

***The College shall maintain a drug-free and alcohol-free workplace.***

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Each employee of the College is required to report to work on time, and in appropriate mental and physical condition to effectively carry out the duties of the employee's position. It is the College's obligation and intent to provide a drug-free and alcohol-free, safe and healthy work environment.

The College prohibits the unlawful manufacture, distribution, dispensing, possession or use of controlled substances, as well as the abuse of alcohol, on College premises, while conducting College business (whether on or off campus), or at any time which would interfere with the effective conduct of the employee's work for the College.

Each employee must, as a condition of employment, abide by the terms of this policy 5.255 and its subsections, and must report if the employee has ever been charged or convicted, or any charge or conviction occurs during the term of employment with the College, of a crime involving the violation of drug or alcohol laws, whether occurring on or off the College campus. A report of a conviction occurring during the term of employment with the College, if any, must be made within five days after the conviction, as mandated under the Drug-Free Workplace Act of 1988 (41 USC Section 702 et seq.).

Violations of this policy will result in drug or alcohol testing, and may result in corrective and/or disciplinary action which may include but is not limited to removal from campus, referral for treatment or counseling, referral for prosecution, and termination of employment with the College.

*Date of Adoption: Adoption of Manual*

*References: Drug-Free Workplace Act of 1988 (41 USC Section 702 et seq.)*

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#### Reasonable Cause

An employee's supervisor may require drug or alcohol testing, as appropriate, of an employee if the supervisor has reasonable cause to believe that an employee is impaired to any degree while at work, whether on or off the College campus. Reasonable cause shall consist of, while an employee is at work, any one or more of the following:

- the supervisor directly observing the employee using or possessing drugs or alcohol;
- observation by the supervisor that the employee is exhibiting a continuing pattern of abnormal and/or erratic behavior that is indicative of drug or alcohol use; observation by the supervisor of specific physical, behavioral, speech and/or performance by the employee that indicate probable drug or alcohol use or possession by the employee;
- information regarding an employee's use or possession of drugs or alcohol while at work, or a charge or conviction of an employee for a drug/alcohol-related crime, obtained from a reliable and credible source and verified by the College;
- an accident occurs in the workplace in which the employee is involved and the supervisor reasonably believes the employee may have contributed to the accident.

An employee must inform the employee's supervisor and the Chief Human Resources Officer if the employee is taking prescription or over-the-counter medications legally that may impair the employee's job performance. Such information shall be kept confidential except, where appropriate, the information must be shared with other administrators in order to assign the employee to duties appropriate for the employee's medicated condition.

As used in this policy, unless the context requires otherwise:

1. "Alcohol" shall mean ethanol, isopropanol or methanol;
2. "Drugs" shall mean any substance considered unlawful under the Controlled Substances Act (21 United States Code Section 812) or the metabolite of the substance.

#### Authorization

Following the determination that reasonable cause exists and testing is warranted, the supervisor shall seek authorization from the appropriate Dean and the Chief Human Resources Officer to transport the subject employee to the testing facility. As soon as possible after authorization is given, the person who authorized transport and testing shall notify, in writing, the President of the College of the authorization and the rationale for it. A copy of such notification shall be retained with the other drug/alcohol testing records of the employee as provided below.

#### Transportation and Testing Procedures

Upon receiving authorization as provided above, the supervisor, or the supervisor's designee, who may be a member of the campus security force or city police department, shall immediately transport the subject employee to the testing facility and shall transport the employee to the employee's residence after testing is complete. In no event is the employee to transport himself to or from the testing facility. The College shall place the subject employee on administrative leave with pay pending the test results. Testing shall be administered by and at the direction of a professional laboratory approved or certified by the United States Department of Health and Human Services, the College of American Pathologists, or the Arizona Department of Health Services. The professional laboratory will be selected by the College and will be required to use scientifically accepted analytical methods and procedures, have detailed written specifications to assure chain of custody of the specimens, and proper laboratory control and scientific testing.

#### Results

Test results will be sent to the Chief Human Resources Officer, who will forward the information to the President of the College and to the appropriate Dean. The employee retains the right, on written request, to obtain a copy of the written test results. The College will pay all actual costs for drug and alcohol impairment testing.

An employee who tests positive will be given an opportunity to disclose and prove, in a confidential setting, that the results may have been caused by prescription or nonprescription drugs taken legally, or to explain other circumstances that may have caused positive results.

The rebuttable presumption is that test results are valid, and the College may rely on test results in reasonable and good faith, unless the employee can show that the College knew or clearly should have known that the result was in error and ignored the true test result because of reckless or malicious disregard for the truth or the willful intent to deceive or be deceived. The College shall not be liable for any action taken or not taken related to a false negative drug or alcohol impairment test.

The Chief Human Resources Officer shall maintain each record of an employee's drug test separate from the employee's general personnel records in a manner to ensure confidentiality and privacy of such drug test records and reports. All communications received by the College relevant to drug or alcohol impairment test results and received through this policy, are confidential communications and may not be used or received in evidence, obtained in discovery or disclosed in any public or private proceeding related to an action taken by the College or the employee except disclosure to:

1. the tested employee or prospective employee or any person designated in writing by that employee or prospective employee;
2. individuals designated by the College to receive and evaluate test results or hear the explanation of the employee or prospective employee;
3. an arbitrator or mediator, or a court or governmental agency as authorized by state or federal law.

Except as required by law, such records will not be turned over to any law enforcement authority.

#### Disciplinary Action

An employee who refuses to submit to testing will be subject to disciplinary action by the College. The College may consider disciplinary action of any employee who tests positive for drugs or alcohol. An employee, at the discretion of the College based on the severity of the offense and the safety and health of other employees, may be returned to work without penalty, may be placed in rehabilitative services, or may be disciplined, discharged or advised of other disciplinary action. As used in this section, the term „disciplinary action“ may include but is not limited to any one or more of the following: counseling, as deemed appropriate by the College, treatment for the condition, and termination of employment with the College. Based on a positive drug or alcohol impairment test, the College may also take adverse employment action, which may include but is not limited to any one or more of the following:

1. require that the employee enroll in an employer-provided or employer-approved rehabilitation, treatment or counseling program, which may include additional drug testing and alcohol impairment testing, participation in which will be a condition of continued employment and the costs of which may or may not be covered by the College’s health plan or policies;
2. suspend the employee, with or without pay, for a designated period;
3. terminate the employee’s employment with the College;
4. refuse to hire the prospective employee;
5. other adverse employment action.

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*References: Drug-Free Workplace Act of 1988 (41 USC Section 702 et seq.)*