

# Stark County Board of Developmental Disabilities

|  |                    |
|--|--------------------|
| Policy 4.39 Drug-Free Workplace Policy | Effective: 7/20/15 |
| Chapter 4: Human Resources             | Page 1 of 8        |

## DRUG-FREE WORKPLACE

### POLICY

Stark County Board of Developmental Disabilities is a drug-free workplace. A drug-screening test of all prospective employees shall be conducted in order to prevent the employment of candidates who would be a risk to the safety and security of people served, employees or County Board property; and to determine the fitness of the person to serve in the position being filled.

The use, possession, sale, manufacture or distribution of alcohol, illegal drugs, paraphernalia, or the improper or abusive use of legally prescribed drugs or other intoxicating substances by employees while working at or on Stark County Board of Developmental Disabilities premises or other work locations is prohibited. Every employee of the Board is expected to report for work and render service without being impaired by or under the influence of alcohol or illegal drugs of any kind.

For the purpose of this policy illegal drugs include, but are not limited to, narcotics, hallucinogens, depressants, stimulants, other substances (e.g., LSD, PCP, cocaine, marijuana, etc.) which can affect or hamper the senses, emotions, reflexes, judgments or other physical or mental activities; and controlled medication not prescribed, or in quantities or frequency different from that prescribed, for current personal treatment by a licensed physician to address a specific physical, emotional or mental condition.

For the purpose of this policy, medication or prescribed drugs are drugs an individual is taking under the direction of a licensed physician to address a specific physical, emotional or mental condition, where such medication or prescribed drugs are taken in the quantity or frequency as prescribed.

All employees required to have a Commercial Driver's License (CDL) shall be required to comply with drug use and alcohol misuse prevention rules published by DOT agencies. Reference: PL 102-143 Omnibus Transportation Employee Testing Act of 1991, as well as ODE Operation and Safety Rules 3301-83-06 (B)(3b).

The Superintendent shall develop procedures to implement this policy.

|  |                          |   |
|--|--------------------------|---|
| <b>Historical Resolution Information</b> |                          | Reviewer(s):<br>Superintendent<br>Director of Human Resources |
| <b>Date</b>                              | <b>Resolution Number</b> |   |
| 1/20/12                                  | 01-09-12                 |   |
| 6/20/15                                  | 06-34-15                 |   |

# Stark County Board of Developmental Disabilities

|  |                    |
|--|--------------------|
| Policy 4.39 Drug-Free Workplace Policy | Effective: 7/20/15 |
| Chapter 4: Human Resources             | Page 2 of 8        |

## **DRUG-FREE WORKPLACE**

### PROCEDURE

#### ***PRE-EMPLOYMENT:***

1. Pre-employment drug screening shall be required for all applicants being awarded a position. The required screening shall include all classifications and management positions (including the Superintendent).
2. An applicant who refuses to sign the consent form allowing for testing with test results to be presented to the Board, or who fails to cooperate fully and in a timely manner with the requirement to undergo drug testing, shall result in no further consideration of his/her employment.
3. Any applicant who tests positive for illegal drugs shall be given reasonable opportunity to challenge or explain the results. If the results are confirmed and no medical justification exists, the applicant will be disqualified from consideration for employment for a period of at least twelve (12) months.

As used in this policy, a drug test includes urinalysis only. The result of any such test will remain confidential, to the extent allowed by law.

Any pre-employment drug test required under this policy shall be conducted at the Board's expense.

#### ***REASONABLE SUSPICION DRUG TESTING:***

Drug and alcohol testing of current employees shall also occur if the individual is suspected of having violated the policy's prohibitions. All information pertaining to an individual's drug screening test or results will be maintained in a confidential manner, except on a need to know basis as prescribed by Ohio law. "Reasonable suspicion" testing shall be conducted when there is reasonable suspicion to believe that an employee, when appearing for duty or on the job, has violated the policy's prohibitions. This reasonable suspicion must be based upon objective facts or specific circumstances found to exist that present a reasonable basis to believe that an employee has violated the policy's prohibitions. Examples of reasonable suspicion include, but are not limited to:

- slurred speech;
- disorientation;
- abnormal conduct or behavior;
- bloodshot, watery eyes

# Stark County Board of Developmental Disabilities

|  |                    |
|--|--------------------|
| Policy 4.39 Drug-Free Workplace Policy | Effective: 7/20/15 |
| Chapter 4: Human Resources             | Page 3 of 8        |

- staggered gait
- dilated or pinpoint pupils
- smelling of alcohol or marijuana
- possession of a prohibitive substance and/or paraphernalia
- involvement in an on-the-job accident

Note: Bus drivers and positions requiring a CDL are subject to the testing requirements of the Omnibus Transportation Employee Testing Act of 1991 (49 U.S.C. § 31306) (hereinafter “the Act”).

The Board may provide referral and rehabilitation assistance to any current employee who has an alcohol or drug problem, which affects job performance. The Board may also take appropriate corrective action.

- A. It is a condition of employment that each employee abides by the terms of this policy which prohibits the unlawful manufacture, distribution, possession, or use of controlled substances or alcohol while on duty. Each new employee will be given a copy of the Drug Free Workplace policy upon employment.
- B. Employees violating the policy will be subject to appropriate disciplinary procedures, up to and including termination. As part of the corrective action process, access to employee assistance programs will be encouraged and/or agreed upon.
- C. An employee must notify Human Resources of any criminal drug statute conviction for a violation occurring in the work place no later than fourteen (14) days after such conviction.
- D. Within fourteen (14) days of notification of a criminal drug statute conviction, appropriate action will be taken against the employee, up to and including discharge and/or required participation in a drug abuse rehabilitation program.

## ***“REBUTTABLE PRESUMPTION”:***

- A. O.R.C.4123.54 (“Rebuttable Presumption” Law) requires that an employee may be subjected to drug and alcohol testing when involved in an accident or suffers an injury that may be compensable for Workers’ Compensation benefits.
- B. The employee’s refusal to test may affect his or her eligibility for Workers’ Compensation and benefits pursuant with O.R.C. sections 4121 and 4123.

# Stark County Board of Developmental Disabilities

|  |                    |
|--|--------------------|
| Policy 4.39 Drug-Free Workplace Policy | Effective: 7/20/15 |
| Chapter 4: Human Resources             | Page 4 of 8        |

- C. A test is considered qualifying if it is administered to an employee after an injury under at least one of the following conditions:
1. When an employer has reasonable cause to suspect that the employee may be intoxicated or under the influence of a controlled substance not prescribed by the employee's physician.
  2. At the request of a police officer pursuant to O.R.C. section 4511.191.
- D. Pursuant to O.R.C. 4123.54 ("Rebuttable Presumption" Law), the following shall apply for employees:
1. If there is reasonable cause to believe that an employee is under the influence of drugs and/or alcohol, when involved in an accident resulting in injury, a reasonable suspicion or a federal post-accident test shall be administered pursuant to current policy. That test may also be used to satisfy the conditions set forth for rebuttable presumption.
  2. If a physician or a police officer orders a test pursuant with O.R.C. 4123.54, results of that test will satisfy the conditions set forth for a rebuttable presumption.
  3. If an employer suspects that the employee accident or injury is due to the employee's abuse of prescription barbiturates, benzodiazepines, methadone, and/or propoxyphene, the employer may request that these drugs be added to the test panel. If the employer suspects that abuse of prescription barbiturates, benzodiazepines, methadone, and/or propoxyphene is a factor in an accident/injury involving an employee subject to federal testing, two separate split specimen collections will have to be performed. The first collection will test for the standard 5-drug panel and will constitute the post-accident federal test. The second split specimen collection will be subject to the standard 5-drug panel plus the 4 prescription drug and will constitute the rebuttable presumption test.
  4. Since rebuttable presumption testing is triggered by an on-the-job accident resulting in injury, access to medical treatment **MUST NEVER** be delayed to satisfy any pre-test documentation requirements on the part of the employer. Documentation should, however, be prepared within 24 hours of the test and given to the employee or other authorized parties as stipulated in any applicable agency or collective bargaining agreements.

# Stark County Board of Developmental Disabilities

|  |                    |
|--|--------------------|
| Policy 4.39 Drug-Free Workplace Policy | Effective: 7/20/15 |
| Chapter 4: Human Resources             | Page 5 of 8        |

5. The BAC level for a positive alcohol test for rebuttable presumption testing is 0.08 or greater. The level for non-rebuttable presumption testing is 0.04 or greater. An employee testing at 0.04 or greater, but less than 0.08, would be positive under state or federal reasonable suspicion/post-accident testing, but negative as far as the rebuttable suspicion law is concerned.

Note: For both reasonable suspicion and random testing, employees have the right to consult with a union representative, if one is available. For reasonable suspicion testing, a union representative may accompany the employee to the collection site as long as it does not delay or impede the testing process.

## ***DRUG-FREE AWARENESS PROGRAM:***

A drug-free program has been established through the Board's Employee Assistance Program. The program will provide appropriate information, education, consultation and referral as well as address the dangers of drug or alcohol abuse in the workplace. Supervisors should not attempt to counsel an employee about drug and alcohol abuse; instead they should encourage employees to seek the assistance of a counselor through the Board's Employee Assistance Program. Referral to this program by a supervisor must be confidential and be made either at the employee's request or because reasonable suspicion exists that a substance abuse problem may be resulting in unsatisfactory work performance and behavior. In the case of reasonable suspicion of a violation of the policy's prohibitions reasonable suspicion testing must still occur.

In the event an employee decides to participate in a certified treatment program, the Board's Employee Assistance program may serve as a liaison between the employee's treatment center and his/her supervisor or department head. Available sick time may be granted for a prescribed medical program associated with substance abuse rehabilitation.

## ***EMPLOYEE DRUG TESTING (COUNSELING AND DOCUMENTATION):***

Supervisors should document suspected cases of drug or alcohol abuse in writing, and take the following steps in counseling an employee about his/her job performance:

- A. Supervisors should review suspected violations of the policy's prohibitions with their department head. Written documentation outlining employee performance problems should be discussed with Human Resources before any conference with the employee. Together, a decision may be made to send the employee for reasonable suspicion testing.
- B. If reasonable suspicion does not exist, discuss the documented job performance deficiencies with the employee. Make clear a change in performance is expected, or appropriate corrective action will result.

# Stark County Board of Developmental Disabilities

|  |                    |
|--|--------------------|
| Policy 4.39 Drug-Free Workplace Policy | Effective: 7/20/15 |
| Chapter 4: Human Resources             | Page 6 of 8        |

## ***ARRANGING A DRUG TEST:***

When an employee is suspected of behavior indicative of having violated the policy's prohibitions and which appear to be adversely affecting his/her job performance or jeopardizing the safety of people served, other employees, the public or county property, the Board will arrange drug testing of the individual.

- A. The supervisor shall contact Human Resources between 8:00a.m. – 5:00p.m. Monday thru Friday. If before or after these hours, contact one of the other options. Where the employee goes depends on where they are located in the county. They will conduct an evaluation of the facts presented and if appropriate, recommend that a drug/alcohol abuse screening is conducted immediately at AultWorks, or one of the designated sites included with this procedure. If AultWorks, or one of its designated sites, is not immediately available, the employee will be placed on Administrative Leave and scheduled for testing as soon as reasonably possible, or an alternative testing site will be provided by the Superintendent/designee. (Call AultWorks and ask them, but the delay for testing should not be any longer than two hours.)
- B. The Supervisor shall take immediate action to ensure a safe working environment by removing an employee from the work area. When an employee refuses to be evaluated or tested, another representative of management should be contacted to witness the refusal. A union representative should also be included if the employees is represented.
- C. Employees, who are suspected to have violated the policy's prohibitions and refuse to submit to testing, will be given a direct order to submit to drug testing. Continued refusal will be considered insubordination and dealt with in accordance with the Board's Corrective Action Policy. Refusals will also be treated as a positive test.
- D. The supervisor will escort the employee to the drug/alcohol screening site, and remain with the employee until the specimen has been collected. BAC (breathalyzer) results will be given to the supervisor prior to leaving the drug/alcohol screening site. All other results will be provided to the designated person based on the area the employee works. The supervisor must ensure that the employee is safely transported home which may involve contacting the employee's emergency contact, other family member or friend, or calling a cab.
- E. If an employee tests positive, the employee will be placed upon administrative leave pending the scheduling of a pre-disciplinary hearing for violation of the Board's drug-free work place policy. Once the pre-disciplinary hearing occurs, the employee



# Stark County Board of Developmental Disabilities

|  |                    |
|--|--------------------|
| Policy 4.39 Drug-Free Workplace Policy | Effective: 7/20/15 |
| Chapter 4: Human Resources             | Page 8 of 8        |

## **Aultman Carrollton – Urgent Care**

1020 Trump Road,  
Carrollton, Ohio 44615  
Phone (330) 627-0091

Coordinates: 40.59316, -81.096394

Hours: Monday – Friday after hours post-accident testing and injury care until 7:00 p.m.

Weekends 9:00 a.m. – 1:00 p.m.

## **Aultman Orrville Hospital – Emergency Room**

832 S. Main Street  
Orrville, Ohio 44667  
Phone (330) 684-4700 X780

Coordinates: 40.832513, -81.764579

Hours: After hours daily for post-accident testing, reasonable suspicion testing and injury care

## **Alliance Community Hospital - Emergency Room**

200 East State Street  
Alliance, Ohio 44601  
Phone (330) 596-6000 X6146

Coordinates: 40.902209, -81.102694

Hours: After hours daily for post-accident testing, reasonable suspicion testing and injury care

## **Pomerene Hospital – Emergency Room**

981 Wooster Rd.  
Millersburg, Ohio 44654  
Phone: 330-674-1015

Coordinates: 40.565279, -81.92097

Hours: After hours daily for post-accident testing, reasonable suspicion testing and injury care