

The illegal use of controlled substances, substances that cause impairment, and abuse of alcohol are harmful to the health, well-being and safety of the College's employees and students. Employees and students who illegally use controlled substances, substances that cause impairment, or who abuse alcohol are less productive, less reliable and prone to greater absenteeism resulting in unnecessary costs, delays, academic failure and safety risks. The College is committed to maintaining a safe workplace and an educational environment free from the influence of illegal controlled substances, substances that cause impairment, and alcohol.

I. PROHIBITED BEHAVIOR

All College employees and students are prohibited from unlawfully possessing, using, being under the influence of, manufacturing, dispensing, selling or distributing alcohol, illegal or unauthorized controlled substances or drug paraphernalia. Using or being under the influence of substances that cause impairment is prohibited for all employees and students.

This Procedure does not apply to the use of alcohol in instructional situations (e.g., cooking classes, laboratory experiments) or in conjunction with events which meet the requirements of all state laws. This procedure does not apply to the proper use of lawfully prescribed controlled substances by a licensed health-care provider to the student or employee who is prescribed the controlled substance and using it in the manner in which the healthcare provider prescribed it.

II. DEFINITIONS

For purposes of this Procedure, the following definitions shall apply:

- A. *Alcohol* means any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor and mixed beverages.
- B. *Controlled Substance* means any substance listed in 21 CFR Part 1308 and other federal regulations, as well as those listed in Article V, Chapter 90 of the North Carolina General Statutes. Generally, the term means any drug which has a high potential for abuse and includes, but is not limited to heroin, marijuana, cocaine, PCP, GHB, methamphetamines, and crack. This term also includes any drugs that are illegal under federal, state or local laws and legal drugs that have been obtained

illegally or without a prescription by a licensed healthcare provider or are not intended for human consumption.

- C. *Substance* means any substance taken that may cause impairment, including but not limited to bath salts, inhalants, or synthetic herbs.
- D. *Conviction* means the entry in a court of law or military tribunal of: (1) a plea of guilty, nolo contendere, no contest or the equivalent; (2) a verdict of guilty; or (3) a prayer for judgment continued or a deferred prosecution.
- E. *Reasonable Suspicion* is the legal standard required before the College can require an employee to take a drug or alcohol test. Some of the factors that constitute reasonable suspicion are: a) direct observation of drug use or possession; b) direct observation of the physical symptoms of being under the influence of drugs; c) impairment of motor functions; d) pattern of abnormal or erratic conduct or behavior; or e) reports from reliable sources or credible sources (anonymous tips may only be considered if they can be independently corroborated).

III. DUTY TO REPORT

All employees who are arrested, indicted, cited or convicted for a criminal offense are required to inform, in writing, his/her supervisor. This includes being arrested or receiving a citation for a violation of any federal or state controlled substance or alcohol statute. If an employee's arrest, conviction or citation has an effect on the employee's ability to perform his/her job duties or brings negative attention to the College, the employee may be subject to disciplinary action in accordance with this procedure.

Convictions of employees working under federal grants that are convicted of violating a federal or state controlled substance or alcohol statute on the College's property, or as part of any activity initiated by the College, shall be reported to the appropriate federal agency. A College official must notify the U.S. government agency, which made the grant, within ten (10) days after receiving notice from the employee or otherwise receives actual notice of a conviction of a controlled substance or alcohol statute occurring in the workplace.

Students employed under the College Work Study Program are considered to be employees of the College if the work is performed for the College in which the student is enrolled. For work performed for a federal, state, local public agency, a private nonprofit or a private for-profit agency, students are considered to be employees of the College unless the agreement between the College and the organization specifies that the organization is considered to be the employer.

IV. CONSEQUENCES FOR VIOLATIONS

Violation of this procedure will subject students and employees to disciplinary action including, but not limited to: suspension, expulsion, non-renewal or termination of employment or the requirement that the student or employee satisfactorily participate in a drug or alcohol abuse assistance or rehabilitation program at the student or employee's expense and approved by the College and agree to certain conditions.

Article V of Chapter 90 of the North Carolina General Statutes makes it a crime to possess, manufacture, sell or deliver or possess with intent to sell or deliver a controlled substance. N.C.G.S. § 90-95. As citizens, all members of the College community are expected to know and comply with these laws. Legal matters may be referred to local law enforcement. Employees and students who are in violation of alcohol and drug laws may suffer legal consequences ranging from fines up to incarceration. Furthermore, any substance taken that may cause impairment, including but not limited to bath salts, inhalants, or synthetic herbs, is also considered a violation of the drug and alcohol procedure.

V. CONTROLLED SUBSTANCES AND ALCOHOL TESTING

Upon a conditional offer of employment, new employees may be required to be tested for substances, including controlled substances or alcohol.

Employees may be required to be tested for substances, including controlled substances or alcohol, based on individualized, reasonable suspicion. The required observations for reasonable suspicion testing shall be made by an administrator, supervisor or other trained official and the person who makes the determination that reasonable suspicion exists shall not be the same person who conducts the test. This section does not apply to law enforcement officers serving the College through the local sheriff's department. Law enforcement officers must adhere to their normal standards when conducting a search.

All substances, including controlled substances and alcohol testing, shall be administered by a non-College, third party laboratory chosen by the President. The testing shall be performed at the laboratory. A representative from Human Resources and the employee's immediate supervisor will accompany the employee to the testing site utilizing a College vehicle (if available). The chosen laboratory shall use standard testing protocols that will maintain the confidentiality of the employee and student. All tests shall be reviewed by a medical review officer not affiliated with the College. Employees will have the opportunity to provide any information to the medical center which the employee considers relevant to the test, including identification of currently or recently used prescription or non-prescription drugs. The College shall pay for the initial test. If the employee wishes to dispute the results with a subsequent re-test, the employee shall be responsible for the cost of the re-test.

Pending the results of the testing, (if not instant), the employer can suspend the employee on leave with pay. The College must give the employee written notice of positive results and notice of the right to a re-test (at the employee's expense) pursuant to G.S. 95-232(f).

If the results are positive, the supervisor may recommend disciplinary action pursuant to Procedure 5.4.5 Disciplinary Action, Suspension & Dismissal

VI. POST-ACCIDENT TESTING

In the event of a work-related injury, if the supervisor has reason to suspect that impairment is involved in the accident s/he should report the incident to a representative from the Human Resources Department and the employee may be tested as set forth above.

VII. DISSEMINATION TO COLLEGE COMMUNITY

This procedure shall be maintained on the College's website and a copy of this procedure will be maintained in the College's Human Resources Office and Student Services Office.

Legal Reference: 21 CFR Part 1308; 34 CFR 86; N.C.G.S. 90-86