

2-28 Drug-Free Workplace Policy (Substance Abuse)

College of The Albemarle believes that work environments must be free of the presence of employees who are under the influence of alcohol, who use illegal drugs or who abuse prescription drugs. It is the purpose of this policy to ensure that all employees are free of the presence of these substances so that they may perform their tasks safely and efficiently. Use of illegal drugs or abuse of alcohol or legal drugs at any time may be considered personal conduct for which disciplinary action up to and including dismissal could be initiated. All employees, whether, temporary, regular, full-time or part-time, are required to comply with this policy.

The use of illegal drugs or abuse of alcohol or legal drugs, on or off duty, is inconsistent with law abiding behavior expected of all citizens. Employees who use illegal drugs, on or off duty, tend to be less productive, less reliable and prone to greater rates of accidents, injury and absenteeism.

The use of illegal drugs or abuse of alcohol or legal drugs, on or off duty, by employees may result in less than the complete reliability, stability, and good judgment that are consistent with our responsibility to parents, students and the community.

College of The Albemarle encourages rehabilitation of employees who abuse drugs or alcohol so that they may live up to the standards set by this policy. To help enforce this policy, the college has adopted a drug and alcohol testing policy for employees.

I. DEFINITIONS

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

- A. A *worker* in a “safety-sensitive position” is defined as one who holds a commercial drivers license; drives a college vehicle; transports students on behalf of the college; a vehicle maintenance worker or a security officer. Because of the sensitive nature of the duties of these employees and their importance to the safety and physical well-being of students and other college personnel, the college has established a special category for these employees.
- B. “*Alcohol*” is defined as the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.

- C. *“Alcohol use”* is defined as the consumption of any beverage, mixture or preparation including any medication containing alcohol.
- D. *“Illegal drugs”* are defined as controlled substances when used for non-medical purposes and similar mind-altering substances when used for non-medical purposes, whether listed as a controlled substance or not. The North Carolina Controlled Substances Act and the United States Controlled Substances Act define “controlled substances” and make them illegal when used for non-medical purposes.
- E. *“Under the influence”* is defined as being that state when an employee’s behavior or performance is affected to an observable extent by alcohol, drugs, or other substances. Without regard to an employee’s behavior or performance, an employee shall be deemed to be under the influence when his/her alcohol content level as determined by a breathalyzer or blood test is at a level that exceeds that allowable for drivers of commercial vehicles under the Motor Vehicle Laws of North Carolina.
- F. *“Abuse”* of prescription drugs or other substances occurs when a person uses prescription drugs or other substances without the specific direction of or contrary to the instructions of an authorizing physician for the use undertaken by the employee and where such use affects the employee’s behavior or performance to an observable extent.
- G. *“Workplace”* is defined as the site for the performance of work done in connection with an employee’s work with the college, and includes any building, premises or vehicle owned or controlled by College of The Albemarle.

II. PROHIBITED ACTS

A. Illegal Drug Activity

1. The manufacture, distribution, dispensing, possession or use of an illegal substance at any time, on or off the job, is prohibited.

An employee who violates this provision at the workplace is subject to disciplinary action up to and including dismissal. Any illegal drug activity on the job will be dealt with as deemed appropriate by college officials. This may include notifying the appropriate law enforcement authority.

2. Any employee arrested and/or indicted for any criminal drug statute violation occurring in the workplace must notify the appropriate supervisor promptly.

Failure to do so will be addressed as a performance of duty requirement that has not been met.

Any employee convicted of any criminal drug/alcohol statute violation occurring in the workplace must notify the appropriate supervisor no later than five (5) working days after such conviction. Failure to provide notification may result in the immediate initiation of dismissal procedures.

B. Impairment on the Job

1. No employee shall report to the workplace impaired by alcohol or other drugs, including drugs prescribed by a doctor and over the counter medications. Impairment is determined by the supervisor when in his/her opinion the employee's performance is adversely affected by alcohol or other drugs. Such impairment is determined by physical observation of employee performance, communication, and other job related functions.

If an employee reports to the workplace while impaired by any of the above, he/she shall be placed on "suspension without pay" or "suspension with pay" as deemed appropriate. As required by applicable general statutes and acceptable personnel administrative procedures, an investigation may be conducted relating to the matter.

Following an investigation, the appropriate supervisor or administrator may schedule a conference with the employee to review the results of the investigation and to give the employee the opportunity to respond. When the findings of the investigation reveal abuse, referral to an appropriate community substance abuse treatment and/or counseling program will be a condition for consideration of continued employment. Clearance through a substance abuse/counseling program will be a requirement for continued employment.

2. Any employee using prescribed medications under a doctor's direction or over the counter medication that could alter the employee's ability to perform the duties and responsibilities of his/her position must notify the appropriate supervisor before reporting for duty. The college considers such notification to be a responsible act. Failure to notify the supervisor shall be deemed personal conduct which shall be cause for disciplinary action up to and including dismissal. Such employee is responsible for finding out from a health care professional the effects of any drug being taken. Failure to obtain such information will not be a bar to disciplinary action under this policy.

If, in the opinion of the employee's supervisor, an employee's action and/or behaviors are considered unsafe as a result of using the medication, the employee may be sent home on sick leave.

III. Violations by Employees in Safety Sensitive Positions

All employees, including employees in safety-sensitive positions, are subject to the Drug-Free Workplace policy. Notwithstanding the minimum disciplinary requirements imposed by federal law, employees in safety-sensitive positions (or any other employee when performing safety-sensitive functions) will also be subject to dismissal if ever found to be under the influence of illegal drugs; to be abusing prescription drugs while on duty; to be under the influence of alcohol while on duty; or to have committed a subsequent drug/alcohol offense after entering or completing a rehabilitation program.

IV. Authority to Test

Any employee may be required to submit to a drug or alcohol test when a trained supervisor or administrative official has reasonable cause to believe that the employee is using alcohol or illegal drugs or is abusing prescription drugs in the workplace. If the employee has not previously signed a consent for this test, then he/she will be required to sign a consent before the test. Refusal to consent shall be cause for disciplinary action up to and including dismissal.

V. Drug-Free Workplace Act of 1988

In accordance with the Drug-Free Workplace Act of 1988 and as a condition of employment with College of The Albemarle, each employee must comply fully with this policy. Because College of The Albemarle receives federal funding, no employee engaged in work for College of The Albemarle may unlawfully manufacture, distribute, dispense, possess or use in the workplace any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or any other controlled substance.

VI. Awareness

Each employee has been or will be furnished a copy of this policy and a drug-free awareness program will be provided to inform all employees about:

- A. The dangers of drug abuse in the workplace;
- B. The college's policy of maintaining a drug-free workplace;
- C. Any available information for drug counseling, rehabilitation, or assistance program; and
- D. The penalties that may be imposed upon employees from violations occurring in the workplace.

Alcohol or other drug abuse can affect an employee's personal and family life and can contribute to problems on the job. Without appropriate intervention, an employee presents a problem not only to himself/herself but to family and employer as well. Alcohol and drug abuse are treatable illnesses. It is the employee's responsibility to seek treatment for such problems before they must be addressed at the workplace or otherwise become apparent as unsatisfactory job performance and/or work habits. Such action by an employee is viewed as responsible and is supported. Failure to take such action may be considered personal conduct for which disciplinary action is appropriate.

The purpose of the Drug-Free Workplace Act of 1988 is to involve all employees in helping to maintain a workplace environment that is drug free. Because the workplace in this instance is the college building, and publicly owned property, where the well-being of students is of top priority, the college strongly encourages employees to notify their immediate supervisor if they are aware of another employee's on-the-job alcohol or other drug use or violation of this policy.

Drug and Alcohol Testing Policy

College of The Albemarle believes the safety of students riding in our vehicles is a top priority. It is the policy of the college to ensure that all persons responsible for the safe operation or maintenance of vehicles used for college purposes must be able to put forth their best efforts at all times. To enforce this policy, and to enforce the Drug-Free Workplace policy, the college has adopted a drug and alcohol testing program to ensure that all employees in safety-sensitive positions who perform safety-sensitive duties are free from the presence of alcohol or illegal drugs.

College of The Albemarle supports and adopts the Federal Highway Administration's Drug and Alcohol Testing Rules and the Federal Transit Administration's drug testing rules for employees whose job specifications require them to work in safety-sensitive positions. All such employees are required to comply with this policy.

The college will comply with applicable federal and state laws relating to drug and alcohol testing policies, including but not limited to the Federal Highway Administration's Drug and Alcohol Testing Rules, 49 U.S.C. s 2701, et seq.; 49 C.F.R. 382, et seq.; 49 C.F.R. 40, et seq.; and Federal Register, February 15, 1994. Parts I through VII.

Procedures for Drug and Alcohol Testing

These regulations serve as an outline of the testing regulations established by federal law and required by the College's Drug and Alcohol Testing Policy. These regulations should in no way be interpreted to cover the entire scope of the laws and regulations for drug and alcohol testing. Copies of the Federal Highway Administration's Drug and Alcohol Testing Rules will be made available by the Human Resources Office. Any questions regarding these policies or any of the materials regarding such policies should be directed to the Director, Human Resources.

For the purpose of the Drug and Alcohol Testing Policy and these regulations, a "safety-sensitive position" is one whose duties require an individual to hold a commercial drivers license, operate any vehicle owned or maintained by the college, or transport students on behalf of the college. This also includes but is not limited to maintenance workers and security officers.

I. Alcohol Testing

A. Prohibited Conduct

Performance of safety-sensitive functions is prohibited:

1. While having a breath alcohol concentration of 0.04 percent or greater as indicated by an alcohol breathe test.
2. While consuming alcohol.
3. Within four hours after using alcohol.
4. While possessing alcohol.

Refusing to submit to an alcohol test and using alcohol within eight hours after an accident or until tested (for drivers when required to be tested) are prohibited. An employee's failure to be available for testing within this time frame following an accident is also considered a refusal to a test.

Failure to sign a consent to testing form, to give a sample, to provide an adequate sample, to show up for the scheduled test, or to otherwise not cooperate in completing a test are considered refusals to take any alcohol test.

B. Types of Tests

The following types of alcohol tests will be conducted:

1. Post accident tests will be conducted as soon as practicable after accidents on drivers whose performance could have contributed to the accident, as determined by the employee's receiving a citation for a moving violation, and for all fatal accidents even if the driver does not receive a citation for a moving violation.
2. Reasonable suspicion tests will be conducted when a trained supervisor or administrative official observes behavior or appearance by an employee in a safety-sensitive position that is characteristic of alcohol misuse. The tests will be performed by someone other than the supervisor or administrator who made the reasonable suspicion determination.

A trained supervisor or administrative official may base a reasonable suspicion test upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the safety-sensitive employee.

3. Random testing will be conducted on a random basis just before, during or just after performance of safety-sensitive functions. The number of random alcohol tests will equal at least 25 percent of all employees in safety-sensitive positions annually. The testing dates and times will be unannounced.

C. Testing Procedures

Alcohol testing will generally be performed by an evidential breath testing device.

Return-to-duty and follow up testing will be conducted when an individual who has violated the prohibited alcohol conduct standards returns to performing safety-sensitive duties. Follow up tests will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns to safety-sensitive duties. Follow up testing may be extended for up to 60 months.

D. Consequences of Alcohol Misuse

Any test results of 0.04 percent or greater or refusal to testing are considered positive results and will result in the employee being immediately removed from safety-sensitive functions. Employees who have engaged in alcohol misuse cannot return to safety-sensitive duties until they have been evaluated by a substance abuse professional and have complied with any treatment recommendations to assist them with an alcohol problem as recommended by the substance abuse professional.

Employees who have any alcohol concentration (defined as 0.02 or greater) when tested just before, during or just after performing safety-sensitive functions will be removed from performing such duties for 24 hours.

If an employee's behavior or appearance suggests alcohol misuse, a reasonable suspicion test may be conducted. If a breath test cannot be administered, the driver must be removed from performing safety-sensitive duties for at least 24 hours. If a person's job involves only safety-sensitive duties, the employee will be removed from his/her position and may be required to take annual leave, sick leave or leave without pay. A violation of these employee-based testing rules is not placed on, nor affects, the driver's commercial drivers license record. Notwithstanding anything else stated in this policy, any employee who tests positive for alcohol use or who fails to report for testing will be subject to disciplinary action up to and including termination.

E. Rehabilitation

Employees who violate any alcohol misuse rule should undergo an evaluation by a substance abuse professional. The college is not required to provide rehabilitation, pay for treatment or reinstate the employee in his/her position.

An employee will not be permitted to return to safety-sensitive duties unless and until College of The Albemarle ensures that the driver: (1) has been evaluated by a substance abuse professional; (2) has complied with any recommended treatment as determined by a substance abuse professional; (3) has taken a return-to-duty alcohol test with a result less than 0.02 percent; and (4) is subject to unannounced follow-up alcohol tests.

II. Drug Testing

A. Prohibited Conduct

The following drugs are prohibited and all drug tests will be analyzed for these drugs:

1. Marijuana (THC) metabolite
2. Cocaine
3. Amphetamines
4. Opiates (including heroin)
5. Phencyclidine (PCP)

Any unauthorized or illegal use of controlled substances is prohibited. Illicit use of drugs by safety-sensitive employees is prohibited at any time on or off duty.

B. Types of Tests

The following types of drug tests will be conducted:

1. Pre-employment tests will be conducted before applicants are hired or after an offer to hire, but before actually performing safety-sensitive functions for the first time. All applicants subject to pre-employment alcohol testing are subject to this policy. These tests are also required when employees transfer to a safety-sensitive position.

An applicant may be exempted from pre-employment drug testing only if all the following conditions are met:

- a. The driver has participated in a drug testing program that meets the requirements of this policy for 30 days; and
- b. While participating in the program, the applicant was either (1) tested for controlled substances within the six months preceding the date of application for employment with College of The Albemarle; or (2) the applicant participated in random controlled substance testing for the previous 12 months; and
- c. College of The Albemarle can ensure that no prior employer of the applicant has a record of a violation of this part or any other controlled substance use rule within the six months preceding the applicant's application.

2. Post-accident tests will be conducted as soon as practical after accidents on drivers whose performance could have contributed to the accident, as determined by the employee's receipt of a citation for a moving violation, and for all fatal accidents even if the driver is not cited for a moving violation.

A driver may not use any controlled substance during the eight hour period of time following an accident without a written prescription from a doctor of medicine or osteopathy; under such circumstances, use must be in strict compliance with the written prescription. Failure to follow these restrictions will be considered a refusal to test.

3. Reasonable suspicion tests will be conducted when a trained supervisor or administrative official observes behavior or appearance characteristic of misuse of controlled substances.
4. Random testing will be conducted on a random basis just before, during or just after performance of safety-sensitive functions. The number of random tests conducted annually will equal at least 50 percent of all employees performing safety-sensitive duties. The testing dates and times will be unannounced.
5. Return to duty and follow up testing will be conducted when an individual has violated the controlled substances policy and returns to performing safety-sensitive duties. Follow up tests will be unannounced, and at least six tests will be conducted in the first 12 months after a driver returns to duty. Follow up testing may be extended for up to 60 months following return to duty.

C. Testing Procedures

All drug testing will be conducted in compliance with 49 C. F. R., Part 40. Such testing is generally conducted on a two-stage process. First, a screening test is performed. If it is positive for one or more controlled substances, then a confirmation test is performed for each identified drug using state-of-the art gas chromatography/mass spectrometry (GC/MS) analysis. Failure to report for testing will be treated as a positive test. GC/MS confirmation ensures that over the counter medications or prescriptions taken in normal doses are not reported as positive results.

All drug test results are reviewed and interpreted by a physician (Medical Review Officer (MRO)) before they are reported to the college. If the laboratory reports a positive test result, the MRO contacts the employee (in person or by telephone) and conducts an interview to determine if there is an alternative explanation for the drugs found by the test. If the employee provides appropriate documentation

and the MRO determines that it is a legitimate medical use of the prohibited drug, the test is reported as negative.

If College of The Albemarle must contact the employee because the MRO is unable to, the employee will be required to contact the MRO within ten (10) working days.

D. Consequences of Drug Misuse

Any employee who tests positive for any of the controlled substances listed in Section A of this regulation will be removed from safety-sensitive duties. Notwithstanding anything else stated in this policy, any employee who tests positive for any controlled substance, or fails to show up for testing, will be subject to disciplinary action up to and including termination.

E. Rehabilitation

Employees who test positive for any controlled substance or abuse of legal drugs should undergo an evaluation by a substance abuse professional and, if recommended, the rehabilitation recommended. College of The Albemarle will not be required to provide rehabilitation, pay for treatment, or reinstate the employee to his/her position.

An employee will not be returned to safety-sensitive duties unless and until he/she (1) has been evaluated by a substance abuse professional or physician; (2) has complied with any recommended rehabilitation as determined by a substance abuse professional; and (3) has a negative result on a return to duty drug test. Follow up testing to monitor the employee's continued abstinence and compliance with this policy may be required.

III. Other Provisions

A. Education and Training

College of The Albemarle will provide information on drug and alcohol abuse and treatment resources to employees in safety-sensitive positions. All supervisors of employees in safety-sensitive positions and all administrators must attend at least one hour of training on the signs and symptoms of drug abuse, and at least one hour of training on the signs and symptoms of alcohol abuse. The training will cover the physical, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Only those supervisors and

administrators who have received training are authorized to make a reasonable suspicion determination.

Action on the part of administrators and supervisors to address legitimate concerns about alcohol and other drug problems, including unsatisfactory work performance and work habits, will continue to be expected. A supervisor or administrator who knowingly tolerates or ignores information and events as described in this policy, or who otherwise fails to act appropriately in accordance with this policy concerning information and events, is considered to be acting irresponsibly to carry out the intention of this policy. Such a supervisor or administrator may be subject to disciplinary action in accordance with applicable statutes and policies.

B. Testing Procedure Used

The “split sample” procedure will be used for all drug and alcohol testing. Whenever both samples are tested, the results from the second sample will be accepted.

C. Record Retention and Confidentiality

The records of all alcohol and drug testing programs will be maintained in a secure location with controlled access. The records will be maintained in accordance with applicable law.

All testing records will be kept confidential as provided by law. Test results and other confidential information may only be released to the employer and the substance abuse professional. Any other release of this information will only be made with the employee’s written consent. If the employee initiates a grievance, hearing, lawsuit or other action as a result of a violation of these rules, the employer may release relevant information to the decision maker.

Employees will be entitled to review their records upon reasonable notice. With respect to testing results, College of The Albemarle will notify applicants of their pre-employment test results only if the applicant requests notification within 60 calendar days of the tests. Employees will be notified of the results of the random, reasonable suspicion and post accident tests whenever the results of the tests are positive.