

DRUG-FREE WORKPLACE AND EMPLOYEE TESTING POLICY

GENERAL

This policy applies to all employees of the Summers County Board of Education.

PURPOSE

1. The Summers County Board of Education is committed to a safe, healthful, productive and secure working environment and to making adequate provisions for the safety and health of its employees at their place of employment, and the safety and health of the students we serve as well as the general public. The Summers 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 and should be offered appropriate assistance. 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.
2. The Summers 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 Summers County Board of Education and its employees share a commitment to create and maintain a drug-free workplace. It is the Board's obligation to ensure that alcohol, drugs, and other controlled substances do not interfere with the safety and proper instruction and supervision of students attending Summers County Schools.
3. The Summers County Board of Education is responsible for the instruction, supervision and well-being of the students entrusted to its care. Therefore, the Board has a substantial and compelling interest in ensuring that those who are entrusted with the care of children refrain from being under the influence, abusing, or misusing alcohol, controlled substances, illegal drugs, or prescription drugs. The Board declares that the use of illegal drugs, the abuse of alcohol, and the misuse of prescription drugs are unacceptable.
4. Teachers, administrators, and other school employees serve *in loco parentis* to students attending Summers County Schools. These employees directly influence those students for a prolonged period of time on a consistent and daily basis. Because teachers and administrators are charged with the protection and supervision of students, it is critical that they remain drug and alcohol free while carrying out their responsibilities to Summers County's children.
5. Provision of the Federal Anti-Drug Act, 41 U.S.C. § 702, require federal grant recipients to establish a drug-free workplace. This policy encompasses the Summers County Board of Education's Drug-Free Workplace Policy, Employee Substance Abuse and Tobacco Control Policy, and drug Testing Policy. All prospective employees will be provided with a copy of this policy upon receiving an offer of employment from the Board, and prior to beginning their job responsibilities.

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 Summers County 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 Summers County Schools' employees.
7. To provide a consistent model of substance-free behavior for students.

DRUG-FREE WORKPLACE POLICY

It is the policy of the Summers County Board of Education to ensure that its schools and workplaces are free of illegal drugs and controlled substances. Therefore, the Board prohibits the unlawful manufacture, distribution, possession or use, without medical authorization, of illegal or controlled substances and/or alcohol and non-medically prescribed paraphernalia, drugs or alcohol. The Board further prohibits employees from reporting to or being present at work under the influence of a non-medically prescribed controlled substance or alcohol. Contractors and/or grantees of federal contracts or grants amounting to at least twenty-five thousand dollars (\$25,000) are subject to suspension of payments and termination of the contract or grant for violations of any of the requirements of a drug-free workplace if they make a false initial certification or if the number of drug-related convictions of employees indicates that the employer has not made a good faith effort to maintain a drug-free workplace. This policy applies to all employees of the Summers County Board of Education and further applies while employees are engaged in any work-related activity which includes performance of Board business during regularly scheduled work days, meal breaks, and/or occasions outside of the employee's regularly scheduled work hours having any connection with their job or the Board. In addition, this policy is applicable at any and all times when employees are on Board property, or in attendance at any school or school board activity/function. It is further applicable during the performance of any and all job related activities and/or while traveling in any vehicle, either owned, leased or rented by the Board of Education.

Employees who are in violation of any provisions of this Drug-Free Workplace Policy shall be subject to disciplinary action, up to and including termination of employment and referral to law enforcement agencies. In the Board's discretion, employees may also be required to satisfactorily participate in a drug rehabilitation or assistance program. Rehabilitation will be provided according to the Employee Assistance Program and the guidelines of the Public Employees Insurance Agency. Determinations to pursue disciplinary action or referral to law enforcement agencies in lieu of Employee Assistance Program referral shall be at the sole discretion of the Superintendent and/or the Board, taking into account the severity of the conduct and other circumstances surrounding the conduct.

As a condition of employment with the Summers County Board of Education, all employees shall:

1. Abide by the terms of this policy and acknowledge that compliance is mandatory;
2. Notify their supervisor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; and
3. Sign the "Drug-Free Workplace Verification Statement" attached to this policy.

The Staff Development Officer for the Summers County Board of Education shall establish a drug awareness program for Board employees to provide information on the following:

1. The Employee Referral Program;
2. The dangers of drug-abuse in the workplace;
3. The establishment and maintenance of a drug-free workplace;
4. The penalties for workplace drug-abuse;
5. Available drug-free literature.

EMPLOYEE SUBSTANCE ABUSE AND TOBACCO CONTROL POLICY

The purpose of this policy is to provide preventative and protective measures for addressing substance abuse and prohibiting the use or distribution of alcohol, tobacco and other drugs within school settings and activities. This policy is intended to promulgate a positive, proactive approach to the control of alcohol, tobacco and other drugs and should be read in conjunction with the Board's general Substance Abuse and Tobacco Control Policy.

This policy applies to all employees of the Summers County Board of Education while they are present, in or upon any property owned, leased or operated by the Board or the West Virginia Department of Education, the West Virginia Board of Education, any other county board of education, or a Regional Education Service Agency ("RESA"), or while they are present at any school-sponsored activity or event, whether the activity or event is held on school grounds, in a building or other property used or operated by the above-listed agencies, or in any other facility or upon any other property being used by any of these agencies.

No employee shall at any time possess, distribute or use any alcohol product, illegal substance, or drug paraphernalia in any of the above-listed areas. No employee shall at any time distribute or use any tobacco product in any of the above-listed areas. Employees who are supervising students off school grounds are prohibited from distributing or using alcohol, tobacco products or illegal substances in the presence of students and/or at any time while engaged in activities directly involving students.

Employees should recognize that students and members of the public who are present in or upon any property owned, leased or operated by the Board or the West Virginia Department of Education, the West Virginia Board of Education, any other county board of education, or RESA, or while they are present at any school-sponsored activity or event, whether the activity or event is held on school grounds, in a building or other property used or operated by the above-listed agencies, or in any other facility or upon any other property being used by any of these agencies, are also prohibited from possessing, distributing or using any alcohol product, illegal substance, or drug paraphernalia. All persons are prohibited from distributing or using tobacco products in any of the above-defined areas, and students are further prohibited from possessing tobacco products or paraphernalia in these areas or at any school or Board sponsored event or school-related event. Employees are responsible for ensuring students and members of the public are aware of this policy and comply with its provisions. The Board's general Substance Abuse and Tobacco Control Policy contains the following relevant information:

1. Procedures for identification, intervention and referral of students with substance abuse problems.
2. Plan for maintenance of an environment for students, staff and visitors that presents no physical harm, discomfort or unsanitary condition resulting from use or abuse of ATOD.

3. Procedures for communicating the Substance Abuse and Tobacco Control Policy to students, staff parents, families, visitors and the community-at-large.
4. Plans for implementing preventative education for all students, K-12, as outlined Policy 2520, including developmental guidance, advisor-advisee, peer involvement, after school programs and integration into instructional objectives;
5. Availability of voluntary support programs, on-going support and reinforcement, and regular programming for students, Grades 4-12, and staff, including the identification of physical, psychological and social issues associated with addiction.

Violation of this policy will result in disciplinary action, up to and including termination of employment. In the Board's discretion, employees in violation of this policy may be referred to a conference with his or her supervisor to discuss the violation and any possible drug or alcohol dependency, or to an Employee Assistance Program.

The procedures for an employee who voluntarily requests assistance for substance use and/or abuse which occurs at times and places not covered by this policy shall be as follows:

1. The employee shall be required to attend a conference with his/her immediate supervisor, the Superintendent of Schools, or his/her designee(s), and the Associate Superintendent of Personnel.
2. The employee shall be granted up to fifteen days of leave to provide verification that he/she is enrolled in substance abuse and/or alcohol abuse counseling/rehabilitation sessions on a regular basis as specified in the counseling/rehabilitation program. Should this exceed fifteen (15) working days, the employee will not be compensated for additional days until it is determined he/she has met the requirements of this section.
3. The employee shall be required to provide his/her immediate supervisor with the results of a drug and/or alcohol test on the twelfth (12th) calendar day of each month for six months following his/her return to work.

The Summers County Board of Education shall provide training and technical assistance in research-based and effective models for prevention education in the areas of alcohol, tobacco and illegal substances, including the effective use of student assistance teams to identify at-risk students and develop interventions to assure school success for these students.

DRUG TESTING POLICY

The Summers County Board of Education is committed to maintaining a drug-free workplace for its employees and in the public interest of ensuring its students attend school in a safe, healthful, productive and secure environment. In furtherance of this commitment, the Board has implemented mandatory drug-testing in the following situations and circumstances:

1. Post-offer, pre-employment drug testing for individuals to be employed in safety-sensitive positions;
2. Promotion and transfer drug testing for individuals to be employed in safety-sensitive positions;
3. Reasonable suspicion drug testing for all employees; and
4. Return to duty drug testing.

Pursuant to Section 17.3.11 of Policy 4336 (West Virginia School Bus Transportation Policy and Procedures Manual, W.Va. C.S.R. §126-92-1 et seq.), some employees are also subject to mandatory drug and alcohol testing under United States Department of Transportation rules and regulations. If circumstances require an employee to submit to drug and/or alcohol testing under this policy and USDOT regulations, the more stringent regulations will apply.

Drug and Alcohol Abuse Testing Procedures

1. Purpose

The purpose of this procedure is to establish guidelines to be followed in the drug/alcohol testing of external applicants for safety-sensitive positions with the Summers County Board of Education as well as Summers County Board of Education employees. These procedures, and those specifically relating to each type of drug testing, may be amended or modified from time to time to facilitate changes in federal or state law, or changes in the Summers County Board of Education's policies, as necessary.

2. Program Responsibility

The Summers County Board of Education Superintendent or his/her designee(s) has the overall responsibility for this program.

3. Designation of Laboratory

The Summers County Board of Education has selected a Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratory approved for DOT drug testing to perform the testing on specimens submitted pursuant to this policy. This laboratory will be responsible for performing the required drug test in accordance with applicable Federal Department of Transportation (DOT) Procedures for Transportation Workplace Testing Programs, 49 C.F.R. Part 40 and, more specifically, as contained in this policy. This Laboratory will also be responsible for properly handling specimens for alcohol testing.

4. Designation of Medical Review Officer

A licensed medical physician will be designated as the Medical Review Officer (MRO). The MRO will be independent from the Board and the laboratory selected to perform the testing on specimens submitted pursuant to this policy. The Medical Review Officer will be responsible for reviewing the results of drug tests before they are reported to the Summers County Board of Education's Superintendent or his/her designee(s); reviewing and interpreting each confirmed positive test to determine if there is an alternative medical explanation for the positive; conducting an interview with the individual testing positive, if the MRO deems it necessary; reviewing the individual's medical history and medical records made available to the MRO to determine if the positive result was caused by legally prescribed medication; requiring a retest of the original specimen if the MRO deems it necessary; and verifying that the laboratory report and the specimen are correct. The MRO is expected to follow the Medical Review Officer Manual published by the U.S. Department of Health and Human Services for tests conducted under this policy.

If the MRO determines that there is a legitimate medical explanation for the positive test other than the use of a prohibited drug, the MRO will conclude that the test is negative and will not take any further action. If the MRO concludes that a particular test is scientifically insufficient, the MRO will conclude that the test is negative for that individual. If the MRO determines that there is no legitimate explanation for the positive test other than use of a

prohibited drug, the MRO will communicate the test results as a positive to the laboratory who will then report the results to the Superintendent of his/her designees(s). The results of negative tests will also be communicated by the MRO to the laboratory who will then report the results to the Superintendent or his designees(s).

5. Collection Site

The laboratory selected to perform the testing on specimens submitted pursuant to this policy is the designated collection site for collecting urine specimens. In some circumstances, the laboratory may collect the specimens on the premises of the Summers County Board of Education.

6. Authorization for Testing

When the person reports to the collection site, the drug and/or alcohol screening procedure will be explained and the person will be asked to assist completing any necessary forms. All persons subject to testing for any reason shall be asked to sign the necessary authorization forms which will allow the test to be performed and for the information, including, but not limited to, the test results, to be provided to the MRO, the laboratory, and the Superintendent or his/her designee(s) about the required drug and/or alcohol test.

7. Specimen Retention

The retention of specimens for possible future analysis is the responsibility of the laboratory selected to perform testing pursuant to this policy. The laboratory will retain all specimens for a minimum period of one (1) week. At such time, negative specimens will be discarded. Positive specimens will be resealed and retained in a separate and secure area for a minimum of one (1) year. Within this one (1) year period, the person tested, the MRO, or the Superintendent or his/her designee(s) can request in writing that the laboratory retain the sample for an additional reasonable period specified in the request. If no proper written request is received within the one (1) year period, the sample may be discarded.

Any transfer of the original specimen to another laboratory for reconfirmation of positive results will follow the chain of custody procedures described in, the regulations contained in 49 C.F.R. Part 40.

8. Notification and Administrative Processing of Positive Results

All analytical results, negative and positive, will be reported by the laboratory to the MRO within an average of five (5) days after receiving the specimens. The MRO will review the individual's medical history, questionnaire, relevant biomedical information, and, if necessary, interview the person to determine if there is any satisfactory explanation for the positive result. In determining whether there is a satisfactory explanation for a positive result, the MRO may, in his or her discretion, consider the validity of prescriptions. A "valid" prescription is one that was written during the one year preceding the test. The MRO may conduct an additional medical interview with the individual and may require the original specimen to be reanalyzed if necessary.

9. Record Retention – Confidentiality

Records of drug test results are recognized to be private and sensitive records which will be maintained in a secure fashion to insure confidentiality. Records showing an employee passed a drug test will be kept for at least one (1) year. Records showing that an employee failed a drug test, the type of test (e.g., reasonable suspicion), the functions of the employee, the illegal drug(s) used by the employee, and the disposition of each employee will be kept for at least five (5) years.

These records, or any of them, may be maintained by the MRO or at the Superintendent's discretion for an indefinite period of time beyond the above specified minimums.

Information regarding an individual's drug testing results are confidential and will be released by the MRO, the laboratory, or the Superintendent or his/her designee(s) only upon the written consent of the individual, except that results may be released and relied upon by the Summers County Board of Education in any administrative or court action in which the drug test is relevant or involving any discipline resulting from a violation of this policy, including employment grievances and court proceedings.

10. General Drug Testing Procedures

(1) Test Methods and Cutoff Levels

The initial test performed on the urine at the laboratory will be an immunoassay based screen which will be used to eliminate negative urine samples from further consideration. All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the cutoff values listed below. Tests will screen for the drugs listed below. The cutoff levels (positive tests) are as follows (NOTE: These cutoff levels are subject to change, with or without notice, based on the procedures used and/or recommended by the laboratory):

	<u>Initial Test</u>	<u>GC/MS</u>
Amphetamines	1000 ng/mL	
Amphetamine		500 ng/mL
Methamphetamine		500 ng/mL
Barbiturates	300 ng/mL	300 ng/mL
Benzodiazepines	300 ng/mL	300 ng/mL
Cocaine Metabolites	300 ng/mL	150 ng/mL
Marijuana Metabolites	50 ng/mL	15 ng/mL
Opiates	300 ng/mL	
Morphine		300 ng/mL
Codeine		300 ng/mL
Hydromorphone		300 ng/mL
Hydrocodone		300 ng/mL
Oxycodones	100 ng/mL	100 ng/mL
Phencyclidine	25 ng/mL	25 ng/mL
Propoxyphene	300 ng/mL	300 ng/mL
Methaqualone	300 ng/mL	300 ng/mL
Methadone	300 ng/mL	300 ng/mL

(2) Collections of Specimens

Specimens will be collected in accordance with Department of Transportation (DOT) Procedures for Transportation Workplace Drug Testing Programs, 49 C.F.R. Part 40, which are incorporated herein by reference, with the exceptions as noted in this policy. At least 45mL of urine will be required to complete the test, or the test will be rejected and must be reperfomed.

The designated collection site shall have an enclosure within which private urination can occur, a toilet for completion of urination, and a source of water for washing hands.

Procedures for collecting urine specimens shall allow individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen as specified in 49 C.F.R. §40.25. Examples of reasonable cause to believe a specimen will be altered or substituted include: the presentation of a urine specimen that falls outside the normal temperature range (90.0 deg. F – 100.0 deg F); presentation of a specimen with a specific gravity of less than 1.0003 and a creatinine concentration below .2g/l; presentation of a specimen which contains the presence of adulterants; observation of conduct clearly indicating an attempt to substitute or adulterate the sample.

The laboratory selected to perform testing pursuant to this policy will follow the DOT Procedures for preparation for testing, chain of custody, security, privacy, integrity, and identify of specimen, and any necessary transportation to a laboratory. See 49 C.F.R. Part 40 §40.23 and 40.25. The person submitting specimens will complete the urine custody and control forms as required by the laboratory.

11. General Alcohol Testing Procedure

A Certified Breath Alcohol Technician will be requested to perform and be responsible for administering a breath analysis test. If the breath analysis test is positive, a second breath analysis test will be taken. If a test is to be made for drugs, its specimen will be taken at the same time that the alcohol specimen is taken but will be processed as a separate specimen. Refusal to submit to any breath analysis testing or any subsequent test for alcohol or drugs constitutes grounds for discipline, up to and including termination.

(1) Collection of Specimen

Procedures for taking the urine specimen, in the event of a positive breath analysis for alcohol assay, will follow the same testing procedures as outlined in Part 10 above for the drug specimen and the specimen will be tightly sealed immediately to avoid loss of volatile constituents.

(2) Test Methods and Levels

The breath analysis test level to be considered positive will be a .08 which would lead to a confirming test.

Post-Offer, Pre-Employment Testing

In the furtherance of achieving the Summers County Board of Education's goals and objectives as enumerated above, all applicants being considered for employment positions identified by the Summers County Board of Education as being safety-sensitive shall be required to submit to a post-offer, pre-employment drug test for the detection of the illegal use of drugs. Applicants for positions which require testing shall be given a copy of this policy in advance of the post-offer, pre-employment drug test.

Applicants must acknowledge having read or had this policy explained to them and should understand that as a condition of employment they are subject to its contents. Applicants shall sign an acknowledgment prior to substance screening, permitting the summary result to be transmitted to the Medical Review Officer (MRO) and the Superintendent or his/her designee(s). An applicant refusing to complete any part of the drug testing procedure shall not be considered a valid candidate for employment with the Summers County Board of Education, and such will be considered as a withdrawal of the individual's application for employment. The applicant shall not be permitted to reapply.

If substance screening shows a confirmed positive result for which there is no valid and current physician's prescription, a second confirming test may be requested by the MRO. If the first or, when applicable, any second confirming test is positive, any job offer shall be revoked.

The Summers County Board of Education has several positions which are considered safety-sensitive. In general, these are positions where a single mistake by an employee can create an immediate threat of serious harm to students, fellow employees, or the general public.

Safety-sensitive positions requiring post-offer, pre-employment drug testing are: superintendent, assistant superintendent, central office administrator, principal, assistant principal, teacher, counselor, psychologist, occupational therapist, physical therapist, speech/language pathologist, nurse, aide, special education specialist, paraprofessional, autism mentor, Braille/sign language specialist, librarian, coach, school secretary, cook, cafeteria manager, custodian, plumber, mason, general maintenance employees, foreman, supervisor of maintenance, school bus driver, truck driver, mechanic, mechanic assistant, supervisor of transportation, any position involving contact with students, including extra-curricular or extra-duty positions, any substitute employee working in a safety-sensitive classification, any position which involves explosive, toxic or noxious chemicals or devices, any position which may involve the operation of a motor vehicle, any position which requires the employee to make critical decisions in emergency or crisis situations, and any other employee who directly supervises other employees.

The procedure for testing these positions is contained on pages 7-8 of this policy. Individuals applying for non-safety sensitive positions shall not be required to submit to a post-offer, pre-employment substance screen.

Specific testing procedures Pre-Employment/Post Job Offer

Interested individuals are made aware of the requirements of drug testing for a specific position prior to submitting an application for the position. Pre-employment drug and alcohol testing will be required for the designated safety-sensitive positions. Applicants will be given an offer of employment prior to the test. Employment is contingent upon passing the test.

Applicants for positions which require drug and alcohol testing shall report to the designated collection site within 48 hours after receiving an offer of employment and a copy of this policy.

The laboratory selected to perform the testing required by this policy is responsible for gathering the medical history of the applicant and will take the urine sample(s).

All applicants will be furnished a copy of this policy in advance of the drug and alcohol testing and will have the screening procedure explained to them.

Applicants will be asked to sign an authorization for the tests which will release the MRO to disclose the results of the drug and alcohol test to the laboratory, who will then disclose the results to the Superintendent or his/her designee(s). In the event an applicant refuses to execute the appropriate authorization or to submit to the drug and alcohol tests, the laboratory will suspend the procedures at that point and refer the applicant to the Superintendent or his designee(s).

The MRO will review the analytical results of the drug and alcohol tests, the individual's medical history questionnaire, and relevant biomedical information and may interview the applicant, either by phone or in person, to determine whether there is any satisfactory explanation for a positive result. The MRO may conduct an additional medical interview with the individual and may require the original specimen to be reanalyzed if necessary. The MRO will advise the

laboratory, who will then advise the Superintendent or his/her designee(s), of any positive test results where there is not a legitimate explanation for the positive test.

The MRO will advise the applicant that he or she has tested positive and, if requested, will allow the applicant a reasonable period, not to exceed three (3) days, to provide additional medical evidence of a valid and current prescription for the drug(s) which caused the positive test.

Nothing herein shall be construed as requiring the MRO, the laboratory, or the Superintendent or his/her designee(s) to disclose to the applicant the drug(s) for which the applicant tested positive. Rather, it is the duty of the applicant to disclose to the MRO and, upon request, to provide the MRO with evidence of all drugs taken by prescription.

In the event of a positive test where there is not a legitimate medical explanation, the Superintendent or his/her designee(s) will advise the applicant in accordance with this policy of the conditions that must be met before the individual could again be considered for employment with the Summers County board of Education.

The designated safety-sensitive positions subject to testing are: superintendent, assistant superintendent, central office administrator, principal, assistant principal, teacher, counselor, psychologist, occupational therapist, physical therapist, speech/language pathologist, nurse, aide, special education specialist, librarian, paraprofessional, autism mentor, Braille/sign language specialist, coach, school secretary, cook, cafeteria manager, custodian, plumber, mason, foreman, general maintenance employees, supervisor of maintenance, school bus driver, truck driver, mechanic, mechanic assistant, supervisor of transportation, any position involving contact with students, including extra-curricular or extra-duty positions, any substitute employee working in a safety-sensitive classification, any position which involves explosive, toxic or noxious chemicals or devices, any position which may involve the operation of a motor vehicle, any position which requires the employee to make critical decisions in emergency or crisis situations, and any other employee who directly supervises other employees.

Physical Examination/Screening Based Upon Reasonable Suspicion

Whenever the Summers County Board of Education, through its Superintendent or his/her authorized designee(s), and/or the MRO, reasonably suspects that an employee's work performance or on-the-job behavior may have been affected in any way by illegal drugs or alcohol or that an employee has otherwise violated this policy or the Summers County Board of Education Substance Abuse and Tobacco Control Policy, or the Drug Free Workplace Policy, the employee may be required to submit a breath and or urine sample for drug and alcohol testing. When a supervisor observes or is notified of behavior or events that lead the supervisor to believe that the employee is in violation of the Substance Abuse and Tobacco Control Policy, or the Drug Free Workplace Policy, the supervisor shall notify the Superintendent or his/her designee(s).

An employee who is required to submit to drug/alcohol testing based upon reasonable suspicion and refused shall be charged with insubordination and necessary procedures will be taken to discipline the employee, up to and including termination, in accordance with state law and Board policy.

An employee who tests positive on a reasonable suspicion test will be in violation of this policy. Violation of this policy shall constitute grounds for termination in accordance with state law and Board policy.

The Summers County Schools Superintendent, or his/her authorized designee(s), and the MRO are the only individuals in the Summers County School System authorized to make the determination

that reasonable suspicion or cause exists to order a drug and/or alcohol screen and are the only individuals who may order an employee to submit to a drug and/or alcohol screen.

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

1. Chronic Case

Deteriorating job performance or changes in personal traits characteristics where the use of alcohol or drugs may be reasonably suspected as the cause.

2. Acute Case

Appearing in a specific incident or observation to then be under the present 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.

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, possession, 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 circumstances 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 Summers County Board of Education property, or at school system-approved or school-related functions.

Prior to substance screening, employees must sign an acknowledgment that the summary result will be transmitted to the MRO and the Summers County Schools Superintendent or his/her designee(s).

Drug and/or alcohol screening shall be conducted by Board approved, independent, certified laboratories utilizing recognized techniques and procedures, more specifically described in the Drug and Alcohol Abuse Testing Procedures contained in this policy at page 7-8. A breath analysis test will be performed by a certified Breath Alcohol Technician.

Specific Testing Procedures Reasonable Suspicion Testing

This testing will be conducted for any employee whenever the Summers County Board of Education, through the Superintendent or his/her designee(s) and/or the MRO suspects that there is a violation of this policy, or the Substance Abuse and Tobacco Control Policy or Drug Free

Workplace Policy. The guidelines for determining reasonable suspicion, as noted above, will be followed.

Once the determination has been made that an employee is to be tested based upon reasonable suspicion, the Superintendent or his designee(s) will then direct the laboratory to the collection site. The collection site personnel should be notified that the reason for testing is reasonable suspicion.

Upon arriving at the collection site, the employee will be asked to sign a release for testing and to assist in completing the necessary forms for testing. After the employee has signed the necessary releases for testing, then the standard procedures for drug and alcohol testing should be followed by the collection site personnel.

Once the procedure has been completed, the employee will be placed on administrative leave until the results of the tests are available and given instructions to call the Superintendent of his/her designees(s) each workday, before the normal reporting time for that employee, for further instructions.

If the employee refuses to sign the release or refuses to be tested by the laboratory, the employee should be advised that refusal under Board policy is insubordination. If the employee continues to refuse, he or she will be placed on administrative leave with instructions to call the Superintendent's office before the normal reporting time for that employee on the following workday.

If the Superintendent of his/her designee(s) feels that the employee is in no condition to operate a vehicle, then transportation for the employee will be arranged. Under no circumstances should the employee be allowed to drive, and if the employee insists, the Superintendent or his/her designee(s) should tell the employee that if he/she gets in a vehicle to drive that he/she will call the police or the Sheriff's Department and give them the location, license plate number, etc.

In the event of positive test results, the MRO will contact the Superintendent or his/her designee(s) who will then review other records of the employee and work out proper disciplinary procedures, up to and including termination, in accordance with state law or Board policy.

Promotion and Transfer Testing

When an employee working in a non safety-sensitive position applies for a position through the Summers County Board of Education's selection process for a job that has been identified by the Summers County Board of Education as being a safety-sensitive position, the employee shall be subject to drug testing in accordance with the procedures contained in this policy before the employee will be considered a valid candidate for that job opening. An employee who tests positive for illegal drugs on a promotion transfer test will no longer be considered an applicant for that position. Such employee will also be in violation of this policy, and/or the Substance Abuse and Tobacco Control Policy and Drug Free Workplace Policy. Violation of these policies will constitute grounds for immediate termination in accordance with state law and Board policy.

An employee may withdraw the application for the position at any time up until the employee is scheduled for promotion/transfer testing. Once an employee is scheduled for promotion/transfer testing, if that employee refused to submit to the test, he/she will be disqualified for consideration for the position and will be considered as being insubordinate and subject to discipline. Under no circumstances shall this employee be considered as a viable

candidate for any future openings in this classification until the employee has signed a release for drug testing.

Specific Testing Procedures Promotion and Transfer Testing

Once an employee has applied for a safety-sensitive position within the Summers County Board of Education that requires drug and alcohol testing and has successfully completed the written and skills testing being administered for that job, then the employee is considered as one of the qualified applicants for the position and will be subject to the drug and alcohol testing procedures. Up to this point an applicant can withdraw from consideration for the position without sanctions.

The Superintendent or his/her designee(s) will notify the employee on the day the testing is to be accomplished as to the time for the employee to be at the designated collection site. Since this testing will be done before or after the employee's normal working hours, the employee must be contacted before the end of that employee's shift. Employees should be tested as soon after their shift as possible.

Once the employee has been scheduled for testing, if the employee refuses to be tested, the employee will be considered insubordinate and subject to disciplinary procedures, up to and including termination of employment. If an employee has been notified to go for testing and fails to show up for the test, this will be considered the same as refusal to test unless a medical emergency or accident prevents the employee from testing, in which case credible documentation will be required that substantiates the reason for being absent from the testing. If in the sole discretion of the Superintendent or her/her designee(s) the employee is allowed to be tested at a later date, the above procedure will be repeated. In no case will an employee be allowed more than one (1) opportunity to be rescheduled for testing.

Employees who refuse to be tested or who do not appear for testing and do not have a documented credible reason for being absent from the testing time will be subject to disciplinary procedures and will cease to be considered a viable candidate for the current position and for any future position openings in this classification until the employee has signed a release for drug testing at the time of submitting any future applications for his classification.

The collection site personnel should notify the Superintendent or his/her designee(s) in the event an employee refused to test or does not show for testing.

In the event of positive test results, the MRO will contact the Superintendent or his/her designee(s) who will then review other records of the employee and work out proper disciplinary procedures, up to and including termination of employment, in accordance with state law and Board policy.

Return to Duty Testing

An employee who has been given the opportunity to undergo rehabilitation for drugs will, as a condition of returning to duty, be required to agree to a reasonable follow-up testing established by the Superintendent or his/her designee(s). The extent and duration of the follow-up testing will depend upon the safety or security nature of the employee's position and the nature and extent of the employee's substance abuse problem. The Superintendent or his designee(s) is to review the conditions of continued employment with the employee prior to the employee's returning to work. Any such condition for continued employment shall be given to the employee in writing. The Superintendent or his/her designee(s) may consult with the employee's rehabilitation program in determining an appropriate follow-up testing program. In no instance

shall such screening be ordered by the Superintendent or his/her designee(s) more than (1) time within a seventy-two (72) hour period.

Any employee subject to return to duty testing that has a confirmed positive drug test shall be violation of this policy. Violation of this policy shall constitute grounds for immediate termination in accordance with state law and Board policy.

Specific Testing Procedures for Return to Duty Testing

This testing will apply when an employee who has been given an opportunity for rehabilitation for drugs and/or alcohol is returned to duty. Prior to the employee coming back on the job, the employee must be examined by the MRO and a drug and/or alcohol test done which shows negative results. The Superintendent or his/her designee(s) may consult with the MRO and the rehabilitation program officials to determine an appropriate follow-up testing program following Board policy and prepare a follow-up program which will include, among other things, the appropriate period for testing as determined. This Agreement must be signed by the employee before the employee is allowed to return to the job.

All testing done as a result of the above conditions will be conducted in accordance with the procedures contained herein for drug testing.

In the event of positive test results, the MRO will contact the Superintendent or his/her designee(s) who will work out disciplinary procedures, up to and including termination of employment, in accordance with state law and Board policy.

REHABILITATION

The Summers County Board of Education recognizes that chemical dependency is an illness that may be successfully treated. While the Board encourages employees to seek rehabilitation for such illnesses, employees who are in violation of the provisions of the Substance Abuse and Tobacco Control Policy and/or the Drug-Free Workplace Policy shall be subject to disciplinary action, up to and including termination of employment.

1. It is the policy of the Board, where possible, in addition to appropriate personnel action, to refer for rehabilitation an employee with a self-admitted or detected drug or alcohol problem.
2. Employees seeking medical attention for chemical dependency shall be entitled to benefits according to the guidelines of the Public Employee Insurance Agency for those covered by PEIA.
3. For employees enrolled in a formal treatment/rehabilitation program, Summers County Schools may grant paid leave until the same is exhausted and then may grant leave without pay not to exceed one (1) year.
4. The cost of the drug rehabilitation or treatment provider shall be borne by the employer and/or the employee's insurance provider.

The Summers 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 one that occurs prior to any positive test for illegal drugs under this policy or prior to any other violation of this policy, the Substance Abuse and Tobacco Control Policy and/or the Drug Free Workplace 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; provided that the Board reserves the right to discipline employees who violate Board policies, up to and including termination of employment.

DISCIPLINARY ACTION

1. Employees in violation of the provisions of this policy shall be subject to discipline, up to and including termination of employment.
2. The fact that an employee has been referred for assistance and his/her willingness or ability to rehabilitate are appropriate considerations as to what, if any, disciplinary action may be taken.

CONFIDENTIALITY

Records that pertain to the Summers County Board of Education required substance screens are recognized to be private and sensitive records. They shall be maintained by the MRO in a secure fashion to insure confidentiality and privacy and be disclosed to the Superintendent or his his/her designee(s) only to the extent necessary to address any work-related safety risks occasioned by either drug or alcohol use. The Superintendent or his/her authorized designee(s) shall maintain any such records in a secure fashion to insure confidentiality and privacy. Medical records, and information relating directly thereto, shall be maintained in accordance with provisions of federal and state law and used with the highest regard for employee privacy consistent with law and the purpose of achieving and maintaining a drug-free workplace. All personnel records and information regarding referral, evaluation, substance screen results, and treatment shall be maintained in a confidential manner and no entries concerning such shall be placed in an employee's personnel file.

SEVERABILITY

If any provision of this policy or the application thereof to any person, category of persons, or other circumstance is held invalid, or if any position is deemed to be non-safety sensitive, such invalidity or determination shall not affect other provisions or applications of this rule.

GLOSSARY

Alcohol: Alcoholic beverages and any other intoxicating liquid which contains alcohol or any substance containing an intoxicating element.

“ATOD”: ATOD means Alcohol, Tobacco and Other Drugs, and refers to the use of all substances including, but not limited to, alcohol, tobacco, inhalants, marijuana, cocaine, LSD, PCP, amphetamines, heroin, steroids, look-alikes and/or any other of those substances commonly referred to as *designer drugs*.

Contractor: Any department, division, unit, or any person responsible for the performance of work under a contract.

Controlled Substance: A federally regulated substance listed in Schedules I through V of Section 202 of the Controlled Substance Act, 21 U.S.C. §812, and West Virginia Code Section 60A-1-201 *et seq.*, both of which may be amended from time to time, and which when taken into the body, may impair one's mental faculties and/or physical performance.

Conviction: A finding of guilty, including a plea of *nolo contendere*, or the imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.

Criminal Drug Statute: A criminal statute involving the manufacture, distribution, dispensation, use, or possession of any controlled substance.

Distribution: The sale, giving, transfer, delivery, trade or exchange in any manner of any ATOD.

Drug: Any substance that acts on the central nervous system to alter behavior(s) and/or thought processes.

Drug-Free Workplace: A worksite where work is performed in connection with the employee's employment with the Summers County Board of Education. The workplace shall include facilities, property, buildings, offices, structures, automobiles, trucks, trailers, other vehicles, and parking areas, whether owned or leased by the Board.

Employee: Any person who works full-time, part-time, or under contract, including management or temporary staff who are directly engaged in the performance of work pursuant to the mission of the Summers County Board of Education.

Federal Agency: An agency as that term is defined in Section 552(f) of Title IV, United States Code.

Grantee: Any department, division, unit, or any person responsible for the performance of work under the provisions of a federal grant.

Illegal Drug: Any drug which is not legally obtainable and is being used in a manner or for a purpose other than as prescribed.

Legal Drug: Prescribed drugs and over-the-counter drugs which have been legally obtained and are being used solely for the purpose for which they were manufactured or as prescribed by a physician.

Paraphernalia: Drug Paraphernalia as defined by West Virginia Code Section 47-19-3 and any item, thing or device used for the facilitation or administration of tobacco products or other illegal substances.

Possession: The presence of ATOD or paraphernalia, in any amount, on the person or body, or under the general direction or control, of an individual found in or upon any property owned, leased or operated by the Board of the West Virginia Department of Education, the West Virginia Board of Education, any other county board of education, or a Regional Education.

Safety-Sensitive Positions: Positions where a single mistake by an employee can create an immediate threat of serious harm to students, fellow employees, or the general public. Safety-sensitive positions requiring post-offer, pre-employment drug testing are: superintendent, assistant superintendent, central office administrator, principal, assistant principal, teacher, counselor, psychologist, occupational therapist, physical therapist, speech/language pathologist, nurse, aide, special education specialist, librarian, paraprofessional, autism mentor, Braille/sign language specialist, coach, school secretary, cook, cafeteria manager, custodian, plumber, mason, general maintenance employees, foreman, supervisor of maintenance, school bus driver, truck driver, mechanic, mechanic assistant, supervisor of transportation, any position involving contact with students, including extra-curricular or extra-duty positions, any substitute employee working in a safety-sensitive classification, any position which involves explosive, toxic or noxious chemicals or devices, any position which may involve the operation of a motor vehicle, any position which requires the employee to make critical decisions in emergency or crisis situation, and any other employee who directly supervises other employees.

School: Any property owned, leased or operated by the Board or the West Virginia Department of Education, the West Virginia Board of Education, any other county board of education, or a Regional Education Service Agency (“RESA”).

School staff: Those employees and other individuals employed full time, part time or on contract with any county board of education, RESA, the West Virginia Department of Education, or the West Virginia Board of Education.

Student: Anyone who is enrolled in public school or enrolled in an educational program on any property owned, leased or operated by the Board or the West Virginia Department of Education, the West Virginia Board of Education, any other county board of education, or a Regional Education Service Agency (“RESA”).

Tobacco product: Any items containing the leaves of cultivated tobacco plants in any form or amount, dried or processed. Products include, but are not limited to cigarettes, cigars, snuff, spit tobacco, smokeless tobacco, or pipe tobacco.

Use: Ingestion, injection, absorption or inhalation of an illegal substance or being under the influence of said substance.

Workday: All times when an employee is engaged in any work related activity which includes performance of business during a regularly scheduled work day, meal break, and/or any occasion having a connection with the Board of Education and/or the employee’s duties, and at all times the employee is on the job site.

SUMMERS COUNTY BOARD OF EDUCATION

DRUG-FREE WORKPLACE AND EMPLOYEE DRUG TESTING POLICY

Individuals who have received an offer of employment in a safety-sensitive position, as that term is herein defined, must report within forty-eight (48) hours of receiving this policy to a WV Drug testing laboratory of their choice to be tested for the following drugs:

- Screens with cutoff levels:
- Alcohol (20 mg4ml)
 - Amphetamines (1000 ng/mL)
 - Barbiturates (200 ng/mL)
 - Benzodiazepines (200 ng/mL)
 - Cannabinoids (50 ng/mL)
 - Cocaine (300 ng/mL)
 - Opiates (150 ng/mL)
 - Methadone (300 ng/mL)
 - Oxycodone (100 ng/mL)
 - PCP (25 ng/mL)
 - Proposyphene (300 ng/mL)

Failure to submit for drug testing within forty-eight (48) hours shall result in revocation of the offer of employment.

I request Email notification of actual results be sent to the following secure email address:
krodes@k12.wv.us

Signature of prospective employee:

Date and time:

*A copy of this signature page shall be provided to the prospective employee
The prospective employee is responsible for payment of drug test*

SUMMERS COUNTY BOARD OF EDUCATION

DRUG-FREE WORKPLACE VERIFICATION STATEMENT

Name: _____ **Social Security Number:** _____

Address: _____ **Telephone:** _____

Date employed by the Summers County Board of Education: _____

I, _____, certify that I have received a copy of the Summers County Board of Education Drug-Free Workplace Policy.

As an employee of the Summers County Board of Education, I agree to abide by the Drug-Free Workplace Policy which states that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance and or alcohol is prohibited in the workplace. Additionally, no employee shall report for work while under the influence of alcohol and/or an illegal drug.

The workplace shall be defined as a worksite where work is performed in connection with the employee's employment with the Summers County Board of Education. The workplace shall include facilities, property, buildings, offices, structures, automobiles, trucks, trailers, other vehicles, and parking areas, whether owned or leased by the Board.

The policy is applicable while employees are engaged in any work-related activity which includes performance of Board business during regularly scheduled work days, meal breaks, an/or occasions outside of the employee's regularly scheduled work hours having any connection with their job or the Board.

In addition, I understand that federal law and as a condition of employment, if I am convicted of any violation of a criminal drug offense in the workplace, I must report this conviction to my supervisor within five (5) days of the conviction.

Employee Signature

Witness

Date