

Policy Committee Meeting

Thursday, December 12, 2019 4:30 PM

Board Assembly Room, 1250 West Broadway Avenue, Minneapolis, Minnesota 55411

- 1) **Call to Order**
- 2) **Approval of the Agenda**
- 3) **Approval of Minutes**
- 4) **New Business**
 - a. Policy 4026 Revision
 - b. Policy 5200 Review
 - c. Policy Review Process Discussion
- 5) **Announcements/Adjournment**

Directors Present: Kim Ellison, Ch.
Siad Ali
Kerry Jo Felder
Nelson Inz, e.o.
Josh Pauly

Staff Present: Nan Miller, Dir. Policy Development
Amy Moore, General Counsel
Ryan Strack, Board Liaison
Ed Graff, Superintendent
Eric Moore, RREA

Directors Absent:

Agenda

- I. Call to Order
- II. Approval of Agenda
- III. Approval of Minutes for 9/24/2019
- IV. New Business:
 - A. Review policy 6000 – Mission of the Educational Program
 - B. Next Meeting
- V. Adjournment

1. **Call to Order** The meeting was called to order at 4:30 p.m.. Quorum being established the meeting continued.
2. **Approval of Agenda.** Motion to approve the agenda made, seconded, motion carried.
3. **Approval of Minutes for Committee Meeting of 10/22/2010.** Motion made, seconded to approve the minutes of the 10/22/2019 meeting as proposed. The motion to approve the minutes was passed.
4. **New Business**
 - A. **Student Placement EDIA** Superintendent Graff introduced the topic, stating that Chief Eric Moore was present to review the findings of the EDIA with the committee; to process the proposed timeline for next steps based on those findings and to discuss process. Moore presented a proposed timeline of reviewing policies on a three year rotation, and meeting quarterly with the EEOC advisory. Regarding the policies related to student placement and the District Comprehensive Design he proposed that an action plan based on board discussion at the following COW meeting would be to have an action plan ready by the end of January 2020, to allow for budget preparation considerations to be included. Moore reviewed the current status of school choice. The period of Choice is from November through February. He reported that 96% of parents identifying as White participated in Kindergarten Choice Card submission, but only 50% of parents identifying as persons of color participated. He said that this results in an unequal distribution of choice versus placement decisions for children. Regarding the March lottery he noted that one of the recommendations would have magnet school impact, such as limiting placement to a ratio

system. He said a finding of the EDIA was that current policies regarding student placement support neither choice nor desegregation. Current policies are based on outdated views of demographics and experiences of families. Therefore part of the action plan will be to revise these policies. Superintendent Graff noted that some changes suggested will have budget impact, and the action plan must address these matters. Moore stated that a goal for revision would be equity of access to the process, with no “work arounds”. He noted other recommendations from the EEOC: 1) changing the language from “choice” to something else; 2) Using City-wide Student Government members as evaluators of policy proposals; 3) Improving Community Accountability; 4) providing staffing for marketing of under-subscribed schools; 5) overhauling how magnet schools are filled. Director Felder inquired whether we “double up” on highly subscribed schools to place them in multiple locations. Moore said that this was a consideration, that was a balancing of location and numbers of students. He also noted that the definition of a magnet may need to be adjusted. Currently they are specialty schools with thematic instruction that provide transportation. Director Felder asked to see the waiting lists for each school. Moore said that those could be provided. He noted that access is affected by translation needs, and recommended using community resources to assist in marketing magnets to parents while continuing to improve the numbers of multi-lingual staff, particularly those that are native-speakers. He also noted that there was a recommendation to include elements of the MUID agreement in revised policies. Another recommendation was to add marketing and outreach to prospective families to both school family liaisons and ECFE staff. Director Felder asked Moore which parents were not getting their choices. Moore said that participation is a greater issue, since it is so unequal. Moore noted that STEAM and STEM programs are highly sought after, and that the plan may be to increase or duplicate these offerings. He said that parents reported through the EDIA process that they chose schools based both on school climate, encompassing both a welcoming atmosphere and appropriate school behavior, and on academics. Director Felder asked if school climate was an issue, she wanted the committee to look at the 5000 chapter of policies, particularly the Behavior Standards policy, and Mandatory Reporting requirements. She also asked why the MUID agreement should be treated differently, than concerns about African-American students. Superintendent Graff stated that the MUID/PIE work goes back to 2006, and that it was supported by Title VI dollars received by the district. He noted that Minneapolis had the largest Indian community in the state, and also noted that the Indian community considers the agreement like they would a treaty. He said the district wants to honor their agreed commitments especially given the history of how the U.S. has treated treaties in the past. Director Felder said she meant no disrespect, but noted that there is no such agreement for African-Americans. Graff reiterated the connection to federal funding, U.S. history. Director Ellison reminded Felder that the agreement is a legal agreement between the community and the district. She noted that during Superintendent Bernadeia Johnson’s tenure a similar agreement with the African-American community was suggested, but that it did not go anywhere. She noted the active participation of the Native community organizations in the negotiation and adoption of the MUID/PIE agreement. Director Pauly asked that the committee review the process for review of policies. Moore said that he found the review of the placement-related policies was interesting with the advisory group and community outreach. He noted that the advisory group, a volunteer group, was meeting weekly to assist the district. Director Ali said that he valued the work done so far, and wanted to evaluate what the plan was to move the

work forward. Superintendent Graff said that a major issue would be to keep focus on this process. MPS is a large district and too often problems arise that divert and distract from work attempting to be completed. He said the focus should be on implementation and correction of direction to respond to the EDIA findings and board direction. He said that a significant discussion has to be done regarding the overabundance of magnet schools, possibly reducing them to increase integration, which might be accomplished through how students get assigned to magnet programs. Director Felder said she believed that magnet schools were placed inequitably. Moore said that if magnet schools were reduced, a potential savings based on transportation might result, and how should the district invest those dollars. He suggested that one idea might be to shorten walk distances to make neighborhood schools more attractive to parents. Superintendent Graff also noted that reducing the number of bell times might also be considered part of that investment. Director Felder disagreed stating that parent choice is all about programming, not transportation. Superintendent Graff replied that the data does not support her position. Moore noted that reducing the number of bell times has the potential of increasing access to quality after school programs. He noted that there are a lot of moving, interconnected pieces that have to be part of the same discussion, not discussed in isolated chunks. Superintendent Graff said that the discussion has to include policies, magnet programs and their purposes, what comes with a magnet designation, and how is the resulting plan sustainable. Director Felder stated that every school should have the provisions. Graff replied that we cannot do everything, basics should be available to all schools, but there are trade-offs if magnets are going to be continued.

- B. **Next Meeting.** The next meeting is scheduled for Tuesday, December 10, 2019. Director Pauly reiterated that he would like to have a discussion regarding policy review process. Director Felder asked that the committee look at policy 5200 at the next meeting. Miller noted that this policy had undergone a complete review and EDIA process recently, but would bring the policy for review. Miller noted that there will also be a revised policy regarding commercial driver testing presented most likely.

5. **Adjournment.** There being no other matters to come before the meeting, the meeting was adjourned at 5:33 p.m.

Minutes submitted for approval by:
Nan Miller, Clerk pro tempore

Next Regular Meeting: Date: .

NOTE: COPIES OF SUPPORTING DOCUMENTS MAY BE OBTAINED ONLINE THROUGH BOARDBOOK



4026

Transportation Employee Drug and Alcohol Testing

Policy 4026

Original Adoption: 01/31/1995

Effective Date: 09/09/2015

Revision Dates: 05/27/200, 09/08/2015

Review Dates: 04/17/2013

I. PURPOSE

The District recognizes that safety problems are created when employees use or abuse illegal drugs and/or alcohol. The District wishes to provide a safe, drug and alcohol-free workplace and learning environment for its employees and students. This policy establishes how the District will comply with federal law that requires that employees, whose positions require a commercial driver's license, undergo drug and alcohol testing.

II. GENERAL STATEMENT OF POLICY

A. *Prohibited behavior of Transportation Employees* Due to the specific nature of their tasks, employees who are required to have a commercial vehicle driver's license are limited by law from certain activities, including, but not limited to:

1. Reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater;
2. The possession of medicines containing alcohol (prescription or over-the-counter), unless the packaging seal is unbroken;
3. Using alcohol while performing safety-sensitive functions;
4. Performing safety-sensitive functions within four hours after using alcohol;
5. When required to take a post-accident test, using alcohol within eight hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first;
6. Refusing to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion, or follow-up testing requirements;
7. Reporting for duty or remaining on duty, requiring the performance of safety-sensitive functions, when the driver uses any controlled substance, except when instructed by a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a CMV;
8. Reporting for duty, remaining on duty or performing a safety-sensitive function, if the driver tests positive for controlled substances.

B. Persons tested for alcohol and drugs under this policy shall be tested for the following:

1. alcohol,
2. marijuana,
3. cocaine,
4. amphetamines,



1. opiates (including heroin) and
 2. phencyclidine (PCP).
- C. All applicants, including persons currently employed by the District that apply for a position where job duties include operating commercial motor vehicles will be required to take a drug and alcohol test if a job offer is made as well as subject to a search of the National Clearing House for Controlled Substance and Alcohol Test Results of Commercial Vehicle Operators. (National Clearing House). The job offer is contingent upon
1. a negative drug and alcohol test report and,
 2. the applicant's written agreement authorizing former School Districts to release to the District all information on the applicant's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two years.
 3. A finding that no report regarding the applicant appears on the National Clearing House or that the report from the National Clearing House indicates a successful completion of a return-to-duty process.
- B. Personal Information about all persons undergoing any required test hereunder will be shared with the National Clearing House. This information includes:
1. The name of the person tested;
 2. Any verified positive, adulterated or substituted drug test result;
 3. Any alcohol confirmation test with a concentration of 0.04 or higher;
 4. Any refusal to submit to any test required hereunder;
 5. Any report by a supervisor's report of actual knowledge of use as follows:
 - a. Any on-duty alcohol use;
 - b. Any pre-duty alcohol use;
 - c. Any alcohol use following an accident; and
 - d. Any controlled substance use.
 6. Any report from a substance abuse professional certifying successful completion of the return-to-duty process;
 7. Any negative return-to-duty test; and
 8. Any employer's report of completion of follow-up testing.
- D. A drug test shall be required if the District has a reasonable suspicion that an employee has violated the provisions of the District policy regarding alcohol or controlled substances.
- E. A drug test shall be required if an employee operating a commercial motor vehicle



(CMV) is involved in an accident that results in:

1. The death or injury of a person or persons regardless of the amount of vehicle or property damage; or
 2. The employee receives a citation for a moving traffic violation arising from the accident; or
 3. Property damage greater than \$100.00
- F. A drug test shall be required if an employee has been found to have violated District policy on drug or alcohol use prior to the employee's return to work. The employee shall not return to work unless return-to-duty tests indicate
1. an alcohol concentration of less than 0.02 and
 2. a verified negative result for controlled substances.
- G. Following a determination by a substance abuse professional (SAP) that an employee is in need of assistance in resolving problems with alcohol abuse and/or controlled substances use, an employee shall be subject to unannounced follow-up alcohol and/or controlled substances testing as directed by the SAP. Follow-up testing shall not exceed 60 months from the date of the employee's return to duty.
- H. The District will randomly select employees subject to this policy for unannounced alcohol and controlled substances testing using a computer-based random number generator that is matched with an employee's identifying number.
1. Testing shall be performed just before, during or after an employee's performance of safety-sensitive duties.
 2. FHWA rules require the District to conduct random controlled substances testing on fifty percent (50%) of the average number of employees and random alcohol testing on ten percent (10%) of the average number of employees.
 3. Employees may be selected for more than one test per year.
 4. Tests shall be spread reasonably throughout the year.

III. CONFIDENTIALITY OF TEST RESULTS

- A. **Except as noted above, all** alcohol and/ or controlled substances test results and required records are considered confidential information.
- B. Any information concerning an individual's test results and records shall not be released without the written permission of the individual except as provided for by regulation or law.

IV. REFUSAL TO UNDERGO TESTING AND CONSEQUENCES FOR REFUSAL



- A. All applicants and employees have the right to refuse to undergo drug and alcohol testing.
- B. If an individual refuses to undergo drug and alcohol testing required by this policy, no such test shall be given.
- C. An applicant who refuses to take a drug and alcohol test shall be disqualified from further consideration for the conditionally offered position.
- D. An employee refusing to take a drug and alcohol test required by this policy shall not be permitted to perform safety-sensitive functions and will be considered insubordinate and may be subject to disciplinary action including possible dismissal.

V. RESPONSIBILITY

- A. The Superintendent is authorized to promulgate regulations for the implementation of this policy.
- B. The Superintendent shall designate a Contact Person to administer this policy.

Legal Resources:

Minn. Stat. §§ 181.950 – 181.957 (Drug and Alcohol Testing in the Workplace)

Minn. Stat. § 221.031 (Motor Carrier Rules)

49 U.S.C. § 31306 (Omnibus Transportation Employee Testing Act of 1991)

49 U.S.C. §31306a (National Clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators)

49 U.S.C. § 521 (b) (Civil and Criminal Penalties for Violations)

49 CFR Parts 40 and 382 (Department of Transportation Rules Implementing the Omnibus Transportation Employee Testing Act of 1991)

Cross References:

MPS Policy 1040 (Student and Staff Data Protection)

MPS Policy 4024 (Pre-employment Drug and Alcohol Testing)

MPS Policy 4025 (Drug-Free and Weapons-Free Schools and Workplace)

MPS Regulation 4026 A (Procedures for Testing)

MPS Regulation 4026 B (Definitions)