

Personnel Management and Services
Nelson E. Diaz, Deputy Superintendent

**SUBJECT: PROPOSED AMENDMENT OF BOARD RULE: INITIAL READING 6Gx13-
4-1.05, DRUG- FREE WORK PLACE GENERAL POLICY STATEMENT**

This item is submitted for consideration by the Board to amend this rule, and to repeal and replace the document, Drug-Free Work Place Technical Guide, as a result of substantial revisions to the document, which is incorporated by reference and is part of Board Rule 6Gx13- 4-1.05, Drug-Free Work Place General Policy Statement.

Attached are the Notice of Intended Action, the rule proposed for amendment, and the document, Drug-Free Work Place Technical Guide, proposed for repeal, and the new document, Drug-Free Workplace Technical Guide, proposed for promulgation. Changes from the current rule are indicated by underscoring words to be added and ~~striking through~~ words to be deleted.

Copies of the Drug-Free Workplace Technical Guide, which is incorporated by reference and is a part of this rule, will be forwarded to the School Board Members under separate cover prior to the School Board Meeting of June 23, 1999, and will be made available for inspection by the public in the Office of the Board Recording Secretary, Room 924, and the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida, 33132.

Authorization of the Board is requested for the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act for the amendment of Board Rule 6Gx13- 4-1.05, Drug-Free Work Place General Policy Statement.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to amend Board Rule 6Gx13- 4-1.05, Drug-Free Work Place General Policy Statement, and to promulgate the new document, Drug-Free Workplace Technical Guide, which is incorporated by reference and is a part of this rule.

NED/vh

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on June 23, 1999, its intention to amend Board Rule 6Gx13- 4-1.05, Drug-Free Work Place General Policy Statement, to repeal the document, Drug-Free Work Place Technical Guide, and to promulgate the new document, Drug-Free Workplace Technical Guide, which is incorporated by reference and is a part of this rule, at its meeting of August 25, 1999.

PURPOSE AND EFFECT: To revise the Board Rule and to promulgate the document, Drug-Free Workplace Technical Guide, to effectively implement Federal Law, Florida Statute and current Board practice related to ensuring a drug-free workplace.

SUMMARY: Board Rule 6Gx13- 4-1.05, Drug-Free Work Place General Policy, delineates procedures to be followed by the Board for ensuring a drug-free workplace by providing employee education, supervisor training, employee assistance, and strict adherence to guidelines for applicants and employees found not to be drug-free.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 230.22(2); 230.23 (17), F.S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 234.091 F.S.; 34 CFR § 86.201; 49 CFR parts 40 and 382, et al; 41 USC § 701-706.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF August 25, 1999, which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida 33132. Persons requesting such a hearing, or who wish to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by Section 120.541(1), F.S., must do so in writing by July 19, 1999, to the Superintendent of Schools, Room 912, at the same address.

ANY PERSON WHO DECIDES TO APPEAL THE DECISION made by The School Board of Miami-Dade County, Florida, with respect to this action will need to ensure the preparation of a verbatim record of the proceedings, including the testimony and evidence upon which the appeal is to be based. (Section 286.0105, Florida Statutes)

A COPY OF THE PROPOSED AMENDED RULE is available for inspection and copying at cost by the public in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

Originator: Ms. Gwendolyn Jennings Kidney
Supervisor: Mr. Nelson E. Diaz
Date: June 9, 1999

General Personnel Policy Statement**DRUG-FREE-~~WORK PLACE~~ WORKPLACE GENERAL POLICY STATEMENT**

~~Dade County Public Schools and its employee unions~~ The School Board of Miami-Dade County, Florida recognizes that substance abuse in our nation and our community exacts staggering costs in both human and economic terms. Substance abuse can be reasonably expected to produce impaired job performance, lost productivity, absenteeism, accidents, wasted materials, lowered morale, rising health care costs, and diminished interpersonal relationship skills. Miami-Dade County Public Schools (M-DCPS) and its employee unions share a commitment to solve this problem and to create and maintain a drug-free work ~~place~~ environment.

Miami-Dade County Public Schools is responsible for the instruction and well-being of the students entrusted to its care. A consistent message needs to be communicated to Miami-Dade County Public Schools students; the use of illegal drugs, the abuse of alcohol, and the misuse of prescription drugs is unacceptable and will not be tolerated.

Policy Objectives

- A. To promote a healthy, safe working and learning environment.
- B. To seek the rehabilitation of permanent employees with a self-admitted or detected substance abuse problem.
- C. To eliminate substance abuse problems in the ~~work-place~~ workplace.
- D. To provide a consistent model of substance-free behavior for students.
- E. To provide a clear standard of conduct for Miami-Dade County Public Schools employees.
- F. To communicate that persons who violate the standards of conduct cited in this rule and who refuse or cannot be assisted by rehabilitation or who have negatively impacted students and/or staff shall be dismissed.
- F G. To hire drug-free employees.

I. Policy Statement - Illegal Drugs

Drug abuse by employees interferes with the educational and work process, and compromises the safety and well-being of staff and students. Employees are expected to conduct themselves in a manner consistent

with the following provisions:

- A. Employees on duty or on School Board property will not manufacture, distribute, dispense, possess or use illegal drugs, nor will they be under the influence of such drugs.
- B. Employees on or off duty will not influence students to use illegal or abuse legal drugs.
- C. An employee convicted of adjudicated guilty, or who has entered a plea of guilty for any criminal drug statute violation occurring in the ~~work place~~ workplace shall notify Miami-Dade County Public Schools ~~no later than five (5) days after such a conviction~~ within 48 hours after final judgment.

One time only, prior to testing, the Miami-Dade County Public Schools shall give all job applicants and part-time employees going to full-time employment a written statement of its policy on a drug-free workplace.

II. Policy Statement - Alcohol and Prescription Drugs

Alcohol, prescription and over-the-counter drugs are legal and readily available. Generally safe and acceptable, these drugs, when abused over time or used in combination with one another, can result in chemical dependency or poly-drug addiction. Employees are expected to conduct themselves in a manner consistent with the following provisions:

- A. Employees on duty or on School Board property ~~will be free of intoxication from~~ shall not be under the influence of alcohol. Employees in safety sensitive positions, as defined ~~herein~~ in the Drug-Free Workplace Technical Guide, which is incorporated by reference into this rule, and made a part thereof, will be free of measurable alcohol concentrations. Further, employees will not manufacture or use alcoholic beverages while on School Board property or on duty.
- B. Employees on duty will not use or take prescription drugs above the level recommended by the prescribing physician, and will not use prescribed drugs for purposes other than what the prescribed drugs were intended. In addition, the employee will not distribute or dispense such drugs, except as provided in School Board Rule 6Gx13-5D-1.021, School Health Services Program.

III. Policy Statement - Employee Physical Examinations/Screening/Health Services

In order to establish and support a clear standard of conduct for employees, Miami-Dade County Public Schools adheres to the following provisions:

- A. Drug screening will be included in all physical examinations; existing employees and contracted persons in covered positions will be screened under the Omnibus Transportation Employee Testing Act of 1991 (OTETA), and as required under existing labor contracts, statutes, State Board Rules, and Miami-Dade County Public Schools Board Rules.
- B. Circumstances under which testing may be considered include, but are not limited to, the following:
- observed use of illegal drugs and/or abuse of alcohol during work hours;
 - apparent physical state of impairment of motor functions;
 - marked changes in personal behavior on the job not attributable to other factors;
 - employee involvement in serious or repetitive accidents on the job causing personal injury to self or others and/or significant property damage;
 - employee involvement in an accident requiring the vehicle to be towed or medical treatment away from the scene of the accident; and
 - any vehicular fatality.
- C. Drug and/or alcohol screening shall be conducted by Board approved, independent, certified laboratories utilizing recognized techniques and procedures as described in the **Miami-Dade County Public Schools Drug-Free Work-Place Workplace Technical Guide**, which is incorporated by reference into this rule, and made a part thereof. ~~The protocol for drug screening shall include a split sample and chemical immunoassay screening procedure. In the event initial test results are screened positive, such results will be confirmed and verified by the Gas Chromatography Mass Spectrometry (GC/MS) test. The Technical Guide shall be located in the Board Office, Citizen Information Center, and the Office of the School Board Clerk.~~
- D. Medical records, and information relating directly thereto, ~~will~~ shall be maintained in strict confidentiality, with the highest regard for employee privacy consistent with Florida's Public Records Act and the purpose of achieving and maintaining a drug-free workplace. Any laboratory contract shall provide that the contractor's records are to be kept confidential under provisions of Florida Laws. M-DCPS shall establish a system of maintaining records to include

both the district's and the contractor's record of applicant and employee urinalysis and blood alcohol results.

~~The contract and the record maintenance system must have specific provisions that require that employee records are maintained and used with the highest regard for employee privacy consistent with Florida's Public Records Act and the purpose of achieving and maintaining a drug-free work place.~~

- E. Miami-Dade County Public Schools recognizes that chemical dependency is an illness that can be successfully treated. It is the policy of the Miami-Dade County Public Schools, where possible, to seek rehabilitation of permanent employees with a self-admitted or detected drug problem.

IV. **Policy Statement - Pre-employment Drug Screening**

- A. Miami-Dade County Public Schools will require pre-employment drug screening of applicants in the manner set forth in the **Drug-Free Work Place Workplace Technical Guide**.
- B. Applicants will be referred to Board approved, independent, certified laboratories utilizing recognized techniques and procedures, as described in the **Drug-Free Work Place Workplace Technical Guide**.
- C. Specimens collected will not be used to conduct any other analysis or test unless otherwise authorized by law.
- D. The validity period for pre-employment drug screening is one year.
- E. Applicants will be informed in advance of the requirement of a negative drug screen as a condition of employment. Applicants testing positive will not be eligible for employment by Miami-Dade County Public Schools for one three years from the date of the test. Applicants for designated positions will be informed of the requirement for a random drug screening test, without prior notification, after employment, under existing labor contracts, statutes, OTETA, and Board Rules, except as otherwise provided.

V. **Disciplinary Sanctions**

~~Disciplinary action may be instituted against employees who have violated the standards of conduct cited in this rule, and who the Board believes will not be assisted by rehabilitation or who have negatively impacted students and/or staff, pursuant to School Board Policy, applicable Florida Statutes, State Board of Education Rules, Omnibus Transportation Employee Testing Act of 1991 (OTETA), and applicable provisions of collective~~

~~bargaining agreements. Disciplinary sanctions, if appropriate, will be implemented as articulated in School Board Policy, applicable Florida Statutes, State Board of Education Rules, Omnibus Transportation Employee Testing Act of 1991 (OTETA), applicable provisions of collective bargaining agreements, and 34 CFR § 86.201(b). Employees who violate the standards of conduct cited in this rule and who the Board determines will not be assisted by rehabilitation or who have negatively impacted students and/or staff shall be dismissed. A refusal to submit to a drug test or a second violation of the Drug-Free Workplace Policy shall constitute an inability to be assisted by rehabilitation. Nothing will preclude the Board from seeking criminal prosecution for violation of this policy where the Board deems appropriate.~~

Specific Authority: 230.22(2); 230.23(17) F.S.

Law Implemented, Interpreted, or Made Specific: 234.091 F.S.; 34 CFR § 86.201; 49 CFR parts 40 and 382, et al; 41 USC § 701-706;

History

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

New: 10-4-89

Amended: 9-26-90; 1-6-93; 12-14-94