

**STUDENT RANDOM DRUG TESTING POLICY FOR STUDENTS INVOLVED IN THE SIMULATED
WORKPLACE AND “OPT-IN PARTICIPANTS”**

The Barbour County Schools Board of Education, in an effort to protect the health and safety of its Simulated Workplace students from illegal and/or performance-enhancing drug use and abuse, thereby setting an example for all other students of the County Schools, proposes to adopt the following policy for drug testing of activity students.

Statement of Purpose and Intent

Although the Board of Education, administration, and staff desire that every student in the District refrain from using or possessing illegal drugs, school officials realize that their power to restrict the possession or use of illegal and performance-enhancing drugs is limited. Therefore, this policy governs only performance-enhancing and illegal drug use by students participating in those participating in the Simulated Workplace, those who are “Opt-in participants”, and those whose parent or guardian elects to include the student in the random student drug testing selection process. The sanctions imposed for violations of this policy, could include, but are not limited to, limiting the opportunity of any student determined to be in violation of this policy to a student's privilege to participate in interscholastic extra-curricular activities, drive to school, and to participation in the Simulated Workplace. This policy supplements and complements all other policies, rules, and regulations of the District regarding possession or use of illegal drugs.

Participation in the Simulated Workplace is a privilege. Students participating in the Simulated Workplace have a responsibility for the safe operation of equipment and machinery in the CTE setting.

The purposes of this policy are six (6) fold:

- A. to educate students on the serious physical, mental, and emotional harm caused by illegal drug use;
- 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 offer them the privilege of competition as an incentive to stop using such substances;
- C. to ensure that students adhere to a training 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 using illegal and performing-enhancing drugs;
- E. to offer students competitions and school activities free of the effects of illegal and performance-enhancing drug use;
- F. to assure the safe operation of student-driven vehicles on campus.

Illegal and performance-enhancing drug use of any kind is not compatible with the physical, mental, and emotional demands placed upon participants in the Simulated Workplace, and/or those who voluntarily choose to participate, the Board has adopted this policy for use by all participants in the Simulated Workplace, and/or those who voluntarily choose to participate in the drug testing will begin with grades 9-12 during the 2013-2014 school year.

The administration shall adopt necessary regulations to implement this policy.

Definitions

- A. "Activity student" as related to this policy means a student of any District high school who is participating in the Simulated Workplace.
- B. "Simulated Workplace student" means a student of any District high school who is a member of any CTE class program participating in the West Virginia Department of Education pilot program.

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- C. "Drug use test" means a scientifically substantiated method to test for the presence of illegal or performance-enhancing drugs or the metabolites thereof in a person's urine sample (also referred to as "specimen").
- D. "Illegal drugs" means any substance which an individual may not sell, possess, use, distribute, or purchase under either Federal or West Virginia law. "Illegal drugs" includes, but is not limited to, all scheduled drugs as defined by the West Virginia Uniform Controlled Substances Act, all prescription drugs obtained without authorization, and all prescribed and over-the-counter drugs being used for an abusive purpose. "Illegal drugs" shall also include alcohol.
- E. "Opt-in participant" means any student, less than eighteen (18) years of age in grades 9-12 beginning during the 2013-2014 school year whose parent or guardian elects to include the student in the random selection for drug testing. A student may become an opt-in participant at any time during the school year. Students 18 years of age and over not included in Definitions A and C are considered emancipated and can opt-in at their discretion with the understanding they could be treated as an adult if their violation(s) of the policy merit such consideration. For any student choosing to be an "Opt-In Participant" all costs related to the drug testing will be at the expense of the student/parent/legal guardian, no costs will be attributed to Barbour County Schools.

For any student in grades 9-12 placed in the Alternative Learning Center (ALC) related to drug involvement, the student if 18 years of age or the family of that student will have the right to have their child involved in (Opt-in) this random drug testing policy. All costs related to the drug testing for a student at the ALC will be at the expense of the student/parent/legal guardian, no costs will be attributed to Barbour County Schools.

- F. "Participating student" means all students included in the random testing pool. The testing pool is to be maintained by programmatic level and consequences remain in effect for the programmatic level, meaning that consequences are carried over year to year for the time the students are in the high school grades or unless they are removed from the testing pool.
- G. "Performance-enhancing drugs" include anabolic steroids and any other natural or synthetic substance used to increase muscle mass, strength, endurance, speed, or other athletic ability. The term "performance-enhancing drugs" does not include dietary or nutritional supplements such as vitamins, minerals, and proteins which can be lawfully purchased over-the-counter.
- H. "Positive" when referring to a drug use test administered under this policy means a toxicological test result which is considered to demonstrate the presence of an illegal or a performance-enhancing drug or the metabolites thereof using the standards customarily established by the testing service administering the drug use test.
- I. "Random selection basis" means a mechanism for selecting participating students for drug testing that:
 - 1. results in an equal probability that any participating student from the total pool of activity students including (those in the Simulated Workplace), , and opt-in participants subject to the selection mechanism will be selected; and
 - 2. does not give the School District discretion to waive the selection of any participating student selected under the random selection mechanism.

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- J. "Reasonable suspicion" means a suspicion of illegal or performance-enhancing drug use based on specific observations made by administrators/sponsors of the appearance, speech, or behavior of a participating student; the reasonable inferences that are drawn from those observations; and/or information of illegal or performance-enhancing drug use by a participating student supplied to school officials by other staff members.

Implementation Guidelines

A. Consent Forms

At the beginning of each school year each activity student including (those in the Simulated Workplace), and opt-in participants shall be provided with a copy of the "Student Drug Testing Consent Form" which shall be read, signed, and dated by the student, parent, or custodial guardian and sponsor/instructor before such student shall be eligible to participate in the Simulated Workplace. Once the random drug testing policy is fully implemented students participating in the Simulated Workplace must submit a fully completed "Student Drug Testing Consent Form" to the school by August of the school year to remain eligible to participate as an activity student. The opt-in participant and parent or custodial guardian shall also consent to read and sign a consent form. This consent requires the activity student (Simulated Workplace student), and opt-in participant to provide a urine (split sample) as follows:

1. when the activity student(Simulated Workplace student), or opt-in participant is selected by the random selection basis to provide a urine (split sample); and
2. at any time when there is reasonable suspicion to test for illegal or performance-enhancing drugs.

No student shall be allowed to participate in the Simulated Workplace or Opt-in participant program unless the student has returned the properly signed "Student Drug Testing Consent Form."

B. Orientation Session

Prior to the commencement of drug testing each year, an orientation session shall be held with each activity student (Simulated Workplace student) and opt-in participant to educate them of the sample collection process, privacy arrangements, drug testing procedures, and other information which may help to reassure the students and help avoid embarrassment or uncomfortable feelings about the drug testing process. A mandatory training session will be held annually for principals, instructors, and sponsors to review this policy.

The orientation session will also be conducted at the beginning of the second semester for students who, at that time, want to become participating students. Their parents/guardians must also attend this orientation session.

C. Distribution of this Policy

Each activity student, (Simulated Workplace student), opt-in participant, and parent/guardian shall receive a copy of the Student Drug Testing Policy. The principal, head coach, instructor or sponsor shall be responsible for explaining the policy to all prospective students, and for preparing an educational presentation to acquaint the student with the harmful consequences of drug and alcohol use and abuse.

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D. Random Sample

Drug use testing for participating students shall be done quarterly on a random selection basis from a list of all participating students in the Simulated Workplace or an opt-in participant. The District shall select a minimum of four percent (4%) of all participating students' names to be drawn at random to provide urine (split sample) for drug use testing for illegal drugs or performance-enhancing drugs. Testing shall be done four times a year on a random basis. Testing for performance-enhancing drugs shall be done on a random basis.

E. Reasonable Suspicion Sample

In addition to the drug tests required above, any activity student, Simulated Workplace student or opt-in participant may be required at any time to submit to a test for illegal or performance-enhancing drugs, or the metabolites thereof when an administrator, instructor or sponsor has reasonable suspicion of illegal or performance-enhancing drug use by that particular student.

F. Drug Testing Service

Any drug use test shall be administered by or at the direction of a drug testing service chosen by the Board. The drug testing service shall be required to use scientifically validated toxicological testing methods, have detailed written specifications to assure chain of custody of the specimens, and proper drug testing service control and scientific testing. The drug testing service shall provide all collection containers used in the drug testing process.

G. Privacy

All aspects of the drug use testing program, including the taking of specimens, shall be conducted so as to safeguard the personal and privacy rights of the student to the maximum degree possible.

H. Obtaining Samples

The test specimen shall be obtained in a manner designed to minimize intrusiveness of the procedure. In particular, the specimen shall be collected in a facility behind a closed door. The drug testing service shall provide a certified/trained employee to collect the samples subject to drug testing. This individual will also monitor the collection of samples. If deemed necessary, the representative of the drug testing service may request that the school administrator provide personnel to assist with monitoring as samples are collected.

Any eligible student selected randomly for drug testing who is not in school on the day of testing will be tested at the next available testing time. Students not able to provide an adequate urine specimen (split sample) at testing time will be unable to participate or park until proper specimen is provided.

1. 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.

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2. List of Medications Taken

In the event of a positive test result, the Medical Review Officer (MRO) or certified/trained employee of the employed testing service of the drug testing service shall contact the parent/guardian of the student and be provided with an opportunity to provide documentation of medications legally prescribed for the student. Based on the documentation provided by the parent, the MRO or certified/trained employee of the employed testing service will determine the status of the test result. The communication between the parent/guardian and the MRO or certified/trained employee of the employed testing service regarding medications prescribed to the student will be strictly confidential and not shared with school personnel.

NOTE: School personnel may be aware of medication prescribed to students due to information provided on school emergency cards and WVSSAC Athletic Participation Forms.

I. Positive Tests

In the event of a positive test result, the parent/guardian may challenge the positive test result. The procedure would consist of a second test of the same specimen and would be conducted at the parent/guardian's expense. All records shall be confidential within the scope of the Simulated Workplace project and as related to “Opt-in participants”. All records will be maintained in accordance with accepted professional standards. Release of any records to parties outside the scope of the Simulated Workplace project and of those related to “Opt-in participants” shall require proper written authorization for the release of such records by the provider of urine sample. This exclusion to related records shall not pertain to law enforcement in the discharge of their legal duties.

Confidentiality

A. Notification by Drug Testing Service

The drug testing service shall notify the Superintendent or designee of any positive test.

B. Notification to Student, Principal, Sponsor, and His/Her Parent/Guardian

In order to keep the positive test results confidential, the Superintendent or designee shall provide written notification only to:

1. For Activity/Simulated Workplace Students

the student, the principal, sponsor/instructor, and the parent or custodial guardian of the student.

2. For the Opt-in Participants

the student and the parent or custodial guardian of the student.

The principal or designee shall schedule a conference with the student and parent or guardian and explain the student's opportunity to submit additional information to the principal or designee or to the lab. The District will rely on the opinion of the drug testing service which performed the test in determining whether the positive test result was

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produced by something other than consumption of an illegal or performance-enhancing drug.

C. Record of Test Results

Test results shall be kept in the files separate from the student's other educational records, shall be disclosed only to those school personnel who have a need to know, and shall not be turned over to any law enforcement authorities unless the law enforcement authority presents a valid court subpoena, search warrant, or signed consent from the parent, guardian, or student. Records of positive test results maintained at the school shall be destroyed upon the student's graduation from high school.

Appeal

Procedure for Appeal

A participating student who has been determined by the principal MRO) or certified/trained employee of the employed testing service to be in violation of this policy shall have the right to appeal the decision to the Superintendent or his/her designee(s). Such a request for a review must be submitted to the Superintendent in writing within five (5) working days of notice of the positive test. A student requesting a review shall remain eligible to participate in the Simulated Workplace until the review is completed. The Superintendent or his/her designee(s) shall then determine whether the original finding was justified. No further review of the Superintendent's decision shall be provided and his/her decision shall be conclusive in all respects. Any necessary interpretation or application of this policy shall be in the sole and exclusive judgment and discretion of the Superintendent which shall be final and non-appealable.

Consequences

A. Restrictions on Activity/Simulated Workplace Students

Any activity student who tests positive in a drug test under this policy shall be subject to the following restrictions, which shall be cumulative throughout each programmatic level:

1. First Offense

After the parent/guardian has been notified of a positive result by the Medical Review Officer or certified/trained employee of the employed testing service, a meeting shall then be set up with the student, parent/guardian, and principal concerning the positive drug test. In order to continue participation in the activity the student and parent/guardian must, within five (5) school days of the joint meeting, show written proof that the student has been referred to a Counseling Center. Proof must be provided that the student is receiving counseling from a qualified drug treatment program or counseling entity. Additionally, the student must voluntarily submit to a second drug test to be administered within two (2) weeks in accordance with the testing provisions of this policy. The parent/guardian shall be responsible for the cost of this drug test.

If the parent/guardian and student agree to these provisions, the student may continue to participate in the activity. Should the parent/student not agree to these provisions, the consequences listed in this policy for the second offense for activity students shall be imposed.

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2. Second Offense

Suspension from participation in all activities covered under this policy for fourteen (14) calendar days, and successful completion of four (4) hours of substance abuse education/counseling. The student shall not participate in any meetings or competitions during this period. The student shall be tested monthly for the remainder of the school year. The time and date will be unknown to the student and determined by the principal or designee.

- a. These restrictions and requirements shall begin immediately, consecutive in nature, unless a review appeal is filed following receipt of a positive test.
- b. Should the parent/student not agree to these provisions, the consequences listed in this policy for the third offense for activity students shall be imposed.
- c. Provided, however, a student who on his/her own volition informs (self-refers) the principal, sponsor/instructor of usage before being notified to submit to a drug test will be allowed to remain active in all activities covered under this policy. Such student shall, however, be considered to have committed his/her first offense under the policy, and shall be required to re-test as would a student who has tested positive.
- d. Additionally, the student will not be eligible for any interscholastic activity honors or awards given by the school and/or county.

3. Third Offense and Each Offense Thereafter

Complete suspension from participation in all extra-curricular activities including all meetings, practices, performances, and competition for one (1) calendar year.

B. Restrictions on Driving Students

Any driving student who tests positive in a drug test under this policy shall be subject to the following restrictions, which shall be cumulative throughout each programmatic level:

1. First Offense

After the parent/guardian has been notified of a positive result by the Medical Review Officer or certified/trained employee of the employed testing service a meeting shall then be set up with the student, parent/guardian, and principal concerning the positive drug test. Driving privileges for any student in the Simulated Workplace or Opt-in participant shall be immediately suspended until the parent or guardian submits proof that the student has been referred to a Counseling Center. Proof must be provided that the student is receiving drug counseling from a qualified drug treatment program or counseling entity. Additionally, the student must voluntarily submit to a second drug test to be administered within two (2) weeks in accordance with the testing provisions in this policy. The parent/guardian shall be responsible for the costs of this drug test.

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- a. If the parent/guardian and student agree to these provisions, the student may resume driving to school upon proof of participation in drug counseling as specified.
- b. Should the parent/student not agree to these provisions, the consequences listed in this policy for the second offense for driving students shall be imposed.

2. Second Offense

All privileges for any student in the Simulated Workplace or Opt-in participant to drive and/or park at school shall be revoked for a minimum of ninety (90) school days. Reinstatement of these privileges, after ninety (90) days or more, shall require the student to submit to another drug test performed under the procedures stated in this policy with a negative result at the student's expense.

3. Third Offense

All privileges for any student in the Simulated Workplace or Opt-in participant to drive and/or park at school shall be revoked for one (1) calendar year.

C. Restrictions for Opt-in Participants

The parent/guardian and student shall be contacted immediately and a private conference shall be scheduled to present the positive test results. Driving privileges will be covered as above in B-1-2 and 3.

- D. A violation of this policy is NOT a violation of the Student Code of Conduct Policy. Any participating student who tests positive in a drug test under this policy shall, as a result thereof, be subject only to the restrictions described under this section labeled Consequences; notwithstanding any provision of the Student Code of Conduct Policy. When School District employees charged with the administration of this drug testing policy are made aware of drug use by an activity student (Simulated Workplace student) or opt-in participant, solely as a result of drug testing under this policy, that activity student (Simulated Workplace student) or opt-in participant shall NOT be disciplined under the Student Code of Conduct Policy or of their drug use so discovered.

Refusal to Submit to Drug Use Test

Ineligibility to Participate or Drive and Park at School

A participating student who refuses to submit to a drug test authorized under this policy shall not be eligible to participate in any activities covered under this policy including all meetings, practices, performances, CTE classes and competitions or drive and park on school property for the remainder of the school year. Additionally, such student shall not be considered for any interscholastic activity honors or awards given by the school and/or county.

Important Note on Consequences

Notwithstanding, any student who violates the *Student Code of Conduct Policy* and West Virginia law by the illegal use of medications or drugs of any kind while on school grounds, or is under the influence of medications or illegal drugs on school grounds, the student is subject to disciplinary action as outlined in the *Student Code of Conduct Policy*, up to and including expulsion.

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Advisory Council

In order to monitor policy effectiveness, the Superintendent shall appoint an advisory council to review the local data and make recommendations to the Board regarding policy effectiveness. This advisory council shall include but not be limited to a school counselor from the high school, a school nurse, and a community agency representative involved professionally with drug use prevention and treatment programs.

Postscript

The Board and all of its employees are committed to cooperating with parents/guardians in an effort to help students avoid illegal drug use. The Board believes accountability is a powerful tool to help some students avoid using drugs and that early detection and intervention can save lives.

Adopted: 01/13/14