test result.

- (a) The superintendent's designee will be notified immediately by the MRO of the student's positive test result. The superintendent's designee will inform the parent/guardian and the student.
- (b) A meeting will be conducted with the student, parent/guardian, principal and superintendent's designee to discuss the results and options.
- (c) The superintendent's designee will provide documentation that the meeting occurred.
- (d) In order for the student to continue participation in the activity, he/she must voluntarily submit to a second drug test to be administered within two (2) weeks of the meeting and in accordance with the testing provisions of this policy. ~~If deemed necessary, a urine test may be required.~~
- (e) If an activity student continues to participate in the drug testing program after his/her activity is over and has a positive test result during the off-season of his/her activity, he/she will be afforded the same option established in section 4.2.d before he/she can participate in another activity.
- (f) If the parent/guardian and/or student do not agree to these provisions, the consequences listed in section 4.3 pertaining to the second positive test result will be imposed.

4.3. For the second positive test result.

- (a) The superintendent's designee will be notified by the MRO immediately of the student's positive result. The superintendent's designee will notify the principal, parent/guardian and student.
- (b) The following consequence(s) shall be assigned to the student: a consecutive 14 calendar day suspension of driving privileges on school property and participation in all activities, including meetings, practices, scrimmages and competitions, covered

under this policy. In addition, the student must complete four (4) hours of substance abuse education/counseling before reinstatement to the extra-curricular activity or of driving privileges on school property. The student will be tested monthly for the remainder of the school year. ~~If deemed necessary, a urine test may be required.~~ The time and date will be unknown to the student and parent/guardian and shall be scheduled by the superintendent's designee.

- (c) These restrictions and requirements shall begin immediately and shall remain in effect throughout the appeal process, if such appeal occurs.
- (d) If the parent/guardian and/or student do not agree to these provisions, the consequences listed below for the third positive drug test will be imposed.
- (e) Nothing in this policy prohibits a coach or sponsor from expelling the student from the extra-curricular activity after the second positive test result under the provisions of the approved handbook or contract for the extra-curricular activity in which the student is participating.

4.4. For the third and each subsequent positive test result. The superintendent's designee will be notified immediately of the student's positive test result by the MRO. Suspension of driving privileges on school property and participation in all extra-curricular activities, including meetings, practices, performances and competitions, for one (1) calendar year from the date of the third or subsequent positive test result will be imposed.

4.5. Restrictions for opt-in participants. The parent/guardian, student and superintendent's designee will be contacted immediately by the MRO of the student's positive test result. The superintendent's designee will contact the parent/guardian, student and principal. A private conference with the superintendent's designee will be scheduled to discuss the results and options for treatment.

4.6. Self-referral. An activity student, simulated workplace student, student driver, or opt-in participant may, on his/her own volition, inform (self-refer) the superintendent's designee, principal or coach/sponsor of usage before being submitted to a drug test. However, each student will be considered as having a positive test result under the policy and will be subjected to the appropriate consequences identified in this policy.

4.7. FCBOE Policy E-2 (Student Code of Conduct) violation. When school district employees are made aware of drug use by an activity student, simulated workplace student, student driver or opt-in participant, solely as a result of drug testing under this policy, that participating student shall not be disciplined under Policy E-2. However, any student, who violates Policy E-2 and West Virginia law by the sale of a narcotic while on school grounds shall be subject to disciplinary action as outlined in Policy E-2, up to and including expulsion.

4.8. Refusal to submit to drug use test. A participating student who refuses to submit to a drug test at any juncture authorized under this policy shall not be eligible to participate in any activity covered under this policy including all meetings, practices, performances and competition, participate in the simulated workplace experience, or drive on school property until he/she agrees to abide by the provisions of this policy.

4.9. Advisory Council. The superintendent shall appoint an advisory council to review the local data and make recommendations to the FCBOE regarding policy effectiveness. This advisory council shall include, but not be limited to, a school counselor from the high school, middle school and elementary school levels and the Director of Secondary Schools.

5. SUBSTANCE ABUSE PREVENTION.

To address prohibited drug use in the schools under this policy, Fayette County Schools will do the following:

- 5.1.** Emphasize preventative measures;
- 5.2.** Require implementation of WVBE Policy 1461: Drugfree Workplace at the school level;
- 5.3.** Provide clear procedures for identification, intervention and referral of students with substance abuse problems;
- 5.4.** Provide for a comprehensive, age-appropriate, developmentally based drug and alcohol education and prevention program which:
 - (a) Addresses the legal, social, psychological and health consequences of drug and alcohol use;
 - (b) Provides information about effective techniques for resisting peer pressure to use illicit drugs and alcohol;
 - (c) Assists students to develop skills to make responsible decisions about substance abuse and other important health issues;
 - (d) Promotes positive emotional health, self-esteem and respect for one's body; and
 - (e) Meets the minimal objectives as stated in the essential performance objectives for health education as established by the West Virginia Board of Education;
- 5.5.** Provide standards of conduct that are applicable to all students and which clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students

on school premises or as a part of any school activity, noting the same are prohibited by Policy E-2;

5.6. Include a clear statement that disciplinary sanctions, up to and including expulsion and referral for prosecution, will be imposed on students who violate the school standards of conduct and a description of those sanctions;

5.7. Provide information about any drug and alcohol counseling and rehabilitation and reentry programs available to students, and provide procedures to direct students and their parents to the appropriate programs;

5.8. Require that all parents and students be given a copy of the standards of conduct regarding the unlawful possession, use or distribution of illicit drugs and alcohol by students as found in Policy E-2;

5.9. Require the notification to parents and students that compliance with the standards of conduct is mandatory;

5.10. Provide a review of the FCBOE's program, as needed, to determine its effectiveness and implement changes as needed and to ensure that disciplinary sanctions are consistently enforced;

5.11. Contain enforcement provisions for students which may include, but are not limited to, counseling, school/community service, voluntary cessation programs, parent/guardian notification, mandatory education, alternative to suspension programs, plan for behavior improvement, policy notification, and/or prosecution;

5.12. Establish procedures for addressing students suspected of drug use or suspected of possession of distributing drugs in school, and ensure that the FCBOE's policy on search and seizure, suspension and expulsion is complied with fully;

5.13. Include procedures for communicating the terms of these guidelines to students, staff and parents through employee and student handbooks;

5.14. Implement required kindergarten through grade twelve (12) preventive education to provide a comprehensive substance abuse prevention curriculum for all children;

5.15. Explain the manner in which the FCBOE plans to provide or make referral to voluntary support programs, such as a local mental health provider or tobacco cessation program or hotline programs; to address the physical, psychological, and social issues associated with addiction; to provide on-going support and reinforcement necessary for desired behavior change; and to provide information about available programs to all students in grades four (4) through twelve (12) and staff on a regular basis,

5.16. Contain enforcement provisions for the public which may include but are not limited to, (1) request to stop use or leave premises, (2) deny access to school property, and/or (3) police notification;

5.17. Shall provide for appropriate due process procedure in taking action against a student for violation of this policy; and

5.18. Identify responses and/or interventions that are consistent with the levels specified in West Virginia Board of Education policy to address violations.

6. SEVERABILITY.

If any provision of this policy or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this policy.

June 12, 2015

ADJOURNMENT:

The meeting was adjourned at approximately 8:16 a.m. upon motion by Mr. Bush, second by Mrs. Jones, carried 5 to 0.

President

Secretary/Superintendent