

7.4874 DRUG-FREE AND ALCOHOL-FREE WORKPLACE

Legal References: 21 U.S.C. 812; 41 U.S.C. 701 et seq.; 21 C.F.R. 1300.01-.04 and 1308.11-1308.15; G.S. 20-138.2B; 90-89 to -94; 115C-36; *O'Connor v. Ortega*, 480 U.S. 709 (1987)

Cross References: 4.3600 Code of Student Conduct; 5.0250/7.4873 Prohibition of Alcoholic Beverages; 9.2300 Use of Facilities;

The Board of Directors recognizes that reducing drug and alcohol abuse in the workplace improves the safety, health and productivity of employees. It is the policy of the Board of Directors that a drug-free and alcohol-free workplace must be maintained. The Executive Director or his/her designee shall provide a copy of this policy to all employees at the time each employee is hired.

A. APPLICABILITY

This policy governs each employee before, during, and after school hours while the employee is on any property owned, leased, occupied or operated by the school; at any time during which the employee is acting in the course and scope of his/ her employment with the school; at any activity sponsored by the school; at any activity at which the school is represented, involved or participates; and at any time that the employee's violation of this policy has a direct and adverse effect upon his/her job performance.

B. PROHIBITED ACTIVITIES

The board prohibits its employees from engaging in the unlawful manufacture, sale, distribution, dispensing, possession or use of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, anabolic steroid, alcohol stimulants, synthetic cannabinoids, counterfeit substance or any other controlled substance as defined in:

1. Schedule I through VI of the North Carolina Controlled Substances Act, or
2. Schedule I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and further defined by regulation at 21 C.F.R. 1300.01 through 1300.04 and 21C.F.R.1308.11 through 1308.15.

Employees are prohibited from being under the influence of alcohol or impaired by the use of non-prescription drugs or prescription drugs at any time this policy is applicable.

C. ALCOHOL AND/OR DRUG ABUSE AS A PERSONAL PROBLEM

The Board of Directors recognizes that alcohol and other drug abuse can affect an employee's personal and family life, and can contribute to problems on the job. Without appropriate intervention an employee presents a problem not only to himself or herself but to his/her family and to the employer as well.

The Board has a strong commitment to assist any employee who voluntarily asks for help for drug or alcohol abuse. It is the employee's responsibility to seek help for such problems before they must be addressed at the workplace or otherwise become apparent as unsatisfactory job performance and/or work habits.

D. REASONABLE SUSPICION TO SEARCH

An employee may be subjected to a search of his/ her person or belongings or school property under the employee's control if there is reasonable suspicion that the employee is under the influence of alcohol or impaired by the use of non-prescription drugs or prescription drugs or is otherwise in violation this policy. In addition, an employee may be required to submit to a drug or alcohol test when there is reasonable suspicion the employee is impaired or otherwise in violation of this policy.

Reasonable suspicion shall be based on specific, contemporaneous observations concerning the physical, behavioral, speech, and/or performance indicators of drug or alcohol use as well as chronic situations (deteriorating job performance or changes in personal traits or characteristics in which the use of alcohol or drugs may be reasonably suspected). The observations must be made by a supervisor. All drug and alcohol testing will be done with procedures that ensure the confidentiality and privacy interests of the employee and in accordance with law. All drug and alcohol testing shall be conducted by an independent, certified laboratory approved by the board. All drug and alcohol assessments or testing shall be conducted to determine whether the employee is or has been under the influence of illegal drugs or alcohol or impaired by the use of prescription or nonprescription drugs at any time this policy is applicable. If the drug or alcohol assessment or test is positive, the employee may be subject to disciplinary action, including termination of employment.

Employees who refuse to submit, at the time the employee is directed to do so, to a search or a test to detect alcohol or drug use after reasonable suspicion is established may be terminated. An independent contractor or volunteer who refuses a drug or alcohol screening test may be removed from further services and duties to the school system.

Except as otherwise allowed by law, the board will pay for the cost of any required employee testing.

E. POST ACCIDENT TESTING

The superintendent or his/her designee, may in his/her discretion, require an alcohol and/or drug test to be performed following a workplace accident or injury.

F. DUTY TO REPORT

Any employee having reasonable grounds to believe that another employee is using, in possession of or under the influence of any illegal drug or alcohol or impaired by the use of prescription or non-prescription drugs during the scope of their employment or at any time this policy is applicable shall immediately report the facts and circumstances to a supervisor/principal or other administrator.

Any employee who has been convicted of violating any criminal drug statute must notify his/her supervisor in writing of such conviction occurring within the scope of Section A. of this policy. Notification must be given no later than the next scheduled business day after such conviction, in accordance with policy 7.4940, Employee Rights and Responsibilities. Within 10 days of receiving a notice of conviction by an employee whose position is funded in any part by a federal grant, the assistance superintendent for human resources or his/her designee shall notify the funding agency of the conviction. "Conviction" as used in this policy includes the entry in a court of law or military tribunal of: (1) a plea of guilty, *nolo contendere*, no contest or the equivalent; (2) a verdict or finding of guilty; or (3) a prayer for judgment continued ("PJC") or a deferred prosecution.

G. CONSEQUENCES

Violation of this policy will subject an individual to disciplinary action by the board up to and including non-renewal or termination of employment with the school system. In addition, violation of this policy may be reported to law enforcement.

In determining whether and to what extent an employee shall be disciplined for violation of this policy, the superintendent shall consider factors such as:

1. the degree to which the nature of the violation reduces the ability to maintain a safe working environment;
2. the degree to which the nature of the violation unreasonably endangers the safety of other employees and/or students;
3. the degree to which the violation unreasonably undermines public confidence in the operation of the school system;

4. the nature of the violation;
5. the nature of the employee's job with the school system;
6. the existence of any explanatory or mitigating facts or circumstances;
7. the employee's cooperation with the investigation of the policy violation; a
8. the degree to which the employee has and is actively engaged and enrolled in treatment and support for drug and/or alcohol abuse; and
9. any other facts relevant to the employee including, but not limited, years of service and record of performance with the school system.

In addition to disciplinary action or as an alternative, the Executive Director or his/her designee may choose, as a condition of the employee returning to duty, that the employee who violates the terms of this policy, participate satisfactorily in drug or alcohol abuse assistance or rehabilitation at the employee's expense. Information concerning available counseling, rehabilitation, and re-entry programs will be provided to employees.

An employee who has been given the opportunity to undergo rehabilitation for alcohol or drug abuse may, as a condition of returning to duty, be required to submit to reasonable follow-up testing as designated by the Executive Director or his/her designee. The extent and duration of the follow-up testing shall depend upon, among other things, the safety or security nature of the employee's position and the nature and extent of the employee's substance abuse problem. The Executive Director or his/her designee shall review the conditions of continued employment with the employee prior to his/her return to work. Any employee subject to return to duty testing who has a confirmed positive drug test shall be in violation of this policy which constitutes grounds for discipline up to and including termination.

If the employee fails to satisfactorily participate in such a program the employee may be further disciplined by the board up to and including non-renewal or termination.

FALLS LAKE ACADEMY BOARD OF DIRECTORS
CERTIFICATION STATEMENT
POLICY ON A DRUG-FREE AND ALCHOL-FREE WORKPLACE
POLICY 7.4874

I certify that I understand the Falls Lake Academy Board of Directors Policy 7.4874 Drug-Free and Alcohol Free Workplace and agree to submit to and abide by the terms of that policy during my employment with Falls Lake Academy.

Employee's Printed Name

Employee's Signature

Date