

IDAHO STATE UNIVERSITY
POLICIES AND PROCEDURES (ISUPP)
Drug and Alcohol Free Workplace
ISUPP 3180

POLICY INFORMATION

Policy Section: *Human Resources*

Policy Title: *Drug and Alcohol Free Workplace*

Responsible Executive (RE): *Human Resources Director*

Sponsoring Organization (SO): *Human Resources*

Dates: Effective Date: *May 2002*

Revised: *December 11, 2017*

I. INTRODUCTION

The purpose of this policy, and the programs listed, is to work toward the prevention of substance abuse in the University community. The University wishes to encourage the creation of an educational environment for its students conducive to making conscientious and healthy decisions when faced with difficult choices associated with the use of legal and illegal drugs and alcohol and to provide a better working environment for faculty and staff. It is the intention of the University to make drug and alcohol training and education an important part of the social and academic aspects of campus life.

The University cannot be responsible for the personal lives and decisions of students, faculty and staff; however, if the use or abuse of drugs and/or alcohol threatens to cause disorder or danger to the members of the University community, others, or campus property, appropriate action will be taken. Enforcement and discipline shall be consistent and due process appropriate for the offense shall be applied in accordance with established State, SBOE and University policies and procedures.

II. POLICY STATEMENT

Idaho State University is committed to maintaining a safe and healthy environment for members of the University community. The University recognizes the health risks associated with Drug and Alcohol Abuse and is committed to supporting employees who seek treatment for these conditions. Policy violations may result in disciplinary action, but will also be an opportunity for the University to help Employees find appropriate services and treatment for Drug and/or Alcohol Abuse. All members of the University community have a personal responsibility to adhere to all applicable laws, policies, and regulations concerning the use of Alcohol or other Drugs.

III. AUTHORITY AND RESPONSIBILITIES

- A. The Office of Human Resources (HR or Human Resources) is solely authorized to conduct and oversee the employment-related, non-DOT regulated drug and alcohol testing process on behalf of ISU. HR may work with internal, or external health care/testing facilities or contract with outside companies in executing any of the obligations set forth in this policy. HR is responsible for consulting with management in making decisions regarding when drug and alcohol testing is appropriate in consultation with the Office of General Counsel and

Public Safety. The HR Office will also be responsible to consult with management, General Counsel, and Public Safety on appropriate corrective and/or disciplinary action when there has been a violation of this policy.

B. Management and Employee Shared Responsibilities

A safe and productive drug and alcohol-free workplace is achieved through cooperation and shared responsibility. Both employees and the University have important roles to play. All employees are required to report to work or perform job duties free from being Impaired due to on-, or off-duty use of Alcohol, Controlled Substances, or Other Drugs.

1. In addition, employees are encouraged to:
 - i. Share a mutual desire for working in a safe environment;
 - ii. Support fellow employees seeking help for drug and alcohol abuse;
 - iii. Use the Employee Assistance Program and/or other treatment and education programs as needed; and
 - iv. Report behavior that is contrary to this policy to their supervisor in the interest of safety for the campus community.
2. It is the supervisor's responsibility to:
 - i. Observe employee performance; and
 - ii. Document and address negative changes and problems in performance while consulting with the HR Office and Management when there are possible violations of this policy; and
 - iii. Take measures to ensure confidentiality and privacy for employees subjected to drug and alcohol testing.

IV. DEFINITIONS

- A. Alcohol – the intoxicating agent in beverage alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.
- B. Drug and/or Alcohol Abuse – Use of Alcohol, chemicals, or Controlled Substances or other drugs (including legally obtained prescription drugs taken for reasons or in ways or amounts not intended by the prescribing doctor, or in the case of over the counter medications, taken in a manner that is not in accordance with label directions) in a manner that impairs an individual's ability to perform his or her job.
- C. Controlled Substance – A substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), as further defined by regulations at 21 CFR 1300.11 through 1300.15 and as defined in Idaho Code.
- D. Contract – A legal instrument reflecting a relationship between the federal, state, or local government, or other private organization and a recipient whenever the principal purpose of the instrument is the acquisition of property or services for the direct benefit or use of the funding organization; or whenever said agency determines in a specific instance that the use of a type of procurement agreement is appropriate.

- E. Conviction – A finding of guilt (including a plea of nolo contendere or Alford pleas) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of federal, state, or local laws, for violating any Drug Law or where the use of Drugs and/or Alcohol was found to be a contributing factor of the law violation.
- F. Drug Law – A criminal statute or regulation involving the manufacture, sale, distribution, dispensation, use or possession of any Controlled Substance.
- G. Employee – Any faculty, staff, or student receiving a salary, wages, or other compensation from the university.
- H. Federal Agency – Any United States executive department, military department, government corporation, government-controlled corporation, or any other establishment in the executive branch (including the Executive Office of the President), or any independent regulatory agency.
- I. Grant – An award of financial assistance, including a cooperative agreement, in the form of money or property in lieu of money, by a Federal Agency or private organization directly to a grantee. The term Grant includes block grant and entitlement grant programs, whether or not exempted from coverage under the grants management government wide regulation (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments). The term does not include technical assistance, which provides services instead of money, or other assistance in the form of loans, loan guarantees, interest subsidies, insurance, or direct appropriations; or any veterans’ benefits to individuals, i.e., any benefit to veterans, their families, or survivors by virtue of the service of a veteran in the United States Armed Forces.
- J. Impaired – To be under the influence of a drug or alcohol such that the employee’s motor senses (e.g., sight, hearing, balance, reaction, reflex) professional judgement, or job performance either are, or may reasonably be presumed to be affected.
- K. Workplace – the physical boundaries of the University and all University-owned/controlled property, vehicles, and facilities; to include all Idaho State premises where the activities of the University are conducted, as well as locations where Employees are representing the University in an official capacity.

V. PROCEDURES TO IMPLEMENT

- A. Violations of this Policy are as Follows:
 - 1. The unlawful or unauthorized manufacture, distribution, dispensation, possession, or use of Drugs or Alcohol in the Workplace;
 - 2. An Employee who is Impaired in the Workplace from Drug and/or Alcohol use;
 - 3. A Conviction based upon conduct occurring in the traditional Workplace or where the Employee is representing the University in an official capacity which negatively impacts the Employee’s work at the University; or
 - 4. An Employee’s failure to report the Employee’s charge or conviction, as required in section V.B.
- B. Notice of Charges and Convictions
 - 1. All employees who receive a charge or Conviction related to Alcohol, Controlled Substances, or Other Drugs must notify their supervisor within two (2) business days

of the charge or Conviction, in accordance with ISUPP 3170, Background Investigations. An Employee's appeal or intent to appeal a charge or a Conviction does not affect the Employee's obligation to report the charge or Conviction. A supervisor who is notified of an employee's charge or Conviction must notify the HR Office and their respective management team so that proper management action can be considered as outlined in section V.D.1 of this policy.

2. Convictions for employees working on Grants. In addition to the management and HR notification action outlined in the prior section of this policy, the HR Office and any supervisor, who is notified of a Conviction of any Employee engaged in performance of work under a Grant or Contract for violation of a Drug Law at the Workplace, must immediately report the Conviction to the Office of the Vice President for Research. The Office of the Vice President for Research must notify the appropriate Federal Agency, if applicable, within ten (10) working days with notification from the University of such a Conviction.

C. Education and Treatment Programs

1. The University maintains programs to aid employees in the awareness of dangers associated with Alcohol and other Drug Abuse. Information regarding programs is available in the HR Office, Department of Counseling and Testing, University Health Center and/or online at www.isu.edu/hr. The following may be available for addressing Abuse problems:
 - i. Medical benefits for substance abuse treatment through applicable group insurance programs;
 - ii. On-campus consultation and referral services with the Department of Counseling and Testing;
 - iii. Community-based drug and alcohol treatment programs;
 - iv. On-campus treatment with the University Health Center; and
 - v. The Employee Assistance Program, (EAP) at (877) 427-2327, which offers short-term counseling services for a variety of matters, including substance abuse for Employees who are eligible for the State of Idaho benefit package.
2. Participation in the above programs is voluntary; however, the University may consider voluntary participation in programs in determining any sanctions for violation of this policy. Information regarding participation in these programs is strictly confidential.

D. Impact to Employees

Outcomes for violations of this policy may be corrective or disciplinary in nature, depending on the severity of the violation. Employees in violation of this policy may be subject to loss of professional licensure or certification where applicable, which may result in an inability to work in certain fields and additional professional sanctions, (sanctions from a professional governing board of pharmacy or nursing for example). Employees should also be aware that they might be subject to criminal prosecution under federal, state, and local laws that specify fines or imprisonment for Conviction of violating any Drug Law or where the use of Drugs and/or Alcohol was found to be a contributing factor of a law violation. Legal and/or professional sanctions are in addition to any disciplinary action taken by the University.

1. Management Consultation. HR will coordinate as needed with the Employee's supervisor; the appropriate Vice President or direct report to the President; Director of Public Safety, and General Counsel (or their delegated representatives) to determine whether an Employee may continue to perform his/her job responsibilities or if the Employee should be placed on administrative leave to allow the University the opportunity to determine the appropriate employment action. HR will take appropriate measures to ensure the confidentiality of the process, and the privacy of the employee throughout the process.
2. Corrective or Disciplinary Action. Violations of this policy or related University policies will be managed on a case-by-case basis following the policies and procedures applicable to faculty, staff or students. In determining the appropriate corrective or disciplinary action, the University may consider the Employee's work record, the seriousness of the violation, the safety-sensitivity of the Employee's position, whether the behavior included violence in the workplace, loss of professional licensure or certification, and any other relevant factors. Disciplinary action may include but is not limited to: suspension without pay, involuntary demotion or transfer, and termination of employment. Disciplinary action will be contemplated following applicable sections of State, SBOE, and University policies.
3. Employee Treatment Programs. Idaho State University is firmly committed to promoting high standards of health, safety and efficient service. Employees with Abuse problems are encouraged to participate in a counseling or rehabilitation program prior to finding themselves in a disciplinary situation. Provisions under the Family Medical Leave Act (FMLA) and/or the Americans with Disabilities Act (ADA) may provide support in this effort. Additionally, benefits eligible Employees are encouraged to make voluntary use of the Employee Assistance Program.

E. Workplace Inspections

1. The University's property is subject to searches and inspections, anytime without notice. University property does not include the private property of employees, such as purses, automobiles, coats, etc.
2. When it reasonably suspects that this policy or any procedure under this policy has been violated, the University reserves the right to inspect the Workplace for Drugs, Alcohol, or paraphernalia relating to Drugs or Alcohol and to question any Employee.
3. The decision to conduct a workplace inspection should be made jointly by the supervisor who believes the inspection would be appropriate under this policy and the HR Office who will consult with the Office of General Counsel and Public Safety regarding the justification for the inspection and the way in which the inspection will be executed.
4. Nothing in this policy limits Public Safety in any way from questioning members of the University community or searching individuals or inspecting University premises with reasonable probable cause.

F. Employee Drug and Alcohol Testing

1. Employees in certain safety-sensitive occupations may be subject to pre-employment and/or random Drug and Alcohol testing. Safety-sensitive occupations include:

- i. Teaching and/or working at a clinical site that requires testing;
 - ii. Conducting research under a federal license that allows work with Controlled Substances, or as required under a grant-funded project;
 - iii. Driving an applicable vehicle with a Commercial Driver's License; or
 - iv. Campus security and operations under the direction of Public Safety.
2. For positions that are subject to pre-employment Drug and Alcohol testing, the University will:
 - i. Clearly announce to job applicants as part of the job announcement process that a position requires the successful completion of a pre-employment Drug and Alcohol test.
 - ii. Provide clear instructions to successful job applicants on applicable Drug and Alcohol testing procedures and locations.
 - iii. No pre-employment Drug and Alcohol tests will be conducted on job candidates who have not received an offer of employment that is conditional upon the successful completion of a Drug and Alcohol test.
3. Safety-sensitive positions as described in V.F.1 that are subject to random Drug and Alcohol testing will be notified of the specific random testing procedures of that respective clinic and/or department.
 - i. Departments wishing to develop random Drug and Alcohol testing procedures must consult with the HR Office and have any proposed random testing procedures approved by the Office of General Counsel. Random testing procedures will only be approved for departments when there is appropriate legal authority to establish such testing procedures.
4. All Employees may be subject to reasonable suspicion Drug and Alcohol testing.
 - i. Drug and Alcohol testing of employees may be conducted if there is reasonable suspicion of working under the influence of Drugs and Alcohol, including reasonable suspicion following a work-related accident. Testing must be based on documented objective facts or circumstances including, but not limited to, aroma of Alcohol on breath, direct observation of using Drugs or Alcohol, erratic/strange behavior or appearance in the workplace including slurred speech and reduced motor functions, or self-disclosure of being under the influence of Drugs or Alcohol at work.
 - ii. Reasonable suspicion testing may be recommended by a supervisor, chair or other University administrator in consultation with the HR Office, only after completion of a Reasonable Suspicion Testing Checklist. A test will not be conducted without authorization from General Counsel, the HR Director, and Public Safety Director after reviewing the completed Reasonable Suspicion Testing Checklist as referenced in Section VII of this policy. The totality of circumstances, observations, and severity of behavior as documented on the checklist in relation to the job will be reviewed to determine if reasonable suspicion exists that an employee might be Impaired before authorizing testing.

- iii. Consent to testing. After HR, General Counsel and Public Safety have reviewed the Reasonable Suspicion Testing Checklist and have established that reasonable suspicion exists; HR will ask the supervisor/manager to complete the Reasonable Suspicion Testing Consent Form as referenced in Section VII of this policy. Refusal to undergo reasonable suspicion testing will be considered a violation of policy. An employee will be subject to corrective action and progressive discipline up to and including termination if the employee refuses reasonable suspicion testing, adulterates or dilutes the specimen, substitutes the specimen, sends an imposter to test or refuses to cooperate in the testing process in such a way that prevents completion of the test.
- iv. Employee Transported to Testing Site. When HR, Public Safety, and General Counsel have established reasonable suspicion, the supervisor and a witness approved by HR will transport the employee to the appropriate testing location. Where possible, the witness will be a representative from the HR Office. No employee that is subject to a reasonable suspicion drug or alcohol test will be permitted to operate a vehicle in route to the testing location or elsewhere. Management should notify law enforcement if the employee attempts to operate a vehicle before, or after testing. Following testing, the employee will be transported back to the workplace and will then be placed on paid administrative leave until such time that the university has received testing results and determined appropriate corrective or disciplinary action.
- v. Testing Locations – the University has designated the following locations for the completion of drug and alcohol testing. Charges for testing will be billed to ISU Human Resources:
 1. Pocatello:
 - a. Portneuf Workmed Medical Center
500 S. 11th Ave. #500
Pocatello, ID 83201
Phone: 208-239-1940
After Hours: 208-239-1800
 2. Idaho Falls:
 - a. Wienhoff Drug Testing
2235 E. 25th Street Suite 150
Idaho Falls, ID 83404
Phone: 208-528-9000
After Hours: 208-528-9000
 3. Meridian:
 - a. St. Luke's Occupational Health Service
520 S. Eagle Road, #2213
Meridian, ID 83642
Phone: 208-706-5447

4. Twin Falls:

- a. St. Luke's Magic Valley Regional Medical Center
775 Pole Line Road West
Twin Falls, ID 83301
Phone: 208-814-8114

G. Disciplinary Procedures for Non-Compliance

- 1. Disciplinary action taken against classified staff, non-classified staff, and faculty for non-compliance with this policy will be in accordance with applicable policies and procedures as identified in Section VI of this policy.

VI. RELATED LAWS, RULES, AND POLICIES

A. ISU Policies and Procedures <http://www2.isu.edu/policy/>

a. Section III – Human Resources <http://www2.isu.edu/policy/3000/index.shtml>

- i. Background Investigations, ISUPP 3170
- ii. Categories of Employees, ISUPP 3050
- iii. Disciplinary Action for Non-Classified Staff, ISUPP 3130
- iv. Disciplinary Action for Classified Staff, ISUPP 3190

b. Section IV – Academic Affairs <http://www2.isu.edu/policy/4000/index.shtml>

- i. Faculty Suspension/Dismissal/Termination for Cause, ISUPP 4039

B. State Board of Education Governing Policies and Procedures
https://boardofed.idaho.gov/policies/i_policy.asp

a. Section I – General Governing Policies and Procedures

- i. Subsection J. Use of Institutional Facilities and Services with Regard to the Private Sector

- 1. Paragraph 2. Possession, Consumption, and Sale of Alcohol Beverages at Institutional Facilities

C. Idaho Code Title 72 Chapter 17, Employer Alcohol and Drug Free Workplace Act

D. Drug Free Workplace Act of 1988

E. Omnibus Transportation Employee Testing Act of 1991

F. 21 CFR 1300 through 1300.15 Definitions Regarding Controlled Substances

VII. RELATED FORMS

A. Manager Forms <https://isu.edu/hr/forms/>

- a. Reasonable Suspicion Drug and Alcohol Testing Checklist and Reasonable Suspicion Testing Consent Form

PRESIDENTIAL CERTIFICATION

Approved by Arthur C. Vailas
President, Idaho State University

Date: _____