

**POLICY & PROCEDURES MEMORANDUM**

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| <b>TITLE:</b>          | <b>EMPLOYEE DRUG TESTING</b>                                   |
| <b>EFFECTIVE DATE:</b> | January 19, 1999   |
| <b>CANCELLATION:</b>   | none   |
| <b>OFFICE:</b>         | Chancellor's Office (CO)<br>[Formerly President's Office (PR)] |

**POLICY STATEMENT**

Delgado Community College has a long-standing commitment to maintain a drug-free College and a college free of substance abuse. The physical and mental well-being of Delgado employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, impacting their productivity, health and safety. Students, co-workers, as well as the general public, are also adversely impacted by the substance abuse of employees.

Employees are prohibited from reporting to the workplace or performing work for Delgado with the presence in their bodies of illegal drugs, controlled substances, or designer (synthetic) drugs. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the workplace and while on official College business, on duty or on call for duty.

Delgado Community College may require drug testing of its employees under conditions including, but not limited to, situations where there is reasonable suspicion that an employee is using drugs; following an accident that occurs during the course and scope of an employee's employment; prior to hiring prospective employees in safety-sensitive and security-sensitive positions; random or non-random testing in the appointment or promotion of employees in safety-sensitive and security-sensitive positions; testing of employees returning to duty who have violated a prohibition on alcohol or controlled substance; or follow-up testing for employees who have been identified as needing assistance in resolving problems associated with drug use. Alcohol testing may also be required in the above conditions.

In order to work towards a drug-free College, Delgado maintains its responsibility to perform drug testing when deemed necessary and in accordance with Executive Order No. MJF 98-38, Louisiana Revised Statute 49:1001-1021, and all other applicable federal and state laws.

## PROCEDURES & SPECIFIC INFORMATION

### 1. Purpose

To establish policy and procedures related to the drug testing of employees of the College, in accordance with Louisiana Revised Statute 49:1001 - 1021 and Executive Order No. MJF 98-38, and all other applicable federal and state laws.

### 2. Scope and Applicability

This policy and procedures memorandum applies to all persons having an employment relationship with the College.

### 3. Definitions

- A. **Controlled Substance** - A drug, chemical substance or immediate precursor in Schedules I through V of Louisiana Revised Statute 40:964 or Section 202 of the Controlled Substances Act (21 U.S.C. 812).
- B. **Illegal Drugs** - In accordance with Louisiana Revised Statute 49:1015, includes narcotics, hallucinogens, depressants, stimulants, look-alike drugs, or other substances which can affect or hamper the senses, emotions, reflexes, judgment, or other physical or mental activities. Included is any drug which is not legally obtainable or which has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.
- C. **Designer (Synthetic) Drugs** - Those chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.
- D. **Employee** - Unclassified, classified, and student employees; faculty members, student interns, and any other person having an employment relationship with the College, regardless of the appointment type (e.g., full-time, part-time, temporary, contract, etc.)
- E. **Reasonable Suspicion** - Belief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

- F. **Safety-sensitive or Security-sensitive position** - A position containing duties of such nature that the College's interest to keep the incumbent drug-free outweighs the employee's privacy interests. Such positions include, but are not limited to:
- (1) Positions with duties that are required or are authorized to perform the safety inspection of a structure;
  - (2) Positions with duties that are required or are authorized to have access to an incarcerated individual or a prison;
  - (3) Positions with duties that are required or are authorized to carry a firearm;
  - (4) Positions with duties that allow access to controlled substances (drugs);
  - (5) Positions with duties that are required or are authorized to handle chemicals;
  - (6) Positions with duties that are required or are authorized to inspect, handle, or transport hazardous waste as defined in Louisiana Revised Statute 30:2173(2) or hazardous material as defined in Louisiana Revised Statute 32:1502(5);
  - (7) Positions with duties that are required or are authorized to exercise any responsibility over power plant equipment;
  - (8) Positions with duties that require on-the-job instructing or on-the-job supervising of any person to operate or maintain any heavy equipment or machinery;
  - (9) Positions with duties that are required or are authorized to maintain a college vehicle, or the supervision of such an employee; and
  - (10) Positions where a hazardous condition or practice in the workplace could result in a potential danger which could reasonably cause death or physical harm to individuals.
- G. **Workplace** - Any location on Delgado property including all property, offices and facilities (including all vehicles and equipment) whether owned, leased or otherwise used by the College or by an employee on behalf of the College in the conduct of its business in addition to any location from which an individual conducts agency business while such business is being conducted.

#### 4. **Conditions Possibly Requiring Drug Testing**

The College may require drug testing under conditions including, but not limited to, the following:

- A. **Reasonable Suspicion** - Employees may be required to submit to a drug test if there is reasonable suspicion that the employee is using drugs. In cases of reasonable suspicion, a belief is based on specific observation concerning the appearance, behavior, speech, or body odors of the employee. Such determinations should be confirmed by a second employee when possible.
- B. **Post-accident** - Employees involved in accidents that occur during the course and scope of employment may be required to submit to a drug or alcohol test if the accident:
  - (1) involves circumstances leading to a reasonable suspicion of the employee's misuse of drugs or alcohol;
  - (2) results in property damage, fatality or bodily injury to a person who immediately receives medical treatment away from the accident;
  - (3) results in or causes the release of hazardous waste as defined in Louisiana Revised Statute 30:2173(2) or hazardous materials as defined in Louisiana Revised Statute 32:1502(5).
- C. **Pre-employment:** The College may require prospective employees in safety-sensitive and security-sensitive positions to pass a drug screening test prior to employment. Pursuant to Louisiana Revised Statute 49:1008 *et. seq.*, a prospective employee who tests positive for the presence of drugs in the initial screening will be eliminated from consideration for employment.
- D. **Safety-sensitive and Security-sensitive positions - Appointments and Promotions:** Existing employees who are offered safety-sensitive or security-sensitive positions (as defined in this policy) may be required to pass drug tests before being placed in such positions, whether through appointment or promotion.
- E. **Safety-sensitive and Security-sensitive positions - Random Testing:** Employees in safety-sensitive or security-sensitive positions may be randomly selected to submit to drug testing as deemed necessary by the College. Random testing is defined as testing which is conducted utilizing a fair and equitable method of selection. All such testing will, if practical, occur during the selected employee's work schedule.

- F. **Return-to-Duty:** An employee who has violated a prohibition on alcohol or controlled substance use may be required to have a series of negative alcohol or controlled tests before returning to duty.
- G. **Follow-up Substance Testing:** An employee in a safety-sensitive or security-sensitive position who has been identified as needing assistance in resolving problems associated with alcohol misuse or drug use may be subject to follow-up testing.

## 5. Procedures

- A. Drug testing may be conducted for the following classes of drugs: amphetamines, cocaine, marijuana, opiates, and phencyclidine in accordance with the provisions of Louisiana Revised Statute 49:1001 *et. seq.* The College reserves the right to test its employees for any other illegal drug or controlled substance, or for alcohol, when deemed necessary.
- B. The Human Resources Director determines if a condition requiring drug testing exists. Upon such a determination, the Human Resources Director confidentially notifies the employee to be tested as to where and when to report for the testing.
- C. Testing services will be performed by a provider chosen by the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws. All specimen collections will be performed in accordance with applicable federal and state regulations and guidelines to ensure the integrity of the specimens and the privacy of the donors.

## 6. Confidentiality

All information, interviews, reports, statements, memoranda, and/or test results received by the College regarding the drug testing of any employee or prospective employee are confidential communications, pursuant to Louisiana Revised Statute 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

7. **Violation of the Policy**

Violation of this policy, including refusal to submit to drug testing when properly ordered to do so, will result in actions up to and including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public.

*SIGNATURE*

J. Terence Kelly  
President

*Policy Reference:*

- Executive Order No. MJF 98-38
- Louisiana Revised Statute 49:1001 - 1021
- Louisiana Revised Statute 30:2173(2)
- Louisiana Revised Statute 32:1502(5)
- Drug-Free Schools and Communities Act of 1986
- Drug-Free Workplace Act of 1988
- Louisiana Drug Testing Act of 1990
- [Delgado Policy and Procedures Memorandum PR-2530.1A, Drug-Free College](#)

*Review Process:*

- Human Relations Council 11/10/98
- Executive Council 1/19/99

*Distribution:*

*Currently distributed on the College's web site.*

*Original Distribution (1999):*

- Regular Faculty (HRS Codes 01 - 04)
- Regular Academic Support Staff (HRS Code 05)
- Limited Appointment Faculty (HRS Code 06)
- Adjunct Faculty (HRS Code 07)
- 12-Month Unclassified Administrators/Staff (HRS Code 08)
- Classified Staff (HRS Code 09)
- Grant Employees (HRS Code 11)