

Aims Community College Procedure

Employee Services

Drug-Free Workplace

Purpose

In compliance with the Drug-Free Workplace Act of 1988, Aims Community College (the “College”) has a longstanding commitment to provide a safe, quality-oriented and productive work environment. Alcohol and drug abuse pose a threat to the health and safety of College employees, students, and community and to the security of the College’s equipment and facilities. For these reasons, the College is committed to the elimination of drug and alcohol use and abuse in the workplace.

Scope

This procedure applies to all employees and all applicants for employment of the College. The Human Resource (HR) department is responsible for procedure administration.

Employee Assistance

The College will assist and support employees who voluntarily seek help for drug or alcohol problems before becoming subject to discipline or termination under this or other College policies. Such employees will be allowed to use accrued paid time off, placed on leaves of absence, referred to treatment providers and otherwise accommodated as required by law. Employees may be required to document that they are successfully following prescribed treatment and to take and pass follow-up tests if they hold jobs that are safety-sensitive or require driving, or if they have violated this procedure previously. Once a drug test has been initiated under this procedure, unless otherwise required by the Family and Medical Leave Act (FMLA) or the Americans with Disabilities Act (ADA or ADAAA), the employee will have forfeited the opportunity to be granted a leave of absence for treatment, and will face possible discipline, up to and including separation of employment.

Work Rules

Employees should report to work fit for duty and free of any adverse effects of illegal drugs or alcohol. This procedure does not prohibit employees from the lawful use and possession of prescribed medications. Employees must, however, consult with their doctors about the medications’ effect on their fitness for duty and ability to work safely, and they must promptly disclose any work restrictions to HR. HR will advise the employee regarding communication with their supervisor.

1. Whenever employees are working, are operating any College vehicle, are present on the College premises or are conducting College-related work offsite, they are prohibited from:
 - a. Representing you are selling, dispensing, possessing, distributing, using, abusing, marijuana, or any other illegal drug;
 - b. Misuse of legal substances, including use of general products as intoxicants or “means to get high”;
 - c. Using prescription medication other than by the person to whom it is prescribed and in accordance with the prescription;
 - d. Being under the influence of alcohol or an illegal drug as defined in this procedure;
 - e. Possession of drug paraphernalia;
 - f. Possessing or using marijuana; or
 - g. Possessing or consuming alcohol.¹
2. The presence of any detectable amount of any illegal drug, illegal controlled substance, or alcohol in an employee’s body system, while performing college business or while present on the College premises², is prohibited.
3. The College also will not allow employees to perform their duties while taking prescribed drugs that are adversely affecting their ability to safely and effectively perform their job duties. Employees taking a prescribed medication must carry it in a container labeled by a licensed pharmacist or be prepared to produce the container if asked by Employee Relations/Human Resources.
4. Any illegal drugs or drug paraphernalia will be turned over to an appropriate law enforcement agency and may result in criminal prosecution.

Required Reporting

All employees have an obligation to ensure a safe working environment and therefore are required to report behaviors that create a reasonable suspicion that an employee is under the influence of illegal drugs or alcohol.

¹ An exception to this portion of the procedure exists for College- and non-college-based events where alcohol is served as a sanctioned offering at the event. Employees of legal drinking age are permitted to responsibly consume alcohol during such events. By permitting of-age Employees to consume alcohol at events on campus, Aims does not waive its right to enforce any other policy or procedure regarding Employee conduct that may be implicated by an Employee’s actions while under the influence of alcohol. Employees are reminded that their actions are always governed by Aims Code of Conduct. Student employees that receive compensation for their time at the event are covered by this policy.

² The exception in Footnote 1 to this procedure also applies to this subsection of the Drug-Free Workplace Policy and Procedure.

Required Testing

1. Pre-employment and Annual

For a variety of reasons including licensing, accreditation, and/or agreements between the College and external entities, some positions at the College require employees and employment applicants to submit for drug and/or alcohol testing. Such testing will occur as a condition of employment prior to hire, and/or may be required as a condition of continued employment with the College. Failure by employees or employment applicants to submit for a drug test, or failure to satisfactorily pass a drug test, is grounds for termination of employment or withdrawal of an employment offer.

2. Reasonable suspicion

Employees are subject to testing based on (but not limited to) observations by at least two employees of apparent workplace use, possession or impairment. HR must be consulted and will make the determination if testing is warranted.

Individuals must use the Reasonable Suspicion Observation Checklist to document specific observations and behaviors that create a reasonable suspicion that an employee is under the influence of illegal drugs or alcohol. Examples include:

- Odors (smell of alcohol, body odor or urine).
- Movements (unsteady, fidgety, dizzy).
- Eyes (dilated, constricted or watery eyes, or involuntary eye movements).
- Face (flushed, sweating, confused or blank look).
- Speech (slurred, slow, distracted mid-thought, inability to verbalize thoughts).
- Emotions (argumentative, agitated, irritable, drowsy).
- Actions (yawning, twitching).
- Inactions (sleeping, unconscious, no reaction to questions).

When reasonable suspicion testing is warranted, both department leadership and HR will meet with the employee to explain the observations and the requirement to undergo a drug and/or alcohol test within two hours. Refusal by an employee will be treated as a positive drug test result and will result in immediate termination of employment.

A member of Campus Safety & Security will offer to transport the employee or arrange for other appropriate transportation to the testing facility, and arrange for the employee to be transported home. If the employee refuses the offer of transport, the College will treat it as a refusal to undergo a drug and/or alcohol test which will in turn be treated as a positive drug test result.

3. Post-accident

Employees are subject to testing when they cause or contribute to accidents that result in an injury to themselves or another individual requiring off-site medical attention, or that seriously damage a College vehicle, machinery, equipment or property. A circumstance

that constitutes probable belief will be presumed to arise in any instance involving a work-related accident or injury in which an employee who was operating a motorized vehicle (including a College forklift, pickup truck, overhead crane, aerial/man-lift, or aviation motorized equipment including aircraft) is found to be responsible for causing the accident, including an off-site accident. In any of these instances, the investigation and subsequent testing must take place within two hours following the accident, if not sooner. Refusal by an employee will be treated as a positive drug test result and will result in immediate termination of employment.

Prompt incident reporting to Campus Safety & Security is imperative to comply with these requirements. Failure to promptly notify that results in a delay to the testing requirement will be treated as a positive drug test result and will result in immediate termination of employment.

A member of Campus Safety & Security will offer to transport the employee or arrange for other appropriate transportation to the testing facility, and arrange for the employee to be transported home. If the employee refuses the offer of transport, the College will treat it as a refusal to undergo a drug and/or alcohol test which will in turn be treated as a positive drug test result.

Procedures for Suspected Violations of Aims' Policy While on the Job

Employees subject to **alcohol testing** will be transported to a College-designated facility and directed to provide breath specimens (alcohol tests may be done by a breath, blood or saliva test, at the College's discretion). Breath specimens will be tested by trained technicians using federally approved breath alcohol testing devices capable of producing printed results that identify the employee. If an employee's breath alcohol concentration is .04 or more, a second breath specimen will be tested approximately 20 minutes later. The results of the second test will be determinative. For purposes of this procedure, test results generated by law enforcement or medical providers may be considered by the College when determining if an employee has violated Aims Policies, Procedures, or Code of Conduct.

Applicants and employees subject to drug testing will be transported to a College-designated testing facility and directed to provide urine specimens. Applicants and employees may provide specimens in private unless they appear to be submitting altered, adulterated or substitute specimens. Collected specimens will be sent to a federally certified laboratory and tested for evidence of amphetamines, barbiturates, benzodiazepines, cocaine metabolite, ethyl alcohol, methadone, opiates, oxycodone, phencyclidine (PCP), propoxyphene, tetrahydrocannabinol (THC); (where indicated, specimens may be tested for other illegal drugs). The laboratory will screen all specimens and confirm all positive screens. There must be a chain of custody from the time specimens are collected through testing and storage.

The laboratory will transmit all positive drug test results to a medical review officer (MRO) retained by the College, who will offer individuals with positive results a reasonable opportunity to rebut or explain the results. Individuals with positive test

results may also ask the MRO to have their split specimen sent to another federally certified laboratory to be tested at the applicant's or employee's own expense. Such requests must be made within 72 hours of notice of test results. If the second facility fails to find any evidence of drug use in the split specimen, the employee or applicant will be treated as passing the test. In no event should a positive test result be communicated to the College until such time that the MRO has confirmed the test to be positive.

All applicants and employees are required to cooperate with the MRO in a timely manner as outlined by the MRO. If an applicant or employee does not respond to the MRO, the case will be closed as positive.

Consequences

Applicants who refuse to cooperate in a drug and/or alcohol test or who test positive will not be hired and will not be allowed to reapply/retest in the future.

Employees who refuse to cooperate in required tests or who use, possess, buy, sell, manufacture or dispense an illegal drug in violation of this procedure will be terminated. If the employee refuses to be tested, yet the College believes they are impaired, the College will take all reasonable steps to prevent the employee from driving themselves home.

Employees who test positive, or otherwise violate this procedure, will be subject to discipline, up to and including termination. Depending on the circumstances, the employee's work history/record and any state law requirements, the College may offer an employee who violates this procedure or tests positive the opportunity to return to work on a last-chance basis pursuant to mutually agreeable terms, which may include follow-up drug testing at times and frequencies determined by the College for a minimum of one year but not more than two years, as well as a waiver of the right to contest any termination resulting from a subsequent positive test. If the employee either does not complete the rehabilitation program or tests positive after completing the rehabilitation program, the employee will be immediately terminated from employment.

Employees will be placed on administrative leave for time spent on alcohol or drug testing and while awaiting the results of the drug or alcohol test. After the results of the test are received, a date and time will be scheduled to discuss the results of the test; this meeting will include a member of management, and Employee Relations/HR.

Confidentiality

Information and records relating to positive test results, drug and alcohol dependencies, and legitimate medical explanations provided to the MRO will be kept confidential to the extent required by law and maintained in secure files separate from normal personnel files. Such records and information may be disclosed among managers and supervisors on a need-to-know basis and may also be disclosed when relevant to a complaint, grievance, charge, claim or other legal proceeding initiated by or on behalf of an employee or applicant.

Inspections

The College reserves the right to inspect all portions of its premises for drugs, alcohol or other contraband. All employees, contract employees and visitors may be asked to cooperate in inspections of their persons, work areas and property that might conceal drugs, alcohol, or other contraband. Employees who possess such contraband or refuse to cooperate in such inspections are subject to appropriate discipline, up to and including termination.

Crimes Involving Drugs

The College prohibits all employees, including employees performing work under contract, from manufacturing, distributing, dispensing, possessing or using an illegal drug in or on college premises or while conducting college business. The College employees are also prohibited from misusing legally prescribed or over-the-counter (OTC) drugs. Law enforcement personnel may be notified, as appropriate, when criminal activity is suspected.

The College does not desire to intrude into the private lives of its employees but recognizes that employees' off-the-job involvement with drugs and alcohol may have an impact on the workplace. Therefore, the College reserves the right to take appropriate disciplinary action for drug use, sale, or distribution while off college premises. All employees who are convicted of, plead guilty to, or are sentenced for a crime involving an illegal drug are required to report the conviction, plea or sentence to the Director of Human Resources or the Director of Employee Relations within five calendar days. Failure to comply will result in automatic discharge. Cooperation in complying may result in administrative leave without pay to allow management to review the nature of the charges and the employee's past record with the College.

Definitions

Administrative leave: Occurs when an employee is relieved of all work-related duties. Leave may be with or without pay at the sole discretion of Aims.

- **Leave with pay:** Current benefits, such as healthcare and leave accrual, will continue uninterrupted, if applicable. The Employee is responsible for the Employee's portion of the Employee's premiums. IT access such as email, Workday, etc. will be suspended. Employee will typically retain Aims issued items such as laptop, ID Badge, keys, etc., however, Aims reserves the right to immediately collect any and all Aims property.
- **Leave without pay:** Existing benefits, such as healthcare, may continue, however, the Employee is responsible for the entire healthcare premiums. Leave accrual will be suspended, though balances will remain intact unless used as described below. IT access such as email, Workday, etc. will be suspended. Employee will not retain Aims issued items such as laptop, ID Badge, keys, etc.

Employees may utilize their current Personal and Annual leave balances, if applicable, during this period.

College premises: Includes all buildings, offices, facilities, grounds, parking lots, lockers, aircraft, and vehicles owned, leased or managed by the College or any site on which the College is conducting business.

Illegal drug: Means a substance whose use or possession is controlled by federal law but that is not being used or possessed under the supervision of a licensed healthcare professional. (Controlled substances are listed in Schedules I-V of 21 C.F.R. Part 1308.)

Refuse to cooperate: Means to obstruct the collection or testing process; to submit an altered, adulterated, or substituted sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or to fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure.

- Employees who leave the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will also be considered to have refused to cooperate and will automatically be subject to termination.
- Employees that do not report an accident in a timely manner to Campus Safety & Security, that results in failure to comply with this policy, will be considered to have refused to cooperate and will automatically be subject to termination.

Sanctioned Event: Means an event conducted by the College that has received formal approval.

Under the influence of alcohol: Means an alcohol concentration equal to or greater than .04, or actions, appearance, speech, or bodily odors that reasonably cause a supervisor to conclude that an employee is impaired because of alcohol use.

Under the influence of drugs: means a confirmed positive test result for illegal drug use per this procedure. In addition, it means the misuse of legal drugs (prescription and possibly OTC) when there is not a valid prescription from a physician for the lawful use of a drug in the course of medical treatment (containers must include the patient's name, the name of the substance, quantity/amount to be taken and the period of authorization).

Enforcement

The Director of Human Resources is responsible for procedure interpretation, administration and enforcement.

Adopted: College Council, December 12, 2022

Responsible Administrator: Executive Director/CHRO of Employee Services