

ALCOHOL AND DRUG USE IN THE WORKPLACE POLICY

Category: Human Resource Management

Responsible Office: Human Resource Management Office

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POLICY SUMMARY

The unlawful use, possession, manufacture, dispensation, or distribution of controlled substances or alcohol in all University work locations is prohibited.

POLICY

Policy Statement

In compliance with the Federal Drug-Free Workplace Act of 1988, the Drug-Free Schools and Communities Act Amendments of 1989, and the Federal Omnibus Transportation Act of 1991, employees of SUNY Buffalo State should be aware of and must adhere to the policy stated below:

- The unlawful use, possession, manufacture, dispensation, or distribution of controlled substances in all SUNY Buffalo State work locations is prohibited. The term "controlled substance" means a controlled substance in Schedules I through V of Section 202 of the Controlled Substances Act (21USC812).
- Employees who unlawfully manufacture, distribute, dispense, possess, or use a controlled substance will be subject to disciplinary procedures consistent with applicable laws, rules, regulations, and collective bargaining agreements.
- Employees must notify the Human Resource Management Office of any criminal conviction for a drug-statute violation occurring in the workplace or at a work site no later than five working days after such conviction. An employee so convicted will be required to satisfactorily participate in a state-approved drug-abuse assistance or rehabilitation program as a condition of continuing employment.
- No employee will report for work or will work impaired by any substance, drug, or alcohol, lawful or unlawful. "Impaired" means under the influence of a substance such that the employee's motor senses (i.e., sight, hearing, balance, reaction, or reflex) or judgment either are or may be reasonably presumed to be affected.
- Medical testing may be done if the University has a reasonable suspicion that an employee is unable to perform job duties due to the misuse of alcohol, controlled substances, or prescription drugs.

Applicability

This policy applies to all New York State employees.

Responsibility

Employees

It is the policy of SUNY Buffalo State that:

1. The unauthorized use, sale, distribution, dispensing, possession, manufacture, or purchase of a controlled substance by an employee, on SUNY Buffalo State property (including property leased or rented by SUNY Buffalo State), while on duty, which includes being in a state vehicle, a vehicle leased or rented for state business, or a private vehicle being used for state business during the employee's work hours, is strictly prohibited. However, in work locations where it is permitted, an employee may possess and use medication which is properly prescribed by a physician.
2. Employees are prohibited from on-the-job use of, or impairment from, alcohol while performing in a work-related capacity. This prohibition does not apply to official University functions that are approved by senior officers of the University. However, the consumption of alcohol at an official University function should never cause an employee to be impaired at the worksite.
3. The Omnibus Transportation Employee Testing Act (OTETA) mandates that certain employees in safety-sensitive positions submit to drug and alcohol testing. Currently, SUNY Buffalo State employees whose positions require the possession of a Commercial Driver's License (CDL) are the only employees subject to such testing. To comply with OTETA, SUNY Buffalo State will be performing mandated pre-employment, pre-assignment (promotion), reasonable suspicion, post-accident, random, follow-up, and return to duty drug testing of these employees. Employees in this status will be notified as to their inclusion in this program and will also be notified before the implementation of the drug and alcohol testing program. Offers of employment will be withdrawn for otherwise qualified applicants to safety-sensitive positions who fail or refuse to take drug pre-employment tests.
4. An employee covered by OTETA and notified of being in a safety-sensitive position as defined by the rules of OTETA is further prohibited from the use of alcohol four (4) hours before operating a Commercial Motor Vehicle (CMV). No supervisor having knowledge that an employee in such a position has used alcohol within four (4) hours shall permit that employee to operate a Commercial Motor Vehicle.
5. No employee shall report for work unfit for duty at the beginning of a shift or upon returning from any break, lunch, or rest period, as a result of consuming alcohol and/or illegal drugs. Further, no employee serving in a safety-sensitive position as defined by the OTETA shall report to work in a condition that violates the Act and the corresponding rules.
6. While the use of prescription drugs is not prohibited, they should not render an employee unfit for duty. The employee should bring situations of this nature to the attention of the supervisor, especially if the employee's job responsibilities are considered safety sensitive. These situations are to be addressed confidentially on a case-by-case basis and it may be necessary for the

employee to provide certification from his/her physician that the prescription substance does not adversely impact fitness to do the job.

7. Work-related accidents or injuries involving state vehicles, equipment, and/or property where it can be demonstrated that the use of alcohol or drugs may have been a contributing factor will result in formal disciplinary action which can include penalties up to and including termination of employment. In addition, employees serving in safety-sensitive positions covered under OTETA shall be required to take post-accident alcohol and drug tests. An employee serving in OTETA covered position shall not use alcohol for eight (8) hours following an accident or until the employee undergoes the post-accident alcohol test, whichever occurs first.
8. Any employee who is convicted of a violation of any criminal drug statute occurring in the workplace must notify his/her supervisor no later than five (5) days after the conviction. This is a term and condition of employment. The supervisor who has been notified of such conviction must inform the Associate Vice President for Human Resources within twenty-four (24) hours of receiving the information from the employee. Proper notice will then be given to the appropriate federal agency. This provision within this policy applies to employees for whom possession of a valid driver's license is a requirement of their position at the University. Article 19A, Section 509(l) of the NYS Vehicle and Traffic Law states that a driver notified that his/her license, permit, or privilege to operate a motor vehicle has been revoked, suspended, or withdrawn or who is convicted of a violation of such provisions of this chapter as shall constitute a misdemeanor or a felony in any jurisdiction shall notify the motor carrier (supervisor) that employs such person of the contents of the notice before the end of the business day on which it is received. A driver who fails to notify his/her employer of such suspension, revocation, or conviction or a violation of such provisions of this chapter as shall constitute a misdemeanor or felony shall be subject to a five (5) working day suspension, or a suspension equivalent to the number of working days such driver was not in compliance with his article, whichever is longer.
9. An employee may be directed to undergo a medical examination and/or testing under Section 72 of the NYS Civil Service Law, at the expense of SUNY Buffalo State if the supervisor has reasonable suspicion that the employee is not able to perform his/her duties as a result of alcohol or controlled substance related disabilities. Further, employees covered under OTETA serving in safety-sensitive positions must undergo alcohol and/or drug testing when the supervisor has "reasonable suspicion" to believe that an employee has violated the alcohol and drug prohibitions of the OTETA. A reasonable suspicion must be based on specific reliable observations about the employee's appearance, behavior, speech, or body odors. Some examples would be an unsteady gait, the odor of alcohol on the breath, thick or slurring speech, abusive language or behavior, disorientation, or lethargy. Other factors to consider include the employee's time and attendance pattern, on-the-job accidents, difficulty remembering instructions or conversations, and poor relationships with co-workers, supervisors, and other members of the campus community. Usually, reasonable suspicion will be based upon a combination of factors.

10. The University reserves the right to seek disciplinary action for an employee's unauthorized use, sale, distribution, dispensing, possession, manufacture, or purchase of a controlled substance even if such conduct occurs off duty and not on University premises.

Supervisor

It is the policy of SUNY Buffalo State that:

1. Supervisors have a very important role in establishing and perpetuating a productive work environment at the University. As such, they are responsible for determining through direct observation whether an employee is capable of performing the duties assigned. Signs or symptoms of being under the influence of alcohol and drugs include incoherent or belligerent speech, smell of alcohol, difficulty working, or erratic or unusual behavior uncommon to the employee.
2. An employee suspected of being unfit for duty may not remain at the workplace since he/she may represent a danger to him/herself, others, or University property. Any incidents representing performance problems possibly resulting from the use of drugs and/or alcohol should be documented in writing immediately and a second trained supervisor/manager should be consulted to confirm the observations of the primary supervisor. An employee who is impaired should not be permitted to drive home from the workplace.
3. Once a supervisor has performed due diligence in ascertaining an employee's fitness to perform the duties of his/her job if the supervisor remains convinced that the employee is under the influence of drugs/alcohol while at work, he/she should inform the Human Resource Management wherein arrangements will be made to assure the employee is transported home. If all other alternatives have been exhausted, a supervisor may allow the employee to be driven home in a State vehicle.
4. After an employee is removed from the workplace, the supervisor(s) and manager(s) should discuss with the Human Resource Management whether disciplinary charges or other administrative actions should be pursued or what actions seem prudent. Often, in the course of disciplinary actions, assistance is sought for the employee through many avenues. Each situation requires a case-by-case review.
5. If an employee displays dangerous, aggressive, or abusive behavior, which constitutes a danger to persons or property and resists voluntarily leaving the workplace, the Human Resource Management must be contacted immediately to proceed with clearance to suspend the employee under the provisions of the disciplinary procedures of the appropriate union contract. If necessary, University Police should be contacted to assist in the removal of the employee from the workplace since safety is always the first priority.
6. An employee who reports to work unfit for duty and is sent home may be subject to a medical exam at the expense of SUNY Buffalo State as a condition of returning to work. The employee may be eligible to use sick leave accruals or be placed on sick leave without pay. In such cases, the appropriate staff of Human Resources should be contacted for advice and assistance.

- Supervisors shall inform the Associate Vice President for Human Resources within twenty-four (24) hours of receiving the information from an employee that he/she was convicted of a violation of a criminal drug statute occurring in the workplace. The employee

notification must occur no later than five (5) days after the conviction. Proper notice will then be given to the appropriate federal agency.

Management

It is the policy of SUNY Buffalo State that:

- A drug and alcohol-free workplace be maintained.
- Appropriate corrective actions be taken against managers and supervisors who fail to perform the duties and responsibilities outlined in this policy.
- Managers and supervisors will discuss with employees any behavior or job performance factors that may indicate the use of drugs, alcohol, or other violations of this policy and, when appropriate, suggest that the employee seek help as necessary through EAP.
- Per OTETA provisions, managers will direct employees in designated safety-sensitive positions to mandatory pre-employment, pre-assignment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up testing in accordance with the OTETA.
- All employees and supervisors understand and comply with the Drug-Free Workplace Act of 1988 and the OTETA testing procedures. SUNY Buffalo State will train or arrange for training for supervisors on how to recognize behaviors of alcohol and/or other drug use.

RELATED INFORMATION

Related Links:

[SUNY Compliance: Drug-Free Schools and Communities Act/Drug-Free Work Place Act Compliance](#)

[New York State Policy on Alcohol and Controlled Substances in the Workplace](#)

[SUNY Buffalo State Smoke-Free, Tobacco-free, and Cannabis-free Campus Policy](#)

[SUNY Buffalo State Employee Assistance Program \(EAP\)](#)

CONTACT INFORMATION

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APPROVAL

Approved before 2016