



LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM

**Changing Lives,
Creating Futures**

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TO: Dr. Monty Sullivan
LCTCS President

THROUGH: Joseph F. Marin
Chief Operations Officer

FROM: Gena Doucet
Chief Human Resources and Development Officer

SUBJECT: Review and Advisement: Revised Drug Free Workplace – Policy #6.030

DATE: September 30, 2019

Received
APPROVED
Slk 10/9/19
LCTCS BOARD OF SUPERVISORS

FOR REVIEW AND ADVISEMENT

Recommendation: Staff recommends that the Board accept for review and advisement the attached revised Drug Free Workplace Policy (#6.030).

Background: This policy has been revised to comply with changes in the requirements of the Office of Risk Management. The specific changes include (1) definition clarifications to update the policy and bring it more in line with federal definitions and guidelines; and (2) removal of the granting of exceptions to the policy.

History of Prior Actions: This policy was last revised in March of 2016.

Benefits to System: The proposed changes will allow LCTCS to remain compliant with the Office of Risk Management requirements.


Approved for Distribution to the Board
Dr. Monty Sullivan, President

10-09-19
Date

LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM
Policy # 6.030

Title: DRUG FREE WORKPLACE

Authority: Board Action

— Original Adoption:

03/12/2003

— Effective Date: 0

4/13/2016

— Last Revision:

07/01/2019 01/19

The Louisiana Community & Technical College System (LCTCS) is committed to maintaining a drug free workplace. The illegal use, abuse, possession, manufacture, dispensation, distribution of, or being under the influence of controlled or illegal drugs is prohibited while at work, on call, or engaged in a LCTCS activity. of drugs or alcohol for consumption within the system office and colleges of the LCTCS interferes with the accomplishment of this mission. It is understood that alcohol may be used in laboratory situations and should not be misused for other purposes. Various federal and state laws and regulations apply to employees of the LCTCS including the Federal Drug Free Workplace Act of 1988, the Drug-Free Schools and Communities Acts Amendments of 1989 (Public Law 101-226), and Revised Statutes of the State of Louisiana.

DEFINITIONS

Appointing Authority: The LCTC System President, the Chancellor or equivalent of each LCTCS college or their designee.

Conviction: Finding of guilt (including a "no contest" plea) or the imposition of sentences, or both, by any judicial body having the responsibility to determine violations of the federal or state criminal drug statutes.

Controlled Substance: Any controlled substance in schedules I through V of Louisiana R.S. 40:964 or Section 202 of the Controlled Substances Act, 21 U.S.C. 812.

Louisiana Community & Technical College System (LCTCS): – Any property, college campus or leased site.

Medical Review Officer: A licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

LCTCS: Any property, college campus or leased site.

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Drug-free workplace—a site for the performance of work at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of the federal Drug-Free Workplace Act of 1988.

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Controlled substance—any controlled substance in schedules I through V of Louisiana R.S. 40:964 or Section 202 of the Controlled Substances Act, 21 U.S.C. 812.

Conviction—finding of guilt (including a “no contest” plea) or the imposition of sentences, or both, by any judicial body having the responsibility to determine violations of the federal or state criminal drug statutes.

Medical Review Officer—a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer’s drug testing program and evaluating medical explanations for certain drug test results.

Misuse of alcohol—any possession, consumption or other use of an alcoholic beverage in violation of this policy.

Safety-Sensitive or Security-Sensitive Positions—Positions with duties that may require firearms, access to controlled substances, handling hazardous materials, operating heavy equipment or machinery, or otherwise having opportunity to cause substantial harm to person or property. 1) require or authorize safety inspection of structure; 2) require or authorize access to a prison or an incarcerated individual; 3) require or authorize carrying a firearm; 4) allow access to controlled substances (drugs); 5) require or authorize inspecting, handling, or transporting hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5); 6) require or authorize any responsibility over power plant equipment; 7) require instructing or supervising any person to operate or maintain, or that may require or authorize operating or maintaining, any heavy equipment or machinery; and 8) require or authorize the operation or maintenance of a public vehicle, or the supervision of such an employee.

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Sample—urine, blood, saliva, or hair

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Workplace: Shall include any location on LCTCS property in addition to any location from which an individual conducts LCTCS business while such business is being conducted.

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POLICY General Policy

All LCTCS employees isare required to report for duty in a condition that maximizes histheir ability to perform assigned tasks in a competent and safe manner. Reporting to work impaired from the use of alcohol or drugs is prohibited.

The unlawful use, abuse, manufacture, distribution, dispensation, possession or being under the influence of a controlled or illegal substance or undisclosed controlled prescription medication while at work, on call, on duty, or engaged in LCTCS business is prohibited. Also prohibited is the—as is the possession and/or consumption of alcohol while engaged in any LCTCS activity, including the workplace. —in the workplace.

~~Workplace shall include any location on LCTCS property in addition to any location from which an individual conducts LCTCS business while such business is being conducted.~~

Without reference to any sanctions which may be assessed through criminal justice processes, violators of this policy, including refusal to submit to drug testing when properly ordered to do so, will be subject to LCTCS disciplinary action up to and including termination of employment.

Alcohol misuse is prohibited extending to 1) use of alcohol on the job; 2) use of alcohol during the four hours before performance of safety-sensitive and security-sensitive functions; and 3) having a prohibited alcohol concentration level in the individual's blood system while on the job.

The use of drugs ~~or~~ medications prescribed by a licensed physician is permitted provided that it will not affect the employee's work performance. LCTCS reserves the right to have a licensed physician of its own choice determine if the use of a prescription drug ~~or~~ medication produces effects which may impair the employee's performance or increase the risk of injury to the employee or others. If such is the case, LCTCS 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~~ their job may be adversely affected by ~~the consumption of~~ such medication.

DRUG AND ALCOHOL SCREENS AND DISCLOSURE~~Drug and Alcohol Screens/Disclosure~~

LCTCS reserves the right to require drug and alcohol screening for pre-employment, re-employment, continued employment or reinstatement, as well as disclosure of the medically required need to take certain prescribed ~~medications~~ or over-the-counter medications.

All employees are subject to being tested for drugs under the following circumstances:

• **1. Reasonable Suspicion:** A belief based on reliable, objective, and articulable facts such that a prudent person would suspect that an employee is in violation of this policy.

• **2. Commercial Driver's License Requirement:** Each employee who is required to obtain a commercial driver's license (CDL) must be tested for drugs, alcohol, or controlled substances in accordance with the provisions of the Omnibus Transportation Employee Testing Act of 1991.

• **3. On Prescribed Medication that Could Impair:** An employee must notify a supervisor or other individual designated by the Appointing Authority, prior to or immediately upon reporting to duty, or beginning a prescribed ~~medication~~ or over-the-counter medication, that may impair ~~his~~ their 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 should know that it is not necessary to disclose to a supervisor the medication being taken nor the condition for which it was prescribed. Such information may, however, be required to be disclosed to the Medical Review Officer should circumstances or the nature of the employee's job duties warrant, as determined by the Appointing Authority.

• **4. Post-Accident/Incident:** Any employee 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:

• **Reasonable Suspicion:** Circumstances give rise to a reasonable suspicion of the employee's drug or alcohol use or impairment; or

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- a. ~~Fatality~~: The accident or incident resulted in a fatality; or
- b. ~~Hazardous Materials Release~~: The accident or incident resulted in or caused the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

Employees should be aware of the legal presumption of impairment under R.S. 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 worker's compensation laws of the State of Louisiana may be denied.

- 5. Return-to-Duty/Rehabilitation Monitoring: Required as part of a monitoring program established by the employer to assure compliance with terms of a rehabilitation agreement. Note: Rehabilitation is not required to be offered. Any employee who retains ~~their~~^{his} job following a violation of this policy shall be required, at ~~his~~^{their} own expense, to undergo and complete any and all treatment recommended by a certified substance abuse professional as part of such an agreement. The LCTCS reserves the right to ensure that any substance abuse treatment program or facility chosen by an employee to seek rehabilitation meets accreditation or certification to conduct such rehabilitation.

6. Safety-Sensitive or Security-Sensitive Positions:

- a. Promotion: Prior to promoting an employee to a safety-sensitive or security-sensitive position or to a higher-level safety-sensitive or security-sensitive position,

- a. Random Drug Testing: LCTCS reserves the right to use random drug testing for those employees in safety-sensitive and security-sensitive positions where any form of substance abuse may affect the operation of the department through unsafe work behavior/performance or error in judgement, or where substance abuse could jeopardize the safety and well-being of others.

behavior/performance or error in judgment, or where substance abuse could jeopardize the safety and well-being of employees, other personnel, or the general public.

c. Non-exclusive List of Safety-sensitive or Security-sensitive Positions:

- b-i. Positions with duties that may require or authorize the safety inspection of a structure;
- e-ii. Positions that require or authorize access to a prison or an incarcerated individual;
- d-iii. Positions with duties that may require or authorize carrying a firearm;
- e-iv. Positions with duties that may allow access to controlled substances (drugs);
- f-v. Positions with duties that may require or authorize inspecting, handling, or transporting hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5);
- g-vi. Positions with duties that may require or authorize any responsibility over power plant equipment;

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- ~~h-vii.~~ Positions with duties that may require instructing or supervising any person to operate or maintain, or that may require or authorize operating or maintaining, any heavy equipment or machinery; and
- ~~h-viii.~~ Positions with duties that may require or authorize the operation or maintenance of a public vehicle, or the supervision of such an employee;

RIGHTS OF THE EMPLOYEE AND EMPLOYER Rights of the Employee-Employer

1. Any employee confirmed positive, upon ~~their~~~~his~~ written request, shall have the right of access within
- seven (7) working days to records relating to ~~his~~~~their~~ drug tests and any records relating to the results of
 - any relevant certification, review, or suspension/revocation-of-certification proceedings.
2. LCTCS may ~~allow~~~~ford~~ an employee to undergo rehabilitation without termination of employment for
- any drug test certified positive by a Medical Review Officer.

DRUG TESTING SERVICES Drug-Testing Services

LCTCS will obtain employee drug testing services from a provider of its choice.

EXPECTATION OF PRIVACY Expectation of Privacy

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

CONFIDENTIALITY Confidentiality

All tests ~~and~~ screenings under this policy shall be done in strict confidence. Information obtained from tests ~~and~~ screenings will be provided only to those on a need-to-know basis. —Medical information obtained will be protected as confidential unless otherwise required by law or overriding public health concerns.

EMPLOYER NOTIFICATION REQUIREMENTS Employer Notification Requirements

The Federal Drug-Free Workplace Act of 1988 requires that each employee notify ~~his~~~~her~~~~their~~ supervisor within five (5) days of conviction of any criminal drug statutes when such offense occurred in the workplace, while on official business, during work hours, or when in on-call duty status. Federal law requires that LCTCS report within ten (10) days any such criminal drug statute conviction to each Federal Agency from which grants or contracts are received.

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Employees whose jobs require driving, are required to notify their immediate supervisor if their driving privileges are suspended or revoked. If reasonable accommodation cannot be made, employees who operate LCTCS vehicles on a regular and recurring basis may be forced to utilize accrued leave or be placed in leave without pay status during the period of suspension of driving privileges. Employees returning to work after such suspension shall be required to provide proof of restoration of driving privileges.

EMPLOYEE NOTIFICATION ~~Employee Notification~~

The LCTCS will notify all employees at least once each year of its policies and procedures governing the illegal use of alcoholic beverages and drugs and through appropriate media, make employees aware of the dangers of abusive or illegal use of alcohol or drugs.

All new employees will receive a copy of this policy and will be required to ~~sign-acknowledge~~ that ~~they have read and understand the policy has been received.~~ As a condition of employment, all LCTCS employees must comply with this policy. ~~This signed form will be retained in the employee's personnel file.~~

POSTING REQUIREMENT ~~Posting Requirement~~

In accordance with provisions of Act 1027 (1990 Regular Session), drug free zone posters will be posted on a bulletin board and/or other prominent location(s) in each campus of each of the LCTCS institutions.

GUIDELINES ~~Guidelines~~

Additional guidelines or requirements may be adopted by each LCTCS institution as long as they are not in conflict with this policy.

~~Exceptions~~

~~The Appointing Authority for an LCTCS institution may grant an exception to this policy for an employee at their institution upon receipt of a written explanation of a business necessity.~~

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