

## I. POLICY

To provide an alcohol/drug free workplace for all employees, compliance with the Federal Omnibus Transportation Employee Testing Act of 1991, to provide safe operation of the college's commercial motor vehicles, and opportunities and information for rehabilitation and assistance for all employees with alcohol/drug related work problems.

It is the policy of Salt Lake Community College to maintain a productive workforce and a drug free workplace and strictly prohibit the unlawful manufacturing and/or distributing, dispensing, possessing, using or being under the influence of alcohol or a controlled substance on college campuses and sites or while performing work in connection with any college employment, including any college grants or contracts. However, this policy does not restrict the lawful use of alcohol off college campuses or sites or during off-campus social events.

In accordance with federal law, alcohol and controlled substance testing is required of all employees with safety sensitive assignments covered by the Federal Omnibus Transportation Employee Testing Act. All college employees who are required to have a commercial driver's license (CDL) must submit to controlled substance and alcohol testing. The college claims every privilege provided by the Omnibus Transportation Employee Testing Act of 1991.

It is a policy violation for an employee with commercial motor vehicle (CMV) operating responsibilities to report or return to work within four hours after using alcohol, use or possess alcohol on the job, report for duty and remain on duty when the employee is using or has used any controlled substance, test positive for a controlled substance, or refuse to submit to an alcohol or controlled substance test as required by federal law.

## II. REFERENCES

- A. Drug Free Workplace Act, 41 U.S.C. § 81.
- B. Omnibus Transportation Employee Testing Act, 105 Stat. 917.

## III. DEFINITIONS

- A. Discipline: All employment related actions undertaken to correct or modify unacceptable job performance or behavior to acceptable standards.

- B. Commercial Driver License: A document indicating that an individual may legally drive a commercial motor vehicle.
- C. Commercial Motor Vehicle (CMV): A motor vehicle or combination of motor vehicles with a gross vehicle weight of 26,001 pounds or more, or a vehicle designed to carry 16 or more passengers including the driver, or any vehicle requiring a hazardous materials placard.
- D. Conviction: Finding of guilt for a crime by a court of competent jurisdiction, including a no contest plea.
- E. Safety-Sensitive Function: The duration of time an employee is engaged in work-related activities such as inspecting, servicing, conditioning, driving, loading, or attending to any CMV at any time, or the duration of time resting in a sleeper berth, or performing the driver requirements of the U.S. Department of Transportation (DOT) regulations related to accidents.
- F. Sanctions: Disciplinary measures imposed upon employees including, but not limited to, an oral or written reprimand, warning letter, temporary reduction in pay (not to exceed 10 percent of the gross amount payable for any payroll period), probation, suspension with or without pay, demotion with appropriate reduction in duties and pay, or dismissal from employment.
- G. Substance Abuse Professional (SAP): A licensed physician, or all licensed or certified psychologist, social worker, employee assistance professional or addiction counselor with knowledge of clinical experience in the diagnosis and treatment of alcohol and controlled-substance related disorders.
- H. Workplace: Any place where work is performed in connection with any college employment, including work done with any college grants or contracts.

#### IV. PROCEDURE

##### A. Distribution

- 1 Human Resources initially advises all full-time, regular employees of this policy and procedure. Divisions/departments will distribute this policy and procedure to part-time employees when hired. Human Resources and divisions/departments will inform employees about:
  - a. the college policy of maintaining an alcohol/drug free workplace, and
  - b. the college penalties that may be imposed upon employees for alcohol/drug abuse violations.

- 2 In addition, the college's Alcohol and Drug Prevention Education office provides annual prevention training to all employees, including information about rehabilitation programs.

#### B. Agreement to Report a Conviction

- 1 College employees agree to notify their college supervisor of any criminal alcohol or drug statute conviction incurred by the employee and occurring in the workplace no later than five calendar days after such conviction.
- 2 College CDL employees agree to notify their supervisor of any criminal alcohol or drug statute conviction incurred by the employee and occurring outside the workplace no later than five calendar days after such conviction.

#### C. Supervisor Responsibilities

- 1 Upon conviction of an employee for any criminal alcohol or drug statute violation as defined above or occurring at a college workplace, including college campuses, sites or property, the department supervisor shall notify Human Resources.
- 2 If a convicted employee is directly engaged in the performance of a federal grant or contract and the conviction a controlled substance, the appropriate federal agency shall be notified within 10 calendar days of receipt of the conviction or otherwise receiving actual notice of the conviction.

#### D. Alcohol/drug Abuse Conviction Assistance

- 1 An employee of the college who is convicted of a criminal alcohol or drug statute violation as defined in this policy may be required to participate in and complete an alcohol or drug dependency evaluation provided by a licensed agency or clinic and paid for by the department where the employee works.
- 2 The employing department and Human Resources will jointly select a licensed agency or clinic.
- 3 If recommended by the resulting evaluation and approved by the supervisor in consultation with Human Resources, the employee may be required to participate in and complete an alcohol and/or drug abuse assistance or rehabilitation program.
- 4 The employee may be disciplined under the Corrective Action Policy or the Academic Freedom, Professional Responsibility, and Tenure Policy.

#### E. Alcohol/drug Abuse Assistance Without Conviction

- 1 Without a conviction, an employee with alcohol and/or drug related deficiencies in standards of conduct or performance may be offered participation in and completion of an alcohol and/or drug abuse assistance or rehabilitation program in lieu of disciplinary action.
- 2 When the employee exhibits severe deficiencies of conduct or performance, the employee may be required to participate in and complete the program.

#### F. Mandatory Assistance Upon Second Offense

Upon a second offense or violation of this policy, the employee may be required to participate in and complete an alcohol and/or drug abuse assistance or rehabilitation program.

#### G. Drug and Alcohol Education office/Human Resources

- 1 The college Alcohol and Drug Prevention office provides an ongoing alcohol/drug-free education awareness program to inform employees and supervisors about:
  - a. the dangers of alcohol/drug abuse in the workplace; and
  - b. available alcohol/drug counseling and rehabilitation.
- 2 In addition, information about the employee assistance programs is available through Human Resources.

#### H. Assistance or Rehabilitation Programs

- 1 Where alcohol and/or drug abuse assistance or rehabilitation is required, Human Resources will represent the college in providing the employee with a written agreement signed by both parties stating:
  - a. the required work related standards of conduct or performance provided by the employing department;
  - b. the name and location of the alcohol and/or drug abuse assistance or rehabilitation program; and
  - c. that disciplinary action or termination will occur if the program is not complete or if similar inappropriate conduct occurs after completion of the program.
- I. The alcohol and/or drug abuse assistance or rehabilitation program may or may not be during work hours and will be paid by college-provided medical insurance or by the individual if the cost of the program is beyond the scope of the college insurance.

## J. Drug Testing Procedure

- 1 Applicable to employees required to drive Commercial Motor Vehicle Vehicles (CDL employees).
- 2 The Risk Management office administers the drug testing program for all commercial motor vehicle drivers.
- 3 Employee Notification and Educational Materials

All prospective and current CDL employees are notified of necessary tests and receive an information packet explaining the rules, regulations, and available substance abuse programs from Risk Management.

- 4 Controlled Substance Pre-duty Testing Requirements
  - a. All prospective CDL employees who have been offered a position covered by federal law must submit to pre-employment controlled substance testing before beginning their assignments.
  - b. The job offer is contingent upon passing a controlled substance test.
- 5 Reasonable Suspicion/Controlled Substance and Alcohol Testing

CDL employees may be tested for reasonable suspicion when a supervisor observes an employee who, based on appearance, behavior, speech or body odors, can be described as suspected to be under the influence of alcohol or a controlled substance.

- 6 Random Controlled Substance and Alcohol Testing
  - a. Random controlled substance testing can be conducted at any time during work hours or while on college activities.
  - b. Random alcohol testing must be performed immediately prior to, during, or immediately after a CDL driver has completed a safety sensitive assignment.

### 7 Post-accident Controlled Substance and Alcohol Testing

Following an accident, the college will test each surviving employee as soon as possible for any controlled substances or alcohol if any of the following conditions are present:

- a. a citation was given to anyone involved;

- b. the accident results in injury requiring treatment away from the site of the accident;
- c. a vehicle was disabled in the accident; or
- d. the accident involved the loss of human life.

## 8 Return-to-Duty Testing

Before being allowed to return to a safety-sensitive function, CDL employees who have failed an alcohol and/or controlled substance test must test negative for alcohol (less than .02 alcohol concentration) and controlled substances.

## 9 Follow-up Testing

CDL employees identified by a substance abuse professional (SAP) as needing assistance in resolving alcohol or substance abuse problems will be subject to a minimum of six unannounced follow-up tests during the first 12 month period following their return to duty.

## 10 Testing Procedures for CDL Employees.

- a. Alcohol tests are conducted under the guidance of a breath alcohol technician (BAT) selected by the college and in accordance with department of transportation (DOT) regulations at one or more designated testing sites.
- b. Controlled substance DOT regulations require testing for marijuana, cocaine, opiates, amphetamine, and PCP.

## 11 Positive Test Results Review and Evaluation

All positive alcohol and controlled substance test results must have a final review and verification made by a licensed physician.

## 12 Alcohol Related Penalties.

- a. CDL employees whose test results indicate an alcohol concentration of .02 or greater but less than .04 may not return to duty for at least 24 hours following the administration of the test.
- b. CDL employees whose test results indicate an alcohol concentration of .04 or greater may not drive college vehicles (CMV) covered by law for 60 consecutive days.

- c. CDL employees who test positive for an alcohol concentration of .04 or greater on two occasions during a three-year period will be subject to disciplinary action, which may include termination.
- d. All CDL employees who test positive with an alcohol concentration level of .04 or greater may not return to driving duty before being evaluated by an SAP.

### 13 Controlled Substance Penalties.

- a. CDL employees who test positive for a controlled substance for the first offense will receive a professional referral to an SAP and must submit a urine specimen that has a negative result before returning to work.
- b. CDL employees who test positive for a controlled substance for a second offense within a three-year period will receive a professional referral to an SAP, and will be subject to disciplinary action, which may include termination.

### 14 Reporting and Record Keeping

- a. The college submits all required reports and maintains the testing records according to the applicable law.
- b. All positive test results must be kept for five years.
- c. Collection information must be kept for two years.
- d. Negative test results must be kept for one year. All records will be kept in a confidential file in Risk Management.

### 15 Employee Refusal to Submit to Testing

Any CDL employee who refuses to submit to a required alcohol or controlled substance test will be immediately removed from duty and such refusal shall be treated as a positive test according to the applicable law.

### 16 Training

All appropriate supervisors receive at least 60 minutes of training on alcohol misuse and an additional 60minutes of training on controlled substance misuse.

### 17 Self-reporting

A CDL employee who self-reports alcohol misuse or controlled substance misuse and requests college assistance shall be immediately referred for

treatment to an SAP and removed from safety-sensitive duties until cleared by a substance abuse specialist and approved for reinstatement by the supervisor.

#### K. Reasonable Suspicion Testing

- 1 Reasonable suspicion alcohol and/or drug testing may be initiated when the supervisor determines that there is reasonable suspicion to warrant a test.
- 2 This reasonable suspicion must be based on specific, documentable, contemporaneous observation including but not limited to:
  - a. job performance;
  - b. appearance;
  - c. behavior;
  - d. speech;
  - e. statements;
  - f. possession; and
  - g. body odors, etc.
- 3 The supervisor will contact the manager of Environmental Health and Safety to concur in the decision to arrange to test an employee. The manager of Environmental Health and Safety need not observe the employee's behavior.
- 4 Employees in safety sensitive positions who are tested must be placed in non-safety sensitive duties or on administrative leave until results from the test are available.
- 5 In all testing cases, an employee may be placed on administrative leave until an evaluation has been completed.
- 6 No advance notice to the employee is required to perform alcohol and drug tests.
- 7 If it is determined that an alcohol and/or drug test is required, the test should be administered within two hours from the decision to test the employee.
- 8 If the test is not administered within eight hours from that time, all attempts to administer the test should cease.

#### L. Post-Accident Testing



- 1 Employees who are involved in an accident while at work or on college business, whether driving a state vehicle or any other vehicle, are subject to post accident testing where:
  - a. there is reasonable suspicion that the employee had been driving under the influence of alcohol or drugs as determined by the investigating officer;
  - b. a fatality occurs; or
  - c. the driver receives a citation under state or local law for a moving traffic violation arising from the accident and the accident involved:
    - (1) bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
    - (2) one or more motor vehicles incurring disabling damage as a result of the accident, must be transported away from the scene by a tow truck or other vehicle.
- 2 As soon as practical following the accident, each surviving employee shall be tested for alcohol and/or drugs, if that employee's performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident.
- 3 If a test is required, it should be administered within two hours of the incident.
- 4 If a test is not administered within eight hours following the accident, all attempts shall cease.
- 5 An employee who is subject to post-accident testing who fails to remain readily available for the testing, including notifying the supervisor of his/her location if leaving the scene of the accident, prior to submitting to testing, may be deemed to have refused to submit to testing.
- 6 This requirement shall not be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for a period necessary to obtain assistance in necessary emergency medical care.

#### M. Testing Results

- 1 After the testing is complete and the results are returned to the college from the laboratory, a copy of the test results will be given to the employee.

- 2 If a positive test results, a copy of the test will also be forwarded to the director of Employee Relations in Human Resources and the director of Employee Relations will consult with the supervisor to determine the appropriate course of action in resolving the concern.

#### N. Refusal to Test

As a condition of employment, employees are required to participated in any alcohol and/or drug related testing, an employee who does not agree to be tested will be deemed to have refused testing and appropriate disciplinary action will be issued.

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Date of last cabinet review: March 12, 2007

The originator of this policy & procedure is Human Resources. Questions regarding this policy may be directed to the originator by calling 801-957-4210.