

Davis Technical College

Drug and Alcohol-Free Workplace; Drug and Alcohol Testing Policy

Effective Date: 28 March 2024

1. Purpose

The purpose of this policy is to provide a safe and productive work and educational environment free from the effects of the unlawful manufacture, distribution, dispensing, sale, possession, or use of controlled substances or alcohol in the workplace, and to ensure the protection and safety of students and employees.

2. References

- 2.1. Utah Code §34-41-101 *et seq* Local Governmental Entity Drug-Free Workplace Policies
- 2.2. Utah Code Title 63, Chapter 2, Government Records Access and Management Act (GRAMA)
- 2.3. Utah Code 26-61A, Medical Cannabis Act
- 2.4. Utah Code 58-37-1 *et seq* Controlled Substances Act
- 2.5. 29 C.F.R. 1630.14, *Medical examinations and inquiries specifically permitted*
- 2.6. Americans with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213
- 2.7. Drug-free Workplace Act, 41 U.S.C. 8102, 8103
- 2.8. Davis Technical College Disciplinary Sanctions of Personnel Policy
- 2.9. Davis Technical College Employment Grievances Policy
- 2.10. Drug-Free Schools and Campuses Act (EDGAR Part 86)
- 2.11. Davis Technical College Criminal Background Check policy

3. Definitions

- 3.1. **Alcoholic Beverages** – As used in this policy, refers to consumable alcohol or non-denatured ethanol intended for human consumption and considered “food safe”.
- 3.2. **College Sponsored Activity** - Any event, activity, or endeavor that has the official sanction of the College or any activity on or off campus initiated, aided, authorized or supervised by the College administrative entities of organizations. This does not include off campus business meals, travel, entertainment, conferences and association meetings, or other appropriate social settings where alcohol is not expressly forbidden, except when students are being chaperoned.
- 3.3. **Employee** - Any person in a salaried, hourly, adjunct, clinical, volunteer, contract, or other position that directly relates to work being performed for the College purposes.
- 3.4. **Possession**- Includes being on one’s person, within the desk, locker, or personal automobile of the employee on College property.

3.5. Reasonable Suspicion – A belief that an employee may possibly be impaired by any illegal drug, marijuana, or alcohol, so long as the belief is based upon specific facts that are observed, recorded, or documented or upon reasonable inferences drawn from those facts. Examples of facts that are sufficiently specific include, but are not limited to, odors, physical appearance, speech patterns, behaviors, motor skills, paraphernalia, or body movements that are consistent with the possible recent consumption of an illegal drug, marijuana, or alcohol. Neither vague suspicions, nor hunches, nor an employee’s nervous behavior are by themselves sufficiently specific to establish reasonable suspicion.

3.6. Refusal to Submit to Testing - Failure to provide an adequate breath or urine sample (without a valid and verified medical explanation) after the employee has received notice that a breath or urine sample is required; or engaging in conduct that clearly obstructs the testing process.

3.7. Safety Sensitive Positions- An employee who is under the DOT’s jurisdiction who could pose a direct safety threat to themselves or others if they do their job while impaired.

3.8. Under the Influence: The state of an individual who has been determined to have consumed or used illegal drugs, marijuana, or alcohol under circumstances that violate any college policy.

3.9. Work Time/On Duty: For purposes of this policy, “work time” or “on duty” includes meal times, rest periods, or breaks.

3.10. Workplace: Any location that is either owned, leased, or managed by the College, or where any College work or sponsored activity is performed. “Workplace” includes buildings, facilities, grounds, parking lots, and vehicles. “Workplace” also includes employees’ personal vehicles when those vehicles are used either to engage in College work or sponsored activity or to transport one or more other persons who are engaged in any College work or sponsored activity. During periods of time when employees are working remotely, “workplace” includes the complete room in which the employee is working.

4. Policy

4.1. It is the policy of Davis Technical College to maintain a drug and alcohol-free workplace. The College expects employees to report to all work assignments unimpaired and in a condition ready to perform their duties safely and efficiently. The College will not tolerate any involvement with alcohol/drugs that adversely affects an employee’s job performance or that could jeopardize other employees, students, customers, the community, or College equipment or reputation.

4.2. All members of the College community have a responsibility to report illegal and prohibited activity covered under this policy. Employee violations are to be reported to the employee’s supervisor and/or their chain of command.

4.3. In compliance with the State of Utah Indoor Clean Air Act, smoking, or use of e-cigarettes, is prohibited in all buildings and within 25 feet of all College building entrances, windows, or air intake.

4.3.1. Smoking is also prohibited in any College-owned vehicle.

4.4. The College strictly prohibits the unlawful manufacture, distribution, dispensing, sale, possession, or use of controlled or illegal substances, possession of paraphernalia associated with the use, being under the influence on the College campus or at any College sponsored activity, unsatisfactory job performance and poor attendance or conduct caused by alcohol or drug use.

4.5. The College strongly encourages employees who believe that they may have an alcohol or drug dependency problem or another issue with drugs or alcohol to voluntarily seek treatment and/or rehabilitation before it is discovered through a violation of this policy. Employees who voluntarily seek assistance for an alcohol or drug dependency-related problem before it is subject to formal disciplinary actions will not place their job in jeopardy. Rehabilitation, however, is the responsibility of the employee. The employee is responsible for all costs associated with a drug abuse assistance rehabilitation program, except as may be covered by the College's regular health insurance program. Employees should contact Human Resources for information to better understand what assistance may be available to them through the College's Employee Assistance Program (EAP) and whether they may request reasonable accommodations under the Americans with Disabilities Act (ADA). Any employee qualifying for consideration under the Americans with Disabilities Act will be treated by the College under the provisions of that law. All inquiries of this nature will be confidential, and only those persons with a legitimate need to know will be made aware of any such inquiry. The College will reasonably accommodate employees who are attempting to treat an alcohol dependency but reserves the right to maintain acceptable job standards and behavior of all employees regardless of their dependency status.

4.5.1. Upon receiving this report, Human Resources may require the employee to enroll in a rehabilitation program as a condition of continued employment. One purpose of the College's EAP is to help employees and their families who suffer from alcohol or drug dependency. It is the responsibility of each employee to seek assistance from the EAP before alcohol and drug problems lead to disciplinary action.

4.5.2. Once a violation of this policy occurs, the subsequent use of the EAP on a voluntary basis will not necessarily affect the remedies or disciplinary sanctions taken and may have no bearing on the determination of appropriate actions. However, an employee's voluntary report will not necessarily excuse them from remedies or disciplinary sanctions, including potential termination of employment, for violations of this policy that occurred before the report was made.

4.6. Drug and alcohol tests will be administered to employees in safety sensitive positions in accordance with U.S. Department of Transportation regulations (49 CFR, Parts 40 and 382).

4.6.1. Successful candidates for safety sensitive positions at the College will be required to submit to, and pass, a drug and blood alcohol test. A position offer will be rescinded if a candidate refuses to take the required drug and blood alcohol test, tests positive for a controlled substance, or the employee's test detects a blood alcohol content equal to or greater than the upper limit designated by the Department of Transportation. All terms in this policy are used as defined in U.S. Department of Transportation regulations.

4.7. Consistent with federal and state law, drug/alcohol testing may be required of any employee if there is sufficient evidence to suggest that an employee is under the influence of alcohol or drugs while at work.

4.8. Exceptions: The College's Culinary program may possess and utilize alcohol for instructional purposes, but the alcohol must be securely stored by the program instructors.

4.8.1. Responsible, moderate use of alcohol by employees not in safety sensitive positions in connection with off-campus business meals, travel, entertainment, conferences, and association meetings, or other appropriate social settings where alcohol is not expressly prohibited, is not a violation of this policy. Employees in safety sensitive positions must not use, be under the influence of, or be in possession of alcohol or drugs while on duty or on College premises.

4.9. An employee is not in violation of this policy if the employee engages in the conduct in accordance with Title 4, Chapter 41a or Title 26, Chapter 61a, Utah Medical Cannabis Act. However, this exception does not apply to employees who work in a position that is dependent upon a license that is subject to federal regulations, such as a commercial driver's license.

4.10. Prescription drugs are not prohibited when taken in standard dosages and/or according to a physician's prescription. The prescribed drug must be legal under both federal and state law. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication could compromise the safety of the employee or other persons.

Employees whose inability or impaired ability to perform their essential functions could impose a direct threat to public safety are required to report their prescription drug usage to their supervisor. Supervisors should consult with Human Resources regarding the matter. The employee may be prohibited from performing functions which endanger themselves or others. It is the employee's responsibility to use appropriate personnel procedures (e.g. call in sick, use leave, notify supervisor, etc.) to avoid unsafe workplace practices. An employee who fails to inform their supervisor of medical treatment that may impair their ability and who is involved in an accident or behavior that is detrimental to the College because of, or related to that treatment, may be disciplined.

4.11. The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of this policy to intentionally misuse and/or abuse prescription medications. As appropriate, disciplinary action may be taken up to and including termination of employment.

4.12. It should be understood that employees scheduled to be "on-call" are expected, when called, to report to duty free of the influence of drugs or alcohol. If employees, when called, state that they are under the influence of alcohol or drugs, the employees shall be subject to College policies for failure to report for work but shall not be considered to have violated this policy. An employee not scheduled to be on-call but who is called for work is expected to report for work free of the influence of illegal drugs or alcohol. If an employee is called for work and they are under the influence of illegal drugs or alcohol it is the employee's duty to notify their supervisor that they are not fit for duty.

4.13. All employees of the College are subject to the terms of this policy. Violations of this policy will lead to disciplinary sanctions under the Davis Technical College Disciplinary Sanctions of Personnel Policy. The College reserves the right to refer all suspected violations of this policy to the appropriate law enforcement agencies.

5. Procedures

5.1. Conviction of a Workplace Violation: College employees must notify their supervisor in writing within five (5) calendar days of any conviction of a criminal drug statute if the violation occurred in the workplace or while the employee was engaged in college work off campus. Additionally, an employee in a safety-sensitive position who is convicted under a federal or state criminal statute for an alcohol- or drug-related felony must notify their supervisor of the conviction within five (5) calendar days regardless of where the violation occurred.

5.1.1. Within 30 days of learning of such a conviction, a disciplinary sanction will be imposed against the employee found in violation of this policy. The minimum sanctions that may be imposed on an employee convicted include but may not be limited to, mandatory participation in an education/rehabilitation program and mandatory probation for at least ninety days, with weekly reviews, as a condition of continued employment. The College reserves the right to dismiss any employee convicted of a workplace offense if the College considers it to be in the best interest of the College to do so. All convictions resulting from buying, selling, transferring, or trafficking controlled substances in the workplace will be cause for mandatory dismissal.

5.2. Testing: The College may require the collection and testing for drugs and/or alcohol for any of the following:

5.2.1. Reasonable Suspicion Testing: If a supervisor has a reasonable suspicion that an employee is on duty and is under the influence of illegal drugs or alcohol they should see that the employee is removed from the workplace to a safe, non-threatening environment. An employee's refusal to leave the workplace will be treated as having a positive test result and will be subject to disciplinary action. The supervisor should contact Human Resources for additional direction. Human Resources will determine if there is sufficient evidence to request the employee to submit to a drug/alcohol test at a site designated by the College at the College's expense. Reasonable suspicion of drug and/or alcohol use may be based on: (1) observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug or alcohol; (2) a pattern of abnormal conduct or erratic behavior; (3)

information provided by reliable and credible sources regarding the covered individual's violation of this policy; or (4) newly discovered evidence that the employee tampered with a previous drug test. Any drug testing shall occur during or immediately after the regular work period and shall be considered work time for purposes of compensation and benefits. All employees tested under this provision shall be placed on paid administrative leave pending the results and review of the drug test. Tested volunteers will be temporarily relieved from service.

5.2.2. Post Offer Pre-Hire- Safety Sensitive Positions: Successful candidates for safety sensitive positions at the College will be required to submit to, and pass, a drug and blood alcohol test. A position offer will be rescinded if a candidate refuses to take the required drug and blood alcohol test, tests positive for a controlled substance, or the test detects a blood alcohol content equal to or greater than the upper limit designated by the Department of Transportation regulations.

5.2.3. Post Accident: The College may require an employee to complete a test for alcohol, marijuana, and illegal drugs if the employee is reasonably believed to have been involved in an accident during the previous 24 hours.

5.2.4. As part of a drug or alcohol abuse assistance or rehabilitation program.

5.2.5. Agency Directives: Individuals may be tested as required or requested by state or federal agencies, including post accident testing, random testing, reasonable suspicion testing, and return to duty testing.

5.3. Consistent with federal and state law, drug/alcohol testing may be required of any employee if there is sufficient evidence to suggest that an employee is impaired while at work or at a College sponsored activity. Any employee that is reasonably suspected of being impaired, shall be removed from the workplace to a safe, non-threatening environment. Refusal to leave the workplace will be considered insubordination and may result in immediate dismissal.

5.3.1. Without making specific diagnosis, the immediate supervisor should meet with the employee and others as needed as soon as possible to determine whether there is sufficient evidence to support a violation of this policy. If sufficient evidence suggests that an employee is impaired by alcohol or drugs while at work, the employee will be required to submit to a drug/alcohol test at a site designated by the College, at the College expense.

5.3.2. The collection and testing of samples shall be conducted in accordance with Utah Code §34-41-104 (1953) as amended and in accordance with Utah Code §34-41-103.

5.3.3. Drug Test Results: The use and disposition of all drug test results are subject to the limitations of the Government Records Access and Management Act and Americans with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213.

5.4. The College will establish and administer a drug and alcohol prevention program for employees and students, in accordance with the federal Drug-Free Schools and Campuses Act. This program will be published and disseminated to employees and students annually, and a biennial review of the program will be published.

6. Approval and Notes

Board of Trustees Approval: 28 March 2024
President's Council Approval: 18 March 2024
Board of Trustees Approval: 03 December 2020
President's Council Approval: 30 November 2020

Employee Input Team Approval: 11 November 2020
Board of Trustees Approval: 28 August 2003
President's Council Approval: 12 August 2003
CDMT Approval: 05 August 2003