

126CSR8

TITLE 126 LEGISLATIVE RULE BOARD OF EDUCATION

SERIES 8 DRUG-FREE WORKPLACE (1461)

§126-8-1. General.

1.1. Scope. -- This policy applies to all employees of the West Virginia Department of Education and to all county boards of education in the State of West Virginia.

1.2. Authority. -- Drug-Free Workplace Act 1988 (P.L. 100-690), West Virginia Constitution Article XII, §2, and W. Va. Code §18-2-5.

1.3. Filing Date. -- December 22, 1992.

1.4. Effective Date. -- February 1, 1993.

§126-8-2. Purpose.

To provide for a Drug-Free Workplace for all persons in the public schools of West Virginia.

§126-8-3. Definition.

3.1. Alcohol: Alcoholic beverages and any other intoxicating liquid which contains alcohol.

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

3.3. Controlled Substance: A federally regulated substance listed in Exhibit A and/or Schedule I through V of Section 202 of the Control Substance Act

(21U.S.C. 812) and W. Va. Code §60A-2-201, et seq., (which may be amended from time to time), when taken into the body, may impair one's mental faculties and/or physical performance.

3.4. 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.

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

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

3.7. 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 Department of Education.

- 3.8 Federal Agency: An agency as that term is defined in section 552(f) of Title IV, United States Code.
- 3.9 Grantee: Any department, division, unit, or any person responsible for the performance of work under the provisions of a federal grant.
- 3.10 Illegal Drug: Any drug which is not legally obtainable and is being used in a manner or for a purpose other than as prescribed.
- 3.11 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.

§126-8-4. Content.

- 4.1. It is the policy of the West Virginia Department of Education to ensure that its workplaces are free of illegal drugs and controlled substances by prohibiting the unlawful manufacture, distribution, possession or use, without medical authorization, or illegal or controlled substances and/or alcohol; the reporting to work under the influence of a non-medically prescribed controlled substance or alcohol; or possession of non-medically prescribed paraphernalia.
- 4.2. The policy is applicable while employees are engaged in any work-

related activity which includes performance of agency business during regularly scheduled work days, meal breaks, and/or occasions having a connection with the job or the agency.

- 4.3. Possession and/or distribution of a controlled substance will be dealt with promptly in accordance with legal and administrative disciplinary procedures.
 - 4.3.1. Employees who are in violation of the provisions of the Drug-Free Workplace Act shall be subject to disciplinary action up to and including termination and/or may be required to satisfactorily participate in a drug rehabilitation or assistance program. Rehabilitation will be provided according to the guidelines of the Public Employees Insurance Agency.
 - 4.3.2. The West Virginia Department of Education will take appropriate personnel action in accordance with the disciplinary procedure outlined in the West Virginia Department of Education Employee Handbook. The handbook states that “When an offense is of a magnitude to warrant it, an employee may be suspended without pay or may be dismissed from employment. Reasons for suspension or dismissal may be misuse of state property, insubordination, incompetence, willful neglect of duty, reporting to work under the influence of alcohol, narcotics, or other illegal

controlled substances, fraud, activities involving conflict of interest and violations or law and/or policy of the Board. Suspension or dismissal may be effective immediately; however, action shall be taken within ten (10) workdays or knowledge of the offense.”

- 4.3.3. State or county agencies who are contractors 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 hasn't made a good faith effort to maintain a drug-free workplace.
- 4.4. The policy's primary goal is to ensure that alcohol and illegal drug and/or controlled substance use is eliminated in the workplace and that the West Virginia Department of Education workplace is safe, healthful, productive, and secure for its employees and citizens.
- 4.5 As a condition of employment with the West Virginia Department of Education employees shall:
 - 4.5.1. Abide by the terms of this policy; compliance is mandatory;

- 4.5.2. Notify their supervisor or department head of any criminal drug statute conviction for a violation occurring in the workplace, no later than 5 days after such conviction; and

- 4.5.3. Sign the “Drug-Free Workplace Verification Statement.”

- 4.6. It shall be the responsibility of the Division of Administrative Services to establish a drug awareness program for Department of Education employees to provide information on the following:

- 4.6.1. The Employee Referral Program;

- 4.6.2. The dangers of drug-abuse in the workplace;

- 4.6.3. The establishment and maintenance of a drug-free workplace;

- 4.6.4. The penalties for workplace drug-abuse;

- 4.6.5. Available drug-free literature.

§126-8-5. County Responsibility.

- 5.1. Each county board of education shall develop a policy containing the standards consistent with this policy and shall require every employee to sign a copy of a drug-free workplace verification statement which states that the employee is aware of the policy and shall abide by the terms of the policy.

126CSR8

West Virginia Department of Education

DRUG-FREE WORKPLACE VERIFICATION STATEMENT

NAME _____ SOCIAL SECURITY NUMBER _____

ADDRESS _____ TELEPHONE _____

Date Employed by West Virginia Department of Education _____

I, _____, certify that I have received a copy of the West Virginia State Drug-Free Workplace Policy.

As an employee of the West Virginia Department 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 Department of Education employment. The workplace shall include facilities, property, buildings, offices, structures, automobiles, trucks, trailers, other vehicles, and parking areas, whether owned or leased by the agency or entity.

The policy is applicable while employees are engaged in any work-related activity which includes performance of agency business during regularly scheduled work days, meal breaks, and/or occasions having a connection with the job or the agency.

In addition, I understand that under 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 and the appointing authority within five (5) days of the conviction.

Employee Signature

Date