



## ALCOHOL AND DRUG-FREE WORKPLACE

Southeast Technical College Policy ~~GBEC/STC~~STC 711

### 1. Purpose

Southeast Technical College (STC) requires an alcohol and drug-free learning and working environment.

STC will comply with the Drug-Free Workplace Act. The unlawful manufacture, distribution, dispensation, possession, or use of alcohol and/or a controlled substance, including marijuana or its derivatives, in the workplace is prohibited on campus and other work sites where employees may be assigned. In addition, the manufacture, distribution, dispensation, possession, or use of alcohol and/or a controlled substances is prohibited on non-working time to the extent that it impairs an employee's ability to perform their job.

STC employees are prohibited from being under the influence of an alcoholic beverage and/or a drug, as defined below, while on campus, during the employee's working hours, and/or while representing STC.

### 2. General Statement of Policy

As a condition of employment with STC, all employees are required to comply with this policy.

1. While South Dakota law may permit certain actions regarding marijuana, the use and possession of marijuana, whether for medicinal or recreational purposes, is prohibited under federal law. Federal law classifies marijuana (cannabis) as a Schedule 1 controlled substance and criminalizes the growth or use of marijuana. The use of medical marijuana is also restricted by federal laws such as the Drug-Free Workplace Act and Drug-Free Schools and Communities Act.

~~1.2.~~ STC supports rehabilitation of employees with alcohol and/or drug abuse problems except in those circumstances where alcohol and/or drug use has created or could create the risk of injury or death to other employees or to students. Employees may use benefits and leave for which they regularly qualify, in order to meet rehabilitation needs except in the cases governed by ~~Regulation GBECAR/STC~~Policy STC 712.14.

~~2.3.~~ Alcohol and dDrug-free awareness programs will be established to inform employees of this policy as well as the dangers of alcohol and/or drug abuse in the workplace and any available resources for counseling rehabilitation and employee assistance programs.

~~3.4.~~ Employees must notify the STC Human Resources Department in writing no later than five calendar days of any criminal conviction for an alcohol and/or drug statute violation ~~occurring in the workplace.~~

~~4.5.~~ STC will notify any granting agency in writing within 10 calendar days after receiving notice of a conviction for a drug statute violation occurring in the workplace from the employee or otherwise receiving actual notice of the drug conviction.

~~5.6.~~ Discipline will be imposed for violations of this policy which may include a reprimand, suspension, termination or requiring satisfactory participation in an alcohol and/or drug abuse or rehabilitation program, ~~in accordance with the respective working agreement~~ as well as a referral for prosecution, if appropriate.

~~6.7.~~ STC will make a good faith effort, on a continuing basis, to maintain an alcohol and drug-free workplace.

~~7.8.~~ Every new employee will be provided with a copy of this policy and its regulations. Annually thereafter, employees will receive an overview, along with instructions to access the full policy and regulation on the STC website and will sign an acknowledgement form indicating they have received the information. Administrators or designees shall submit the signed form to the STC Human Resources Department.

#### **Assistance**

If an employee has an alcohol and/or drug problem and voluntarily seeks help to overcome the problem, assistance is available to the employee through the Sioux Falls School District insurance plan, if the employee is an enrolled participant or the District's Employee Assistance Plan if available. An employee's decision to seek assistance will not be used as a basis for disciplinary action, nor will it be a defense to or a mitigating factor in the imposition of appropriate disciplinary action, including termination, where facts indicating a violation of this policy are obtained independent of the employee's pursuit of assistance.

STC has information available to all employees regarding resources available to assist with alcohol and/or drug problems including counseling or rehabilitation assistance.

#### **Special Provision for "Drivers"**

The provisions of this regulation shall not apply to "drivers" as defined in Policy ~~GBECA/STC~~ STC 712. Testing and discipline of "drivers" will be governed by ~~Regulation Policy GBECA-R/STC~~ STC 712.1.

### 3. Definitions

**Alcohol** includes any beverage used for the purpose of becoming intoxicated. This usually includes distilled spirits, wine, ciders, and malt beverages. This also includes ethyl alcohol, or other low molecular weight alcohol, including methyl and isopropyl alcohol.

**Legal Drug** 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.

**Illegal drug** means any drug (a) which is not legally obtainable or (b) which is legally obtainable but has not been legally obtained. All substances listed in the Federal Control Substance Act, so called “designer drugs” which have not been included in the Federal Control Substances Act, and the misuse of other non-drug substances, such as glue, are covered by this definition. The term also includes prescribed drugs legally obtained but not being used for prescribed purposes.

**Under the influence** means for the purpose of this policy that the employee is affected by a drug or alcoholic substance, or the combination of a drug and alcohol, in any detectable manner. The symptoms of influence are not confined to those consistent with misbehavior or to obvious impairment of physical or mental ability such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by professional opinion, a scientifically valid test and, in some cases such as alcohol, by a lay person’s opinion.

**Possession** ~~means the presence, after confirmation testing by a 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), of any detectable amount of any drug.~~ means the state of having, owning, or controlling any amount of any drug or alcoholic beverage.

**Reasonable Suspicion** means a determination based on objective facts and inferences drawn from those facts as well as personal observations that suggest an employee is under the influence of drugs and/or alcohol.

**Workplace** includes all Southeast TechSTC property including motor vehicles, parking areas and sidewalks surrounding the buildings. Workplace also includes any site for the performance of work as a Southeast TechSTC employee, including but not limited to, student activities.

### 4. Reporting Procedures

1. **Reasonable Suspicion.** Southeast TechSTC may request a STCouttheast-Tech employee to undergo drug and/or alcohol testing if there is probable cause that the employee is under the influence of drugs and/or alcohol during normal business hours or during a work assignment. There shall be no “random” testing. Circumstances which constitute a basis for determining probable cause may include, but are not limited to:

- A pattern of abnormal or erratic behavior which is so unusual that it warrants summoning a supervisor, department head or someone else for assistance.
  - Information provided by a reliable and credible source with personal knowledge.
  - Direct observation of drug or alcohol use.
  - Presence of the physical symptoms of drug and/or alcohol use, i.e., glassy or bloodshot eyes, slurred speech, poor coordination and/or reflexes, abrupt swings in mood or energy level, or excessive irritability and emotional outbursts.
  - Possession of substances and/or alcohol as stated above. ~~in violation of Southeast Tech's policy GBEC/STC.~~
  - Involvement in a work-related accident or incident, excessive absenteeism, severe and prolonged reduction in productivity or performance.
2. Supervisors are required to detail in writing the basis for their determination that reasonable suspicion existed to warrant the testing of an employee, including, but not limited to, the specific facts, symptoms or observations and a description of any evidence obtained after searching ~~Southeast Tech~~STC property or the employee's personal property brought onto ~~Southeast Tech~~STC property.

### Test Procedures

The employee may be asked to submit to ~~medical~~alcohol and/or drug testing by a qualified medical physician or hospital at ~~Southeast Tech~~STC expense and on ~~Southeast Tech~~STC time. The employee can elect to have another staff member serve as a witness to the testing discussion. Prior to testing, all persons to be tested are required to complete and sign the employee consent form and a statement allowing the hospital/physician to release medical information to ~~Southeast Tech~~STC.

A single occupational medicine provider has been selected (with a contract executed) to provide drug and/or alcohol testing. The selection of a single laboratory will ensure one standard chain of custody procedure and consistency of processing. When an operating element feels that its requirements cannot be met by this laboratory, an alternate laboratory can be selected with prior approval of the President or designee.

All positive tests will be reviewed by a qualified Medical Review Officer (MRO) (a physician trained in the detection of substance misuse). The employee will have the opportunity to review the findings with the MRO prior to a report being returned to the appropriate administrator or supervisor. Failure to interview with an MRO within 48 hours of being contacted by the MRO will result in a report to the appropriate administrator or supervisor and disciplinary procedures will be followed. After receiving notice of positive test results from the MRO, the employee has 72 hours to request, in writing, to have the original sample sent to an alternate lab to be re-tested. The costs of re-tests requested by the employee are the employee's responsibility.

An employee refusing to submit to a drug and/or alcohol test will be subject to the consequences of a positive test. A refusal is defined as a verbal refusal, failure to execute the consent form, abusive language to the supervisor or personnel performing the test, or tampering with any sample, container, equipment or documentation of the sampling process.

An employee suspected of being under the influence will be driven to and from the testing site by a Southeast TechSTC representative. If the testing results are not immediately available, the employee will not be permitted to return to work, but placed on paid leave until the results are available. The employee may arrange for transportation from the testing site or transportation home shall be provided by a Southeast TechSTC representative.

A positive result from the drug and/or alcohol test may result in disciplinary action or a requirement of satisfactory participation in a drug and/or alcohol abuse or rehabilitation program, in accordance with the respective working agreementSTC Employee Handbook, as well as a referral for prosecution, if appropriate.

### **Confidentiality**

Information obtained on individuals pursuant to this policy will be disclosed only to those persons having legitimate need for it. Medical records pertaining to drug and/or alcohol use are confidential, and access to such records shall be in accordance with Southeast TechSTC policy. Medical records are not kept in the personnel file.

## **5. Related Policies**

~~GBECA/STC~~ ~~GBECA R/STC~~ STC 712 – STC 712.1 – Drug and Alcohol Testing for Commercial Drivers  
STC 709 - Code of Conduct

## **6. Dissemination of Policy and Training**

The policy is located on STC's website under Consumer Information – STC Policies

### **Legal References:**

41 U.S.C. 702 et seq. Drug Free Workplace Act of 1988 (as amended)  
21 U.S.C. 811 Controlled Substances Act of 1970 (CSA)  
29 CFR Part 94 – Governmentwide Requirements for Drug-Free Workplace  
SDCL 22-42-19 – Drug and Alcohol Testing for Commercial Drivers

### **Board Approved:**

Policy		Board Action	(formerly 4134)
adopted:	07-10-89	24847K	<u>(formerly GBEC/STC 07-01-25)</u>

amended:	09-27-93	27432.3f
amended:	02-27-95	27953
amended:	03-11-96	28420
amended:	02-27-06	34355
amended:	10-25-10	35865
amended:	03-26-12	36325

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approved:	09-27-93	27432.3f	
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amended:	03-26-12	36325	
reviewed:	09-06-17	ST00239	



~~Policies and Regulations~~

~~NEPN Code: GBEC R/STI~~

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## Personnel

### Drug Free Work Place

#### **Definitions**

~~“Legal drug” 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.~~

~~“Illegal drug” means any drug (a) which is not legally obtainable or (b) which is legally obtainable but has not been legally obtained. All substances listed in the Federal Control Substance Act, so called “designer drugs” which have not been included in the Federal Control Substances Act, and the misuse of other non drug substances, such as glue, are covered by this definition. The term also includes prescribed drugs legally obtained but not being used for prescribed purposes.~~

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~~“Possession” means the presence, after confirmation testing by a 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), of any detectable amount of any drug.~~

~~“Reasonable Suspicion” means a determination based on objective facts and inferences drawn from those facts as well as personal observations that suggest an employee is under the influence of drugs.~~

~~“Work place” includes all Southeast Tech property including motor vehicles, parking areas and sidewalks surrounding the building. Work place also includes any site for the performance of work as a Southeast Tech employee, including but not limited to, student activities.~~

## **Assistance**

~~If an employee has a drug problem and voluntarily seeks help to overcome the problem, assistance is available to the employee through the Sioux Falls School District insurance plan, if the employee is an enrolled participant or the District's Employee Assistance Plan if available. An employee's decision to seek assistance will not be used as a basis for disciplinary action, nor will it be a defense to or a mitigating factor in the imposition of appropriate disciplinary action, including termination, where facts indicating a violation of this policy are obtained independent of the employee's pursuit of assistance.~~

~~Southeast Tech has information available to all employees regarding resources available to assist with drug problems including counseling or rehabilitation assistance.~~

~~1. **Reasonable Suspicion.** Southeast Tech may request a Southeast Tech employee to undergo drug testing if there is probable cause that the employee is under the influence of drugs during normal business hours or during a work assignment. There shall be no "random" testing. Circumstances which constitute a basis for determining probable cause may include, but are not limited to:~~

- ~~• A pattern of abnormal or erratic behavior which is so unusual that it warrants summoning a supervisor, department head or someone else for assistance.~~
- ~~• Information provided by a reliable and credible source with personal knowledge.~~
- ~~• Direct observation of drug or alcohol use.~~
- ~~• Presence of the physical symptoms of drug use, i.e., glassy or bloodshot eyes, slurred speech, poor coordination and/or reflexes, abrupt swings in mood or energy level, or excessive irritability and emotional outbursts.~~
- ~~• Possession of substances in violation of Southeast Tech's policy GBEC/STI.~~
- ~~• Involvement in a work related accident or incident, excessive absenteeism, severe and prolonged reduction in productivity or performance.~~

~~2. Supervisors are required to detail in writing the basis for their determination that reasonable suspicion existed to warrant the testing of an employee, including, but not limited to, the specific facts, symptoms or observations and a description of any evidence obtained after searching Southeast Tech property or the employee's personal property brought onto Southeast Tech property.~~



### **Test Procedures**

The employee may be asked to submit to medical testing by a qualified medical physician or hospital at Southeast Tech expense and on Southeast Tech time. The employee can elect to have another staff member serve as a witness to the testing discussion. Prior to testing, all persons to be tested are required to complete and sign the employee consent form and a statement allowing the hospital/physician to release medical information to Southeast Tech.

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A positive result from the drug test may result in disciplinary action or a requirement of satisfactory participation in a drug abuse or rehabilitation program, in accordance with the respective working agreement, as well as a referral for prosecution, if appropriate.

### **Confidentiality**

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~~NEPN Code: GBEC-R~~

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### **Legal Reference:**

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~~21 U.S.C. 811 Controlled Substances Act of 1970 (CSA)~~

~~29 CFR Part 94 — Governmentwide Requirements for Drug Free Workplace~~

~~SDCL 22-42-19 — Drug free zones created — violation as felony~~

### **RELATED POLICIES:**

~~GBECA/STI — GBECA-R/STI — Drug and Alcohol Testing for Commercial Drivers~~

Regulation	Board Action	(formerly 4134)
approved: 09-27-93	27432.3f	
revised: 03-11-96	28420	
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