



SCHOOL DISTRICT OF PALM BEACH COUNTY
POLICY STATEMENT AND NOTICE
TO EMPLOYEES, APPLICANTS, AND VOLUNTEERS
IMPLEMENTATION OF A
DRUG - AND ALCOHOL- FREE WORKPLACE PROGRAM

Date of Notice: May 31, 2005

Date of Implementation: August 1, 2005

Authority: FLA. STAT. § 440.102(3) and Board Policy 3.96

1. **Notice.** This policy statement is being provided to employees, volunteers, and job applicants (who have been offered employment conditioned upon successfully passing a drug/alcohol test) as a notice prior to implementation of the District's Drug- and Alcohol-Free Workplace Program under [School Board Policy 3.96](#) and Florida Statutes § 440.102 ("Drug-free Workplace Program Requirements," in the Workers Compensation chapter of state law). In the Policy and in this notice, the term "drug" includes alcohol and medical marijuana.

2. **General Policy.** The manufacture, distribution, dispensation, possession, or use of controlled substances (including the possession, sale, purchase, or consumption of alcohol), is prohibited: a) on School District of Palm Beach County premises; b) while conducting School District business; c) while operating School District vehicles, machinery, or equipment; or d) as a part of any of a school's activities or the School District's activities or programs. No employee or volunteer shall report for duty or remain on duty while under the influence of, or impaired by, any controlled substance. No employee or volunteer involved in an on-the-job vehicular or other work-related accident shall use alcohol for eight (8) hours following the accident, or until after undergoing a post-accident alcohol test, whichever occurs first. Additionally, off-the-job use or involvement with illegal drugs, alcohol, or other controlled substances may subject an employee to disciplinary action under applicable Board Policies such as 3.12 and 3.13; applicable State Board of Education Rules such as F.A.C. r. 6B-4.009(2), (5); and the applicable collective-bargaining agreement, if any.

3. **Testing Program.** The District will not conduct random testing of employees (except for those employees subject to a separate Policy 3.961 for safety-sensitive and driver positions). To promote a drug-free workplace, the District will require the following kinds of tests under Policy 3.96: Job applicant testing/pre-employment screening (and preservice testing of volunteers may also be required as stated below); Reasonable-suspicion testing; Post-accident reasonable-suspicion testing (following an on-the-job accident); Fitness-for-duty testing; and Follow-up testing. Features of these kinds of testing are summarized below:

a. **Pre-Employment/Pre-Service Screening.** Pre-employment screening will be required of all applicants before employment with the District. Any applicant who tests positive in the pre-employment screening for a drug as defined in this Policy will not be hired, and will not be eligible to re-apply for employment with the District for one year following the confirmed positive test. Similarly, a person applying to be a volunteer may be subject to pre-service screening in some cases, such as based upon whether the volunteer applicant has a known history of substance/alcohol abuse or other drug-related problems.

b. **Reasonable Suspicion.** All employees/applicants/volunteers who are determined to be under a reasonable suspicion of drug use are required to take a drug test. Reasonable suspicion will be determined by a supervisor at least one level above the employee to be tested. The circumstances supporting that determination will be drawn from specific objective and articulable facts that must be documented in writing. Reasonable suspicion may include, but is not necessarily limited to, examples such as the following: observable phenomena while at work, such as observation of drug use or of the physical symptoms of being under the influence; abnormal conduct or erratic behavior or a significant deterioration in work performance; evidence that an individual has tampered with a drug test; information that the individual has caused, or

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contributed to, an accident while at work; or evidence that the employee/applicant/volunteer has used, possessed, sold, solicited, or transferred drugs on work premises or while operating District vehicles, machinery, or equipment.

c. *Post-Accident Reasonable-Suspicion.* Post-accident reasonable-suspicion testing will be done as soon as possible on all employees/applicants/volunteers who are involved as a driver in any vehicular accident while performing their duties: i) on a surviving employee/applicant/volunteer when an accident results in loss of human life; ii) when an employee/applicant/volunteer receives a citation for a moving violation(s) and one or more of the vehicles involved in the accident is towed from the scene of the accident; or iii) when an employee/applicant/volunteer receives a citation for a moving violation(s) and one or more persons involved in the accident received medical treatment away from the scene of the accident.

d. *Fitness for Duty.* Employees/volunteers who are subject to a fitness-for-duty medical examination may be required to take a drug test as part of their medical examination.

e. *Follow-up Testing.* Employees who have successfully completed an employee assistance program or substance rehabilitation program and return to duty must submit to unannounced drug testing at least once a year for a two-year (2-year) period after completion of the program.

4. Confidentiality. All aspects of the substance testing process will be kept confidential to the extent allowed by law. In general, all information, reports, statements, memoranda, and drug test results, written or otherwise, received by the District through a drug testing program are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with FLA. STAT. § 440.102, Fla. Admin. Code r. 59A-24.008, and Policy 3.96.

5. Consequences of Refusing to Submit to a Drug Test. No employee, applicant, or volunteer shall refuse to submit to any test required by Policy 3.96. Refusal to submit to a test will be treated as a positive test result. Failure to complete and sign testing form(s), to provide an adequate specimen, or otherwise to cooperate with the testing process in a way that prevents the completion of the test will be considered a refusal to test and will be deemed a positive test result. Any attempt to adulterate a specimen or provide a specimen that is adulterated will also be considered a refusal to test and will be deemed a positive test result. Any obstruction to, and lack of cooperation with, the testing process will be considered a refusal to test and deemed a positive test result. Failure or refusal to be available for testing may be deemed a refusal to submit to testing. As stated in Fla. Stat. § 440.101(2), "it is a condition of employment for an employee to refrain from reporting to work or working with the presence of drugs or alcohol in his or her body and, if an injured employee refuses to submit to a test for drugs or alcohol, the employee forfeits eligibility for medical and indemnity [workers compensation] benefits."

6. Consequences of a Positive Test. An initial test or "screen" for alcohol is an analytical procedure to determine whether an employee, applicant, or volunteer may have a prohibited concentration of alcohol in his/her system. A positive test result will require the employee's or volunteer's immediate removal from duty; no employee or volunteer shall perform duties after testing positive until the terms specified in Policy 3.96 have been satisfied. [\[1\]](#)

When appropriate, the School Board will require employees with workplace substance violations to satisfactorily participate in an approved employee assistance program (EAP) or rehabilitation program. Employees will not be discharged, disciplined, discriminated against, or requested or required to undergo rehabilitation, on the sole basis of a positive test result that has not been verified by a confirmation test.

A confirmation test (a second analytical procedure to confirm the presence of a specified drug or metabolite in a specimen through a different technique than the screen; or a second test that provides specific quantitative data for alcohol following a screening test with a result of four one-hundredths BAL (0.04) or greater) is used to confirm an initial positive test. If an employee has a confirmed-positive test result for an alcohol level exceeding 0.04 or for an unlawful controlled substance, the employee will be subject to disciplinary action up to and including termination of employment, consistent with the applicable collective bargaining agreement, if any. Applicants with

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such results will not be hired (and cannot re-apply for one year); and volunteers with such results will not be allowed to perform further volunteer functions.

Pursuant to Fla. Stat. § 440.101(2), “if a drug or alcohol is found to be present in the employee's system at a level prescribed by rule adopted pursuant to this act, the employee may be terminated and forfeits his or her eligibility for medical and indemnity [workers compensation] benefits” consistent with Fla. Stat. §§ 440.102(12) and 440.102(5)(p).

7. Effect of Common Medications. Because an initial positive test result does not automatically identify an employee/applicant/volunteer as having used drugs in violation of Policy 3.96, providing the MRO with detailed knowledge of possible alternative explanations is important to the review of results and is the responsibility of the employee/applicant/volunteer. The most common drugs and medications which may alter or affect a drug test are listed in Appendix A to this notice, based on Fla. Admin. Code r. 59A-24.005(2)(g) of Florida’s Agency for Healthcare Administration. ^[2]

8. Reporting Medications to the MRO. Employees, job applicants, and volunteers may confidentially report to the medical review officer (MRO) their use of prescription or nonprescription medications both, before or after being tested in order to make the MRO aware of conditions that could alter or affect the test. (An MRO is a licensed physician qualified under Fla. Admin. Code r. 59A-24.008 to evaluate a test result, together with the medical history or any other biomedical information, and to make the final determination of the test results.) Moreover, employees/applicants/volunteers have the right to consult with an MRO for technical information regarding prescription or nonprescription medication.

9. Drugs Tested. The District may test for any of the following drugs: alcohol, including a distilled spirit, wine, a malt beverage, or an intoxicating liquor; amphetamines; cannabinoids; cocaine; phencyclidine (PCP); hallucinogens; methaqualone; opiates or narcotics; barbiturates; benzodiazepine; synthetic narcotics; designer drugs; or a metabolite of any of these substances. More details on some of these substances are included in Appendix B to this notice. For a list of drug testing location(s), please refer to District job offer letter or contact the Risk & Benefits Management Department at (561) 434-8414.

10. Response to a Positive Confirmed Test. An employee, job applicant, or volunteer whose test result is confirmed positive may contest or explain the result to the medical review officer (MRO) within five (5) working days after receiving written notification of the test result. If the employee's/applicant's/volunteer's explanation or challenge is unsatisfactory to the MRO, the MRO will report a positive test result to the School District. The employee/applicant/volunteer may then contest the test result pursuant to law or to rules adopted by the Agency for Health Care Administration.

11. Employee Assistance and Drug Rehabilitation Programs. The District’s Employee Assistance Program (EAP) is administered by HealthAdvocate EAP. This is a benefit for employees, approved and paid for by the School Board. It provides counseling services at no charge and is confidential, voluntary, and provided by licensed professionals. Employees remain eligible for this service for ninety days after termination of employment. The EAP can provide expert assessment of employee personal concerns; confidential and timely identification services for substance abuse; referrals of employees for appropriate diagnosis, treatment, and assistance; and follow-up services for employees who participate in the program or require monitoring after returning to work. The EAP (HealthAdvocate) has a toll-free, 24-hour, 7 days a week, live-answered telephone line (855) 424-8400.

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Local drug rehabilitation programs are available to provide confidential, timely, and expert identification, assessment, and resolution of employee drug abuse through the EAP. The following is a representative sampling of local substance rehabilitation programs:

Addiction Solutions of Florida
705 Bond Way
Delray Beach, FL 33483
(800) 476-1801

The Haven Detox
1325 Haverhill Road
West Palm Beach, FL 33417
(561) 328-8627

The Palm Beach Institute
314 10th Street
West Palm Beach, FL 33401
(561) 475-4613

The Treatment Center of The Palm Beaches
4905 Lantana Road
Lake Worth, FL 33463
(888) 991-4395

12. Notification if Action is Brought. Employees, applicants, and volunteers have a responsibility to notify the laboratory of any administrative or civil action brought pursuant to this section.

13. Collective Bargaining and Appeal Rights. Policy 3.96 will apply in conjunction with applicable collective bargaining agreements, and applicable employees have the right to appeal to the Public Employees Relations Commission or applicable court.

14. Further Information. Employees, applicants, and volunteers are encouraged to read and be familiar with Policy 3.96, available online at www.palmbeachschools.org. Any questions about the Policy should be directed to the District's Department of Professional Standards.

APPENDIX A

PRESCRIPTION OR NONPRESCRIPTION MEDICATIONS/DRUGS WHICH COULD ALTER OR AFFECT THE OUTCOME OF A DRUG TEST

The following list contains the most common drugs (prescription or nonprescription medications) by brand name, common name, or chemical name which may alter or affect the outcome of a drug test. (The term "prescription or nonprescription medication" means a drug or medication obtained pursuant to a prescription or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.) All or some of these drugs may be tested for under the District's drug testing policy. The Agency for Health Care Administration's list of common drugs/medications^[3] are:

Alcohol Analysis

Drugs that may affect: All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vick's Nyquil is 25% (50 proof) ethyl alcohol; Comtrex is 20% (40 proof); Contac Severe Cold Formula Night Strength is 25% (50 proof); and Listerine is 26.9% (54 proof).

Amphetamines Analysis

Drugs that may affect: Obetrol, Biphedamine, Desoxyn, Dexedrine, Didrex.

Cannabinoids Analysis

Drugs that may affect: Marinol (Dronabinol, THC)

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Cocaine Analysis

Drugs that may affect: Cocaine HCl topical solution (Roxanne)

Phencyclidine Analysis

Drugs that may affect: Not legal by prescription

Methaqualone Analysis

Drugs that may affect: Not legal by prescription

Opiates Analysis

Drugs that may affect: Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, etc.

Barbiturates Analysis

Drugs that may affect: Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Florinal, Floricet, Esgic, Butisol, Mebaral, Butabital, Butabarbital, Phrenilin, Trian, etc.

Benzodiazepines Analysis

Drugs that may affect: Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax, etc.

Methadone Analysis

Drugs that may affect: Dolophine, Methadose

Propoxphene Analysis

Drugs that may affect: Darvocet, Darvon N, Dolene, etc.

APPENDIX B

DRUGS FOR WHICH THE DISTRICT MAY TEST

As noted in the above policy statement, the District may test for any of the following drugs: alcohol, including a distilled spirit, wine, a malt beverage, or an intoxicating liquor; amphetamines; cannabinoids; cocaine; phencyclidine (PCP); hallucinogens; methaqualone; opiates or narcotics; barbiturates; benzodiazepines; synthetic narcotics; designer drugs; or a metabolite of any of these substances.

More detail on some of these tests is provided below, based on Rule 59A-24.006(4) of the Agency for Health Care Administration (subject to change if the Rule is revised):

A. Initial Test. Levels on initially screened urine specimens which are equal to or exceed the following will be considered presumptively positive and should be submitted for confirmation testing (subject to change if Fla. Admin. Code r. 59A-24.006 is revised):

Alcohol	0.04 g/dL
Amphetamines	1,000 ng/mL
Cannabinoids (11-nor-Delta-9- tetrahydrocannabinol-9carboxylic acid)	50 ng/mL
Cocaine (benzoylecgonine)	300 ng/mL

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Phencyclidine	25 ng/mL
Methaqualone	300 ng/mL
Opiates	2,000 ng/mL
Barbiturates	300 ng/mL
Benzodiazepines	300 ng/mL
Methadone	300 ng/mL
Propoxyphene	300 ng/mL

1. Levels which exceed the following for hair specimens will be considered presumptively positive on initial screening and submitted for confirmation testing (subject to change if Fla. Admin. Code r. 59A-24.006 is revised):

Marijuana	10 pg/10 mg of hair
Cocaine	5 ng/10 mg of hair
Opiate/synthetic narcotics and metabolites	5 ng/10 mg of hair
Phencyclidine	3 ng/10 mg of hair
Amphetamines	5 ng/10 mg of hair

B. Confirmation Test. All specimens identified as presumptively positive on the initial test will be confirmed by quantitative analysis.

1. Levels on confirmation testing for urine specimens which are equal to or exceed the following will be reported as positive (subject to change if Fla. Admin. Code r. 59A-24.006 is revised):

Amphetamines (amphetamine, methamphetamine)	500 ng/mL
Cannabinoids (11-nor-Delta-9-tetrahydrocannabinol-9-carboxylic acid)	15 ng/mL
Cocaine (benzoylecgonine)	150 ng/mL
Phencyclidine	25 ng/mL
Methaqualone	150 ng/mL
Opiates	
Codeine	2000 ng/mL
Morphine	2000 ng/mL
6-Acetylmorphine ²	10 ng/mL
Barbiturates	150 ng/mL
Benzodiazepines	150 ng/mL
Methadone	150 ng/mL
Propoxyphene	150 ng/mL

2. Levels for hair specimens on confirmation testing which are equal to or exceed the following will be reported as positive (subject to change if Fla. Admin. Code r. 59A-24.006 is revised):

Marijuana Metabolites	1 pg/10 mg of hair
Cocaine	5 ng/10 mg of hair
Opiate/synthetic narcotics and metabolites	5 ng/10 mg of hair
Phencyclidine	3 ng/10 mg of hair
Amphetamines	5 ng/10 mg of hair

[1]. From the time the test is confirmed positive, the employee's non-duty status will be unpaid; but the employee will be given the option of using any accumulated annual or sick leave credits before the leave is ordered to be without pay [unless the employee is incarcerated, in which case annual or sick leave is not an option], and the District will restore the leave hours taken (or the unpaid wages if leave hours were not used) if an appeal under section 10 of Policy 3.96 shows the confirmed positive test was due to another reason such as prescription or nonprescription medication lawfully taken.

[2]. The list is also available online at:

http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Laboratory_Licensure/docs/over_counter_drugs_affecting_dfw.pdf.

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[\[3\]](#). Several of the above drugs have nicknames and trade names other than what is mentioned. If you are in doubt about a drug, please ask a medical professional.