

POLICY & PROCEDURES MEMORANDUM

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| TITLE: | EMPLOYEE DRUG TESTING |
| EFFECTIVE DATE: | November 3, 2017* <i>(*Procedural Update 11/3/17; Title Update 10/12/12; Original 1/19/99)</i> |
| CANCELLATION: | HR-2532.1 (10/12/12) |
| CATEGORY: | HR (Human Resources) |

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.

In accordance with LCTCS Policy #6.030, [Drug Free Workplace](#), and the College's [Drug Free College](#) policy, reporting to work impaired from the use of alcohol or drugs is prohibited. Employees are also 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. The use of drugs/medications prescribed by a licensed physician is permitted provided that it will not affect the employee's performance. If such is the case the College reserves the right to suspend the work activity of the employee during the period in which the employee's ability to safely perform his/her job may be adversely affected by the consumption of such medication.

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 or incident 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 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 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 49:1001-1021, 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 such that a prudent person would 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.
- H. **Medical Review Officer** – A licensed physician knowledgeable of substance abuse who has received specialized training in interpreting and evaluating test results in conjunction with an individual's medical history and other relevant biomedical information.

4. **Conditions Requiring Drug Testing**

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

- A. **Reasonable Suspicion** - Employees may be required to submit to a drug and alcohol test if there is reasonable suspicion that the employee is using drugs. In cases of reasonable suspicion, a belief is based upon reliable, objective and articulable facts such that a prudent person would suspect that employee to be in violation of this policy.
- B. **Employee on Prescribed Medication that Could Impair:** An employee must notify a supervisor prior to or immediately upon reporting to duty, or beginning a prescribed medication or over-the-counter medication, that may impair his ability to perform customary job duties or otherwise create a safety hazard. While the duration that the medication will be taken should be disclosed, employees are not required to disclose to a supervisor the medication being taken nor the condition for which it is prescribed. Such information, may however, be required to be disclosed to the College's Medical Review Officer should circumstances or the nature of the employee's job duties warrant, as determined by the Assistant Vice Chancellor for Human Resources.
- C. **Post-accident/Incident** - Employees directly involved in an on-duty accident or incident, and whose action or inaction may have been a causative factor of same, shall be required to immediately submit to drug and alcohol testing if:
- (1) *Reasonable Suspicion:* Circumstances give rise to a reasonable suspicion of the employee's drug or alcohol use or impairment; or
 - (2) *Fatality:* The accident or incident resulted in a fatality;
 - (3) *Hazardous Materials Release:* The accident or incident resulted in or caused 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).
- Note: Employees should be aware of the legal presumption of impairment under Louisiana Revised Statute 23:1081 if an employee refuses, after being so directed, to submit to drug or alcohol testing as a result of an on-duty accident or incident. As a consequence of such refusal, benefits under the workers' compensation laws of the State of Louisiana will be denied.
- D. **Pre-employment:** The College may require prospective employees in safety-sensitive and security-sensitive positions to pass a drug and alcohol screening test prior to employment. Pursuant to Louisiana Revised Statute 49:1001-1021, a prospective employee who tests positive for the presence of drugs and alcohol in the initial screening will be eliminated from consideration for employment.

- E. **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 and alcohol tests before being placed in such positions, whether through appointment or promotion.
- F. **Safety-sensitive and Security-sensitive positions - Random Testing:** Employees in safety-sensitive or security-sensitive positions may be randomly selected to submit to drug and alcohol 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.
- G. **Return-to-Duty/Rehabilitation Monitoring:** An employee who has violated a prohibition on alcohol or controlled substance use may be required as part of a rehabilitation agreement to have a series of negative alcohol or controlled tests before returning to duty. Note: Rehabilitation is not required to be offered. Any employee who retains his job following a violation of this policy shall be required, at his own expense to undergo and complete any and all treatment recommended by a certified substance abuse professional as part of such an agreement. The College reserves the right to ensure that any substance abuse treatment program or facility chosen by the employee to seek rehabilitation meets accreditation and certification to conduct such rehabilitation.
- H. **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 and alcohol 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 49:1001-1021. The College reserves the right to test its employees for any other illegal drug or controlled substance, or for alcohol, when deemed necessary.
- B. In accordance with the College's [Accident/Incident Reporting Route](#), the Assistant Vice Chancellor for Human Resources' designee determines if a condition requiring drug testing exists. Upon such a determination, the Assistant Vice Chancellor for Human Resources' designee 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. **Rights of the Employee/Employer**

Any employee, confirmed positive, upon his or her written request, will have the right of access within seven (7) working days to records relating to his or her drug testing and any records relating to the results of any relevant certification, review, or suspension/revocation-of-certification proceedings.

The College may, but is not required to, afford an employee whose drug test is certified positive by the medical review officer the opportunity to undergo rehabilitation without termination of employment.

7. **Expectation of Employee Privacy**

Employees are hereby notified that the College's facilities are the property of the LCTCS and there is no expectation of privacy with regard to College offices and work sites. Under appropriate circumstances and in accordance with the law, the College, in conjunction with law enforcement authorities, reserves the right to conduct unannounced searches and inspection of College facilities and properties, including state-owned vehicles.

8. **Confidentiality**

All information, interviews, reports, statements, memoranda, and/or test results received by the College regarding the drug and alcohol testing of any employee or prospective employee are confidential communications, pursuant to Louisiana Revised Statute 49:1001-1021, 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.

9. **Violation of the Policy**

Violation of this policy, including refusal to submit to drug and alcohol 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.

*November 3, 2017
(*Procedural Update 11/3/17; Title Update 10/12/12;
Original 1/19/99)

HR-2532.1

Policy Reference:

Delgado Policy and Procedures Memorandum [Drug-Free College](#)
Louisiana Community and Technical College System Policy #6.030, [Drug-Free Workplace](#)
Louisiana Revised Statute 49:1001 - 1021
Louisiana Revised Statute 30:2173(2)
Louisiana Revised Statute 32:1502(5)
Drug-Free Schools and Campuses Act Amendment of 1989 (Public Law 101-226)
Criminal Code of Louisiana
Drug-Free Workplace Act of 1988

Review Process:

Human Relations Council 11/10/98
Executive Council 1/19/99
Title Update Approval – Vice Chancellor for Business and Administrative Affairs
10/12/12
Procedural Update Approval – Vice Chancellor for Business and Administrative Affairs
11/3/17

Distribution:

Electronic Distribution Via the College's Website