

**POLICIES AND PROCEDURES  
OUACHITA TECHNICAL COLLEGE**

**SUBJECT AREA: Personnel Policies and Procedures**

**POLICY/PROCEDURE: Drug and Alcohol Free Workplace**

**DATE: March 1, 1993**

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### Rationale

The College has developed the Drug and Alcohol Free Workplace policy to comply with Public Law 101-226, entitled Drug Free School and Communities Act Amendment of 1989, and Arkansas Act 1552 of 1999, as outlined in the Arkansas Code Annotated (A.C.A. Ch. 11 Sec.14).

Pursuant to these laws the College is committed to maintaining a drug and alcohol free workplace for employees and students. This is an essential part of ensuring the safety of employees and students while at work and school, and eliminating poor job and intellectual performance, inefficient operations, College rule violations, or any unethical behavior.

### Health Risks

The use of alcohol, certain drugs, and controlled substances is known to be detrimental to physical and psychological well-being. Their use is associated with a wide variety of health risks including, but not limited to, damage to the lungs and respiratory system, the reproductive system, the brain, the immune system, the digestive tract, the liver, and the kidneys. Use of these substances can also result in loss of concentration and judgment, changes in personality, loss of memory, coma, and death. It is the employee's and student's responsibility to know which drugs are illegal. **It is not the responsibility of the College to prepare a list of illegal drugs.**

Compliance with this policy is a condition of employment for all paid College staff and faculty.

### Counseling and Treatment

The OTC Division of Student Affairs will provide as-needed counseling sessions for persons with drug and/or alcohol-related problems. Drug information and components of various treatment programs (videotape, hand-outs, evaluation instruments) are available at Student Affairs or in the Library. The Students Affairs Staff will also assist a student or staff member in locating off-campus professional assistance when it is deemed necessary.

### I. Alcohol and Drug Free Workplace Policy

Ouachita Technical College (OTC) acknowledges the problem of substance abuse (including alcohol) in our society. Furthermore, the College sees substance abuse as a serious threat to our staff, students, and the multiple constituencies it serves. OTC shall address this problem through this policy to ensure that the College will have and maintain an Alcohol and Drug Free

Workplace. This program is in compliance with Chapter 11, Section 14 of the Arkansas Code Annotated.

Drug and alcohol addiction is a complex, yet treatable disease. For this reason, this program is targeted at alleviating the problem at the College community level by directly involving employees.

While OTC understands that employees and applicants under a physician's care are required to use prescription drugs, abuse of prescribed medications will be dealt with in the same manner as the abuse of illegal substances. An employee's physician must immediately inform a supervisor if a prescribed medication is likely to impair job performance.

The ultimate goal of this policy is to balance respect for individual privacy with the need to create and maintain a safe, productive, drug-free environment. The intention is to prevent substance abuse. The College encourages those who abuse drugs or alcohol to seek help in overcoming their problem. In this way, fully rehabilitated abusers who remain drug free, can return to work as employees in good standing.

## II. Definitions

- A. **Legal Drug** – Prescribed drug or over-the-counter drug that has been legally obtained and is being used solely for the purpose for which it was prescribed or manufactured.
- B. **Illegal Drug** – Any drug (a) that is not legally obtainable, (b) that may be legally obtainable but has not been legally obtained, or (c) that is being used in a manner for a purpose other than prescribed.
- C. **Alcohol** – Any beverage that is considered an intoxicating agent.
- D. **Reasonable Suspicion** – This may vary depending on circumstances, but is when a school employee could reasonably believe that a person has been, is, or is about to be engaged in a prohibited activity based on specific and articulable facts and inferences and may include, among others:
  - 1. Observed drug abuse or alcohol use during work hours on company premises.
  - 2. Apparent physical state of impairment.
  - 3. Incoherent mental state.
  - 4. Marked changes in personal behavior that are otherwise unexplainable.
  - 5. Deteriorating work performance that is not attributable to other factors.
  - 6. Accidents or mishaps in which injuries or property damages occur.
  - 7. Any actions that provide reasonable cause to believe the employee may be under the influence of illegal drugs or alcohol. Probable cause has a higher standard but it is not necessary to search a student's or an employee's belongings or office. Overly intrusive searches require probable cause.
- E. **Training** – Employees will be trained on substance abuse symptom recognition periodically as funds are available.

### III. Policy and Work Rule

It is the policy of OTC to employ a workforce free from use of illegal drugs and abuse of alcohol, either on or off the job. Any employee determined to be in violation of this policy is subject to disciplinary action that may include termination, even for the first offense.

It is a standard of conduct that employees of OTC shall not use illegal drugs or abuse alcohol. In order to maintain this standard, OTC has established the programs and rules set forth below.

#### A. **General Procedures**

An employee reporting for work visibly impaired or unable to properly perform required duties because of alcohol or illegal drugs will not be allowed to work.

The employee's supervisor should first seek another supervisor's opinion to confirm the employee's status. Then the supervisor should consult privately with the employee to determine the cause of the observation, including whether substance abuse has occurred.

If, in the opinion of the supervisor, the employee is considered impaired, the employee should be sent or transported to a medical facility for drug testing. An impaired employee will not be allowed to drive.

#### B. **Pre-Employment Drug Abuse Testing**

All job applicants (post-offer, pre-employment) at Ouachita Technical College will undergo testing for substance abuse as a condition of employment. Any applicant with a confirmed and verified positive test result will be denied employment.

Once an offer of employment has been made and accepted, applicants will be required to submit voluntarily to a urinalysis test at a laboratory chosen by the College, and, by signing a consent agreement, will release Ouachita Technical College from liability. If the physician, official, or lab personnel has reasonable suspicion to believe that the job applicant has tampered with the specimen, the applicant will not be considered for employment.

Ouachita Technical College will not discriminate against applicants for employment because of a past history of drug or alcohol abuse. It is the current illegal use of drugs and/or abuse of alcohol, preventing employees from performing their jobs properly that the College will not tolerate.

#### C. **Current Employee Drug and Alcohol Abuse Testing**

Ouachita Technical College has adopted testing practices to identify employees who use illegal drugs on or off the job or who abuse alcohol on the job. It shall be a condition of continued employment for all employees to submit to substance abuse testing under the following circumstances:

1. There is a reasonable suspicion to believe that an employee is illegally using drugs or abusing alcohol. "Reasonable Suspicion" is based on a

belief that an employee is using or has used drugs or alcohol in violation of the College's policy drawn from specific objective and articulable acts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon, but not limited to the following:

- a. Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance abuse.
  - b. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
  - c. A report of substance abuse provided by a reliable and credible source.
  - d. Evidence that an individual has tampered with any substance abuse test during his or her employment with the College.
  - e. Information that an employee has caused or contributed to an accident while at work.
  - f. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the College's premises or while operating the College's vehicle(s), machinery, or equipment.
2. The employee is involved in any mishap or accident in which injury to himself or herself or other persons or damage to property has occurred. (An employee who tests positive for substance abuse at the time of treatment for a work-related injury risks forfeiture of workers' compensation benefits and may be liable for his or her own medical treatment for the injury, in accordance with Arkansas Statutes).
  3. As part of a follow-up program to treatment for drug or alcohol abuse.

**D. Employee Assistance and Alcohol/Drug Rehabilitation Programs**

OTC maintains information on local employee assistance programs and local alcohol/drug rehabilitation programs that could provide help to employees who suffer from alcohol or drug abuse and their families. However, it is the responsibility of each employee to seek assistance from one of these programs before alcohol and drug problems lead to disciplinary actions. Once a violation of this policy occurs, subsequently using one of these programs on a voluntary basis will not necessarily lessen disciplinary actions and may, in fact, have no bearing on the determination of appropriate disciplinary action.

The employee's decision to seek prior assistance from the programs will not be used as the basis for disciplinary action and will not be used against the employee in any disciplinary proceedings and OTC strongly encourages employees who suspect they may have a problem to seek assistance. On the other hand, using the program(s) will not prevent disciplinary action when it is discovered that an employee is in violation of this policy. Accordingly, the purposes and practices

of this policy and these programs are not in conflict, but are distinctly separate in their applications.

**E. Grounds for Termination or Discipline**

Failure to submit to required medical or physical examinations, including drug testing, is considered gross misconduct and is grounds for immediate termination of employment.

**1. Illegal Drug Use**

An employee bringing onto OTC premises or property; having possession of; being under the influence of; possessing in the employee's body, blood, or urine in any detectable amount; or using, consuming, transferring, selling, or attempting to sell or transfer any form of illegal drug (as defined above) while on OTC business or at any time during the hours between the beginning and ending of the employee's workday, whether on duty or not and whether on OTC business or on OTC property or not, is guilty of gross misconduct and is subject to discipline, including immediate termination or immediate suspension without pay from employment, even for the first offense.

**2. Alcohol Abuse**

An employee who is under the influence of alcoholic beverages at any time while on OTC business or at any time during the hours between the beginning and ending of the employee's workday, whether on duty or not and whether on OTC business or on OTC property or not, is guilty of misconduct and is subject to discipline, including immediate termination or immediate suspension without pay from employment, even for the first offense.

An employee shall be determined to be under the influence of alcohol if:

- a. The employee's normal faculties are impaired due to consumption of alcohol; or
- b. The employee has a blood-alcohol level of .05 or higher.

**IV. Testing Procedures and Confidentiality**

**A. General Procedures**

Drug testing will be accomplished via a urinalysis test, in most cases, at a laboratory chosen by OTC. Such laboratory shall be licensed and approved by the Department of Health and Human Services. OTC reserves the right to request a blood test.

All specimen samples shall be collected by the licensed Laboratory with due regard to the privacy of the employee providing the sample, and in a manner reasonably calculated to prevent substitution or contamination of the sample.

Any drug test conducted or requested by OTC may occur before, during, or immediately after the regular work period of the employee and shall be deemed to be performed during work-time for the purposes of determining compensation benefits for the employee.

Within five (5) working days after receipt of a positive confirmed test result from the testing laboratory, OTC shall inform an employee or job applicant in writing of such positive test result, the consequences of such results, and the options available to the employee or job applicant. OTC will also provide to the employee or job applicant, upon request, a copy of the test results.

Within five (5) working days after receipt of a positive confirmed test result, the employee or job applicant may submit information to OTC explaining or contesting the test results, and why the results do not constitute a violation of OTC policy.

If an employee or job applicant's explanation or challenge of the positive test results is unsatisfactory to OTC, a written explanation as to why the employee or job applicant's explanation is unsatisfactory, along with the report of positive test results, will be provided by OTC to the employee or job applicant and all such documentation will be kept by OTC in a confidential manner, for a period of at least one year.

Every specimen that produces a positive confirmed result shall be preserved in a frozen state by the licensed laboratory that conducts the confirmation test for a period prescribed by law. However, if an employee or job applicant undertakes an administrative or legal challenge to the test result, the employee or job applicant shall notify the laboratory and the sample shall be retained until the case or administrative appeal is settled. At any time during this period, the employee or job applicant who has provided the specimen shall be permitted by OTC to have a portion of the specimen retested, at the employee or job applicant's expense, at another laboratory, licensed and approved by the Department of Human Services, chosen by the employee or job applicant. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory. The first laboratory that performed the test for OTC shall be responsible for the transfer of the portion of the specimen to be retested and for the integrity of the chain of custody during such transfer.

## **B. Testing Requirements**

Substance abuse testing for job applicants and employees will include a urinalysis screen for the following drugs:

1. Alcohol: (not required for job applicant testing)  
Any "Alcoholic Beverage," all liquid medications containing ethyl alcohol (ethanol). Please read the label for content. For example; Vicks Nyquil TM is 25% (50 proof) ethyl alcohol. Comtrex TM is 20% (40 proof),

Contac Severe Cold Formula Night Strength TM is 25% (50 proof) and Listerine TM is 26.9% (54 proof).

2. Amphetamines: "speed," "uppers," etc.
3. Cannabinoids: THC, marijuana, hashish, pot, grass, "hash," etc.
4. Cocaine: "coke," "crack," etc.
5. PCP: "angel dust."
6. Opiates: Narcotics, Heroin, Codeine, Morphine, "smack," dope, etc.

(**Note:** The College will generally ask the laboratory to test for these six (6) substances. The Rules and Guidelines of the Drug-Free Workplace Program do not prohibit the College from testing for a broader range of substances.)

**C. Testing Costs**

OTC shall pay the cost of all pre-employment and in-service drug tests, (initial and confirmation) that are required by OTC. An employee or job applicant shall pay the costs of any additional drug tests not required by OTC, as outlined above.

**D. Statement of Confidentiality**

OTC, the testing laboratory, drug and alcohol rehabilitation programs, and their agents who receive or have access to information concerning drug tests shall keep all information confidential. Release of such information under any other circumstances shall be solely pursuant to a written consent form signed voluntarily by the person tested, except where such release is compelled by a hearing officer or a court of competent jurisdiction pursuant to an appeal, or where deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding.

**V. Disciplinary Actions**

**A. Failure to Submit to Required Drug/Alcohol Testing**

Refusal to sign a Consent Form or a Chain of Custody Form, or to allow a search or a drug or alcohol test will be deemed to be a voluntary resignation from employment by the employee. The employee will be assisted with collecting his/her personal belongings and escorted from the facility.

**B. Receipt of Positive Drug/Alcohol Testing**

An employee who tests positive for drug or alcohol use is in violation of OTC policy. The employee will be issued a written disciplinary warning and required to seek treatment in an approved program for alcohol and drug rehabilitation. The employee must provide written verification of enrollment in a program within five (5) working days after receiving positive results. If the employee chooses to have a specimen re-tested at another approved laboratory, then verification must be received within five (5) working days after results of the second test, if results are positive.

Employees who refuse to participate in, or who do not satisfactorily complete a rehabilitation program, or who subsequently violate this policy will be terminated from OTC employment.

An employee who provides written verification of enrollment in a rehabilitation program will be placed on probationary status for a period of ninety (90) days. During this probationary period, the employee must submit to follow-up drug and/or alcohol testing, without prior notice. Such testing must be conducted at least twice during the probationary period.

If an employee tests positive for drug or alcohol use during the probationary period, he/she will be terminated immediately and notified of such termination in writing. The employee will be assisted with collecting his/her personal belongings and escorted from the facility.

C. **Possession, Use, or Distribution of Illegal Drugs**

The manufacture, sale, purchase, transfer, use, or possession of illegal drugs by employees on OTC premises, in OTC vehicles, or while on OTC business is prohibited and will result in immediate termination. The College will contact local law enforcement to notify of illegal manufacture, sale, purchase, transfer, use, or possession of drugs by the employee on OTC premises. The employee's personal belongings will be collected and made available for pickup by the terminated employee.

VI. Summary Prohibitions

**Ouachita Technical College prohibits the following:**

- A. Use, possession, manufacture, distribution, dispensation, or sale of illegal drugs whether on or off College premises and whether during working hours or non-working hours.
- B. Controlled substance abuse whether on or off College premises and whether during working hours or non-working hours.
- C. Storing any illegal drug in a locker, desk, automobile, or other repository on College premises.
- D. Being under the influence of an illegal drug or engaging in controlled substance abuse on College premises, or while engaged in College business, or in College-supplied vehicles, or during working hours.
- E. Testing positive for illegal drugs or controlled substances without a legal basis for use.
- F. Switching or adulterating any urine sample submitted for testing, or submitting a false sample for testing.
- G. Use, possession, sale, or distribution of alcohol, or being under the influence of alcohol on College premises, or in College-supplied vehicles, whether during working hours or non-working hours.
- H. Refusing to consent to testing or refusing to submit a urine sample for testing when required by the College.
- I. Failing, when requested by the College, to enroll in any alcohol or other drug treatment or counseling program and failing to adhere to the requirements of the program.

- J. Being indicted or convicted under any criminal drug statute for a violation occurring in the workplace or outside the workplace.
- K. Failing to notify the College of any indictment or conviction under any criminal drug statute within five (5) days of the event.
- L. Failing to comply with rules and regulations promulgated under any testing programs maintained by the College pursuant to such rules and regulations.

## VII. Summary Disciplinary Actions

- A. Violation of this policy may result in severe disciplinary action, including termination, at the College's sole discretion.
- B. In addition to any disciplinary action, the College may, in its sole discretion, refer the employee to a treatment or counseling program for illegal drug use or controlled substance abuse. Employees referred to such a program by the College must immediately cease any illegal drug use or controlled substance abuse, must consent to periodic unannounced testing for a period of one year, and must comply with all other conditions of the treatment or counseling program and disciplinary action. After successful completion of all requirements of this section, employees will again be subject to the testing program application to all employees. Appropriate College representatives shall determine whether an employee referred for illegal drug use or controlled substance abuse treatment or counseling should be reassigned to another position.
- C. OTC will promptly terminate any employee who tests positive for illegal drugs or controlled substances, unless the employee establishes a legal basis for the illegal drug or controlled substance, while undergoing or after completion of treatment or counseling for illegal drug use or controlled substance abuse, when such treatment or counseling was required by the College.
- D. OTC will promptly terminate any employee who tests positive for illegal drugs or controlled substances, unless the employee establishes a legal basis for the illegal drug or controlled substance, if the employee has tested positive for illegal drugs or controlled substances without establishing a legal basis for such use on a previous occasion.
- E. OTC will promptly terminate any employee who tests positive for illegal drugs or controlled substances, unless the employee establishes a legal basis for the illegal drug or controlled substances, if the employee has been referred at College request for treatment or counseling on a previous occasion.

AUTHENTICATION (Signature):

COPP

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President

12/02/08  
(Date)

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