



Policy: Drug-Free Workplace

Responsibility: All Maritime Employees

This policy reaffirms the standards of SUNY Maritime College regarding prohibition of drugs and alcohol in the workplace established in compliance with the federal Drug-Free Workplace Act of 1988. It is meant to assist employees in guiding their conduct which will increase productivity at work, and protect co-workers and students. The policy provides instruction for supervisors when an employee appears to be impaired at work. These efforts will contribute to a safer work and learning environment for the SUNY Maritime community. The following list reflects the major sections of this document:

- **Omnibus Transportation Employee Testing Act of 1991**
- **Employee Responsibilities**
- **Supervisory Responsibilities**
- **Management Responsibilities**

Omnibus Transportation Employee Testing Act of 1991

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 Maritime College 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 Maritime College 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 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 Offers of employment will be withdrawn for otherwise qualified applicants to safety sensitive positions who fail or refuse to take drug pre-employment test.

SUNY Maritime College will assist employees who have a drug or alcohol problem to recover provided the employee seeks and/or accepts assistance. However, SUNY Maritime 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. 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.

Employee Responsibilities

It is the policy of SUNY Maritime College at that:

1. No employee shall use, sell, distribute, dispense, possess, or manufacture any alcoholic beverage or illegal drug on the job site, on SUNY Maritime College property (including property leased or rented by SUNY Maritime College), while on duty, in a State vehicle, on board the Empire State Training Ship, a vehicle

leased or rented for State business, or a private vehicle being used for State business during the employees' work hours.

2. After January 1, 1996, an employee notified of being in a safety sensitive position as defined by the rules of the 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 CMV.
3. 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. No employee notified of being 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.
4. An employee on paid standby status shall remain fit for duty at all times in accordance with this policy.
5. While prescription drugs are not prohibited, they should not render an employee unfit for duty. Situations of this nature should be brought to the attention of the supervisor by the employee, especially if the employee's job responsibilities have an impact on the health and safety of others and/or has been identified as 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 their physician that the prescription substance does not adversely impact fitness to do their job.
6. 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. Employees serving in safety sensitive positions shall be required to take post-accident alcohol and drug tests in accordance with the OTETA. A safety sensitive employee shall not use alcohol for eight (8) hours following an accident or until the employee undergoes the post-accident alcohol test, whichever occurs first.
7. An employee shall notify his/her supervisor, Dean or Director, in *writing*, of any criminal drug and/or alcohol statute conviction which results from a violation occurring no later than *five (5) calendar days* after the date of conviction (Drug-Free Workplace Act of 1988). The supervisor, Dean or Director who has been notified of such conviction must inform the Director of Human Resource Services within twenty-four (24) hours of receiving the information from the employee.
8. Article 19A, Section 509(I) of the NYS Vehicle and Traffic Law states that a driver notified that their 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 (Director or 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 their employer of such suspension, revocation, or conviction of 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 Maritime College if the supervisor (or trained official) suspects that the employee is not able to perform their duties as a result of alcohol or controlled substance related disabilities. Employees in safety sensitive positions must undergo alcohol and/or drug testing when the supervisor (or trained official) has "reasonable suspicion" to believe the 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. Violation of the provisions of this " 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, and referral for prosecution, independent of action taken by the civil authorities.

Supervisory Responsibilities

It is the policy of SUNY Maritime College that:

1. Supervisors (or trained official) 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 (see 9. under Employee Responsibilities, above).
2. Employees suspected of being unfit for duty may not remain at the workplace. Such incidents and situations, as described in 1. above should be witnessed and documented in writing immediately. An employee who is impaired should not be permitted to drive home from the workplace (see 3. below).
3. After reasonable suspicion testing issues have been resolved, the supervisor (or trained official) should arrange to send the employee home with a member of the employee's family or with a friend of the employee or in a taxi, at the employee's expense. If all other alternatives have been exhausted, a supervisor may allow the employee to be driven home in a State vehicle.
4. Employees suspected of being unfit for duty as a result of alcohol or drug use should be directed for medical examination by physicians identified by SUNY Maritime College. Employees covered by the OTETA must immediately be referred for testing.
5. The fact that an employee suspected of being unfit to perform their duties due to the influence of alcohol or drugs are not considered a disciplinary suspension. After an employee is removed from the workplace the supervisor(s) and manager(s) should discuss whether disciplinary charges or other administrative actions should be brought to the Director of Human Resource Services. Each situation requires a case-by-case review.
6. If an employee displays dangerous, aggressive, or abusive behavior which constitutes a danger to persons or property and resists voluntary leaving the workplace, clearance to suspend the employee, under the provisions of the disciplinary procedures of the appropriate union contract, should be arranged with the Director of Human Resource Services. If necessary, University Police should be contacted to assist in the removal of the employee from the workplace.
7. An employee who reports to work unfit for duty and is sent home, using sick leave accruals or sick leave without pay, may be subject to medical exam at the expense of SUNY Maritime College as a condition of returning to work. In such cases, the appropriate staff of the Human Resources Office should be contacted for advice and assistance.

Management Responsibilities

It is the policy of SUNY Maritime College that:

1. A drug and alcohol free workplace must be maintained.
2. Appropriate corrective actions will 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(s) seek assistance through the EAP.
4. After January 1, 1996, 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. Managers should also direct other employees under their supervision believed to be unfit for duty for medical examination.
5. All employees and supervisors understand and comply with the Drug Free Workplace Act of 1988 and the OTETA testing procedures. SUNY Maritime College will train supervisors and managers how to recognize behaviors which indicate that reasonable suspicion exams or alcohol or drug testing is appropriate.

Rev 08/16/2012