



# REGULATIONS

REG No.: 878

## DRUG-FREE WORKPLACE/DRUG AND ALCOHOL ABUSE POLICY

### I. PURPOSE

Wharton County Junior College ("WCJC" or "College") is committed to protecting the safety, health, and well being of its employees, students, and all people who come into contact with WCJC employees, property and facilities.

The College's philosophy is that unlawful use of drugs or abuse of other authorized drugs and alcohol is inconsistent with the behavior expected of members of the College community. The use of illegal drugs by College employees can result in less than complete reliability, stability, and good judgment. The College is committed to providing an environment that prohibits any influences that might have a detrimental effect upon the orderly, safe and efficient operation of the College and that prevents the possibility of coercion, influence, and irresponsible action under pressure by employees that may pose a risk to health, safety, and the College's educational mission. Based upon these goals, the College requires that its employees report for work and perform their duties within the standards established. The intent of the following policy is to prevent the hiring and/or continued employment of persons who, due to the use of alcohol or illegal drugs, may harm themselves or others, or cause damage to property. WCJC, recognizing this, is committed to providing a drug and alcohol-free working environment for all of its employees.

WCJC's Drug-Free Workplace policy is based on the following objectives:

1. To maintain the good reputation of the College and its employees within the communities where the College components are located;
2. To minimize accidental injuries to persons or property;
3. To minimize absenteeism and tardiness and improve the effective job performance and productivity of all employees;
4. To comply with the federal Drug-Free Workplace Act of 1988, and the Drug-Free Schools and Communities Act Amendments of 1989; and
5. Other applicable legislation as they are enacted.

### II. POLICY

#### A. *Scope*

WCJC prohibits the following when an employee is on the job, on College property, in a vehicle owned or used for College business, or while representing the College:

1. The College prohibits the illicit use, sale, attempted sale, conveyance, distribution, storage, manufacture, cultivation, dispensation, purchase, and possession of illegal drugs, intoxicants, or controlled substances, at any time and in any amount, or in any manner, in the workplace during and after business hours. Illicit drugs include all drugs for which possession is illegal under federal or state law, including prescription drugs for which the individual does not have a valid prescription.
2. The College prohibits the use of prescription medications for which the employee does not have a valid ~~prescription~~, prescription and the use of prescription medication in a manner inconsistent with the prescription, in the workplace during and after business hours. (Exception: An employee who uses a drug authorized by licensed physician through a prescription specifically for that employee's use.)

3. ~~The College prohibits the purchase, consumption, and possession of alcoholic beverages in the workplace during and after business hours.~~ The use of alcohol and intoxicating beverages shall be prohibited in classroom buildings, laboratories, auditorium, library buildings, faculty and administrative offices, intercollegiate and intramural athletic facilities, and all other public campus areas. However, with the prior consent and approval of the College President, the provisions may be waived for specified culinary instructional programs or with respect to any specific event that is sponsored by the College District and/or the Wharton County Junior College Foundation. State law shall be strictly enforced at all times on all property or facilities controlled by the College District in regard to the possession and consumption of alcoholic beverages. All other possession, consumption, or use of alcoholic beverages or illegal drugs shall be prohibited on College District property or facilities. Any person who appears to be under the influence of intoxicating liquor or drugs shall be denied access to and/or the use of College District property or facilities.
4. Employees shall report suspected violation of this policy to their immediate supervisors or to the Human Resources Department.

B. *Employee Notification*

A copy of this policy will be distributed to all new employees. This policy is contained in the WCJC Employee Handbook, and is available on the WCJC Intranet for review by all employees. Employees will be notified annually that WCJC has an official Drug-Free Workplace/Drug and Alcohol Abuse Policy that must be adhered to by all employees, at all times.

C. *Disciplinary Action*

Any employee admitting to, or convicted of, the unlawful possession, use or distribution of illicit drugs and alcohol on the campus or at a eCollege-sponsored event held off campus will be subject to disciplinary action (up to and including suspension, suspension without pay, and termination); may be referred for prosecution; and/or may be required to satisfactorily participate in a drug and alcohol treatment or rehabilitation program.

(POLICY APPROVAL: 3-25-91, Board of Trustees, amended 1-15-08)

### III. BACKGROUND AND/OR LEGAL REFERENCES

The Drug-Free Workplace Act of 1988, Drug-Free Schools and Communities Act Amendments of 1989, TASB Policy Manual, DH Employees Standards of Conduct, and other applicable legislation.

### IV. DEFINITIONS

- A. *Employee* means an individual receiving a salary, wages, other compensation and/or stipend from the College, including all full-time, part-time, and contractors/subcontractors. On-call employees for on-call security employment in the College's Facilities Management Department also are subject to this policy.
- B. *Illegal Drug* means any illegal substance, including, but not limited to, narcotics, hallucinogens, cocaine, marijuana, and designer drugs; and controlled substance, including but not limited to, amphetamines and barbiturates, which are used either without being prescribed by a licensed physician or in excess of the amount prescribed by a licensed physician.
- C. *Authorized Drug* means lawful over-the-counter medications (excluding alcohol), in reasonable amounts and lawful medications prescribed by a licensed physician for the employee's use.
- D. *Illicit drug use* means the use of illegal drugs and the abuse of other drugs and alcohol.
- E. *Controlled Substance* means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) as further defined by regulations at 21 CFR 1300.11 through 1300.15, and as defined in the Texas Controlled Substances Act [Texas Health & Safety Code, § 481.001 et seq.].



- F. *Under the influence* means the employee does not have to be legally intoxicated; it means that the employee's motor senses or judgment are affected by use of drugs or alcohol.
- G. *Impaired* means to be under the influence of a drug or alcohol such that the employee's motor senses (e.g., sight, hearing, balance, reaction, reflex) or judgment either are, or may reasonably be presumed to be, affected.
- H. *Conviction* means finding 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 and/or alcohol statutes.
- I. *College activities* means an activity officially sponsored and sanctioned by WCJC, on or off school grounds.
- J. *Workplace* means the physical boundaries of the College and facilities owned or controlled by the College. This includes any office, building, or property (including parking lots) owned or operated by the College, or any other site at which an employee is to perform work for the College. An employee is considered to be at a "work site" at all times when he/she is in or is responsible for a College vehicle while on College business.
- K. *Accident* means any accident on the job that results in property damage or in death or bodily injury to one or more individuals.
- L. *Unfit Condition* means behavior including, but not limited to drowsiness, sleepiness or sleeping, slurred and/or incoherent speech, unusually aggressive behavior, unusually depressive behavior, unusual and rapid changes in mood, disorientation or inability to concentrate and lack of coordination in walking or performing other tasks.
- M. *Unsatisfactory Job Performance* means incidents that indicate job performance problems including, but not limited to unexplained work errors, unusual difficulty in performing normal or routine duties, unexplained on-the-job accident, and unexplained on-the-job injury.
- N. *History of Unsatisfactory Job Performance* means a pattern including, but not limited to, recurring job performance problems such as poor work performance, absenteeism, tardiness, minor injuries/accidents or other job difficulties.

## V. PROCEDURES

### A. Employee Notification

To fulfill the College's commitment for a Drug-Free Workplace, the College provides employees with the following written materials on its policy:

1. A copy of WCJC's Drug-Free Workplace/Drug and Alcohol Abuse Policy will be given to all new employees at the time of employment. Employees will be required to sign an acknowledgement form for their personnel file documenting receipt of the policy.
  2. A copy of the "Drug and Alcohol Abuse Prevention Policy" booklet providing information and assistance programs for employees will be distributed to all new hires.
  3. The Drug-Free Workplace/Drug and Alcohol Abuse Policy is available on the Intranet as part of WCJC's Regulations, as well as part of the WCJC Employee Handbook.
  4. Employees will be notified annually that WCJC has an official Drug-Free Workplace/Drug and Alcohol Abuse Policy that must be adhered to by all employees, at all times. Employees will be required to sign an acknowledgement form for their personnel file, documenting receipt of notification that WCJC has a drug-free workplace policy that is available on the Intranet.
- B. Prohibited Employee Conduct

1. No employee will report to any work site in an unfit or impaired condition due to drug or alcohol use, whether lawful or unlawful. (Exception: An employee taking an authorized drug will be allowed to report to work based strictly on the assessment of the employee's supervisor as to the employee's ability to perform his/her regular or assigned duties safely and efficiently. In seeking supervisory approval, an employee need not disclose his/her underlying medical condition.)
2. No employee at any work site will be under the influence of, use or possess any quantity of any drug or alcohol, lawful or unlawful, except for authorized drugs.
3. No employee at any work site shall manufacture, store, dispense, distribute, or sell any drug or alcohol, lawful or unlawful.
4. No employee shall engage in off-duty illegal drug-related activity.

C. Alcohol and Drug Referrals and Services

The College is committed to providing alcohol and drug education as well as early intervention and referral services.

1. WCJC's Human Resources Department will provide services for campus faculty and staff that include information and referral. The Human Resources Department staff, within the framework of state and federal laws, will maintain confidentiality of all inquiries regarding alcohol and drug abuse issues, to the extent permitted by law.
2. Services can also be sought independently through local service organizations within the community, such as the Houston Area Council on Alcoholism and Drug Abuse, and Alcoholics Anonymous, etc.
3. Community service hospitals can also be contacted for emergency care.

D. Disciplinary Action for Violation of Drug-Free Workplace/Drug and Alcohol Abuse Policy

1. Any employee who violates the College's prohibition against working while impaired by any drug or alcohol, lawful or unlawful, except with supervisory approval, ~~may be suspended, terminated, or subjected to other discipline depending upon the circumstances~~ will be subject to disciplinary action, up to and including dismissal.
2. Any employee who is convicted of or otherwise caught possessing, using, manufacturing, storing, dispensing, distributing, or selling any illegal drug or alcohol in the workplace in violation of the College's policy prohibiting such conduct may be immediately discharged. Employees must report any conviction involving illicit drug use or use or possession of an illegal or controlled substance no later than five days after such conviction to the Human Resources Department.
3. Any employee who is convicted of off-duty illegal drug-related activity, including use, possession, storage, manufacture, dispensation, distribution, or sale of drugs, or who otherwise is determined to have engaged in off-duty illegal drug-related activity, will be considered to be in violation of the College's Drug-Free Workplace/Drug and Alcohol Abuse policy and may be suspended, terminated, or subjected to other discipline by the College. Employees must report any conviction of illicit drug use or use or possession of an illegal or controlled substance no later than five days after such conviction to the Human Resources Department.
4. Any employee who pleads guilty to or ~~otherwise~~ is convicted of driving under the influence of alcohol and who, as an essential function of the employee's job, operates a motor vehicle, machinery or other motorized equipment that could be dangerous to himself/herself or others, will not be permitted to operate such vehicle, machinery or equipment until the employee has entered in and successfully completed a treatment or rehabilitation program. Additionally, to the extent an individual has his/her driver's license revoked or suspended as a result of a conviction or guilty



plea to driving under the influence of alcohol, he/she will not be permitted to operate such vehicles until the license is reinstated. The individual may be discharged or may be reassigned to another position during this time period, depending on the circumstances. At the College's discretion, the employee may also be permanently barred from operating motor vehicles, machinery, and/or equipment at the College.

5. Any employee who violates the College's Drug-Free Workplace/Drug and Alcohol Abuse Policy but is not terminated must successfully complete a treatment or rehabilitation program offered by an outside provider. The employee will be required to attend this mandatory treatment or rehabilitation program at the employee's expense. Failure to complete a treatment or rehabilitation program may result in disciplinary action, up to and including suspension or termination. If an employee is required to be absent from work to comply with this section, the College's Family and Medical Leave Policy shall govern his/her employment rights.

#### E. Confidentiality of Records

Drug and/or alcohol abuse is a particularly sensitive issue that may affect any member of the College community. To the extent permitted by law, the expectation of confidentiality of all parties involved in a violation or alleged violation of the College's Drug-Free Workplace/Drug and Alcohol Abuse Policy shall be strictly adhered to, insofar as it does not interfere with the College's legal obligation to investigate allegations of drug and/or alcohol abuse in the workplace when brought to the College's attention, and to take appropriate corrective action.

1. ~~A WCJC employee who is experiencing problems resulting from illicit drug usage and voluntarily seeks help, before found to be in violation of the College's regulations, can expect confidentiality regarding such assistance to the extent permitted within the framework of state and federal laws.~~
2. The Human Resources Department and the Payroll and Benefits Office, to the extent permitted by state and federal laws, will maintain confidentiality of all inquiries regarding alcohol and drug abuse issues. Records will be kept separate from personnel files and will be accessible only to authorized personnel.

- F. A College Grievance Report Form (*Reg 877: Employee Grievances and Complaints*) may be submitted to the Human Resources Department, if an employee feels he/she has been discriminated against.

### VI. GUIDELINES

- A. Employee's Responsibility for Complying with the Drug-Free Workplace/Drug and Alcohol Abuse Policy.

Employees are responsible for notifying their supervisor and/or the Human Resources Department of drug and alcohol issues in the workplace.

1. An employee must report to their supervisor any use of a prescribed or over-the-counter medication that could adversely affect his/her job performance.
  - a. It is the employee's responsibility to check with a physician regarding whether any medication may adversely affect performance.
  - b. Medical information will be kept confidential to the extent permitted by law and shared with appropriate College personnel only on a need-to-know basis, **and as permitted by law.**
  - c. An employee working in safety-or security-sensitive positions will not be allowed to perform any work related activity(s) that will affect their or other individual's safety or security **as long as the employee's while taking** medication **that** may have an adverse effect on the performance of their safety and security job duties.
2. An employee must seek assistance for drug and alcohol problems before the problem leads to a disciplinary action.

3. An employee who is charged, and or convicted of a drug related offense that occurred in the workplace, on College property, in a vehicle owned or used for College business, at a college sponsored activity, or while representing the College, must notify his or her supervisor and the Human Resources Department of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
  4. Employees shall report suspected violations of this policy to their immediate supervisors and to the Human Resources Department.
- B. Supervisor's Responsibility for Insuring Compliance with the Drug-Free Workplace/Drug and Alcohol Abuse Policy
1. An employee's supervisor is responsible for ensuring ~~their~~ employees comply with this policy. Indicators of possible job performance problems that could be related to illicit drug usage include, but are not limited, to the following:
    - a. An employee exhibiting unfit behavior, including drowsiness, sleepiness or sleeping, slurred and/or incoherent speech, unusually aggressive behavior, unusually depressive behavior, unusual and rapid changes in mood, disorientation or inability to concentrate and lack of coordination in walking or performing other tasks.
    - b. An employee with indications of unsatisfactory job performance, including unexplained work errors, unusual difficulty in performing normal or routine duties, unexplained on-the-job accident, and unexplained on-the-job injury.
    - c. An employee ~~with a history of exhibiting~~ unsatisfactory job performance ~~problems~~ such as poor work performance, absenteeism, tardiness, minor injuries/accidents or other job difficulties.
    - d. An employee exhibiting physical signs of alcohol and/or illegal drug usage such as glassy eyes or having an odor of alcohol or drugs.
  2. An employee's supervisor is responsible for making referrals of individuals; ~~demonstrating unusual or erratic behavior~~, who are suspected of illegal substance or alcohol abuse to the WCJC Human Resources Department.
  3. An employee's annual performance evaluation will not be penalized if the employee experiencing problems resulting from drug or alcohol abuse or dependency seeks assistance before the problem leads to a disciplinary action. Job performance alone, not the fact the employee has identified him/herself as having sought assistance for their drug or alcohol abuse or dependency, will be the basis for performance evaluations.
- C. The College's Responsibility for Insuring Compliance with the Drug-Free Workplace/Drug and Alcohol Abuse Policy
1. The College may, to the extent permitted by law, take appropriate ~~personnel~~ action against any employee who is convicted for a violation occurring in the workplace or may require the employee's satisfactory participation in a drug treatment or rehabilitation program.
  2. Disciplinary action can range from a warning to permanent separation/termination from the College, depending on the ~~circumstances, including but not limited to the~~ seriousness of the infraction and the degree to which violation of the policy adversely affects the well-being of the community or the fulfillment of the College's educational mission.
- D. Consequences for Violation of WCJC Drug-Free Workplace/Drug and Alcohol Abuse Policy



1. A WCJC employee who is found to have violated this regulation ~~will~~may be subject to discipline, up to and including termination.
  2. An employee, in violation of the policy, will not be permitted to seek rehabilitation in lieu of discipline, but may be required to participate in rehabilitation as a condition of continued employment.
  3. An employee's decision to seek voluntary help, before ~~he or she is~~ found to be in violation of the College's regulation, will not be used as a basis for disciplinary action. Cost of medical assistance with a drug or alcohol problem may be covered under the employee's health insurance plan.
  4. An employee who violates any local, state or federal laws may be reported to the appropriate law enforcement agency and may be subject to prosecution in accordance with the law ~~and adverse employment action~~. (Legal sanctions for violation of local, state, and federal laws may include, but not be limited to fines, probation, and jail or prison sentences.)
- E. ~~A College Grievance Report Form~~ An employee subject to disciplinary action under this policy may file a grievance under (Reg 877: *Employee Grievances and Complaints*) ~~may be submitted to the Human Resources Department, if an employee feels he/she has been discriminated against.~~

Board of Trustees, 3-25-91  
JJ/BAM  
1-15-08  
BAM  
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