

Alcohol and Drug-Free Workplace

The Board recognizes the importance of maintaining a workplace that is free from alcohol and drugs to enhance the safety and welfare of employees and students and ensure compliance with applicable law. Accordingly, it shall be a violation of Board policy for any BOCES employee to possess, use or be under the influence of alcohol or illicit drugs on BOCES property, in or on BOCES vehicles, at any BOCES-sponsored activity or event, or off BOCES property when the employee is on duty.

For purposes of this policy, "illicit drugs" means narcotics, drugs and controlled substances as defined in law. Although some actions involving marijuana are no longer prohibited by state law, federal law still prohibits the manufacture, sale, distribution, possession and use of marijuana. As a recipient of federal funds, the BOCES has an obligation to maintain a drug-free workplace. Thus, marijuana is an illicit drug for purposes of this policy. "Illicit drugs" also includes any prescription or over-the-counter drug that does not meet the following four criteria: (1) the employee has a current and valid prescription for the drug or the drug is sold over-the-counter; (2) the drug is used or possessed for the purpose for which it was prescribed or sold over-the-counter; (3) the drug is used or possessed at the dosage prescribed or recommended; and (4) the drug is used or possessed consistent with the safe and efficient performance of the employee's job duties.

Observance of this policy is a condition of employment. A violation shall subject the employee to appropriate disciplinary action which may include suspension, termination and referral for prosecution. In appropriate circumstances and at the BOCES's sole discretion, disciplinary sanctions may include the completion of an approved drug or alcohol abuse assistance or rehabilitation program. Any such program shall be at the employee's expense. However, the BOCES is not required to offer rehabilitation in lieu of termination or other discipline to any employee who has violated this policy.

After investigation, the executive director may reinstate an employee who has been suspended if it appears to be in the best interests of the BOCES. The matter shall be reported to the Board.

Drug-Free Workplace Act

Under the federal Drug-Free Workplace Act (the Act), the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in any BOCES workplace. The Act defines "controlled substance" as a controlled substance in schedules I through IV of 21 U.S.C. section 812, which includes but is not limited to marijuana, cocaine, opiates, phencyclidine (PCP) and amphetamines (including methamphetamine).

Pursuant to the Act, any employee who is convicted or pleads *nolo contendere* under any criminal drug statute for a violation occurring in the workplace shall notify the executive director no later than five days after the conviction. The BOCES has an obligation under the Act to notify the appropriate federal agency within 10 days after receiving notice of such conviction if there is a relationship between federal funds received by the BOCES and the convicted employee's work site.

Awareness and prevention program

The executive director shall establish an awareness and prevention program to inform employees about:

1. The dangers of drug and alcohol abuse.
2. The Board's policy of maintaining an alcohol and drug-free workplace.
3. Available drug and alcohol counseling, rehabilitation and employee assistance programs.
4. Penalties that may be imposed upon employees for violations of this policy.

The Board shall conduct a periodic review of its awareness and prevention program to determine its effectiveness and implement appropriate changes.

Notification to employees

Information about the standards of conduct required by this policy shall be communicated to employees through inclusion in the employee handbook. All employees shall acknowledge receipt of this policy and related information upon hiring.

Adopted: May 12, 2016

LEGAL REFS.: 20 U.S.C. 7101 et seq. (*Safe and Drug-Free Schools and Communities Act*)
21 U.S.C. 812 (*definition of controlled substance*)
41 U.S.C. 8101 and 8102 (*Drug-Free Workplace Act of 1988*)
34 C.F.R. Part 84 (*regulations implementing the Drug-Free Workplace Act*)
Colo. Const. Art. XVIII, Section 16(6) (*employers may restrict marijuana use, possession, sale, etc. by employees*)
C.R.S. 18-18-407 (2) (*crime to sell, distribute or possess any controlled substance on or near school grounds or school vehicles*)
C.R.S. 25-1.5-106 (12)(b) (*possession or use of medical marijuana in or on school grounds or in a school bus is prohibited*)
C.R.S. 25-14-103.5 (*policy required prohibiting use of retail marijuana on school property*)

CROSS REFS.: GCQF, Discipline, Suspension and Dismissal of Professional Staff
GDQD, Discipline, Suspension and Dismissal of Support Staff