

1 The Transylvania County Board of Education (the “board”) recognizes that reducing drug and
2 alcohol abuse in the workplace improves the safety, health, and productivity of employees. It is
3 the policy of the board that a drug-free and alcohol-free workplace must be maintained.

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5 **A. PROHIBITED ACTIVITIES**

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7 The board prohibits employees from possessing, using, selling, delivering,
8 manufacturing, or being under the influence of ~~engaging in the unlawful manufacture,~~
9 ~~sale, distribution, dispensing, possession, or use of~~ any narcotic drug, hallucinogenic
10 drug, amphetamine, barbiturate, marijuana, anabolic steroid, alcohol, stimulants,
11 synthetic cannabinoids, counterfeit substance, or any other controlled substance as
12 defined in (1) Schedules I through VI of the North Carolina Controlled Substances Act or
13 in (2) Schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C.
14 812) and further defined by regulation at 21 C.F.R. 1300.01 through 1300.04 and 21
15 C.F.R. 1308.11 through 1308.15 ~~at any time this policy is applicable. Employees are~~
16 ~~prohibited from possessing, using, selling, delivering, manufacturing, or being under the~~
17 ~~influence of a substance containing cannabidiol (CBD) or tetrahydrocannabinol (THC) at~~
18 ~~any time this policy is applicable, regardless of whether it constitutes a controlled~~
19 ~~substance under state or federal law. Employees must not, at any time this policy is~~
20 ~~applicable, be under the influence of alcohol or be impaired by the use of substances~~
21 ~~intended to induce exhilaration or euphoria or alter mood or behavior or be impaired by~~
22 ~~the excessive use of prescription or nonprescription drugs at any time this policy is~~
23 ~~applicable. This policy is not violated by an individual’s possession of or proper use of a~~
24 ~~drug lawfully prescribed for that individual by a licensed health care provider. In~~
25 ~~addition, employees must not, at any time this policy is applicable, be impaired by the use~~
26 ~~of substances intended to induce exhilaration or euphoria or alter mood or behavior or be~~
27 ~~impaired by the excessive use of prescription or nonprescription drugs. To this end,~~
28 ~~employees are prohibited from being impaired by any substance, including without~~
29 ~~limitation any substance containing cannabidiol (CBD) or tetrahydrocannabinol (THC) at~~
30 ~~any time this policy is applicable, regardless of whether it constitutes a controlled~~
31 ~~substance under state or federal law. This policy is not violated by an individual’s~~
32 ~~possession of or proper use of a drug lawfully prescribed for that individual by a licensed~~
33 ~~health-care provider. Due to the inherent difficulty of determining the content of many~~
34 ~~substances, an employee may be directed to establish that a substance in their possession~~
35 ~~is lawful at any time this policy is applicable.~~

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37 **B. APPLICABILITY**

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39 This policy governs each employee before, during, and after school hours while the
40 employee is on any property owned or leased by the board; at any time during which the
41 employee is acting in the course and scope of his or her employment with the board; and
42 at any time that the employee’s violation of this policy has a direct and adverse effect
43 upon his or her job performance. This policy does not apply to an employee’s
44 consumption of alcoholic beverages that are served at a reception or other similar

45 function that occurs outside the regular workday and that the employee is authorized or
46 required to attend as a part of his or her employment duties.

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48 Independent contractors, volunteers, and visitors are subject to all requirements of this
49 policy while on school property or at a school-sponsored event.

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51 **C. REASONABLE SUSPICION TO SEARCH**

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53 An employee may be subjected to a search of his or her person or belongings or of school
54 property under the employee's control if there is reasonable suspicion that the employee
55 has violated this policy. An employee also may be required to submit to a drug or
56 alcohol test when there is reasonable suspicion of drug or alcohol use by the employee in
57 violation of this policy. Reasonable suspicion shall be based on specific,
58 contemporaneous observations concerning the physical, behavioral, speech, and/or
59 performance indicators of drug or alcohol use. The observations must be made by a
60 supervisor or other school system official with training or experience in such indicators.

61
62 All drug and alcohol testing will be done with procedures that ensure the confidentiality
63 and privacy interests of the employee and in accordance with law. Employees who
64 refuse to submit to a search or a test to detect alcohol or drug use after reasonable
65 suspicion is established may be suspended immediately pending consideration of a
66 decision to terminate employment.

67
68 In addition, any employee, volunteer, or independent contractor who operates a
69 commercial motor vehicle or performs other safety-sensitive functions in the course of
70 duties for the board may be subject to drug and alcohol testing in accordance with policy
71 7241, Drug and Alcohol Testing of Commercial Motor Vehicle Operators.

72
73 The board will cover the cost of any required employee testing.

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75 **D. DUTY TO REPORT**

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77 In accordance with policy 7300, Staff Responsibilities, an employee must notify his or
78 her supervisor and the director of human resources in writing of any charge or conviction
79 under any criminal drug statute for a violation occurring within the scope of Section B of
80 this policy. Notification must be given no later than the next scheduled business day after
81 such charge or conviction and before reporting to work. Within ten (10) days of
82 receiving a notice of conviction by an employee whose position is funded in any part by a
83 federal grant, the director of human resources or designee shall notify the funding agency
84 of the conviction. "Conviction" as used in this policy includes the entry in a court of law
85 or military tribunal of: (1) a plea of guilty, *nolo contendere*, no contest or the equivalent;
86 (2) a verdict or finding of guilty; or (3) a prayer for judgment continued ("PJC") or a
87 deferred prosecution.

88

89 **E. CONSEQUENCES**

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91 Violation of this policy will subject an individual to disciplinary action by the board that
92 could result in non-renewal or termination of employment with the school system or the
93 requirement that the employee participate satisfactorily in a drug or alcohol abuse
94 assistance or rehabilitation program approved by the board or federal, state, or local
95 health, law enforcement, or other appropriate agency. Information concerning available
96 counseling, rehabilitation, and re-entry programs will be provided to employees. Any
97 illegal drug activity will be reported to law enforcement authorities.
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99 All employees shall receive a copy of this policy.

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101 Legal References: 21 U.S.C. 812; 41 U.S.C. 8101 *et seq.*; 21 C.F.R. 1300.01-.04 and 1308.11-
102 .15; G.S. 20-138.2B; 90-89 to -94; 115C-36; *O'Connor v. Ortega*, 480 U.S. 709 (1987)
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104 Cross References: Drug and Alcohol Testing of Commercial Motor Vehicle Operators (policy
105 7241), Staff Responsibilities (policy 7300)
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107 Adopted: January 19, 2016
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109 Revised: March 5, 2018; July 16, 2018; [DATE]

