

## PROCEDURE LIT.2.01.07 DRUG-FREE WORKPLACE

### **SCOPE:** Faculty, Staff, and Students

1. Lamar Institute of Technology (LIT) is committed to providing safe and healthy work, teaching, and learning environments. Therefore, the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance and the abuse of alcohol in the work place is expressly prohibited. Students, faculty, and staff may be drug tested in accordance with this policy.
  - 1.1. All department chairs and supervisors of the institution are responsible for ensuring that the work place is free from illicit drug use and alcohol abuse. They shall also be responsible for the conformance by all employees with the provisions of this policy and all required procedures hereto.
  - 1.2. Sanctions will be imposed on students and employees (consistent with local, State, and Federal law), up to and including expulsion or termination of employment and referral for prosecution, for violation of the standards of conduct set forth in above.
  - 1.3. The Institute shall conduct a biennial review of its drug and alcohol abuse prevention program. It shall determine and put in report format: (1) the effectiveness of the program and (2) the consistency of the enforcement of sanctions imposed pursuant to the program. It shall also evaluate whether any changes are needed and shall implement any such changes.
  - 1.4. The Institute shall have available for review by the Secretary of Education, or designee, and the general public, if requested, copies of all documents distributed to students and employees under the drug and alcohol abuse prevention program and copies of LIT's biennial review.
2. Purpose: Based on its commitment to assure the safety and health of its students and employees, Lamar Institute of Technology seeks to maintain a learning environment free of the unlawful manufacture, distribution, possession or use of a controlled substance or the abuse of alcohol. Drug and alcohol abuse affect the responsible conduct of business, teaching, and learning, and therefore, will not be tolerated.
  - 2.1. To maintain a safe and healthy environment for all students and employees;
  - 2.2. To maintain the good reputation of the Institute and its employees;
  - 2.3. To minimize accidental injuries to a person or property;
  - 2.4. To keep absenteeism and tardiness at a minimum and to improve the effective performance of job duties and productivity of all employees and the educational performance of all students;
  - 2.5. In appropriate circumstances, to assist students and employees in securing substance abuse rehabilitation;

- 2.6. To comply with the Federal Drug-Free Work Place Act of 1988, the Drug Free Schools and Communities Act Amendments of 1989, and other applicable legislation, and,
- 2.7. To adopt and implement a program to prevent use of illicit drugs and abuse of alcohol by students and employees.
3. Definitions: The following definitions apply.
  - 3.1. "Drugs or other controlled substances" mean any substance, other than alcohol, capable of altering an individual's mood, perception, pain level or judgment.
    - 3.1.1. A "prescribed drug" is any substance prescribed for individual consumption by a licensed medical practitioner. It includes prescribed drugs and over-the-counter drugs which have been legally obtained and are being used for the purpose for which they were prescribed or manufactured.
    - 3.1.2. An "illicit drug" or chemical substance is (a) any drug or chemical substance, the use, sale or possession of which is illegal under any State or Federal law, or (b) one which is legally obtainable but has not been legally obtained. The term includes prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes.
    - 3.1.3. The term "controlled substance" means a controlled substance in schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C.S. 812) or which possession, sale or delivery results in criminal sanctions under the Texas Controlled Substances Act (Art. 4476-15, TCS). In general, this includes all prescription drugs, as well as those substances for which there is no generally accepted medicinal use (e.g., heroin, LSD, marijuana, etc.), and substances which possess a chemical structure similar to that of the controlled substance (e.g., "Designer Drugs"). The term does not include alcohol.
  - 3.2. "Alcohol" refers to any beverage that is "alcohol", or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted".
  - 3.3. "Alcohol abuse" means the excessive use of alcohol in a manner that interferes with (1) physical or psychological functioning; (2) social adaptation; (3) educational performance; or (4) occupational functioning.
  - 3.4. The term "conviction" means a find of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes. (See 8.5 for time limitations on reporting such convictions.)
  - 3.5. "Cause for reasonable suspicion" may be established by: (1) observation; (2) action/behaviors of the individual; (3) witness by supervisor or other reliable individual of possession or use; or any other legal measure used for alcohol or drug detection.
  - 3.6. The term "criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance.

3.7. "Sanctions" may include completion of an appropriate rehabilitation or assistance program, probation, expulsion, termination, or referral to authorities for prosecution. If an employee has been convicted of a criminal drug statute, sanctions must be imposed within 30 days.

4. Drug Free Awareness Program: The Institute shall distribute to each employee, if applicable, information pertaining to:

4.1. Standards of conduct that prohibit the unlawful possession, use, and distribution of illicit drugs and alcohol to students and employees on the Institute's property or as part of any Institute activity.

4.2. A description of the applicable legal sanctions under local, state, or federal law for the unlawful possession or distribution of illicit drugs or alcohol.

4.3. A description of the health or the health risks associated with the use of illicit drugs and the abuse of alcohol.

4.4. A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees.

4.5. A clear statement that the Institute, consistent with local, state, or federal law, will impose sanctions against a student or employee who violates the standards of conduct. The statement must describe the possible sanctions, which may include completion of an appropriate rehabilitation program, expulsion from school, termination of employment, or referral to the authorities for prosecution.

4.6. A description of the institution's drug/alcohol abuse prevention and intervention program, including alternative support, education and re-entry programs for students who are suspended as a result of violating standards required by these minimum requirements.

The Institute shall certify the availability of a drug abuse prevention program for officers, employees and students of the institution, as required under Title IV of the Higher Education Amendments (P.L. 99-498).

5. Suspicion of Usage:

5.1. If a supervisor reasonably suspects that usage of alcohol, illicit drugs or a controlled substance has affected an employee's job performance, the supervisor shall immediately notify the appropriate department head, or other designated administrative official and, upon direction, the supervisor or other designated administrative official shall discuss with the employee the suspected drug-related problems. The employee should be advised of any available drug counseling, rehabilitation, or employee assistance programs, and the terms of any applicable period of probation. All such meetings between the employee and the supervisor or other designated administrative official to address the suspected drug-related problem and/or its resolution shall be documented in a memorandum to the record and filed in the employee's personnel file.

- 5.2. Should such discussion and/or participation in any available drug counseling, rehabilitation, or employee assistance program fail to resolve the suspected drug-related problems, or should the employee fail to meet the term of any applicable probation period, the employee may be subject to termination, or a chemical screening may be required.

6. Rules for Testing:

- 6.1. Employees that are considered to be in a safety-sensitive position may be required to complete a pre-employment drug screening. Examples of safety-sensitive positions are positions where impairment due to drug use could pose a significant risk to the safety of the employee, co-workers, or the public.
- 6.2. Drug screenings may be required following workplace accidents or incidents that result in injury, property damage, or situations where the employee's actions or conduct may have contributed to the incident.
- 6.3. Employees in sensitive positions may be tested for the use of alcohol, illicit drugs or a controlled substance. "Employee in a sensitive position" means an employee who has been granted access to classified information or employees in other positions determined by appropriate administrative personnel to involve national security, health or safety concerns, or functions requiring a high degree of trust and confidence.
- 6.4. The Department of Defense Drug-Free Work Force Rule mandates that government contractors establish a program for testing for the use of illicit drugs by an employee in a sensitive position under a Department of Defense (DOD) contract.
- 6.5. Testing of an employee in a DOD-funded sensitive position shall be undertaken under the following circumstances: (1) there is reasonable suspicion that the employee's job performance has been affected by the use of illicit drugs, and (2) there is a reasonable belief that such impairment will affect national security, health or safety concerns, or functions requiring a high degree of trust and confidence.

7. Procedure for Testing (Chemical Screening):

- 7.1. The decision to require a chemical screening must be reviewed with system legal counsel prior to the screening.
- 7.2. Prior to the administration of chemical screening, the appropriate administrative or supervisory personnel must explain the chemical screening procedures to the employee and then accompany the employee to a hospital or clinic for the taking of a specimen for screening purposes.
- 7.3. Before the specimen is taken, the employee should be asked to sign a consent form agreeing to the taking of a specimen for testing purposes. The signed form will be required by the hospital or clinic. The employee will be asked to list any medications taken. There will be a reasonable opportunity to rebut or explain a positive test result, including an independent retest of the sample.
- 7.4. The expense of the test, and any retest, shall be borne by the Institute. The testing

procedure will be kept confidential, with the results being reported to the employee and the appropriate senior-level administrator as soon as they are available.

**8. Regulations Specifically Related to Employees:**

- 8.1. A copy of this policy shall be provided to each employee who is or who will be engaged in the performance of a federal grant or contract, and a record shall be kept of the distribution.
- 8.2. Any employee whose off-duty use of illegal drugs or other controlled substances results in absenteeism, tardiness, impairment of work performance, or is the cause of work place accidents, will be referred to an assistance program and may be subject to discipline or discharge if he or she rejects participation in the program or if the participation does not result in improved performance.
- 8.3. Employees in sensitive positions whose work-related performance gives cause for suspicion of use of alcohol or use or possession of a controlled substance may, at the discretion of appropriate authorities be subjected to testing for the substance in accordance with the sections in this policy related to testing and chemical screening. A refusal to submit to a test, combined with a reasonable suspicion of usage, may be a sufficient basis for termination.
- 8.4. Any disciplinary action shall be governed by Institute policies on discipline and dismissal and academic freedom, responsibility and tenure. Sanctions may include a period of probation for an employee. A record of the action will be placed in the employee's personnel file.
- 8.5. As a condition of employment, employees on government grants or contracts must abide by the required notification statement and must report any criminal drug statute conviction for a violation occurring in the work place or on Institute business to their employer no later than five days after such conviction. The employer, in turn, must so notify the contracting federal agency within ten days after receiving notice from an employee or otherwise receiving actual notice of such conviction, and within thirty days must impose sanctions on the employee, up to and including termination, or requiring the employee to satisfactorily participate in an approved drug abuse assistance or rehabilitation program.

**Related Policies:** LIT.2.01

**Relevant Forms/Documents:**

**Relevant TSUS Policies/Forms/Documents:**

**Relevant Statutes:** Amendment IV, U.S. Constitution; Pub. L. No. 100-690, Drug-Free Work Place Act of 1988; 1988 U.S. CODE CONG. AND ADMIN NEWS, 102 Stat. 4304-06; HR 3614, Drug-Free Schools and Communities Act Amendments of 1989, USC, signed 12/12/89 (§22 of the Act amends Title XII of the Higher Education Act of 1965); 21 USC 812, Controlled Substance Act; Drug-Free Work Place Rule, 53 Federal Register 37763, U.S. Department of Defense, 1988; Department of Defense Appropriations Act (P.L. 99-498) ; O'Connor v. Ortega, 107 S. Ct. 1492 (1987); National Treasury Employees Union v. Von Raab, 109 S.Ct 1384

(1989) ; Skinner v. Railway Labor Executives Association, 109 S. Ct. 1402 (1989) Article I. §9, Texas Constitution Article 4476-15 TCS, Texas Controlled Substances Act; §1.04 VTS, Alcoholic Beverage Code; Tex. M & S Code Ann., §461.002 (1) (1990); Minute Order 99-90, 33/22/90 (Drug Abuse Resolution); 142-90, 5/25/90

**Relevant SACSOC Standards:**

**Document History:**

*Adopted:*

*Reviewed: May 2023*

*Revised: October 2023, June 2025*