

# Public Schools Branch

## OPERATIONAL POLICY

EMPLOYEE DRUG, ALCOHOL, AND MEDICATION	
<i>Policy Section</i> <b>School/Workplace Health and Safety</b>	<i>Policy Number</i> <b>608</b>
<i>Pages</i> <b>10</b>	<i>Approved Date</i> <b>July 21, 2021</b>
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<b>Replaces:</b>	

### 1. POLICY STATEMENT

- 1.1 The Public Schools Branch, as the Employer, is committed to providing all Employees with a safe, healthy, and productive work environment.
- 1.2 All Employees are expected to report to work to perform their assigned duties safely and acceptably without any limitations due to the inappropriate use or after-effects of use of Alcohol, Drugs, or Medications (whether prescribed, non-prescribed, or over the counter), including cannabis, as reporting to work while impaired or not Fit for Work, can pose a serious health and safety risk to Employees, the public, and other persons in the Workplace.
- 1.3 The Employer has adopted this Employee Drug, Alcohol, and Medication Policy because it recognizes that reporting for work while not Fit for Work is not acceptable or appropriate. This Policy communicates the Employer’s expectations and guidelines surrounding the use, misuse, and abuse of Drugs, Alcohol, or Medications. This Policy also communicates the Employer’s expectations and guidelines surrounding the use of Medications that may cause impairment and have the potential to pose a health and safety risk to persons in the Workplace.

### 2. DEFINITIONS

- 2.1 **Alcohol** - All substances defined as liquor in the *Liquor Control Act*.
- 2.2 **Drug or Drugs** - A controlled substance which is prohibited under the *Controlled Drugs and Substances Act*, cannabis as defined in the *Cannabis Control Act*, a prescribed/over the-counter Medication which is misused, or any other misused substance which causes a mind or body altering effect such as but not limited to solvents, correction fluids, glue, gasoline, aerosol spray, and cleaning fluids.
- 2.3 **Employee** - All full time, part time, temporary, casual, substitute, probationary, and seasonal Employees of the Public Schools Branch.
- 2.4 **Employer** - The Public Schools Branch.

- 2.5 **Fit for Work or Fitness for Work** - Means an Employee is able to perform the duties of their job with competence and in a safe and acceptable manner as compared to reasonable and/or established performance standards, and without any impairment or incapacity due to the use or after-effects of Alcohol, Drugs, or Medications. Subject to a reasonableness standard, Fitness for Work shall be determined solely by the Employer. Medical documentation may be required to validate an Employee's Fitness for Work.
- 2.6 **Incident** - Any event, circumstance, condition, or accident that caused or had the potential to cause injury to an Employee or any other person; or damage affecting the Employer's reputation, its property, the public, and/or the environment. An Incident can include a near-miss situation where there was a potential for injury or damage.
- 2.7 **Medication or Medications** - A chemical substance used for medical purposes to treat a disease, illness, or injury. For the purpose of this Policy, Medication includes both prescription and non-prescription medicines, including over the counter Medications, that are lawfully or unlawfully obtained and used for their intended purpose.

For greater clarity, this policy applies to both the proper use of Medication for its intended purpose and the misuse of Medication (e.g. using Medication other than as prescribed or combining Medication and Alcohol against direction).

- 2.8 **Safety-Sensitive Position** - A position where an Employee's impairment or incapacity, due to Drug, Alcohol, or Medication use, during the performance of their work has the potential to cause an Incident and/or could result in significant risk to the health, safety, or security of an Employee, a student, a member of the public, the environment, or damage to equipment or property. Whether a position is a Safety-Sensitive Position depends on the nature of the duties assigned to that position, the particulars of the workplace, and the position's direct involvement in any high-risk activities or operations. Safety-Sensitive Positions are those positions designated by the Director, as set out in Appendix A. (See Section 7 for additional information on Safety-Sensitive Positions.)
- 2.9 **Substance Use Disorder** - A condition in which the recurrent use of one or more substances, including Drugs, Alcohol, and Medication, causes clinically and/or functionally significant impairment. For greater clarity, when used in this Policy, substance use disorder means a Drug, Alcohol, and/or Medication addiction, dependency or abuse problem.
- 2.10 **Workplace or Worksite** - All property owned and occupied by the Employer, and every location where the Employer maintains an office or facilities or otherwise assigns Employees to perform regular duties of their position, including in-transit between one or more workplaces.

### 3. APPLICATION

- 3.1 This Policy applies to any Employee who performs work in any Public Schools Branch workplace. Where applicable, the Policy also applies to volunteers, interns, contractors, and other service providers. The Policy applies to any of the aforementioned persons while they are:
- (a) engaged in work for the Employer whether on the Employer's property, at the Employer's workplace, or any other location where the Employee may be assigned to perform work for the Employer; or
  - (b) operating any vehicle, motorized equipment, or machinery in the course of their employment or in the course of providing services for the Employer.
- 3.2 This Policy may apply to an Employee during their personal time and/or while off-duty if they are on the Employer's premises, operating an Employer's vehicle, motorized equipment, or machinery, or otherwise engaging in the legitimate interests of the Employer.
- 3.3 Because of the greater risk involved in working in a Safety-Sensitive Position, the Employer reserves the right to subject Employees in designated Safety-Sensitive Positions to testing for Drugs, Alcohol, and Medication as outlined in this policy. (See Section 7 for more information on Safety-Sensitive Positions.).

### 4. PURPOSE AND SCOPE

- 4.1 The purpose of this Policy is to:
- (a) Promote, establish, and maintain a healthy, safe, and productive work environment;
  - (b) Ensure that all Employees report to work in a condition that is Fit for Work and are able to carry out their duties without being a health and safety risk to themselves or to others; and
  - (c) Encourage Employees to seek assistance to address any known or suspected Drug, Alcohol, or Medication abuse or dependency issues, or substance use disorder.
- 4.2 This Policy is established by the Employer to set out expectations and clear guidelines for appropriate behaviour in accordance with this Policy and to provide the consequences for non-compliance.
- 4.3 Employees who have a known or emerging Drug, Alcohol, or Medication abuse or dependency issue or substance use disorder are encouraged to access assistance through the Employee Assistance Program (EAP), a primary care provider, or appropriate community services before their job performance is affected or violations of this Policy occur.
- 4.4 Employees who suspect or recognize a substance use disorder or emerging problem in others shall seek advice from their supervisor before Workplace or personal safety is compromised or a violation of this Policy occurs.

- 4.5 Employees are required to report unsafe acts and illegal activities to their supervisor.
- 4.6 Employees are prohibited from possessing Drugs or Alcohol in the workplace, and prohibited from unlawfully selling or dispensing Drugs, Alcohol, and/or Medication in the workplace.
- 4.7 Violation of this Policy is grounds for disciplinary action up to and including dismissal from employment.

## 5. ROLES & RESPONSIBILITIES

### 5.1 Employee Responsibilities

All Employees are responsible for:

- a) Reading, understanding, and complying with this Policy;
- b) Reporting to work and any Workplace Fit for Work and remaining Fit for Work at all times while at work and/or in the Workplace;
- c) Performing their job in a safe and appropriate manner and taking responsibility to ensure their own safety and the safety of the public, clients, and others in the Workplace;
- d) Being compliant with this Policy when on scheduled stand-by and if called in to work outside of the regularly scheduled work hours;
- e) Refusing unscheduled shifts if impaired or incapacitated by Drugs, Alcohol, or Medication;
- f) Refraining from the use and possession of Drugs or Alcohol, and the distribution of Drugs, Alcohol, or Medication during their work shift and/or in the Workplace. This includes refraining from the use or consumption of Alcohol or Drugs during scheduled shift breaks;
- g) Using Medications (prescription and non-prescription) responsibly, being aware of any potential side effects of the Medications, and notifying their manager or supervisor before starting work of any potentially unsafe side effects that could negatively impact safety or performance;
- h) Reporting any known or suspected Drug or Alcohol use or abuse to their supervisor; and cooperating with an established treatment plan and Drug testing if applicable;
- i) Taking action as appropriate when they observe or suspect someone in the Workplace has violated the Policy;
- j) In the interest of safety, immediately notifying a supervisor if they know or suspect another Employee, or other person in the Workplace, is not Fit for Work or poses a safety risk for others in the Workplace as a result of being impaired or incapacitated by Drugs, Alcohol, or Medication;
- k) Reporting their involvement in any Incident as soon as possible and participating fully in any subsequent investigation into the Incident;
- l) Cooperating with supervisors, managers, and directors in the implementation of this Policy; and

- m) Cooperating and participating fully with the Employer in relation to any investigation under this Policy.
- n) In addition to the responsibilities and requirements set out in this Policy, School Bus Drivers must comply with the provisions of the *Education Act Student Transportation Regulations*.

## 5.2 Supervisor Responsibilities

In addition to the responsibilities as an Employee, all supervisors are also responsible for:

- a) Becoming fully informed of the provisions of this Policy, administering this Policy, and ensuring their staff (and where applicable volunteers, interns, contractors, and other service providers) are informed of the provisions of this Policy and whether or not their position has been deemed Safety-Sensitive.
- b) Participating in training related to this Policy as may be required by the Employer from time to time;
- c) Being knowledgeable about and being able to recognize the signs and symptoms of impairment and potential Drug, Alcohol, or Medication abuse problems, substance use disorders, or inappropriate use, in accordance with this Policy;
- d) Offering guidance to any Employee who has questions in relation to this Policy;
- e) Responding to and providing appropriate supports to any Employee who discloses a known, emerging, or suspected Substance Use Disorder in accordance with this Policy;
- f) Assisting with any reasonable and necessary modifications to the Employee's job or duties when an Employee discloses potentially unsafe side effects of Medication, ;
- g) Advising Human Resources if an Employee discloses a known or suspected Substance Use Disorder;
- h) Responding to any reported or suspected violations of this Policy in a timely manner;
- i) Immediately contacting Human Resources if an Employee is suspected of being not Fit for Work while in the Workplace or at the time of or following an Incident;
- j) Removing the Employee from the immediate Worksite to a safe and private place and/or contacting the local policing authority as soon as possible where reasonable grounds exist;
- k) Consulting with Human Resources in the investigation of any alleged violation of this Policy;
- l) Maintaining appropriate documentation with regard to any instances of actual or suspected violations of this Policy and actions and interactions with Employees with regard to matters covered by this Policy. See Appendix B, C and D; and

- m) Making appropriate referrals (e.g. Provincial Addiction Services, EAP) for Employees who are identified with a substance or dependency issue, and supporting Employees with their recommended treatment plan.

## **6. FITNESS FOR WORK**

- 6.1 Fitness for Work is a requirement of all Employees (including supervisors) during the performance of their duties for the Employer and during the time they are at work and/or in the Workplace. Fitness for Work is also a requirement at times when Employees are on scheduled stand-by or on-call, or otherwise anticipate being called back to work.
- 6.2 Employees are prohibited from reporting to work while impaired or incapacitated by Drugs, Alcohol, or Medication.

## **7. SAFETY-SENSITIVE POSITIONS**

- 7.1 In addition to the responsibilities set out in 5.1 and 5.2 (as applicable), all Employees working in Safety-Sensitive Positions are also required to inform their supervisor as soon as reasonably practical and, unless not reasonably possible, in advance of using Medications, whenever they are taking any prescription or non-prescription Medications that have the potential to cause impairment and/or pose a safety risk.
- 7.2 Not all positions with the Employer are Safety-Sensitive Positions. Safety - Sensitive Positions will be designated by the Director of the Public Schools Branch in consultation with the union. See Appendix A.
- 7.3 The duties of a designated Safety-Sensitive Position will include one or more of the following:
  - a) provide direct care and support to students
  - b) operate motorized equipment, machinery, and/or a motor vehicle in relation to their employment or as a regular function of their position
  - c) work in close proximity to motor vehicles, heavy equipment, and/or construction sites
  - d) work with vulnerable students
  - e) responsible for student and/or staff safety

## **8. LOSS OF LICENSE/IMPAIRED DRIVING**

- 8.1 All Employees who are regularly or periodically required to operate any motor vehicle, heavy equipment, motorized equipment, or machinery on behalf of the Employer, whether owned by the Employee or Employer, must:
  - a) immediately report to their supervisor any suspension or revocation of their driver's license; and
  - b) inform their supervisor if they have been charged with an impaired driving offence.

**9. VOLUNTARY DISCLOSURE**

- 9.1 Employees who voluntarily disclose to their immediate supervisor a known or emerging Substance Use Disorder, or any inappropriate Drug, Alcohol, and/or Medication use which may lead to an Employee being impaired and/or not Fit for Work, prior to any Incident, will not be subject to disciplinary action in relation to such disclosure.
- 9.2 The Employer recognizes and acknowledges its duty to accommodate Employees with disabilities to the point of undue hardship. Where an Employee voluntarily discloses an addiction or disability prior to any Incident, the Employer will make reasonable and practical efforts to accommodate the Employee up to the point of undue hardship.
- 9.3 Employees who suspect they have a Substance Use Disorder, or an emerging Substance Use Disorder, are encouraged to seek advice and treatment promptly, and are required to advise the Employer before job safety and/or job performance is affected, or any Incidents or violations of this Policy occur.
- 9.4 The Employer will make reasonable and practical efforts to assist an Employee who voluntarily discloses a known or emerging Substance Use Disorder to seek appropriate treatment, access the Employee Assistance Program, and/or access the appropriate leave as provided for under the applicable collective agreement.
- 9.5 In accordance with sections 5.1(g) and 7.1, Employees who are directed by a physician to use a Medication (prescription or non-prescription), or have self-prescribed Medication (non-prescription or over the counter), that may cause impairment or adversely affect their job performance are required to disclose this information to the Employer, which will then be considered by the Employer in view of the Employee's duties and the safety and health of the Workplace. The Employer recognizes their duty to accommodate.

**10. REASONABLE GROUNDS**

- 10.1 Reasonable grounds or reasonable suspicion that an Employee is not Fit for Work due to impairment or incapacity from the use of or after-effects of the use of Alcohol, Drugs, or Medications may be based on a number of observations or indications; including but not limited to:
- a) unexplained changes in behaviour;
  - b) observed dizziness or drowsiness;
  - c) confusion or disturbances in attention or concentration;
  - d) slurred speech;
  - e) observed impairment of motor skills;
  - f) difficulty keeping eyes open or eyes tracking movements;
  - g) marked reduction in reaction time in responding to questions, performing mental calculations, or responding to stimuli; or
  - h) an odour indicative of recent Drug or Alcohol use (e.g., cannabis or Alcohol).

- 10.2 A breathalyzer or other substance abuse test (e.g., blood, urine, and saliva tests) is not required in order for the Employer to determine that an Employee is not Fit for Work.
- 10.3 In all situations, whether an Incident has occurred or not, where a supervisor believes there are reasonable grounds to believe an Employee is not Fit for Work, the supervisor shall:
- a) Consult with Human Resources and if possible, seek another supervisor's opinion to confirm that there are grounds to believe that the Employee is not Fit for Work;
  - b) Remove the Employee from the immediate Worksite to a safe and private place and refer the Employee for medical attention if there appears to be an immediate medical concern;
  - c) Where applicable, advise the Employee of their rights to union representation;
  - d) Consult privately with the Employee to inquire into the observed behaviours or conduct that gave rise to the belief that the Employee was not Fit for Work. Provide the Employee with a full opportunity to explain, including the opportunity to respond to whether they are impaired or incapacitated from the use of any Alcohol, Drugs, or Medications;
  - e) Make a determination as to whether the Employee's explanation is reasonable in the circumstances, and/or whether the Employer continues to believe the Employee is impaired or incapacitated from the use of any Alcohol, Drugs, or Medications and therefore not Fit for Work;
  - f) Take appropriate action to address the situation based on the determination made in accordance with section (e) above; and
  - g) Document observations and actions taken as soon as possible (i.e. at the time of observation or directly following) on an Incident Report form (Appendix B) and submit it to the Human Resources Director. Also see Appendix C and D.
- 10.4 If after speaking with the Employee the Employer continues to believe the Employee is not Fit for Work, the Employer may:
- a) Refer the Employee for medical attention if there appears to be an immediate medical concern;
  - b) If the Employee occupies a Safety-Sensitive Position, consult with Human Resources;
  - c) Arrange for the Employee's transportation home and advise the Employee that the police will be notified if the Employee refuses the arranged transportation and attempts to drive a vehicle; and/or
  - d) Place the Employee on administrative leave with pay or temporarily reassign the Employee to other duties, pending completion of an investigation.



- 10.5 Once the immediate situation is attended to and any safety concerns addressed, the Employer will commence an investigation into the situation in order to determine whether this Policy was violated and/or whether disciplinary action is warranted, or some other course of action is appropriate.

## **11. POST-INCIDENT TESTING – EMPLOYEES IN SAFETY-SENSITIVE POSITIONS**

- 11.1 Following an Incident, Alcohol and/or Drug testing may be required of any Employee involved in the Incident who occupies a Safety-Sensitive Position as part of a full investigation into the circumstances that led to the Incident.

## **12. RETURN TO WORK**

- 12.1 The Employer will make reasonable and practical efforts to support an Employee in safely returning to work following any absence from the Workplace due to Alcohol, Drug, or Medication use.
- 12.2 The Employer may require health assessments or testing to confirm that an Employee is able to safely return to work and to identify any limitations/restrictions that may require temporary modification of their duties, or accommodations under Human Rights legislation, or as part of a comprehensive monitoring program which makes such testing or assessment a condition of continued employment where the Employee:
- a) has undergone treatment for a known or emerging Substance Use Disorder; or
  - b) has violated this Policy.
- 12.3 Any decision to conduct testing as part of an Employee's return to work in a Safety-Sensitive Position will be determined on a case-by-case basis. The decision will take into account the Employee's privacy rights and the Employer's obligation to ensure a safe and healthy work environment.

## **13. POLICY VIOLATIONS & CONSEQUENCES**

- 13.1 In keeping with the Employer's commitment to a safe and healthy work environment, any Employee who violates this policy will be subject to disciplinary action, as appropriate, up to and including termination of their employment.
- 13.2 The following is a non-exhaustive list of Policy violations that may be subject to disciplinary action:
- a) Attending work in a condition that is not Fit for Work;
  - b) Consuming Alcohol or Drugs during work hours;
  - c) Being not Fit for Work while on standby or on-call;
  - d) Failing to report an Incident in a timely manner, or at all;
  - e) Failing to report the suspension or revocation of one's driver's license or charge of an impaired driving offence where such disclosure is required under this Policy;
  - f) Attempting to delay testing or refusing to submit to testing for impairment;

- g) Failing to meet safety and performance standards as a result of impairment from Alcohol, Drugs, or Medications;
  - h) Possessing Drugs or Alcohol in the Workplace or unlawfully selling or dispensing Drugs, Alcohol, and/or Medication in the Workplace; and
  - i) Contravening the provisions of the *Education Act Student Transportation Regulations* with respect to school bus drivers.
- 13.3 Notwithstanding the above, where an Employee is involved in an Incident and it is determined that they were not Fit for Work at the time of the Incident and failed to notify the Employer that they are not Fit for Work prior to the Incident, an Employee may be terminated for just cause.
- 13.4 Contractors or service providers who violate this Policy may be prevented from working on the Employer's property or from performing any work for the Employer.

#### 14. RESOURCES

- 14.1 The Employer strongly encourages Employees to seek assistance to address any known or suspected Drug or Alcohol dependency issues. Employees are encouraged to access assistance through the Employee Assistance Program ("EAP"), their personal physician, or appropriate community services.

#### 15. APPENDICES

- 15.1 [Appendix A - Designated Safety-Sensitive Positions](#)
- 15.2 [Appendix B - Accident/Incident Report Form](#)
- 15.3 [Appendix C - Reasonable Cause Checklist-Safety Sensitive Positions](#)
- 15.4 [Appendix D - Reasonable Cause Checklist - Non Safety-Sensitive Position](#)

#### 16. CROSS REFERENCES

- 16.1 *Education Act*
- 16.2 Student Transportation Regulations
- 16.3 *Human Rights Act*

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