

DAVIS & ELKINS COLLEGE

DRUG FREE POLICY

(Effective as of March 22, 2011)

I. DRUG FREE POLICY

NOTE: This policy applies to any Board member, employee, independent contractor, vendor, alumnus, volunteer, student or other individual who conducts business for Davis & Elkins College.

A. Statement of Compliance with Federal Drug-Free Statutes

The Drug-Free Workplace Act of 1988 requires recipients of federal grants and certain federal contracts to certify that they will provide a drug-free workplace. Employees (including Work Study students) who are engaged in projects relating to federal grant awards, must abide by Davis & Elkins College's drug-free policy to avoid loss of the federal grant or contract. As part of this policy, Davis & Elkins College has also adopted a drug-free awareness program and a drug testing program, as noted below.

Davis & Elkins College has developed this policy not only in response to the federal drug-free legislation, but also to attempt to provide a healthy environment by preventing the use of illegal drugs or the abuse of alcohol within the college community. Davis & Elkins College is committed to protecting the safety, health and well being of all employees and other individuals in our workplace. We recognize that alcohol abuse and illegal drug use pose a significant threat to our goals. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain a drug-free environment. Davis & Elkins College encourages employees to voluntarily seek help with drug and alcohol problems.

1. Scope

Davis & Elkins College requires the cooperation of the entire campus community in its pursuit to maintain a drug-free environment. **Any Board member, employee, independent contractor, vendor, alumnus, volunteer, student or other individual who conducts business for Davis & Elkins College; is applying for a position, or is conducting business on D&E's property ("Covered Individuals") is covered by our drug-free workplace policy.**

This drug-free workplace policy is intended to apply whenever anyone is representing or conducting business for Davis & Elkins College. Therefore, this policy applies whenever conducting business or representing the College and at D&E College-sponsored events.

2. Statement of Prohibited Activity

Davis & Elkins College prohibits the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances and alcohol by Covered Individuals on Davis & Elkins College's property or at any college-sponsored function, whether on or off campus. It is a violation of our drug-free workplace policy to use, possess, sell, trade, and/or offer for sale alcohol, illegal drugs, or intoxicants within the workplace environment.

This policy does not prohibit the lawful and non-excessive consumption of alcohol by persons of legal age at College-sponsored social events or when acting as the College's representative at a third-party event or personal consumption unrelated to Davis & Elkins College. **Since students (and/or guests) under the legal age of drinking (21) are not permitted to buy, drink, or possess (hold) alcoholic beverages, Board members, employees, independent contractors,**

vendors, alumni, volunteers, or other individuals who conduct business for Davis & Elkins College are prohibited from serving or distributing alcohol to underage students.

3. Notice of Potential Sanctions

One of the goals of Davis & Elkins College's drug-free workplace program is to encourage individuals to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates the policy, the consequences are serious. **Any Covered Individual who violates this policy, any city ordinances, state criminal laws, or federal laws relating to alcohol or drug use, or who does not cooperate with the College in its attempts to maintain a drug-free environment, will face appropriate disciplinary action** up to and including expulsion or dismissal, cancellation of their contract, or other appropriate responsive action. In the case of applicants, the offer of employment can be withdrawn and the applicant may not reapply.

Nothing in this policy prohibits a Covered Individual from being disciplined or discharged for other violations and/or performance problems. Covered Individuals violating any city ordinances, state criminal laws, or federal laws relating to alcohol or drug use also risk fines and/or imprisonment.

4. Notification of Federal Agencies about Employees

The federal government requires that each employee directly engaged in the performance of work under a federal grant or contract must a) be provided with a copy of a statement describing the employer's policy, and b) be notified that, as a condition of employment on that grant or contract, the employee will abide by the terms of the policy and will notify the employer if he or she is convicted of any criminal drug statute violation in the workplace no later than five days after such a conviction.

Employees are required to notify Davis & Elkins College of any drug conviction resulting from a violation in the workplace no later than five days after the conviction. Notification should be made to the Human Resources Director. Davis & Elkins College, in turn, is required to notify any awarding federal agencies of any convictions. Notification of the federal agencies will be made by the Human Resources Director. Department heads and other supervisors, in consultation with the Human Resources Office, will have the responsibility for any disciplinary action, or for requiring offenders to participate satisfactorily in an approved drug treatment program, or both.

5. Opportunity for Rehabilitation

Following a violation of the drug-free workplace policy, depending on the nature and severity of the violation, a Covered Individual may be offered an opportunity to participate in rehabilitation. In such cases, the Covered Individual must sign and abide by the terms set forth by Davis & Elkins College as a condition of remaining on campus.

6. Compliance with Disability Laws

Davis & Elkins College recognizes chemical dependency as a treatable illness and may provide a reasonable accommodation for eligible Covered Individuals who require leave for rehabilitation. Eligible Covered Individuals who are diagnosed as chemically dependent will be treated in the same manner as employees with other types of illnesses with the coverage being limited by the insurance coverage provided by the group health insurance plan. On the basis of proper medical certification of chemical dependency, they will qualify for the same employee benefits and group insurance coverage which are provided for other medically certified illnesses covered in employee benefit plans, except as may be limited by the specific benefit plans concerned.

While treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan, the ultimate financial responsibility for recommended treatment belongs to the employee. The College's employee group medical insurance coverage for inpatient and out-patient treatment is detailed in the College's health plan documents.

7. Statement on Confidentiality

All information received by Davis & Elkins College through the drug-free workplace program is confidential. Access to this information is limited to those who have a legitimate business need to know in order to comply with relevant laws and management policies. The confidential nature of medical records of employees with chemical dependency will be preserved in the same way as for other medical records.

II. DRUG TESTING PROGRAM FOR EMPLOYEES OF DAVIS & ELKINS COLLEGE [NOTE: THIS POLICY APPLIES TO EMPLOYEES]

To further provide a safe environment for conducting the mission of Davis & Elkins College, the College has adopted a workplace drug testing policy to provide appropriate employee screening, employee education and training, and surveillance of the work area and the effective management of situations involving drugs and alcohol regarding individuals who fall under the purview of the College's authority. **Davis & Elkins College reserves the right to test for substances to the extent allowed by the law.**

A. Pre-Employment Substance Testing

All offers of employment are contingent upon the results of a substance test of the breath, saliva, urine, blood, and/or hair in accordance with this policy. Individuals to whom a contingent offer is made whose pre-employment substance tests return positive (except with respect to prescription drugs and over-the-counter medications) will be ineligible for employment. Should a candidate fail his or her initial drug test, he or she will have the option of re-testing within 24 hours at Davis & Elkins College's expense. **For applicants who test positive after having received an offer of employment that is contingent on a drug screen, offers of employment will be revoked.**

B. Other Substance Tests

Davis & Elkins College may periodically conduct substance tests based on breath, saliva, urine, blood, and/or hair samples under any of the circumstances noted below. Any employee subjected to any substance test will be required to sign a Substance Test Consent Form. Refusal to sign the form or leaving the work area prior to the substance test without permission of the supervisor, or refusal to cooperate in any way with the testing process, shall be grounds for immediate termination of employment. In the event an employee consents to a substance test but fails to sign a Substance Test Consent Form, his/her failure will not invalidate the consent for the testing.

At the discretion of Davis & Elkins College, employees suspected of violating this policy may be placed on administrative leave with pay pending test results.

C. Post-Accident Testing

If Davis & Elkins College has reasonable cause to believe an employee has caused an on-the-job injury that is considered recordable under OSHA guidelines (i.e., requiring medical treatment) as a result of being under the influence of drugs, alcohol or other prohibited substances, the supervisor may require the injured employee to undergo a post-accident substance test. Refusal to submit to the substance test shall be grounds for immediate termination of employment.

D. Fitness for Duty Testing

Employees suspected to be unfit for duty as a result of the use or reasonably suspected use of substances will be subject to substance testing. An employee, who appears to be under the influence of substance(s), at the sole discretion of Davis & Elkins College, should be removed from the work area and provided with transportation to the place of testing. Davis & Elkins College should call the emergency contact indicated by the employee or, if unavailable, arrange for a cab or other means to transport the employee home following the test. Refusal to submit to substance test will be grounds for immediate termination of employment.

E. Random Selection Testing

Davis & Elkins College employees who operate college-owned vehicles or equipment are subject to random no-notice substance testing. Where random testing is prohibited or restricted by applicable state or local statute or regulation, or other legally-binding agreement, Davis & Elkins College will conform to all applicable laws, regulations, and agreements notwithstanding the provisions of this policy.

F. Alteration of Sample

Specimens reported by the testing laboratory as adulterated or substituted will be considered a refusal to test, and constitute grounds for immediate termination of employment or ineligibility for hire.

G. Workplace Searches

Davis & Elkins College may conduct searches of college property, including lockers, and an employee's personal property in cases where there is reasonable cause to suspect a violation of this policy. While no search will be conducted without an employee's consent, consent to search is a condition of continued employment with Davis & Elkins College. An employee who refuses to cooperate in the conducting of such searches will be subject to disciplinary action up to and including termination of employment.

H. Collection of Samples

As set forth in the Substance Test Consent Form, testing samples will be collected by a qualified individual only. Collection of samples will be performed under reasonable and sanitary conditions. The chain of custody of a sample will be recorded, and this record should be retained.

I. Off-Premise Use

Davis & Elkins College reserves the right to suspend without pay any employee who has been arrested for criminal offenses related to the manufacture, possession, sale, use, distribution, dispensation, receipt, or transport of any illegal substance pending resolution of the charges to the College's satisfaction.

J. Confidentiality of Test Results

All test results will be handled on a confidential basis and will be available only to Davis & Elkins College personnel who have a need to know such results. The Human Resources Director or his or her designated representative will determine who will have access to these records.