



The Board of Education of Henry County requires that all employees who, as a condition of employment and job assignment, operate any motorized vehicle that is the property of the Henry County Board of Education shall be tested for misuse of alcohol or use of controlled substances. In addition, any employee who operates any motorized vehicle that is the property of the Henry County Board of Education shall also be subject to testing for misuse of alcohol or use of controlled substances. All such employees shall hereafter be referred to as drivers. Such test shall include pre-employment and/or pre-duty testing, reasonable suspicion testing, random testing, post-accident alcohol and controlled substance testing, and follow-up testing. In addition to testing for alcohol abuse, tests shall be conducted to detect the use of marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines (include methamphetamine).

All drivers and driver applicants shall be notified in writing that they are so covered, and that tests for alcohol abuse and use of controlled substances will be administered from time to time as provided by this policy. Drivers cannot refuse to submit to such tests while employed by the Board of Education of Henry County.

No driver shall report for duty or remain on duty while having an alcohol concentration of .02 or greater. Any driver having an alcohol concentration of .02 or greater must be referred to a qualified substance abuse professional. No driver shall report for duty or remain on duty when using any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver in writing that the substance does not adversely affect the driver's ability to perform safety-sensitive functions and safely operate a motorized vehicle. Drivers shall be required to inform their supervisor(s) of any therapeutic drug use prior to operating a motorized vehicle that is the property of the Henry County Board of Education.

A. Pre-Employment/Pre-Duty Testing

Prior to the first time an employee drives a motorized vehicle that is the property of the Henry County Board of Education, the driver shall undergo testing for alcohol and controlled substances.

B. Post-Accident Testing

In the event of an accident involving directly or indirectly a motorized vehicle that is the property of the Henry County Board of Education, the driver(s) of the vehicle shall be tested for alcohol and controlled substances use after the accident. If it is not possible to administer the test, the Superintendent or designee shall prepare and maintain on file for inspection, a record stating the reasons the test was not promptly administered. Drivers who are subject to post-accident testing shall, remain readily available for such testing. Otherwise, the driver is considered to have refused to submit to testing and employment shall be terminated. Nothing in this policy shall be construed to require the delay of necessary medical attention for injured people following an accident, or to prevent a driver from leaving the scene of an accident for a period necessary to obtain assistance in responding to the accident.

C. Random Testing

Random testing for alcohol abuse and use of controlled substances shall be unannounced and conducted quarterly. In order to comply with state and/or federal standards, school bus drivers and all other drivers can be maintained in separate pools for the purpose of selection for random testing. Random testing shall be conducted as follows:

1. For alcohol abuse, twenty-five percent (25%) of drivers shall be chosen for random testing each calendar year.
2. For use of controlled substances, fifty percent (50%) of drivers shall be chosen for random testing each calendar year.

The percentage of school bus drivers tested may be adjusted with written approval of the Federal Highway Administration (FHWA). The percentage of school bus drivers will be maintained separately from all other categories of employee drivers.

Selection of drivers to be tested shall be made by a scientifically valid method that ensures that each covered employee has an equal chance of being tested each time selection is made, i.e., a random number table of a computer-based random number generator that is matched with employees' social security numbers, or other comparable identifying numbers.

Drivers who are notified that they have been selected for random testing shall proceed immediately to the test site. Drivers shall only be tested for alcohol while performing safety-sensitive functions, or just after the driver has ceased to perform safety-sensitive functions.

D. Reasonable Suspicion Testing

Reasonable suspicion shall be cause for a driver to be required to undergo testing for alcohol abuse or controlled substances. Reasonable suspicion must be based upon specific, contemporaneous, articulable observations by a qualified supervisor or school official concerning the appearance, behavior, speech or body odors of a driver, or indications of the chronic and withdrawal effects of controlled substances. Such observations must have been made by a supervisor or school official during, just preceding, or just after the period of the work day that the driver is required to perform safety-sensitive functions. Within 24 hours of the observed behavior, a written record shall be made of the observations leading to a controlled substance reasonable suspicion test and signed by the supervisor or school official who made the observations.

Drivers who are notified that a reasonable suspicion of alcohol and/or drug use exists shall proceed immediately to the test site.

Persons designated by the Board to be qualified to determine whether reasonable suspicion exists to require a driver to undergo testing must have received at least sixty (60) minutes of training on alcohol misuse and at least an additional sixty (60) minutes of training on controlled substances use. The training must have covered the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

E. Follow-Up Testing

In the event a driver volunteers the need for assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the Superintendent or designee shall ensure that the driver is:

1. Advised of the resources available to the driver in evaluating and resolving problems associated with misuse of alcohol and use of controlled substances including names and addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs;
2. Evaluated by a substance abuse professional who shall determine what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and controlled substance use;
3. Drivers who are guilty of controlled substance abuse shall be terminated.

Before a driver returns to duty, the driver shall:

1. Undergo a return-to-duty alcohol test with a result of an alcohol concentration of less than 0.02;
2. Be evaluated to determine that the driver has properly followed any rehabilitation program that was prescribed;
3. Be subjected to unannounced follow-up testing administered by the school district, at least six (6) times during the first twelve (12) months following return to duty.

F. Penalties

1. Drugs - Drivers of motorized vehicles that are the property of the Henry County Board of Education who test positive for illegal drugs shall be terminated from employment with the Henry County School System.
2. Alcohol - Drivers of motorized vehicles that are the property of the Henry County Board of Education who test at .02 or greater will be terminated from employment with the Henry County School System.

G. Confidential Handling of Driver Test Information

Driver alcohol abuse and controlled substance use testing information is confidential and may be released only to the appropriate substance abuse professional. Any other release of this information is only with the driver's written consent.

Non-compliance with this policy or violation of the federal or state regulations may result in severe action including suspension or dismissal.

SECTION I: DEFINITIONS

As used in this policy, the term:

1. **Applicant**- means any individual who applies for employment with the Henry County School System.
2. **Illegal drug** - means any controlled substances as defined in O.C.G.A. 16-13-21; and dangerous drug as defined in O.C.G.A. 16-13-71; or marijuana as defined in O.C.G.A. 16-13-21.
3. **Convicted** or **conviction** - means a conviction in a court of competent jurisdiction or the acceptance of a plea of guilty but shall not include a plea of nolo contendere. The pendency of an appeal after conviction shall not preclude the application of this policy.
4. **Drug abuse treatment and education program** - means such programs licensed under O.C.G.A. 26-5-1 and approved by the Board of Education.
5. **Criminal offense**- means any violation of the laws of this state, any other state of the United States pertaining to the manufacture, distribution, sale or possession of illegal drugs.

SECTION II: EMPLOYEES CONVICTED OF CRIMINAL OFFENSES

The Board of Education of Henry County absolutely prohibits any employee from using, possessing, selling, exchanging, conspiring to possess or distribute, delivering or manufacturing, alcohol or any illegal drug, controlled substance or dangerous drug as herein defined.

Notwithstanding any provision of this policy to the contrary, the Board specifically reserves its right to terminate any employee who uses, possesses, sells, exchanges, conspires to possess or distribute, delivers or manufactures alcohol or any illegal or dangerous drug or controlled substance, whether or not a criminal conviction is imposed, and regardless of the employee's prior record.

Compliance with this policy is one condition of employment with the Board of Education of Henry County. Each employee of the Board of Education of Henry County will be provided with a copy of this policy.

A drug-awareness program for the purpose of informing employees of the dangers of alcohol and drug use and for informing employees of any available drug rehabilitation and employee assistance programs will be conducted during each year.

A. Minimum Sanctions

The suspension, termination and disqualification sanctions prescribed in this policy are minimum sanctions. Nothing in this policy shall prevent the Henry County Board of Education from imposing additional or more stringent sanctions for drug related criminal offenses.

B. First Offense

1. An employee who is convicted the first time of a drug related criminal offense shall, at a minimum, be suspended, without pay, for a period of not less than two (2) months.
2. Prior to return to duty, an employee who is suspended for a first offense must successfully complete a drug abuse treatment and education program, and:
 - a. Such treatment program shall be completed prior to the employee's return from suspension;
 - b. The period of suspension shall be as specified in the notice of adverse action or that period of time required to successfully complete the drug abuse treatment and education program, whichever is greater;
 - c. Such treatment program shall be at the employee's expense;
 - d. The employee may be required to provide certification of satisfactory participation in such program and shall be required to provide certification of satisfactory completion.
3. An employee who fails to successfully complete a drug abuse treatment and education program shall be terminated as provided in Section III.

C. Second or Subsequent Offense

An employee who is convicted for the second or subsequent time of a drug related criminal offense shall be terminated from employment as provided in Section III.

SECTION III: SUSPENSION AND DISMISSAL

A. Notification

Employees are required to notify the Superintendent of any criminal drug statute conviction within five (5) days of conviction.

B. Suspension

Upon receipt of documentation indicating an employee has been, after July 1, 1990, convicted for the first time of a criminal offense, the Board of Education or its designee shall notify the employee in writing, within 30 days, that the employee is being placed on suspension effective the date of the notice, or of such other personnel during the notice period.

C. Dismissal

Upon receipt of documentation indicating an employee has been, after July 1, 1990, convicted for the second or subsequent time of a criminal offense or that the employee has failed to successfully complete a drug abuse treatment and education program, the Board of Education or its designee shall notify the employee in writing of proposed termination of employment and that the employee is being placed on suspension during the notice period.

D. Notice of Proposed Suspension or Dismissal

The notice of proposed suspension or dismissal shall contain:

1. The effective date of the final decision which must be at least fifteen (15) calendar days after the date notice of the proposed action is presented to or received by the employee, or properly delivered to the employee's last known address;
2. The specific conviction(s), date(s), and court(s) in which convicted or, if appropriate, a statement that the employee failed to satisfactorily complete a drug abuse treatment and education program;
3. If for a suspension, the requirements for completion of a drug abuse treatment and education program specified in Section II;
4. A statement advising that the employee has a right to respond to the charges or reasons in writing, or appear before the Board of Education or its designee at an agreed time during regular business hours within the response period specified in Section III D 2(b);
5. A statement advising the employee that a failure to respond to the charges during the response period will result in the action being effective on the date specified without further notice, and;
6. A warning that failure to respond by the date set forth in the notice will result in a waiver of all further appeal opportunities, if any.

E. Employee Response Procedure

1. The employee response procedure is created to protect the employee from erroneous or arbitrary application of this rule.
2. This procedure does not require a full evidentiary hearing prior to the effective date of the final decision. It requires only that the employee be given an opportunity to respond to the charges before a responsible official of the school system.

This procedure must meet the following minimum requirements:

- a. The person to whom the response is to be made is the Henry County Board of Education or its designee;

- b. The employee must respond within ten (10) calendar days from the date the notice is received. If there is no response by the employee by the date required in the notice, the employee waives all further appeal opportunities, if any. There can be no further appeal including any appeal to the Board of Education;
 - c. The response may be made in writing, or in person or both;
 - d. The employee may submit affidavits to support the response, and;
 - e. The Board of Education or its designee may conduct further investigation as to the charges.
3. If the Board of Education or its designee determines that more than three (3) calendar days are needed to consider the employee's response, the Board of Education or its designee may extend the period of consideration for a reasonable number of days by notifying the employee as to the length of the extension. The extension notice shall also state that the effective date of a proposed dismissal shall be delayed the same number of days as the length of the period of extension for consideration.

F. Determination of Final Action

The Board of Education or its designee shall issue a notice of determination of final action not later than three (3) calendar days after the date of response except as provided in Section III D 3. The notice shall include:

- a. The final action;
- b. The specific conviction(s), date(s), and court(s) in which convicted or, is appropriate, a statement that the employee failed to satisfactorily complete a drug abuse treatment and education program, and
- c. The effective date of the final action.

Decisions of the Board or its designee shall be final and shall not be reconsidered except for specific correction of a manifest error to comply with an order of a court of competent jurisdiction.

SECTION IV: PERSONAL USE OF ILLEGAL DRUGS

A. Admission of Personal Use of Illegal Drugs

1. Employees who notify their immediate supervisor of personal use of illegal drugs may be entitled to maintain their employment, provided:
- a. The notification is made in writing to the immediate supervisor;
 - b. The employee notifies the immediate supervisor of such personal use prior to arrest for a criminal offense and the notification has been acknowledged by the immediate supervisor;
 - c. The employee agrees to receive treatment, at the employee's own expense, under a drug abuse and education program; and
 - d. Continued employment shall be conditional upon the employee's successful completion of the treatment plan.
2. The employee may be required to provide evidence satisfactory to the Board of Education or its designee of attendance and satisfactory progress in the treatment plan.

3. The Board or its designee, in its discretion, may elect not to dismiss the employee solely on the basis of the employee's reported drug usage as long as the employee complies with the provisions of Section IV.

4. The Board of Education may restructure the employee's work activities if practicable to protect persons or property.

5. No statement made by an employee to a representative of the Board of Education in accordance with this policy will be voluntarily publicized by the Board of Education or its designee except as required by the Open Records law of the State of Georgia.

SECTION V: DISQUALIFICATION OF APPLICANTS FOR EMPLOYMENT

A. Applicant's First Conviction

Any applicant who has been convicted for the first time of a drug related criminal offense shall be ineligible for employment by the Henry County Board of Education for a period of three (3) months from the date of conviction.

B. Second or Subsequent Conviction

Any applicant or employee who has been convicted for a second or subsequent time shall be ineligible for employment by the Henry County Board of Education for a period of five (5) years from the most recent date of conviction.

C. Request for Review

Any applicant who is disqualified under the provisions of this policy may file, in writing, a request with the Board of Education or its designee that the disqualification be removed. The request must include any evidence that would support the applicant's belief that the disqualification is not supported by the facts. The decision of the Board of Education or its designee shall be final and no further appeal shall be permitted.

Henry County Schools

Date Adopted: 11/1/1991

Last Revised: 10/10/2005

NOTE: *The State of Georgia has moved the Georgia Code. This new environment no longer allows us to link directly to the Georgia Code. For example **enter 20-02-0211 in the search window** and the Georgia Code will appear.*

Georgia Code

Description

O.C.G.A. 20-02-0011 [State Board of Education - budget, supervision of DOE, funding](#)

O.C.G.A. 20-02-0940 [Grounds/procedure for terminating or suspending contract of employment \(Fair Dismissal law\)](#)

O.C.G.A. 26-05-0001 [Drug Abuse Treatment and Education Act-Short Title](#)

O.C.G.A. 45-23-0002 [Drug-free Public Work Force Act of 1990-Legislative finding and declaration](#)

- O.C.G.A. 45-23-0003 [Drug-free Public Work Force Act of 1990-Definitions](#)
- O.C.G.A. 45-23-0004 [Drug-free Public Work Force Act of 1990-Suspension or termination of public employee convicted of drug offense](#)
- O.C.G.A. 45-23-0005 [Drug-free Public Work Force Act of 1990-Ineligibility for public employment of person convicted of drug offense](#)
- O.C.G.A. 45-23-0006 [Drug-free Public Work Force Act of 1990-Additional or more stringent sanctions authorized](#)
- O.C.G.A. 45-23-0007 [Drug-free Public Work Force Act of 1990-Continuance of employment for drug user; requirements and procedure](#)
- O.C.G.A. 45-23-0008 [Drug-free Public Work Force Act of 1990-Administrative Procedures](#)
- Rule 160-5-3-.15 [Alcohol and Controlled Substances Testing](#)

US Code

- 21 USC 812 [Schedules of controlled substances](#)
- 41 USC 701 [Drug-free workplace requirements for Federal contractors](#)

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.