



POLICY 3.96

5-A I recommend that the Board approve the proposed new Policy 3.96, entitled “Drug- and Alcohol-Free Workplace.”

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Development

CONSENT ITEM

- This proposed new Policy 3.96 will apply to employees, job applicants, and volunteers, and is intended to be consistent with the program set forth in Fla. Stat. § 440.102 and Fla. Admin. Code Rules 59A-24.003 – 59A-24.008.
- Through the implementation of this Policy, the Board intends to comply with and be subject to the current and future requirements of Fla. Stat. §§ 440.101 and 440.102.
- The standards and procedures contained in this Policy are separate from tests and procedures under Policy 3.961 (addressing holders of safety-sensitive positions and holders of commercial drivers’ licenses) because, under federal regulations in 49 C.F.R. part 40, drug and alcohol tests for purposes of Department of Transportation policies must be completely separate from non-DOT tests in all respects.

1 **POLICY 3.96**

2 **DRUG- AND ALCOHOL-FREE WORKPLACE**

3 **1. Purpose and Scope**

- 4 a. The School District of Palm Beach County hereby affirms its commitment to
5 maintaining a drug and alcohol-free workplace.
- 6 b. A drug and alcohol-free awareness program is hereby established and will be
7 implemented by the Superintendent by implementation of this Policy and the
8 provisions of Fla. Stat. §§ 440.101 and 440.102 and rules of the Agency for
9 Health Care Administration (the Drug-Free Workplace Standards set forth in
10 Fla. Admin. Code rules 59A-24.003 – 59A-24.008).
- 11 i. Before testing is initiated under this policy, each current employee will be
12 provided a copy of the “Notice of Drug-Free Workplace” attached to and
13 incorporated by reference into this Policy and a document containing the
14 notices prescribed by Fla. Stat. § 440.102(3)(a).
- 15 ii. Pursuant to Fla. Stat. § 440.102(3)(b), there will be a 60-day period
16 between the notice to all employees that a drug-testing program is being
17 implemented, and the beginning of actual drug testing. For good
18 measure, the District will issue a second notice during that 60-day period.
- 19 iii. This Policy shall apply to all District employees, job applicants, and
20 volunteers. All job applicants will be provided a copy of the notice with a
21 conditional offer of employment and all volunteers will be provided a copy
22 of the notice before any volunteer activities are performed. Each
23 employee will sign an acknowledgment of receipt and understanding of
24 the Drug-Free Workplace policy and that acknowledgment will be retained
25 in the employee’s personnel file. Copies of the Notice shall also be
26 posted in prominent locations in District buildings.
- 27 c. Through the establishment of a standard drug and alcohol testing program, all
28 employees, job applicants, and volunteers shall be subject to drug and alcohol
29 testing as a condition of employment under the terms and circumstances
30 described in this Policy. Employees who violate this Policy shall be subject to
31 disciplinary action, up to and including termination of employment, consistent
32 with the applicable collective-bargaining agreement, if any.
- 33 d. Prohibited under this Policy are the unlawful manufacture, distribution,
34 dispensation, possession, or use of alcohol or controlled substances, as
35 defined by Chapter 893, Fla. Stat., on District property or while on duty.

- 36 e. Reporting for duty or remaining on duty under the influence of alcohol or a
37 controlled substance is prohibited, except when the use of a controlled
38 substance is pursuant to prescribed instructions of a licensed medical
39 practitioner who has advised the individual that the substance will not
40 adversely affect the individual's ability to safely perform all assigned duties.
- 41 f. Off-the-job use or involvement with illegal drugs, alcohol, or other controlled
42 substances may also subject an employee to disciplinary action under
43 applicable Board Policies such as 3.12 and 3.13; applicable State Board of
44 Education Rules such as 6B-4.009(2), (5); and the applicable collective-
45 bargaining agreement, if any.
- 46 g. Through the implementation of this Policy, the Board intends to comply with
47 and be subject to current and future requirements contained in the Drug-Free
48 Workplace Act of 1988 and Fla. Stat. §§ 440.101 and 440.102. The standards
49 and procedures contained in this Policy are separate from all tests and
50 procedures contained in Policy 3.961 (addressing holders of safety-sensitive
51 positions and holders of commercial drivers' licenses) because, under federal
52 regulations in 49 C.F.R. part 40, drug and alcohol tests for purposes of
53 Department of Transportation policies must be completely separate from non-
54 DOT tests in all respects.
- 55 2. Definitions.-- For the purpose of this Policy, the following terms shall be defined as
56 indicated:
- 57 a. Alcohol.-- Any beverage, prescription, over-the-counter medication, or other
58 product containing any form of alcohol, including, but not limited to, ethanol,
59 methanol, propanol, and isopropanol.
- 60 b. Alcohol Use.--The drinking or swallowing of any beverage, liquid mixture, or
61 preparation (including any medication) containing alcohol.
- 62 c. Applicant.-- Any individual who has applied for a position with the District and
63 has been offered employment conditioned upon successfully passing a drug or
64 alcohol test.
- 65 d. Blood Alcohol Level.-- The alcohol level as expressed in terms of milligrams
66 of alcohol per 100 milliliters of blood; "0.04" indicates four tenths of a percent
67 of the blood serum in the sample is alcohol. Blood samples will be used for
68 both initial and confirmation testing for BAL under this section; BAL testing
69 under policy 3.961 shall be as prescribed in that Policy.
- 70
71 e. Chain of Custody.-- The procedure used to account for the integrity of each
72 urine specimen by tracking its handling and storage from point of specimen
73 collection to final disposition for all specimens by an appropriate drug testing

- 74 custody form that documents custody of the specimen from collection to
75 receipt by the laboratory and handling of the sample or sample aliquots (a
76 portion of a specimen used for testing) within the laboratory.
- 77 f. **Confirmation Test, Confirmed Test, or Confirmed Drug Test.--** A second
78 analytical procedure used to confirm the presence of a specified drug or
79 metabolite in a specimen through a different technique and chemical principle
80 from that of the screen test to ensure specificity, sensitivity, reliability, and
81 quantitative accuracy. Gas chromatography/mass spectrometry (“GC/MS”) is
82 the only authorized confirmation test for cocaine, marijuana, opiates,
83 amphetamines, and phencyclidine.
- 84 g. **Confirmation Test for Alcohol.--** A second test (following a screening test
85 with a result of four one-hundredths BAL (0.04) or greater) that provides
86 specific quantitative data for alcohol.
- 87 h. **Drug Rehabilitation Program.--** A service vendor that provides confidential,
88 timely, and expert identification, assessment, and resolution of employee drug
89 abuse through the District’s Employee Assistance Program (“EAP”).
- 90 i. **Drug Test.--** Any chemical, biological, or physical instrumental analysis
91 administered for the purpose of determining the presence or absence of a
92 drug or its metabolites. The District shall pay for all drug tests, initial and
93 confirmation, that it requires of employees. Employees must pay for any
94 additional tests not required by the District. A urine sample will be used for the
95 initial and confirmation tests for all drugs and substances except alcohol.
- 96 j. **Drugs (hereinafter, Drugs or Controlled Substance(s)).--** Alcohol, including
97 distilled spirits, wine, malt beverages, and intoxicating liquors; amphetamines;
98 barbiturates; benzodiazepines; cannabinoids; cocaine; hallucinogens;
99 methaqualone; narcotics or opiates; phencyclidine (PCP); synthetic narcotics;
100 designer drugs; or a metabolite of any of these substances.
- 101 k. **Employee.--** The term “employee” means any person who works for the
102 District for salary, wages, or other remuneration. As used in this Policy,
103 “employee” also means applicants for employment and volunteers, unless
104 otherwise stated.
- 105 l. **Employee Assistance Program (“EAP”).--** An established program capable
106 of providing expert assessment of employee personal concerns; confidential
107 and timely identification services for employee drug or alcohol abuse; referrals
108 of employees for appropriate diagnosis, treatment, and assistance; and follow-
109 up services for employees who participate in the program or require
110 monitoring after returning to work.

- 111 m. **First Offense.**-- An initial violation of the drug and alcohol-free workplace
112 Policy whether it involves drugs or alcohol.
- 113 n. **Fitness for Duty.**-- As Fla. Stat. § 440.101(2) requires that “an employee
114 [shall] refrain from reporting to work or working with the presence of drugs or
115 alcohol in his or her body,” for purpose of this Policy “fitness for duty” means
116 being in a mental and physical condition appropriate for work, including but not
117 limited to being sober in accordance with this Policy.
- 118 o. **Medical Review Officer (“MRO”).**-- A licensed physician responsible for
119 receiving laboratory results generated by the District’s drug testing program
120 who has knowledge of substance abuse disorders, laboratory testing
121 procedures, and chain of custody collection procedures; who verifies positive,
122 confirmed test results; and who has the necessary medical training to interpret
123 and evaluate an employee’s positive test result in relation to the employee’s
124 medical history or any other relevant biomedical information.
- 125 p. **Positive Breath Test.**-- A concentration of four one-hundredths (0.04) BAC or
126 above.
- 127 q. **Screening Test (also known as Initial Test).**-- In alcohol testing, an
128 analytical procedure to determine whether an employee, job applicant, or
129 volunteer may have a prohibited concentration of alcohol in his/her system. In
130 controlled substance testing, an immunoassay screen to eliminate “negative”
131 urine specimens from further consideration.
- 132 r. **Second Offense.**-- Constitutes any violation of the drug and alcohol-free
133 workplace Policy following the initial violation, whether either violation involves
134 drugs or alcohol.
- 135 s. **Specimen.**-- Tissue, hair, or product of the body capable of revealing the
136 presence of drugs or their metabolites.
- 137 t. **Substance Abuse Professional (“SAP”).**-- A person with knowledge of and
138 clinical experience in the diagnosis and treatment of alcohol/controlled
139 substance related disorders who evaluates employees and makes
140 recommendations concerning education, treatment, follow-up testing, and
141 aftercare.
- 142 u. **Volunteer.**-- An individual who offers services to the District without
143 remuneration, although referred to as an “employee” in this Policy.
- 144
- 145 3. **Notice of Conviction.**-- In addition to any separate requirements of Policy 3.13
146 (“Self-Reporting of Arrests and Convictions by School District Employees”), an
147 employee convicted of a violation of any criminal drug statute for conduct that

148 occurred on District property will notify the Professional Standards office within 5
149 working days after the conviction. Within 10 working days of receipt of such a
150 notification, the Superintendent will notify the U.S. Department of Education of the
151 conviction, as prescribed in 41 U.S.C. § 702.

152 4. **Prohibited Conduct.**-- The following types of conduct are expressly prohibited for
153 all employees and shall result in disciplinary action up to and including termination
154 of employment, consistent with the applicable collective-bargaining agreement, if
155 any.

156 a. **On-Duty.**-- No employee shall use alcohol and/or drugs while performing their
157 duties. The manufacture, distribution, dispensation, possession or use of
158 alcohol or controlled substances on District property or while on duty is
159 prohibited, except as otherwise permitted in this policy under medical
160 prescription.

161 b. **Off-the-Job.**-- Off-the-job use or involvement with illegal drugs, alcohol, or
162 other controlled substances which may subject an employee to disciplinary
163 action under applicable Board Policies such as 3.12 and 3.13; applicable State
164 Board of Education Rules such as 6B-4.009(2), (5); and the applicable
165 collective-bargaining agreement, if any.

166 c. **Controlled Substance(s) Use or Abuse.**-- No employee shall report for duty
167 or remain on duty while under the influence of or impaired by any controlled
168 substance, except when the use is pursuant to instructions of a licensed
169 medical practitioner, who has advised the individual that the substance will not
170 adversely affect the individual's ability to safely perform work duties.

171 d. **Alcohol/Drug Use/Misuse in General.**-- No employee shall report for duty or
172 remain on duty while the employee is under the influence of or impaired by
173 drugs or alcohol, as shown by the behavioral, speech, and performance
174 indications of drug or alcohol misuse. As a condition of employment,
175 employees are required to remain away from the place of duty and off District
176 property while under the influence of drugs or alcohol.

177 e. **Alcohol Concentration.**-- No employee shall report for duty or remain on duty
178 while having an alcohol concentration of four one-hundredths (0.04) BAL or
179 greater.

180 f. **Use Following an Accident.**-- No employee involved in an on-the-job
181 vehicular or other work-related accident shall use alcohol for eight (8) hours
182 following the accident, or until after undergoing a post-accident alcohol test,
183 whichever occurs first. This subsection shall be construed consistent with
184 subsections (4)(b) and (c).

- 185 g. **Refusal to Submit to a Required Alcohol or Controlled Substances Test.**-
186 - Following an on-the-job vehicular or other work-related accident, no
187 employee shall refuse to submit to a post-accident alcohol or controlled
188 substances test; nor shall an employee refuse to submit to a reasonable
189 suspicion alcohol or controlled substances test, a fitness for duty alcohol or
190 controlled substances test, or a follow-up alcohol or controlled substances
191 test. Failure to complete and sign testing form(s), to provide an adequate
192 specimen, or otherwise to cooperate with the testing process in a way that
193 prevents the completion of the test shall be considered a refusal to test and
194 shall be deemed a positive test result. Any attempt to adulterate a specimen
195 or provide a specimen that is adulterated shall also be considered a refusal to
196 test and deemed a positive test result. Any obstruction to and lack of
197 cooperation with the testing process shall be considered a refusal to test and
198 deemed a positive test result.
- 199 h. **Testing Positive.**-- No employee shall report for duty or remain on duty after
200 testing positive for alcohol or controlled substances, until cleared to return.
201 While waiting for clearance, the employee shall be placed in a non-duty status.
202 From the time the test is confirmed positive, the non-duty status shall be
203 unpaid; but the employee shall be given the option of using any accumulated
204 annual or sick leave credits before the leave is ordered to be without pay
205 (unless the employee is incarcerated, in which case annual or sick leave is not
206 an option), and the District will restore the leave hours taken (or the unpaid
207 wages if leave hours were not used) if an appeal under Section (10) shows the
208 confirmed positive test was due to another reason such as prescription or
209 nonprescription medication lawfully taken.
- 210 5. **Testing Procedures.**-- All drug testing will be conducted by a District-designated
211 laboratory that is licensed and approved by the Agency for Health Care
212 Administration (AHCA) or is certified by the U.S. Department of Health and Human
213 Services. The testing will be conducted with appropriate chain of custody
214 procedures as specified by AHCA to ensure accuracy and continuity in specimen
215 collection, handling, transfer, and storage.
- 216 6. **Referral for Testing.**-- Appropriate notification and testing forms will be provided
217 to employees, volunteers, and job applicants before drug testing.
- 218 7. **Voluntary Self-Referral/Rehabilitation.**-- At any time before notification of a
219 required test, an employee is encouraged to contact the District's EAP for voluntary
220 treatment of a drug or alcohol problem. Such employees may be required to
221 submit to compliance testing as part of the treatment program. Voluntary self-
222 referral made at the time of notification shall not excuse an employee from required
223 drug and/or alcohol testing, nor shall it negate a positive result from such test. An

224 employee will not be subject to discharge or disciplinary action solely on the basis
225 of voluntary self-referral for treatment.

226 8. **Kinds of Testing.--** Random testing of employees shall not be conducted, except
227 for those employees subject to Policy 3.961. To maintain a drug- and alcohol-free
228 work environment, the District will test for the presence of alcohol or drugs in the
229 following circumstances:

230 a. **Pre-Employment Screening.--** Pre-employment screening will be required of
231 all applicants before employment with the District. Any applicant who tests
232 positive in the pre-employment screening for a drug as defined in this Policy is
233 not eligible to re-apply for employment with the District for one year following
234 the confirmed positive test.

235 b. **Reasonable Suspicion**

236 i. All employees who are determined to be under reasonable suspicion of
237 drug and/or alcohol use are required to take a drug and alcohol test.
238 Reasonable suspicion shall be determined by a supervisor at least one
239 level above the employee to be tested. The circumstances supporting
240 that determination must be drawn from specific objective and articulable
241 facts that shall be documented in writing. Reasonable suspicion may
242 include, but is not necessarily limited to, the following examples:

243 A. observable phenomena while at work, such as direct observation of
244 alcohol or drug use or of the physical symptoms or manifestations of
245 being under the influence of alcohol or a drug. Physical symptoms
246 or manifestations include, but are not limited to, slurred speech,
247 alcohol odor on breath, unsteady walking and movement, poor
248 coordination and/or reflexes, glassy or bloodshot eyes, physical
249 altercations, verbal altercations, or unusual behavior;

250 B. abnormal conduct or erratic behavior while at work or a significant
251 deterioration in work performance;

252 C. credible documented evidence that an individual has tampered with
253 a drug test during the term of employment;

254 D. credible documented information that an employee has caused, or
255 contributed to, an accident while at work; or

256 E. credible documented evidence that an employee has used,
257 possessed, sold, solicited, or transferred drugs while working or
258 while on the employer's premises or while operating the employer's
259 vehicle, machinery, or equipment;

260 ii. Where testing is based on reasonable suspicion, the supervisor will detail
261 in writing the circumstances that formed the basis of the reasonable
262 suspicion determination. A copy of this written description shall be given
263 to the employee upon request and the original documentation shall be
264 kept confidential and exempt from the provisions of Fla. Stat. § 119.07(1),
265 as provided in Fla. Stat. § 440.102 (8), and retained for at least one year.

266 c. **Post-Accident Reasonable-Suspicion Test**

267 i. Post-accident reasonable-suspicion testing will be done on all employees
268 who are involved as a driver in any vehicular accident while performing
269 their duties as soon as practicable under the following circumstances:

270 A. on a surviving employee when an accident results in loss of human
271 life. The employee need not have been cited for a moving traffic
272 violation or deemed at fault to be subject to testing under this
273 paragraph;

274 B. when an employee receives a citation for a moving violation(s) and
275 one (1) or more of the vehicles involved in the accident is towed from
276 the scene of the accident; or

277 C. when an employee receives a citation for a moving violation(s) and
278 one (1) or more persons involved in the accident received medical
279 treatment away from the scene of the accident.

280 ii. An employee who is subject to reasonable suspicion post-accident testing
281 shall remain readily available for such testing. Failure or refusal to be
282 available for testing may be deemed by the District as a refusal to submit
283 to testing. As stated in Fla. Stat. § 440.101(2), “. . . it is a condition of
284 employment for an employee to refrain from reporting to work or working
285 with the presence of drugs or alcohol in his or her body and, if an injured
286 employee refuses to submit to a test for drugs or alcohol, the employee
287 forfeits eligibility for medical and indemnity benefits [under Chapter 440].”
288 This provision shall not be construed as requiring the delay of necessary
289 medical attention for injured persons following an accident or impeding an
290 employee from leaving the scene of an accident to obtain necessary
291 assistance in responding to the accident or to obtain necessary
292 emergency care.

293 iii. If alcohol testing is not administered within eight (8) hours following an
294 accident, the District may not conduct alcohol testing based on the
295 accident provision. Likewise, if controlled substance testing is not
296 administered within thirty-two (32) hours following the accident, the
297 District may not conduct controlled substance testing based on the

- 298 accident provision. The District is required to document those instances
299 when testing is not timely conducted according to the time frames noted
300 above.
- 301 iv. Following an accident, the District will provide the employee
302 transportation to a testing facility by a person designated for that purpose.
303 After testing, the employee will be transported to the place of residence.
- 304 v. An employee pending results of post-accident drug test shall be placed in
305 a non-duty status and required to use annual or sick leave (the non-duty
306 status shall be unpaid if the employee does not have such leave
307 hours available). If an alcohol test yields a result of less than four one-
308 hundredths (0.04) BAL and a controlled substances test yields a negative
309 result, the District will restore the leave hours taken (or the unpaid wages
310 if leave hours were not used).
- 311 vi. Notwithstanding the absence of a reasonable suspicion alcohol test under
312 this section, the District shall not permit an employee involved in an
313 accident described above to perform or continue to perform duties until:
- 314 A. an alcohol test is administered and the employee's alcohol
315 concentration measures less than four one-hundredths (0.04) BAL;
316 or
- 317 B. twenty-four (24) hours have elapsed following the determination that
318 there is reasonable suspicion to believe that the employee has
319 violated the prohibitions of this Policy concerning the use of alcohol.
- 320 vii. The results of alcohol and/or drug tests administered by federal, state, or
321 local officials having independent authority for the test may be used to
322 satisfy this section, provided the test complies with applicable federal,
323 state, or local requirements and the results of the test are obtained by the
324 District.
- 325 d. **Fitness for Duty.--** For purposes of this Policy, all employees who are subject
326 to a fitness-for-duty medical examination may be required to take a drug or
327 alcohol test as part of their medical examination.
- 328 e. **Follow-up Testing.--** All employees who have successfully completed an
329 employee assistance program or a drug or alcohol rehabilitation program and
330 return to duty must submit to unannounced drug and alcohol tests at least
331 once a year for a two-year (2-year) period after completion of the program.
332 Advance notice of a follow-up testing date must not be given to the employee
333 to be tested.

334 9. Results Reporting

- 335 a. The MRO shall contact the tested employee directly, on a confidential basis,
336 before verifying a positive test result.
- 337 b. The MRO shall give the employee an opportunity to discuss the test result. If
338 the MRO makes reasonable, documented efforts to reach the employee and is
339 unable to do so, the MRO shall inform the District's designated representative,
340 who shall then direct the tested employee to contact the MRO as soon as
341 possible.
- 342 c. If, after making all reasonable efforts, the District's designated representative
343 is unable to contact the employee, the District may place the employee on
344 temporary medically unqualified status or medical leave.
- 345 d. The MRO's communication with the tested employee is important to
346 verification of a positive test result; however, the MRO will verify a test result
347 as positive to the District without having communicated directly with the
348 employee in three (3) circumstances:
- 349 i. the employee declines the opportunity to discuss the test with the MRO;
- 350 ii. neither the MRO nor the District representative, after making all
351 reasonable efforts, has been able to contact the individual within fourteen
352 (14) calendar days of the date on which the MRO receives the confirmed
353 positive test result; or
- 354 iii. the District representative has successfully contacted the tested
355 employee and provided specific notice to communicate with the MRO and
356 more than five (5) working days have passed since the contact and notice
357 by the District.
- 358 e. Following the verification of a positive test result, the MRO shall refer the case
359 to the District's Professional Standards department.
- 360 f. After the MRO's verification of a positive test result to the District, the tested
361 employee may contact the MRO and present information documenting the
362 reasons (serious illness, injury or other circumstances) that prevented the
363 employee from communicating with either the MRO or the District
364 representative. The MRO may, in such cases, reopen the verification
365 determination and allow the employee to present information concerning a
366 legitimate explanation for the confirmed positive test. If the MRO concludes
367 that there is a legitimate explanation, the MRO will revise the previous positive
368 determination and declare the test to be negative.

369 g. The District shall provide, upon request, a copy of the test results to the tested
370 employee, volunteer, or job applicant.

371 10. Challenges to Test Results

372 a. A positive test result does not automatically identify an employee as having
373 used drugs in violation of this Policy; therefore, providing the MRO with
374 detailed knowledge of possible alternative explanations is important to the
375 review of results and is the responsibility of the employee/applicant/volunteer.

376 b. The MRO shall notify an employee whose test result has been confirmed as
377 positive of the right to request an independent analysis within seventy-two (72)
378 hours. If the employee requests the independent analysis within seventy-two
379 (72) hours, the MRO shall take appropriate action to direct the analysis. Such
380 independent analysis shall be conducted by "split specimen," at the
381 employee's expense, with sufficient specimen being retained for later
382 verification testing.

383 c. If the employee fails to contact the MRO within seventy-two (72) hours but
384 later contacts the MRO and presents information documenting the reasons
385 (serious illness, injury, inability to contact the MRO, lack of actual notice of a
386 verified positive test result or other circumstances) that prevented the
387 employee from timely contacting the MRO, the MRO may conclude that there
388 is a legitimate explanation for the employee's failure to contact the MRO within
389 seventy-two (72) hours and may direct the analysis of the split specimen.

390 d. The tested employee shall bear the expense of any employee-requested
391 testing of a specimen.

392 e. All aspects of the testing process, including any challenge to the testing
393 process, will be kept confidential to the extent allowed by law, except as listed
394 below in Section (12) of this Policy.

395 11. Disciplinary Action for Positive Test Results.-- A positive test result shall
396 require the employee's immediate removal from duty.

397 a. No employee shall perform duties after testing positive for drugs until the
398 terms specified in this Policy have been satisfied.

399 b. Employees whose test is confirmed positive for an unlawful controlled
400 substance shall be subject to disciplinary action up to and including
401 termination of employment, consistent with the applicable collective bargaining
402 agreement, if any. Refusal to submit to a drug test shall be treated as a
403 positive test result.

- 404 c. Applicants who test positive for drugs will not be hired; volunteers who test
405 positive will not be allowed to perform further volunteer functions.
- 406 d. Pursuant to Fla. Stat. § 440.101(2), “if a drug or alcohol is found to be present
407 in the employee's system at a level prescribed by rule adopted pursuant to this
408 act, the employee may be terminated and forfeits his or her eligibility for
409 medical and indemnity benefits [under Chapter 440]” consistent with Fla. Stat.
410 §§ 440.102(12) and 440.102(5)(p).

411 12. **Confidentiality**

- 412 a. All information, interviews, reports, statements, memoranda, and test results
413 received or produced under the programs established by this policy are
414 confidential and exempt from the provision of § 119.07(1), Fla. Stat., and
415 section 24(a), Art. I, of the Florida Constitution. This information may not be
416 used or received in evidence, obtained in discovery, or disclosed in any public
417 or private proceedings, except as specified below and as required by law:
- 418 i. upon written consent of the employee tested (such a consent must
419 include the name of the person to receive the information; the purpose of
420 the disclosure; the precise information to be disclosed; the duration of the
421 consent; and the signature of the person authorizing release);
- 422 ii. when ordered by an administrative law judge, a hearing officer, a court of
423 competent jurisdiction, or a professional or occupational licensing board
424 in a related disciplinary proceeding;
- 425 iii. the information has been placed at issue in a formal dispute or any
426 discipline proceedings between the employer and the employee;
- 427 iv. the information is to be used in administering an employee assistance
428 program;
- 429 v. the information is needed by medical personnel for the diagnosis or
430 treatment of the employee in the event the employee is unable to
431 authorize disclosure; or
- 432 vi. within various District departments when consulting with legal counsel in
433 connection with actions related to the information or when the information
434 is relevant to defense of a civil or administrative matter.

- 435 13. **District Designated Representative**-- All questions concerning this policy should
436 be directed to the Director of Professional Standards or to any other District official
437 the Superintendent may designate.

- 438 14. Notice to Employees.-- The Superintendent or designee shall prepare a notice
439 satisfying the requirements of Fla. Stat. § 440.102(3)(a) to be distributed to all
440 District employees, applicants, and volunteers prior to testing.
- 441 15. Interpretation.-- This Policy shall be interpreted and applied consistent with Fla.
442 Stat. §§ 440.101 and 440.102 and applicable State rules and federal law.
- 443 16. Required Training.-- Any supervisor or other employee who is assigned the
444 responsibility for making a reasonable-suspicion determination shall complete a
445 training program of at least sixty (60) minutes on alcohol misuse and sixty (60)
446 minutes on controlled substance abuse. The training should include, but not be
447 limited to:
- 448 a. the dangers of drug and alcohol abuse;
 - 449 b. the prohibition of drug or alcohol use or introduction into the workplace;
 - 450 c. the Board's Policy of maintaining a drug and alcohol-free workplace and the
451 types of testing that will be conducted;
 - 452 d. contact information for available drug and alcohol counseling and
453 rehabilitation;
 - 454 e. contact information for Employee Assistance programs;
 - 455 f. the consequences of refusing to submit to testing;
 - 456 g. all drugs included in testing under this Policy;
 - 457 h. the procedures for challenging a positive confirmed test result;
 - 458 i. the confidentiality provisions of this policy; and
 - 459 j. penalties to be imposed for violations of this Policy.

STATUTORY AUTHORITY: § 1001.41(1), (2); 1001.43(11), Fla. Stat.

LAWS IMPLEMENTED: §§ 440.101; 440.102, Fla. Stat.; 41 U.S.C. § 701, et
seq.; 34 C.F.R. Part 85.

HISTORY: _____ / ____/05

Legal Signoff:

The Legal Department has reviewed proposed Policy 3.96 and finds it legally sufficient for development by the Board.

Attorney

Date