

CHAPTER IV

PERSONNEL

SECTION 1: GENERAL POLICIES

Sec. 1-1. Drug-Free Campus Policy

(a) **Drug-Free Campus Policy.** As an educational and public service institution, Rose State College (RSC) recognizes its responsibility to promote a productive learning and work environment. The Drug Free Workplace Act of 1988 and The Drug Free Schools and Communities Act Amendment of 1989 required the establishment of anti-drug programs and prohibited the use of illicit drugs in the workplace of an educational institution that received federal funds. In order to meet its responsibilities, the College has established the following policy:

- (1) **Illicit drugs.** The illegal manufacture, distribution, possession or use of illicit drugs or alcohol on the campus or anywhere else as any part of the College's activities is strictly prohibited.
- (2) **Safety and security.** An employee is forbidden to perform safety-sensitive, security-sensitive or image-sensitive functions while a prohibited drug is in his/her system or possession.
- (3) **Criminal conviction.** An employee must notify his or her supervisor of a criminal conviction or Plea of Guilty or No Contest for drug-related or alcohol-related offenses no later than five calendar days following the conviction or Plea of Guilty or No Contest.
- (4) **Referral.** A referral service for drug or alcohol counseling and treatment is available through the Student Affairs area to all students and employees. Treatment and rehabilitation programs will be conducted at the direction and the expense of the student or employee. Sick leave or other appropriate benefits may be available for treatment or rehabilitation services for benefits-eligible RSC employees. Seeking help from these services, or being referred to or from these services, is confidential and will not, by itself, result in disciplinary action. Individual privacy will be maintained in any counseling/rehabilitation process. Satisfactory completion of a treatment or rehabilitation program may entitle the student or employee to reenter a campus program of study or employment.
- (5) **Testing.** Drug and alcohol testing of applicants for regular positions (50% or more) and current employees shall be conducted in accordance with applicable federal and state law. RSC requires all job applicants for regular positions (50% or more), who have received a conditional offer of employment, to undergo drug and alcohol testing prior to employment. Also, RSC may require or request current employees to undergo testing under the following circumstances: Reasonable suspicion testing; Post-accident testing; Random testing; Scheduled, periodic testing; and Post-rehabilitation testing. The above stated circumstances are explained in Section 1-1(b) Alcohol and Drug Testing Policy Applicable to RSC Employees and Applicants.
- (6) **Condition of Employment.** Employees and students are required to abide by the terms of this policy as a condition of employment or matriculation.

(7) **Notification.** Students and employees will receive notification of the College's policy, applicable legal sanctions, and a description of the health risks associated with the use of illicit drugs and the abuse of alcohol.

(8) **Violation of Policy.** A violation of this policy will be considered a major offense, which may result in an immediate recommendation for dismissal of an employee or expulsion of a student. Employees may be required to demonstrate satisfactory participation in a drug rehabilitation program. A criminal conviction is not required for sanctions to be imposed upon an employee or student for violation of this policy.

(b) **Alcohol and Drug Testing Policy applicable to RSC employees and applicants.** Student and employee safety is of paramount concern to the RSC Board of Regents. Employees under the influence of alcohol, drugs, or controlled substances are a serious risk to themselves and to other employees. The Board of Regents hereby commits itself to a continuing good faith effort to maintain a drug-free workplace. Drug and alcohol testing of employees shall be conducted in accordance with applicable federal and state law.

(c) **Definitions.** The following words and terms when used in this policy shall have the following meaning unless the context clearly indicates otherwise.

"**Alcohol**" means ethyl alcohol or ethanol.

"**Alcohol test**" means a breath or saliva test administered for the purpose of determining the presence or absence of alcohol or its metabolites in a person's bodily tissue, fluids, or products. Testing of RSC employees is conducted and evaluated by qualified individuals and facilities licensed by the Oklahoma State Department of Health (OSDH) in accordance with Standards for Workplace Drug and Alcohol Testing Act. [40 O.S. § 551 – 565]

"**Applicant**" means any person making application for initial hire of a regular position (50% or more). Rose State College, upon conditional offer of employment, requires the applicant to undergo alcohol and drug testing.

"**Conditional offer of employment**" means an offer made to an applicant for employment with RSC, conditioned upon successful completion of a drug and alcohol test prior to the start of employment.

"**Confirmation test**" means an alcohol or drug test, conducted in accordance with Drug and Alcohol Testing Rules, as amended, adopted by OSDH, to substantiate the results of a prior alcohol or drug test. For urine or hair, the test is performed on the same sample or a split sample.

"**Drug**" means any controlled substance approved for hair or urine testing by OSDH, including amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a metabolite of any of the substances listed herein.

"**Drug Test**" means a hair or urine test administered for the purpose of determining the presence or absence of a drug or its metabolites in a person's bodily tissue, fluids, or products. Testing shall conform to the Drug and Alcohol Testing Rules, as amended, adopted by OSDH. The testing of RSC employees is conducted and evaluated by qualified individuals and facilities licensed by OSDH in accordance with Standards for Workplace Drug and Alcohol Testing Act. [40 O.S. § 551 – 565]

"**Employee**" means anyone employed by RSC, whether designated as executive, administrative, managerial, faculty, professional, classified, probationary, or temporary.

"**Random Testing**" means an objective mechanism for selecting employees for alcohol and drug testing, which results in an equal probability any employee from a group of employees will be selected.

“Reasonable suspicion testing” means a belief that an employee is using or has used drugs or alcohol in violation of RSC’s written policy. Reasonable suspicion is drawn from specific, objective, and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon but not limited to:

- (1) Observable phenomena, such as: (a) the physical symptoms or manifestations of being under the influence of a drug or alcohol while at work or on duty, or (b) the direct observation of drug or alcohol use while at work or on duty;
- (2) A report of drug or alcohol use while at work or on duty, provided by reliable and credible sources and which has been independently corroborated;
- (3) Evidence that an individual has tampered with a drug or alcohol test during his/her employment with RSC;
- (4) Evidence that an employee is involved in the use, possession, sale, solicitation or transfer of drugs while on duty or while on RSC’s premises or operating RSC’s vehicle, machinery, or equipment.

“Review officer” means a physician certified pursuant to Standards for Workplace Drug and Alcohol Testing Act [40 O.S. § 551 – 565] who reviews positive alcohol and drug test results and contacts each individual having a positive alcohol or drug test to determine if there is a medical reason for the positive test result.

(d) **Persons subject to alcohol and drug testing are:**

- (1) All applicants for regular positions (50% or more), who have received conditional offers of employment, are required to take a pre-employment drug and alcohol test. A confirmed positive test result, or a refusal to be tested, is a basis for refusal to hire;
- (2) All employees of RSC are subject to reasonable suspicion drug and alcohol testing; post-accident drug and alcohol testing; and post-rehabilitation testing; and
- (3) Employees of RSC engaged in activities which directly affect the safety of others are subject to random alcohol and drug testing and scheduled periodic alcohol and drug testing.
- (4) Employees of RSC who work in direct contact with inmates in the custody of the Department of Corrections or work in direct contact with juvenile delinquents or children in need of supervision in the custody of the Department of Human Services are subject to random alcohol and drug testing and scheduled periodic alcohol and drug testing.

(e) **Notice of communication.** The President, or his designee, shall ensure a copy of the policy is:

- (1) Provided to all employees;
- (2) Provided to employees 30 days prior to the initial implementation or implementation of changes;
- (3) Conspicuously posted in all prominent employee access areas; and
- (4) Provided to each applicant upon his/her receipt of a conditional offer of employment. Each employee of Rose State College is hereby notified that, as a condition of employment, the employee must abide by the terms of this policy.

(f) **Types of testing.**

- (1) **Applicant testing.** RSC requires all job applicants for regular positions (50% or more), who have received a conditional offer of employment, to undergo drug and alcohol testing prior to employment. The applicant will be informed of the pre-employment drug and alcohol test requirements by the President, or his designee, and will be given a copy of this policy. Upon receiving a conditional offer of employment, the applicant will be

notified by the President's office of the scheduled appointment to report to the drug testing facility.

The applicant shall not be hired if he/she refuses to test. Refusals include, but are not limited to: (1) failure to appear at the test collection site for the sample collection at the designated time; (2) failure to provide satisfactory identification to the person responsible for sample collection; (3) refusal to provide a specimen; (4) failure to remain at the testing site until the collection is completed; or, (5) tampering with or contaminating the urine specimen. At the drug testing facility, the applicant is required to follow all instructions given by the person responsible for the collection of the urinalysis sample testing or for evidential breath testing.

Substances tested shall be for drugs and alcohol as defined in the Standards for Workplace Drug and Alcohol Testing Act, including controlled substances approved for testing by rule by the State Commissioner of Health. All positive results will be reviewed by a review officer. Any applicant who tests positive will not be hired.

Test results and related documentation shall be kept confidential and maintained by the Human Resources/Affirmative Action office for use only in employment related matters. An applicant may inspect and/or obtain all information and records related to that individual's testing.

(2) Current Employees' testing.

(A) RSC may request or require all current employees to undergo testing under the following circumstances:

(i) **Reasonable suspicion testing.** RSC may request or require an employee to undergo drug or alcohol testing if the employer, including the supervisor or department head, has a reasonable suspicion that the employee has violated RSC's written policy. Reasonable suspicion means a belief that an employee is using or has used drugs or alcohol in violation of RSC's written policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon but not limited to:

(I) Observable phenomena, such as: (1) the physical symptoms or manifestations of being under the influence of a drug or alcohol while at work or on duty, or (2) the direct observation of drug or alcohol use while at work or on duty;

(II) A report of drug or alcohol use while at work or on duty, provided by reliable and credible sources and which has been independently corroborated;

(III) Evidence that an individual has tampered with a drug or alcohol test during his employment with RSC;

(IV) Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of drugs while on duty or while on RSC's premises or operating RSC's vehicle, machinery, or equipment.

(ii) **Post-accident testing.** RSC may require an employee to undergo drug or alcohol testing if the employee or another person has sustained a work-related injury or RSC's property has been damaged, including damage to equipment, in an amount reasonably estimated at the time of the accident to exceed Five Hundred Dollars (\$500).

(iii) **Post-rehabilitation testing.** RSC may request or require an employee to undergo drug or alcohol testing without prior notice for a period of up to two (2) years commencing with the employee's return to work, following a confirmed positive test or following participation in a drug or alcohol dependency treatment program under an employee benefit plan or at the request of RSC.

(B) RSC may request or require all employees engaged in activities that directly affect the safety of others, or who work in direct contact with inmates in the custody of the Department of Corrections, or who work in direct contact with juvenile delinquents or children in need of supervision in the custody of the Department of Human Services, to undergo testing under the following circumstances:

(iv) **Random testing.** RSC may request or require an employee, whose job functions meet the criteria set forth in (2)(B), to undergo drug or alcohol testing on a random selection basis.

Random testing means an objective mechanism for selecting employees for alcohol and drug testing that results in an equal probability any employee from a group of employees covered by this type of testing will be selected.

Random alcohol and drug testing is administered at a minimum annual rate of 20 percent of employees. Tests are unannounced and are conducted throughout the calendar year. The Human Resources/AAO Office provides to the contracted testing vendor a regularly updated list of the names, employee I.D. numbers, and work locations for all employees covered by this type of testing.

(v) **Scheduled, periodic testing.** RSC may request or require an employee, whose job functions meet the criteria set forth in (2)(B), to undergo drug or alcohol testing if the test is conducted as a part of a routinely scheduled employee fitness-for-duty medical examination or is scheduled routinely for all members of an employment classification or group.

Scheduled, periodic testing may be required of employees in certain academic programs such as those in the Health Sciences Division when required by contractual agreements with clinical sites and to protect against substance abuse in clinical settings. When required, the testing will occur during the months of April, July, and December of each calendar year.

(g) **Overview of process.** When one or more of the following circumstances stated above occur, RSC may request or require an employee to undergo testing. Employees suspected of being under the influence of illegal drugs or alcohol will be driven to the testing facility by a designated RSC employee. Any drug or alcohol testing by RSC shall occur during or immediately after the employee's regular work period and shall be deemed work time.

An employee's refusal to undergo drug or alcohol testing may result in immediate suspension with pay pending investigation and may result in further disciplinary action, up to and including discharge. Refusals include, but are not limited to: (1) failure to appear at the test collection site for the sample collection at the designated time; (2) failure to provide satisfactory identification to the person responsible for sample collection; (3) refusal to provide a specimen; (4) failure to remain at the testing site until the collection is completed; or, (4) tampering with or contaminating the urine specimen.

At the drug testing facility, the employee is required to follow all instructions given by the person responsible for the collection of the urinalysis sample testing or for evidential breath testing.

Substances tested shall be for drugs and alcohol as defined in the Standards for Workplace Drug and Alcohol Testing Act, including controlled substances approved for testing by rule by the State Commissioner of Health. All positive results will be reviewed by a review officer.

(h) **Disciplinary action.**

(1) **Disciplinary action for illegal drug involvement or usage.** Discharge proceedings may be initiated for a RSC employee:

(A) With a confirmed positive result for a drug test not resulting from legitimate medical use of prescribed medication. No employee may be discharged as a result of a positive test result unless confirmed by a second test using gas chromatography, gas chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy, approved by Drug and Alcohol Testing Rules (40 OS §559); or

(B) Who enters a guilty or nolo contendere plea for, or who is found guilty of the on or off duty sale, distribution, possession, or the manufacture of illegal drugs.

In all cases of confirmed positive test results, employees will have the opportunity to explain the result and to substantiate the explanation with medical evidence, which could include requesting a retest of the same sample. An employee requesting a retest of a sample to challenge the results of a positive test shall pay all costs of the retest. If the retest reverses the findings of the challenged positive test, RSC shall reimburse the employee for the costs of the retest.

(2) **Disciplinary action for positive alcohol test results.** RSC follows progressive discipline for employees with positive alcohol test results. However, aggravating circumstances, such as the concurrent violation of other RSC policies or serious injuries or fatalities due to or contributed to by the use of alcohol, can result in more serious disciplinary action, including discharge.

(A) An employee's first incident of having an alcohol level from .02 to .039 results in a written reprimand.

(B) An employee's first incident of having an alcohol level from .04 to .079 results in a two-day involuntary suspension without pay.

(C) Discharge proceedings may be initiated for any incident when an employee is tested for alcohol and has an alcohol level of .08 or higher.

(D) Discharge proceedings may be initiated for an employee's second positive test for alcohol within 24 consecutive calendar months of the first positive test result, regardless of the alcohol levels for either incident.

(3) **Refusal to submit.** Discharge proceedings are initiated for any employee who refuses to submit to an alcohol or drug test.

(i) **Confidentiality.** Test results and related documentation shall be kept confidential and maintained separate from general personnel records by the Human Resources/AAO office. Release of test results and related documentation is prohibited except with the employee's written permission and as may be required by law. An employee may inspect and/or obtain all information and records related to that individual's testing.

(j) **Additional Employee Drug and Alcohol Testing Procedures.** RSC shall comply with the Omnibus Transportation Testing Act of 1991, which helps to prevent accidents and injuries

resulting from misuse of alcohol and controlled substances by employees whose duties require a commercial driver's license. For purposes of this policy, a "Driver" is defined as any employee, or casual intermittent or occasional driver, or independent contractor who may be under contract with RSC, who drives a RSC vehicle in circumstances that require the driver to be licensed with a commercial driver's license.

(k) **Additional academic program procedures.**

(1) **Substance abuse.** Additional procedures may be required of students in certain academic programs such as those in the Health Sciences Division to protect against substance abuse in clinical settings. Such procedures will be approved by the President for inclusion in appropriate student clinical handbooks.

(2) **Criminal background check procedure.** All Health Sciences Division faculty and program students will be required to undergo an Oklahoma state and/or comparable criminal background check prior to participation of any clinical assignments or clinical faculty employment.

Copies of the Rose State College policy on Criminal Background Checks will be maintained in the Division and Health Sciences Program offices. The policy on Criminal History Background Checks will be reviewed annually by the Dean of the Health Sciences Division and the Rose State College Board of Regents.

Sec. 1-2. Drug-Free Campus Committee

In accordance with the Drug-Free Workplace Act of 1988 and the Drug Free Schools and Communities Act Amendment of 1989 (P.L. 101-226), the Drug-Free Campus Committee has the responsibility of:

(a) **Recommend.** Making recommendations to the appropriate administrative office regarding:

(1) **Conduct.** Standard of conduct.

(2) **Testing.** Drug-testing procedures.

(3) **Discipline.** Disciplinary sanctions for students and employees.

(4) **Legal sanctions.** Applicable legal sanctions under local, state, or federal law.

(5) **Information.** Dissemination of appropriate information to students and employees.

(6) **Counseling.** Available drug or alcohol counseling, treatment, or rehabilitation or reentry programs.

(b) **Review.** Conducting a biennial review of the College drug-free campus program to determine its effectiveness, recommend implementation of needed changes, and monitor disciplinary sanctions to ensure consistent enforcement.

(c) **Drug-Free Campus Committee Membership.**

(1) **Chairperson.** Executive Director, Human Resources/Affirmative Action Officer.

(2) **Safety and Risk Management Specialist.**

(3) **Coordinator, Wellness Program.**

(3) **Faculty.** Three faculty members selected by the Faculty Senate (three-year terms).

(4) **Professional/Administrative.** Two professional/administrative staff members selected by the Professional/Administrative Staff Association; one must be selected from the Student Affairs area (two-year terms).