

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 any narcotic drug, hallucinogenic drug,
9 amphetamine, barbiturate, marijuana, anabolic steroid, alcohol, stimulants, synthetic
10 cannabinoids, counterfeit substance, or any other controlled substance as defined in (1)
11 Schedules I through VI of the North Carolina Controlled Substances Act or in (2)
12 Schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812)
13 and further defined by regulation at 21 C.F.R. 1300.01 through 1300.04 and 21 C.F.R.
14 1308.11 through 1308.15 at any time this policy is applicable. In addition, employees
15 must not, at any time this policy is applicable, be impaired by the use of substances
16 intended to induce exhilaration or euphoria or alter mood or behavior or be impaired by
17 the excessive use of prescription or nonprescription drugs. To this end, employees are
18 prohibited from being impaired by any substance, including without limitation any
19 substance containing cannabidiol (CBD) or tetrahydrocannabinol (THC) at any time this
20 policy is applicable, regardless of whether it constitutes a controlled substance under state
21 or federal law. This policy is not violated by an individual’s possession of or proper use
22 of a drug lawfully prescribed for that individual by a licensed health-care provider. Due
23 to the inherent difficulty of determining the content of many substances, an employee
24 may be directed to establish that a substance in their possession is lawful at any time this
25 policy is applicable.
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27 **B. APPLICABILITY**
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29 This policy governs each employee before, during, and after school hours while the
30 employee is on any property owned or leased by the board; at any time during which the
31 employee is acting in the course and scope of his or her employment with the board; and
32 at any time that the employee’s violation of this policy has a direct and adverse effect
33 upon his or her job performance. This policy does not apply to an employee’s
34 consumption of alcoholic beverages that are served at a reception or other similar
35 function that occurs outside the regular workday and that the employee is authorized or
36 required to attend as a part of his or her employment duties.
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38 Independent contractors, volunteers, and visitors are subject to all requirements of this
39 policy while on school property or at a school-sponsored event.
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41 **C. REASONABLE SUSPICION TO SEARCH**
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43 An employee may be subjected to a search of his or her person or belongings or of school
44 property under the employee’s control if there is reasonable suspicion that the employee

45 has violated this policy. An employee also may be required to submit to a drug or
46 alcohol test when there is reasonable suspicion of drug or alcohol use by the employee in
47 violation of this policy. Reasonable suspicion shall be based on specific,
48 contemporaneous observations concerning the physical, behavioral, speech, and/or
49 performance indicators of drug or alcohol use. The observations must be made by a
50 supervisor or other school system official with training or experience in such indicators.

51
52 All drug and alcohol testing will be done with procedures that ensure the confidentiality
53 and privacy interests of the employee and in accordance with law. Employees who
54 refuse to submit to a search or a test to detect alcohol or drug use after reasonable
55 suspicion is established may be suspended immediately pending consideration of a
56 decision to terminate employment.

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58 In addition, any employee, volunteer, or independent contractor who operates a
59 commercial motor vehicle or performs other safety-sensitive functions in the course of
60 duties for the board may be subject to drug and alcohol testing in accordance with policy
61 7241, Drug and Alcohol Testing of Commercial Motor Vehicle Operators.

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

64 65 **D. DUTY TO REPORT**

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67 ~~In accordance with policy 7300, Staff Responsibilities, a~~An employee must notify his or
68 her supervisor and the director of human resources in writing of any **arrest**, charge, or
69 conviction under any criminal drug statute ~~for a violation occurring within the scope of~~
70 ~~Section B of this policy.~~ (See also policy 7300, Staff Responsibilities.) Notification
71 must be given no later than the next scheduled business day after such **arrest**, charge, or
72 conviction **unless the employee is hospitalized or incarcerated, in which case the**
73 **employee must report the alleged violation within 24 hours after his or her release. The**
74 **notification must be given and before the employee reports**ing to work. Within ten (10)
75 days of receiving a notice of a **criminal drug statute** conviction **for a violation occurring**
76 **in the workplace** by an employee whose position is funded in any part by a federal grant,
77 the director of human resources or designee shall notify the funding agency of the
78 conviction. "Conviction" as used in this policy includes the entry in a court of law or
79 military tribunal of: (1) a plea of guilty, *nolo contendere*, no contest or the equivalent; (2)
80 a verdict or finding of guilty; or (3) a prayer for judgment continued ("PJC") or a
81 deferred prosecution.

82 83 **E. CONSEQUENCES**

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85 Violation of this policy will subject an individual to disciplinary action by the board that
86 could result in non-renewal or termination of employment with the school system or the
87 requirement that the employee participate satisfactorily in a drug or alcohol abuse
88 assistance or rehabilitation program approved by the board or federal, state, or local

89 health, law enforcement, or other appropriate agency. Information concerning available
90 counseling, rehabilitation, and re-entry programs will be provided to employees. Any
91 illegal drug activity will be reported to law enforcement authorities.
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93 All employees shall receive a copy of this policy.
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95 Legal References: 21 U.S.C. 812; 41 U.S.C. 8101 *et seq.*; 21 C.F.R. 1300.01-.04 and 1308.11-
96 .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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98 Cross References: Drug and Alcohol Testing of Commercial Motor Vehicle Operators (policy
99 7241), Staff Responsibilities (policy 7300)
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101 Adopted: January 19, 2016
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103 Revised: March 5, 2018; July 16, 2018; December 16, 2019; [DATE]

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