

REGULATION

BOARD OF EDUCATION FRANKLIN BOROUGH

TEACHING STAFF MEMBERS

R 3218/Page 1 of 9

Substance Abuse/Fitness for Duty Guidelines

Jan 94

Oct 95

Franklin Board of Education prohibits the unlawful use, possession, manufacture, distribution, dispensing and sale of controlled substances, illegal drugs, drug paraphernalia or alcohol on Board of Education property or during working hours.

I. Medically Prescribed Drugs and Over-the-Counter Medications

The proper use of prescribed or over-the-counter medication is recognized as beneficial for the treatment of illnesses and/or the relief of symptoms. If an employee is cautioned by a medical professional that the medication could affect the safe performance of job duties, however, the employee must notify the principal or the school nurse of this fact.

II. Controlled Substances

The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Franklin Board of Education workplace.

Any employee charged with any criminal drug related offense occurring while employed by the Board of Education must notify the principal within five (5) days. The criminal charge will be reviewed and the appropriate action will be taken, including but not limited to possible suspension with or without pay, pending adjudication of criminal charge.

If an employee is convicted of a drug abuse type of offense by being found guilty at trial, by pleading guilty to the charges or subsequent plea agreement as resulting from the original charge, the employee will notify the principal within five (5) days. The appropriate action will be taken, including but not limited to satisfactory participation in and completion of an inpatient rehabilitation program, appropriate follow-up care, counseling, disciplinary action or termination of employment.

If an employee is convicted of manufacture, distribution, dispensing, and/or indictable possession of controlled substances or illegal drugs, the employee will be terminated.

Failure to notify the principal within five (5) days of a drug related charge or conviction will be considered grounds for termination of employment.

III. Alcohol

Alcohol use by employees could have an adverse affect on job performance or jeopardize the safety of students, teachers, staff and Board of Education property or equipment. Therefore, the use of alcohol in the school building or on Board of Education property is not permitted.

REGULATION

BOARD OF EDUCATION FRANKLIN BOROUGH

TEACHING STAFF MEMBERS

R 3218/Page 2 of 9

Substance Abuse/Fitness for Duty Guidelines

Jan 94

Oct 95

Any motor vehicle used for Board of Education business may not be operated by an employee who has consumed any alcohol in the last four hours prior to driving.

IV. Post-Rehabilitation Testing

Upon completion of a rehabilitation program and prior to returning to work, all employees must submit to and successfully complete a physical examination which includes passing a drug test. Employees refusing to submit to drug testing will be deemed to have voluntarily resigned from their position.

Once an employee has returned to work after completing rehabilitation, he/she may be subject to retesting based on individualized suspicion determined on a case-by-case basis. If a confirmed positive result is obtained, the employee may be terminated.

V. Reasonable Individualized Suspicion Testing

In addition to post-rehabilitation situations, testing based on reasonable individualized suspicion may be required where an employee appears to be using or under the influence of a controlled substance. Determinations under this section will be based on the standards and procedures set out in the Fitness for Duty Guidelines contained in this regulation.

VI. Non-Discrimination

Franklin Board of Education will not discriminate against any individual suffering from alcoholism or drug addiction, but may deny employment to such substances affects their conduct or their ability to perform the necessary functions of the position such that the individual is not qualified for the position even with reasonable accommodations.

Medical Review Officer

The Medical Review Officer is the physician who is responsible for reviewing the test results of an employee drug/alcohol test generated by the testing laboratory. The Medical Review Officer will be a licensed physician with knowledge of substance abuse and disorders, and with appropriate training to interpret and evaluate an individual's positive test results, together with medical history and relevant biomedical information. Franklin Board of Education will arrange for a qualified physician or physicians to assume the function of Medical Review Officer through arrangement with the school physician or a local hospital.

Diagnostic Procedures

REGULATION

BOARD OF EDUCATION FRANKLIN BOROUGH

TEACHING STAFF MEMBERS

R 3218/Page 3 of 9

Substance Abuse/Fitness for Duty Guidelines

Jan 94

Oct 95

1. All drug testing will be conducted at and by a laboratory which is certified by the College of American Pathologists and the New Jersey Department of Health as a drug-testing facility.
2. Drug testing will be conducted utilizing urine samples produced by the employee on site at the testing facility.
3. All urine specimens identified as testing positive for drugs on the initial test will be confirmed using the GAS CHROMATOGRAPHY/MASS SPECTROMETRY test to ensure the accuracy and the reliability of the initial test.
4. All employees undergoing testing are required to follow the procedures and guidelines established by the laboratory to ensure that specimens are unadulterated from the moment of production and throughout the testing procedures. The laboratory will make every effort to respect the privacy of individuals providing urine samples for drug testing, and to ensure the confidentiality of all test results.
5. All drug test results will be transmitted to review from the laboratory directly to the Medical Review Officer.
6. The Medical Review Officer will review all specimen results which tested positive on both the initial and confirming tests to determine if there are potential legitimate factors which could cause positive test results. In examining alternate medical explanations for positive test results, the Medical Review Officer may conduct a medical interview with the employee, review the individual's medical history, and/or examine any other relevant biomedical factors. Any employee receiving a positive test result will be given the opportunity to discuss the result with the Medical Review Officer.
7. The Medical Review Officer will retain, in a locked cabinet, copies of all test results. Drug test results and all employee health records will be maintained separate and distinct from employee personnel records.
8. The Medical Review Officer will notify the Principal's Office of his/her determination as to whether the employee passed or failed the test, but will not provide any details about the test results. All test results information will be treated as strictly confidential.

PROCEDURES

- A. Basic procedures to be followed when an employee is suspected of current or ongoing illegal use of a controlled dangerous substance.

REGULATION

BOARD OF EDUCATION FRANKLIN BOROUGH

TEACHING STAFF MEMBERS

R 3218/Page 4 of 9

Substance Abuse/Fitness for Duty Guidelines

Jan 94

Oct 95

1. The employee's behavior shall be observed and documented by concerned staff, according to the Fitness for Duty Guidelines contained in this policy. The concerned staff member shall make this report to the superintendent, the principal, the school physician (school medical inspector), or the school nurse.
 2. The school physician (school medical inspector) or the school nurse shall notify the building principal upon receiving any such report(s). The principal will then notify the Superintendent of any such report(s). The school physician, nurse or principal will then conduct independent observation of the employee to verify the initial report. If verified, the Principal and Superintendent, and school nurse when appropriate, will discuss their concern for the employee's health and performance to determine if further pursuance is appropriate and necessary.
- B. The Superintendent or the Principal, accompanied by the school nurse, the school physician, or another administrative employee shall:
1. Confront the employee in a constructive manner regarding his/her condition.
 2. Inform the employee of the requirement that he/she submit to a medical examination, blood, urine, or other diagnostic test studies for drugs and/or alcohol to establish the reason for the observed impairment/unfitness.
 3. If the employee agrees to comply with the above, accompany him/her to the local hospital for testing. If the employee refuses, explain to him/her that failure to comply will result in disciplinary action up to and including discharge. The employee should be given the opportunity to reconsider. If the employee refuses, he/she may be subject to disciplinary measures for insubordination. Any negative drug test results will not be considered in future employment-related decisions.
 4. Upon completion of the prescribed diagnostic procedures (as described above) the employee should be relieved of duty (i.e. paid suspension) pending receipt of the results.
 5. All pertinent information must be documented in writing and in detail.
 6. The Superintendent must be notified of the incident and action taken.

It must be emphasized that the determination of impairment or unfitness is to be made without prejudice and without any presumption of cause. Consistent with this, employees must not speculate, badger, moralize, or accuse. The expectation is that the employee and the Superintendent, Principal, physician, or nurse will deal with the employee who appears to be impaired or unfit in a highly professional, dispassionate, concrete and non-punitive manner.

REGULATION

BOARD OF EDUCATION FRANKLIN BOROUGH

TEACHING STAFF MEMBERS

R 3218/Page 5 of 9

Substance Abuse/Fitness for Duty Guidelines

Jan 94

Oct 95

DISCIPLINARY IMPLICATIONS

In that the determination of impairment/unfitness is to be made without prejudice or presumption of cause, any disciplinary action is to be deferred pending receipt of the results of medical examination and blood, urine, or other diagnostic test analysis.

If the findings of the laboratory studies and physical examination reveal that the impairment/unfitness for duty was not the result of factors for which the employee can be held responsible, the employee should be allowed to return to work as soon as medically cleared. The results will not be considered in future employment decisions.

If, however, the findings of diagnostic procedures confirm that the impairment/unfitness for duty was the result of alcohol or other drug ingestion, the employee will be subjected to disciplinary sanctions. At a minimum, the employee shall be required to obtain professional counseling and/or complete an appropriate rehabilitation program. The school nurse will recommend at least two certified counseling agencies or a rehabilitation program to the superintendent. Where necessary, an employee may apply for a medical leave of absence in accordance with Board of Education policy. In addition, in each situation where a positive test result is confirmed, the superintendent will be notified and the principal will prepare a Violence, Vandalism and Substance Abuse Incident Report.

Procedures to be followed when an employee is found in possession of, and/or selling/distributing illicit drugs, alcohol, or anabolic steroids and/or a controlled dangerous substance as defined by New Jersey Statutes and/or Codes:

1. A report will be filed immediately with the appropriate local law enforcement agency if any employee is found to be using, in possession of, or selling illicit drugs, alcohol, or anabolic steroids on the Board of Education's premises or as part of any Board of Education function.
2. In the course of any investigation by the appropriate law enforcement agency, if an employee is arrested by the police, he/she will be immediately suspended from work with pay until a Board hearing can be arranged for further disciplinary action.
3. Should the employee be found guilty of a criminal offense, he/she will have a Board hearing at which time the Board will render a decision regarding disciplinary action. He/she may be suspended without pay, lose an increment, be required to attend a rehabilitation program, or be terminated from the employment.

Any school staff member(s) who, in good faith, reports an employee to the principal or the school medical inspector or the school nurse in an attempt to help such person cure his/her

REGULATION

BOARD OF EDUCATION FRANKLIN BOROUGH

TEACHING STAFF MEMBERS

R 3218/Page 6 of 9

Substance Abuse/Fitness for Duty Guidelines

Jan 94

Oct 95

dependence on or illegal use of controlled substance(s) as defined by N.J.S.A. 2A:179-25-9 and N.J.S.A. 24:2102 shall not be liable in civil damages as a result of making any such report as specified in N.J.S.A. 2A:62A-4. Alcohol and anabolic steroids are not listed as a controlled dangerous substance by statute or code.

FITNESS FOR DUTY GUIDELINES

INTRODUCTION

These Fitness for Duty Guidelines are intended to provide all personnel with observable, verifiable criteria for determining when an employee may reasonably be considered impaired/unfit for duty, and procedural guidelines to follow once such a determination has been made. It is expected that employees will report for work in a condition fit for proper, competent, and safe performance of their duties, and that such a fit condition will be maintained throughout scheduled work time.

The objective of these Guidelines is to ensure the safety and welfare of students, the school community as a whole, and the affected employee. It is also intended that these Fitness for Duty Guidelines be integrated with the Board of Education's Substance Abuse Policy and Progressive Discipline Procedure so as to provide a reasonable, consistent and effective response to the employee whose impairment/unfitness for duty may be the result of chemical dependence or other medical-behavioral problems. Such an approach must strike a balance between considerations of employee rights and rehabilitation and the promotion of a safe, orderly, drug-free workplace.

The superintendent, the principal, and the school nurse are responsible for assessing the fitness for duty of employees, and for taking prompt action to ensure that employees who may be impaired for any reason are not allowed to jeopardize students' safety or educational objectives. If a reasonable suspicion of unfitness/impairment can be established, an employee may be relieved of duty and placed on paid suspension pending the results of medical examination and laboratory studies.

DEFINITION OF IMPAIRED/UNFIT FOR DUTY

An employee reasonably may be considered impaired or unfit for duty if he/she is incapable of performing assigned duties in a proper, safe, and competent fashion for any reason. The physical and/or intellectual ability to perform the skills associated with the employee's job, interpersonal behavior, and judgment are all reasons which must be assessed in light of the safety and competency criteria. This is particularly sensitive because we work in a school setting with children. The ultimate test for impairment or unfitness is whether a reasonable and prudent person would consider the employee's observed behavior to be incompatible with the safe and competent performance of his or her duties. If the response to such a question is yes, a

REGULATION

BOARD OF EDUCATION FRANKLIN BOROUGH

TEACHING STAFF MEMBERS

R 3218/Page 7 of 9

Substance Abuse/Fitness for Duty Guidelines

Jan 94

Oct 95

reasonable suspicion of impairment/unfitness can be said to exist.

The determination of impairment/unfitness is the responsibility of the superintendent and/or principal and/or school nurse or physician, and to be justified must be based upon specific, verifiable behavior observations. To be credible, the safety and competency criteria must be applied in a highly consistent and impartial manner.

Behavioral indications of impairment or unfitness for duty can stem from a variety of causes, both legitimate and illegitimate. Examples of such conditions can include undiagnosed physical disease, the side effects and interactions of prescribed medications, exposure to toxins, extreme stress, alcohol, or other drug intoxications. Because of this, the determination of why an employee may appear impaired or unfit is strictly a medical prerogative into which employees must not intrude. Employees are, therefore, strongly cautioned against speculating about the cause of an apparent impairment, and absolutely must refrain from ever accusing an employee, for example, of being under the influence of alcohol or other drugs.

BEHAVIORAL INDICATORS OF POSSIBLE IMPAIRMENT/UNFITNESS FOR DUTY

The following list of indicators ranges from those which are very clear and compelling to others which are ambiguous and, at best, borderline. Co-workers are in the position of being able to make a judgment based upon the facts at hand (i.e., the employee's immediately observable behavior as it related to job performance). Employees should be particularly alert to behaviors in others which are abnormal, uncharacteristic, or inappropriate to the context of the work environment, and should report such observations to the superintendent, principal or school nurse.

Physical Appearance

- Impaired coordination, unsteady gait, staggering, poor balance
- Tremors, shakiness, dizziness, seizures
- Impaired muscular control, poor performance of complex motor tasks
- Bloodshot eyes, dilated or constricted pupils, watery eyes
- Excessive sweating, chills, nausea
- Abnormal drowsiness, "nodding off," excessive fatigue, stupor
- Blank expression, unresponsive
- Apparent odor of alcohol on the breath (can be misleading; not sufficient in isolation to establish impairment or unfitness)
- Inappropriate or bizarre dress; neglect of personal hygiene or appearance

Unusual/Abnormal Behavior

- Markedly poor judgment, impulsiveness

REGULATION

BOARD OF EDUCATION FRANKLIN BOROUGH

TEACHING STAFF MEMBERS

R 3218/Page 8 of 9

Substance Abuse/Fitness for Duty Guidelines

Jan 94

Oct 95

- Carelessness, risk-taking behavior, neglect of safety procedures
- Marked irresponsibility, indifference, or rigidity
- Marked anxiety, agitation, panic
- Mood swings, erratic behavior
- Apathy, lethargy, depression, despondence, suicidal thinking
- Euphoria, elation, "high," excessively talkative, overactive (restless)
- Over-reactiveness (verbal or physical); boisterousness, irritability, argumentative, quarrelsome, belligerency, explosiveness, threats, assaultive, combative
- Slurred speech

Cognitive (Mental) Factors

- Inability to concentrate or comprehend, distractibility
- Memory deficits, lapses, forgetfulness
- Preoccupation, brooding, excessive daydreaming
- Confusion, disorientation, incoherence, irrelevancy
- Impairment of communication – expressive or receptive
- Hallucinations (perceptions which are false/unreal)
- Marked suspiciousness, feelings of persecution, homicidal thoughts

AMBIGUOUS SITUATIONS

Employees may well encounter situations which are ambiguous or borderline regarding whether they legitimately constitute unfitness for duty or impairment. Probably the most common of these situations occurs when an employee reports for duty seeming to have the smell of alcohol on his/her breath. Such an odor is not, however, a foolproof indicator of impairment/unfitness in isolation from other corroborating observations. The odor of alcohol can persist on the breath long after the alcoholic beverage has been ingested and the effects of the drug have disappeared. Additionally, the scents of some colognes, aftershaves, and mouthwashes may be mistaken for alcohol and diabetic ketoacidosis can produce a sweet breath odor that can be confusing as well.

The proper approach in such a situation is to notify the superintendent, principal, school physician, or school nurse, who will confront the employee regarding your observations, and request an explanation. Depending upon the credibility of the employee's explanation, he/she should be made aware that the issue in question is not appropriate or acceptable, and that the school will be observant for its possible recurrence in the future. The employee should be informed that any condition which could serve to bring the employee or the Board of Education into disrepute, or otherwise undermine student safety or educational objection, can legitimately be considered as falling under the purview of the Fitness for Duty Guidelines. The intent is to warn the employee that something about his/her condition is not acceptable, that the principal is aware of the issue, and that further action may take place if there is a repetition in the future.

REGULATION

BOARD OF EDUCATION FRANKLIN BOROUGH

TEACHING STAFF MEMBERS

R 3218/Page 9 of 9

Substance Abuse/Fitness for Duty Guidelines

Jan 94

Oct 95

In the case of alcohol on the breath, without additional indicators of impairment, relieving the employee of duty is not warranted, but the odor should be eliminated before the employee is allowed to resume his/her duties.

As in all other situations, the employee must refrain from making accusations. All relevant information should be documented in writing and presented to the superintendent, principal, physician, or school nurse. Finally, where any substantial doubt exists in the minds of the superintendent, principal, physician, or school nurse regarding the employee's capacity to function competently and safely, the issue should be resolved in favor of caution and prudence. If the concern was unfounded, the employee will be reinstated without prejudice and with back pay.

Date Adopted: 6/26/95

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