

Human Resource Office Policy
Policy on Alcohol and Substance Abuse in the Workplace

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Approved By: Cabinet
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Category: Human Resources
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PROFILE

In compliance with the Drug-Free Workplace Act of 1988 and the New York State Policy on Alcohol and Controlled Substances in the Workplace, the Omnibus Transportation Employee Testing Act of 1991, and in keeping with its mission, the State University of New York College at Geneseo (SUNY Geneseo) will not tolerate the unlawful possession, manufacture, use, purchase, distribution, or dispensing of a controlled substance by employees while in the workplace or while performing in a work-related capacity. It is also the policy that employees are prohibited from on-the-job use of alcohol or impairment from alcohol. This prohibition does not apply to official college functions that are approved by senior officers of the College. However, the consumption of alcohol at an official college function should never cause an employee to be impaired at the worksite. This policy applies to all College employees and volunteers.

According to the State of New York, "Use and abuse of alcohol and drugs has a detrimental effect on the productivity, attendance, and health of our workforce. As a public employer, we must be vigilant in protecting the safety and welfare of the public with whom we interact and the employees with whom we work."

Prevention and treatment, together with protecting the safety and welfare of our employees, are the College's highest priorities regarding substance abuse. The College disseminates drug and alcohol awareness information. The Employee Assistance Program, available to all employees, provides programming and appropriate referrals to chemical dependency services.

POLICY

The longstanding policy of the State of New York is that employees will be subject to criminal, civil, and disciplinary penalties if they distribute, sell, attempt to sell, possess or purchase controlled substances while at the workplace or while performing in a work-related capacity. Such illegal acts, even if engaged in off duty, may result in disciplinary action. It is also the policy that employees are prohibited from on-the-job use of, or impairment from alcohol. This prohibition does not apply to official college functions that are approved by senior officers of the College. However, the consumption of alcohol at an official college function should never cause an employee to be impaired at the worksite.

Employees who violate the policy of Alcohol and Controlled Substances in the Workplace may be the subject of disciplinary action which can include termination from College employment. Represented employees will be disciplined in accordance with the Disciplinary Articles of collectively negotiated agreements.

In cases where SUNY Geneseo has a reasonable suspicion that an employee is not able to perform his or her duties as a result of a disability which may be caused by alcohol or a controlled substance, the College may proceed under the provisions of Section 72 of the Civil Service Law and require that the employee undergo a medical examination to ascertain whether they are able to perform their job duties.

SUNY Geneseo will assist faculty and staff who have a drug or alcohol problem in their recovery provided the employee seeks and/or accepts assistance. However, SUNY Geneseo will take appropriate formal disciplinary action, which can include penalties up to, and including termination of employment in order to resolve drug or alcohol related performance and/or misconduct problems.

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Employees may be referred to the Employee Assistance Program (EAP) to aid in dealing with drug and/or alcohol problems. EAP is a confidential information assessment and referral program that provides employee requested services. Services include assessment for referral to the most appropriate community resource provider related to the emotional or physical illness, alcohol or drug related problem. Information provided to EAP is kept confidential. Employees who have drug and alcohol problems who would like to seek rehabilitative services through EAP or any other recognized rehabilitation program are encouraged to pursue help before they are determined to be in violation of the Drug-Free Workplace Act or fail the testing requirements of the Omnibus Transportation Employee Testing Act.

RESPONSIBILITIES

Employee

It is the policy of SUNY Geneseo that:

1. The unauthorized use, sale, distribution, dispensing, possession, manufacture, or purchase of a controlled substance by an employee, on SUNY Geneseo property (including property leased or rented by SUNY Geneseo), 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 college functions that are approved by senior officers of the College. However, the consumption of alcohol at an official college function should never cause an employee to be impaired at the worksite.
3. Beginning on January 1, 1996, the Omnibus Transportation Employee Testing Act of 1991 (OTETA) mandates that certain employees in safety sensitive positions submit to drug and alcohol testing. Currently, SUNY Geneseo employees whose positions require the possession of a Commercial Drivers License (CDL) are the only employees subject to such testing. To comply with OTETA, SUNY Geneseo 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 prior to 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 test.
4. After January 1, 1996, 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 prior to 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 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.

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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 Assistant 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 College. 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 this article, whichever is longer.
9. An employee may be directed to undergo medical examination and/or testing under Section 72 of the NYS Civil Service Law, at the expense of SUNY Geneseo 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, 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 College 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 College premises.

Supervisory

It is the policy of SUNY Geneseo that:

1. Supervisors have a very important role in establishing and perpetuating a productive work environment at the College. 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.

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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 College 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 Office of Human Resources 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 Office of Human Resources 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 Office of Human Resources 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 medical exam at the expense of SUNY Geneseo 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.
7. Supervisors shall inform the Assistant Vice President for Human Resources within twenty-four (24) hours of receiving the information from an employee that he/she 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 Geneseo that:

1. A drug and alcohol free workplace be maintained.
2. Appropriate corrective actions be taken with managers and supervisors who fail to perform the duties and responsibilities outlined in this policy.
3. 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.
4. After January 1, 1996, as 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.
5. All employees and supervisors understand and comply with the Drug Free Workplace Act of 1988 and the OTETA testing procedures. SUNY Geneseo will train or arrange for training for supervisors on how to recognize behaviors of alcohol and/or other drug use.

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Education and Prevention

In compliance with the Drug-Free Workplace Act of 1988, in support of the New York State Policy on Alcohol and Controlled Substances in the Workplace and in keeping with the College's interest in maintaining a climate which promotes optimum student and employee health and welfare, the College will continue, on a periodic basis, to offer training programs designed to increase awareness of the dangers of drug and alcohol abuse and of available support services.

Summary Policy Statement

In summary, it is the policy of SUNY Geneseo that all employees will remain free of any controlled substance and/or alcohol induced impairments while on duty, refrain from the use of illegal drugs and/or alcohol while on duty, and while serving in a designated safety sensitive position, undergo any drug and/or alcohol testing in accordance with the Omnibus Transportation Employee Testing Act.

Violation of the provisions of the "Policy on Alcohol and Substance Abuse in the Workplace" may result in disciplinary action up to and including termination of employment according to the terms of the bargaining unit contract of the specific union involved. Employees charged with offering, giving, or selling controlled substances to other employees, students, or visitors on the campus will be suspended without pay and disciplinary action will seek dismissal from State service. Such employees shall also be subject to criminal and civil penalties.