

Office/Contact: Office of Human Resources

Source: SDCL Ch. 3-6F; ARSD 55:05; Bureau of Human Resources Drug and Alcohol Testing Policy;
University Policy 4:7 (Drug Free Environment)

Link: https://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=3-6F;

alcohol, or has engaged in conduct that violates this policy.

- f. Safety-Sensitive or Security-Sensitive Position: A position determined by state law or by the V.P. for Human Resources, successor, or designee, to entail duties of such a nature that a compelling University interest to keep the incumbent drug or alcohol free outweighs the employee's privacy interests. The following are non-exclusive examples of safety-sensitive and security-sensitive positions:

regulation CFR 49 Part 40. Drug and alcohol testing for aircraft flight crew, instructor, and maintenance employees must conform to FAA regulation 14 CFR Part 120. Job announcements and letters of offer for safety-sensitive or security-sensitive positions will contain language indicating that employees will be subject to pre-employment and post-employment suspicionless drug and alcohol testing in accordance with this policy. All other employees will be subject to reasonable suspicion drug and alcohol testing. The University's testing policy shall comply with the Americans with Disabilities Act.

b. Drug and Alcohol Testing

i. The University shall require drug testing for its employees under the following conditions:

1. Reasonable Suspicion – Any employee shall be required to submit to a drug or alcohol test if their supervisor has reasonable suspicion that the employee is using and/or under the influence of drugs and alcohol.

Reasonable suspicion is defined as a specific, articulable suspicion of drug or alcohol use based on the observation of physical symptoms, odor, or other indicators of impairment.

- e. Observation of deterioration in the employee's job performance that is likely to be attributed to drug or alcohol use by the employee; or
- f. Newly discovered evidence that an employee tampered with a previous drug test.

The above observations and sources of information must be documented. Before administering a drug or alcohol test, the supervisor must provide

7. Random Testing – Every employee in a safety-sensitive or security-sensitive position shall be required to submit to random drug testing. Employees selected at random are required to report for testing immediately. All such testing shall, if practical, occur during the selected employee's scheduled work hours.
8. Employees may otherwise be tested for drugs or alcohol if the test does not violate federal or state law.

ii. Confidentiality

1. All inquiries, investigations and discussions between supervisor and employee regarding reasonable suspicion and random testing shall be conducted in private and held confidential to the extent required by applicable law, including records created as a result.
2. All information and/or test results received by the University through its drug and alcohol testing program are confidential communications, but may be used or disclosed in any civil or administrative proceeding as allowed by applicable law. Only University employees who have a need to know will have access to test results, and those employees shall keep test results confidential.
3. The employee may waive any of the above provisions upon the employee's written request.

iii. Education and Referral for Treatment

1. The University will provide drug- and alcohol-awareness information to all employees. This includes University Policy 4:7, Drug Free Environment.
2. If an employee receives a confirmed positive drug screen result, the

4. Procedures

- a. Once a supervisor has reasonable suspicion of an employee's using and/or under the influence of drugs or alcohol, or one of the above-listed incidents triggering drug and alcohol testing occurs, the supervisor should document the employee's behavior, physical state, and actions prior to meeting with the employee.
- b. The supervisor should then, if possible, obtain another member of management to verify the behavior, state, or actions of the employee indicating use or abuse of drugs or alcohol.
- c. If during normal business hours, the supervisor should contact the Office of Human Resources to discuss the situation before meeting with the employee. If after hours, the supervisor should contact the Office of Human Resources as soon as the Office is open. The Office of Human Resources shall provide instruction on the foregoing elements of this procedure, the relevant forms, and where to transport the employee for testing, should the employee consent.
- d. Once Human Resources staff have been consulted, the supervisor shall meet with the employee in a private location in the presence of a second management witness and

The lab shall then review documentation provided for all positive results to ensure accuracy.

- k. Employees with a confirmed positive result will be subject to the applicable SDBOR and