

## Alcohol and Other Drugs

**Issue Date:** January 1989, Revised July 2003

**Policy Number:** 2

**Policy Applies to:** All Employees

Nova Southeastern University, as an institution of higher education, is dedicated to the well being of all members of the University community--students, faculty, employees and administrators. Concerned with the misuse of alcohol and other drugs (both licit and illicit), it is the policy of the University to endeavor to prevent substance abuse through programs of education and prevention: (1) to ensure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) to create a workplace environment free from the adverse effects of drug and alcohol abuse or misuse; (3) to prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to seek professional assistance at any time personal problems, including alcohol or drug dependency, adversely affect their ability to perform assigned duties.

The University recognizes alcoholism and drug abuse as illnesses or treatable disorders, and it is the University's policy to work with members of the University community to provide channels of education and assistance. However, it is the individual's responsibility to seek help. The University also recognizes that the possession and/or use of certain substances are illegal, and the University is obligated to comply with local, state, and Federal laws, including but not limited to the Omnibus Transportation Employee Testing Act of 1991, and associated U.S. Department of Transportation and Federal Transit Administration regulations, Drug Free Schools and Communities Act and the Drug Free Workplace Act of 1988.

1. While on campus or engaged in any University related-activity, members of the University community must be in a fit condition to perform appropriately. Being under the influence of alcohol and/or drugs is prohibited and may subject the individual to disciplinary action, up to and including dismissal. All aspects of this policy will be applied in an unbiased and impartial manner.
2. Employees will be evaluated on their work performance. If alcohol consumption or the use of any other drug affects an employee's performance, assistance is available. However, if an employee's performance continues to deteriorate, the University will discipline the employee based on his or her job performance. Poor job performance will lead to discharge.
3. Educational and training material is available from the Office of Human Resources (OHR) for employee assistance. In addition, any employee may access the NSU Employee Assistance Program (EAP) by calling the EAP hotline at (877) 622-4327.
4. Professional assistance for substance abuse is given on a confidential, professional, and voluntary basis. The purpose of this assistance is to help the individual member of the University community who has a substance abuse problem lead a productive work and/or academic life free of the substance abuse. Employees are encouraged to utilize the NSU EAP program should they need professional assistance.
5. Members of the University community who engage in any illegal activity involving alcohol or other drugs violate NSU policy are subject to dismissal.

6. This policy is effective upon receipt and continues in effect until superseded or cancelled by a designated NSU representative from the Office of Human Resources.

## **Health Risks Associated with the Use and Abuse of Alcohol and Illicit Drugs**

There are significant risks associated with the use of alcohol and drugs. These risks may include impaired academic or work performance; lost potential; financial problems; poor concentration; blackouts; conflicts with friends and others; vandalism, theft and murder; sexual assault; unplanned sexual relationships; spouse and child abuse; sexually transmitted diseases; and unusual or inappropriate risk-taking which may result in physical or emotional injury or death.

Alcohol consumption causes a number of marked changes in behavior. Even low doses of alcohol significantly impairs the judgment and coordination required to drive a car safely, increasing the likelihood that the driver will be involved in an accident. The use of even small amounts of alcohol by a pregnant woman can damage the fetus. Low to moderate doses of alcohol also increases the likelihood of a variety of aggressive acts.

Moderate to high doses of alcohol cause marked impairment in higher mental functions, severely altering a person's ability to learn and remember information. Heavy use may result in chronic depression and suicide and may also be associated with the abuse of other drugs. Very high doses can cause respiratory depression and death. If combined with other depressants of the central nervous system, much lower doses of alcohol will produce effects described above for very high doses.

Long-term heavy alcohol use can cause digestive disorders, cirrhosis of the liver, circulatory system disorders and impairment of the central nervous system, all of which may lead to early death.

Repeated use of alcohol can lead to dependence, and at least 15-20 percent of heavy users eventually will become problem drinkers or alcoholics if they continue drinking. Sudden cessation of alcohol intake is likely to produce withdrawal symptoms, including severe anxiety, tremors, hallucinations and convulsions, which can be life-threatening.

The use of illegal drugs and the misuse of prescription and other drugs pose a serious threat to health. For example, the use of marijuana (cannabis) may cause impairment of short-term memory, comprehension and ability to perform tasks requiring concentration. The use of marijuana also may cause lung damage, paranoia and possible psychosis. The use of narcotics, depressants, stimulants and hallucinogens may cause nervous system disorders and possible death as the result of an overdose. Illicit inhalants can cause liver damage.

More detailed information concerning alcohol consumption and use of illegal drugs and the misuse of prescription and other drugs may be obtained by calling NSU's Employee Assistance Program at: (877) 622-4327.

## **Substance Abuse Awareness, Education, and Prevention**

Nova Southeastern University's activities in substance abuse awareness, education, and prevention encourage members of the University community to avoid the use of illicit drugs, to use alcohol and other licit drugs in a responsible manner, and to avert the need for direct intervention. The specific goals of the program are the following:

- To educate all members of the community that the use and possession of certain substances is illegal and may result in adverse consequences.
- To inform members of the University community concerning the physical and psychological effects of alcohol and other drugs and to develop an awareness of potential problems that can result from the use of these substances.
- To support those who choose not to drink alcohol or to use other drugs.
- To teach those who choose to drink alcohol or use licit drugs to do so responsibly.
- To help those who abuse alcohol or other drugs.

In order to achieve these goals, the University supports or sponsors the following programs and activities:

1. **Alcohol and Drug Awareness.** Under the direction of the Office of Recreation and Wellness, there are regular and ongoing activities designed to disseminate information about alcohol and drug use. The University supports the National Alcohol Awareness Week and schedules activities at that time to promote awareness on campus. The Office of Recreation and Wellness also refers students to seek assistance from the Student Counseling Center at the Center for Psychological Studies.
2. **Alcohol and Drug Workshops.** Workshops are provided for student leaders and for employees as part of the University's employee development program. These workshops provide the opportunity for the participants to discuss the information they receive. Student leaders are required to complete such workshops before they can plan parties that involve drinking.
3. **Academic Courses.** Several academic centers have established elective courses in substance abuse and/or recommend students to take such courses in other centers. Several academic centers have put identifiable units on alcohol and drugs into appropriate existing courses. Assistance is available to the academic centers from the Office of Recreation and Wellness to ensure the substance abuse content of courses are consistent with University policies.
4. **Orientation.** Information on drugs and alcohol are provided in the orientation sessions and materials by the academic centers for new students and by the Office of Human Resources for new employees. The orientation provides an overview of the problems of substance abuse, and includes a statement of the University's policy on drugs and alcohol. The information is presented in a positive manner. The Resource Center works with the academic centers to prepare the materials presented.

## **Prohibited Substances**

**Illegally-Used Controlled Substances or Drugs:** Controlled substances are any illegal drug or substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812) (attached to this policy, "Controlled Substances – Uses and Effects"), or any substance when used absent a valid legal prescription and as further defined in 21 CFR 1300. These substances include, but are not limited to, marijuana, amphetamines, opiates, phencyclidine, and cocaine, as well as any drug not approved for medical use by the Drug Enforcement Administration or the Food and Drug Administration. Illegal use includes use of illegally-obtained prescription drugs.

Legal Drugs: The use of legally-prescribed drugs and/or nonprescription medications is not prohibited. A legally-prescribed drug means that the individual has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment. It must include the patient's name, the substance, quantity/amount to be taken, and the period of authorized use. However, the use of any substance that carries a warning label that mental functioning, motor skill, or judgment may be affected adversely should be reported to supervisory personnel, and medical advice should be sought, as applicable, before performing work-related duties. The misuse or abuse of legal drugs while performing NSU business is prohibited.

Alcohol: The use of products containing alcohol or substances including any medication, mouthwash, food, candy, or any other substance such that alcohol in any quantifiable amount is present in the body while performing NSU business is prohibited.

## **Prohibited Conduct**

No person covered by this policy shall engage in the manufacture, distribution, dispensing, possession, or use of prohibited substances on NSU property, in NSU vehicles, in uniform, or while on NSU business. Law enforcement officials shall be notified when criminal activity is suspected.

Pursuant to the Drug-Free Workplace Act of 1988, employees must notify the NSU supervisor within five (5) days of a criminal drug statute conviction. Failure to comply constitutes a violation of this policy. The supervisor must notify the Office of Human Resources immediately (within 24 hours) of notification by the employee of a conviction. Such conviction shall lead to immediate dismissal without the ability to grieve the termination.

## **Drug & Alcohol Testing Provisions and Procedures**

All employees who have been identified as required to maintain a commercial driver's license (CDL) as defined under the Department of Transportation as a requirement of their position or as identified as holding a safety-sensitive position will be subjected to and must participate in NSU's drug and alcohol testing program as set forth in FTA Regulations 49 CFR Parts 40 and 655, as a condition of employment.

Safety-sensitive positions include, but are not limited to the following classes of jobs:

- a. Positions requiring employees, students, or anyone who provides transportation to athletes, students, clients, patients, etc., as a requirement of their position comprising 25% or more of their work load regardless of whether they are operating an NSU owned or leased vehicle, personal vehicle, shuttle bus or other commercial vehicle;
- b. Positions requiring employees, students, or anyone who provides transportation of equipment or services as a requirement of their position comprising 25% or more of their work load regardless of whether they are operating an NSU owned or leased vehicle, personal vehicle, shuttle bus or other commercial vehicle;
- c. Public Safety Officers;
- d. Individuals (e.g. employee, student, volunteer and/or contractor) operating any vehicle for company purposes requiring a commercial driver's license (CDL); or

- e. Any position held by an employee, student, volunteer and/or contractor so designated by an authorized representative from the NSU Office of Human Resources to ensure continued compliance with Federal, State, or local regulation or law.

NSU reserves the right to modify the list of identified "safety-sensitive positions" to ensure continued vitality of a comprehensive drug and alcohol program.

All employees subject to the testing requirements of this policy will be required to attend a mandatory 60 minute training on the effects and consequences of prohibited drug use on his or her personal health, safety and the work environment, as well as the signs and symptoms that may indicate prohibited drug use.

All employees in a supervisory role who are authorized to make reasonable suspicion determinations are required to participate in, at a minimum of 60 minutes of training on the physical, behavioral and performance indicators of probable drug use or abuse; and a minimum of 60 minutes of training on the physical, behavioral, speech and/or performance indications of probable alcohol use or misuse.

Employees found to be under the influence of a prohibited substance, or who test positive for a prohibited drug or alcohol concentration shall be immediately dismissed. Any safety-sensitive employee who is reasonably suspected by an authorized supervisor of being intoxicated, impaired, under the influence of a prohibited substance or not fit for duty shall be removed from duty pending verification of condition.

A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above minimum thresholds defined in 49 CFR Part 40.

No safety-sensitive employee should report for duty or remain on duty when his or her ability to function could be adversely affected by alcohol or drugs. No employee shall be permitted to perform assigned safety-sensitive duties when his or her breath alcohol concentration is 0.02 or greater. No safety-sensitive employee shall use alcohol within four (4) hours of reporting for duty, while on call, or while on duty.

All safety-sensitive employees will be subject to urine drug testing and breath alcohol testing at any time while on duty. Any safety-sensitive employee who refuses to comply with a request for testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration or substitution shall be immediately removed from duty. Refusal can include an inability to provide a urine specimen or breath sample without valid medical explanation, as well as a verbal declaration, obstructive behavior or physical absence resulting in an inability to conduct a test. Such refusal constitutes a positive result under this policy.

## **Testing for Prohibited Substances**

The specific drugs that will be tested for are marijuana, cocaine, opiates, amphetamines, and phencyclidine. An initial drug screen using immunoassay techniques will be conducted on each specimen. For those specimens which indicate one or more prohibited substances present, a confirmatory gas chromatography/mass spectrometry (GC/MS) test will be performed. The test will be considered positive if the amount present is equal to or above the minimum threshold established in 49 CFR Part 40.

Alcohol testing will be conducted using a National Highway Traffic Safety Administration (NHTSA)-approved evidential breath testing (EBT) device operated by a trained breath alcohol technician (BAT). Breath alcohol concentration (BAC) is expressed in terms of grams of alcohol per 210 liters of breath. If any initial test indicates a BAC of 0.02 or greater, a second test will be performed to confirm the result. It is an NSU policy that any employee whose BAC is confirmed at 0.02 or greater (but less than 0.04) will be suspended from duty for the remainder of his or her shift, which period shall be not less than eight hours. A BAC of 0.04 or greater will be considered a positive alcohol test result under this policy, resulting in immediate dismissal.

The testing described in this policy will be independent and separate from all other testing performed on behalf of NSU and/or prevailing Federal, State, and Local requirements. All covered employees are subject to testing for prohibited drug use and misuse of alcohol in the following situations and/or circumstances:

- Pre-Employment. All applicants for employment must first pass a pre-employment drug test before being permitted to perform any safety-sensitive job function. The pre-employment drug test will only be performed after NSU makes a contingent offer of employment. The pre-employment drug test must be performed within 24 hours after NSU makes a contingent offer of employment.

All employees or applicants must undergo pre-employment drug testing before assignment to any position which requires the performance of safety-sensitive duties. Only a urine drug test is required, and the result of pre-employment drug testing must be a verified negative. Failure of a pre-employment drug test will disqualify the applicant for employment, transfer or further employment consideration for a period of two (2) years.

Applicants to safety-sensitive positions will be asked if they have failed or refused to submit to pre-employment testing at any DOT-regulated employer in the past two years (regardless of hiring action), and will be required to authorize the release of information regarding past drug and alcohol testing during the past two years.

- Return To Duty. An employee absent 30 consecutive days or longer (regardless of reason) who has not been subject to random testing during that time will be required to undergo pre-employment drug testing prior to resuming any safety-sensitive duties.
- Random. All safety-sensitive employees are subject to random drug and/or alcohol testing at any time they are on duty and during all time periods that safety-sensitive functions are being performed. Testing must be unannounced and unpredictable. Once notified of a random testing requirement, the employee must immediately proceed directly to the testing site.

At least 50 percent of the total number of covered employees must be tested each year for the use of prohibited drugs and at least 10 percent tested for alcohol. To satisfy this quota, all NSU safety-sensitive employees are enrolled in a random testing pool, which may include a number of contractor employees, students and/or volunteers who perform safety-sensitive functions for or on behalf of NSU.

The frequency of testing is based upon the number of employees in the pool and spread throughout the year. The odds of being selected in any given selection cycle for a random drug and/or alcohol test are equal to the number of employees enrolled in the pool at the time. It is possible that an employee could be selected more than once during the year or even in consecutive selection cycles.

- Reasonable Suspicion. All safety-sensitive employees are subject to drug and/or alcohol testing when there is reason to believe that drug or alcohol use is adversely affecting job performance or poses a risk to themselves or others. Such determination will be made on the basis of specific, contemporaneous, articulable observation concerning the appearance, behavior, speech, or body odor of a covered employee. The referral determination will be made by a supervisor, other NSU designee or NSU OHR's representative trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that the employee may be adversely affected or impaired in his or her work performance due to prohibited drug use or alcohol misuse.
- Post-Accident Testing. The operator of a NSU vehicle is required to undergo drug and alcohol testing if involved in any "occurrence" associated with the operation of the vehicle (whether or not the vehicle is in revenue service) that results in the loss of human life. Testing shall also be required for other safety-sensitive employees on duty and in the vehicle at the time as well as any other employee whose performance off duty could have contributed to the accident.

Post-accident testing will also be conducted if any non-fatal accident results in injuries requiring a person or persons be transported to a medical treatment facility or if one or more vehicles incurs disabling damage that requires towing from the site, unless the employee's performance can be completely discounted as a contributing factor to the accident. Employees tested under this provision include not only the vehicle operator, but any other covered employee whose performance could be a contributing factor to the accident.

Post-accident testing must be conducted as soon as possible for alcohol (within two hours of the time of accident, not to exceed eight hours), and within 24 hours for drugs.

Any safety-sensitive employee involved in an accident must refrain from alcohol use for eight hours following the accident or until completion of a post-accident test. A safety-sensitive employee who leaves the scene of an accident without justifiable explanation prior to submitting to drug and alcohol testing or who fails to report to the collection facility within the aforementioned time frame will be considered to have refused the test and will be subject to immediate dismissal.

## **Safeguards and Assurances**

Testing shall be conducted in such a manner to assure the highest degree of accuracy and reliability, and using techniques, equipment, and laboratory facilities certified by the U.S. Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures set forth in DOT regulation 49 CFR Part 40.

All test results for prohibited drugs must be verified by a Medical Review Officer (MRO). The MRO is a licensed physician functioning independent of NSU whose qualifications include a demonstrated knowledge of substance abuse disorders and who has appropriate medical training to interpret and evaluate an individual's confirmed positive drug result together with his or her medical history and any other relevant biomedical information. All test results for alcohol must be verified by a qualified Breath Alcohol Technician (BAT).

Any employee may request that a representative be present in certain activities related to the collection of specimens and during administrative review and/or counseling, subject to the conditions imposed by 49 CFR Part 40. The absence of such representation does not, by itself, negate or mitigate the requirements to provide specimens and/or attend such administrative review and counseling session in response to required drug and alcohol testing.

Federal regulations impose strict procedural controls and accounting mechanisms upon the collection site, processing laboratory, the MRO, and NSU with respect to testing for prohibited drugs and alcohol. These procedures require the use of tamper-proof specimen containers for urine samples, employee certification of "ownership," use of chain-of-custody documentation, regimented quality control standards, including blank-air testing (for EBT devices) and blind samples (for urine testing), equipment calibration testing, and specific certification and training standards.

Only confirmatory test results will be used as evidence of prohibited drug use or alcohol misuse. Testing which does not follow criteria outlined in 49 CFR Part 40 must be invalidated, or canceled, and reported as a negative result. As a matter of policy, any urine specimen reported to the MRO as a negative dilute will necessitate a retest. As a further safeguard, any employee who questions a positive result of a required drug test may request the MRO to perform a second (separate) test of the original specimen. The test must be conducted at a different DHHS-certified laboratory and must utilize a split sample that was provided at the same time as the original specimen. All costs for such testing are paid by the employee unless the second test produces a negative result. Inability to pay the cost of split specimen testing will not, however, deny anyone the right to request such testing.

The employee's request for split specimen testing must be made in writing within 72 hours of notice of the initial test result. Requests after 72 hours will be accepted if the delay was beyond the control of the employee and reason for such delay is acceptable to the MRO.

All test results are treated as confidential medical information, to the extent possible, and are handled only by designated personnel within NSU who have a specific need to know. All employees subject to testing will be required to execute a release of information to NSU regarding the results. NSU is specifically authorized to release information pertaining to an employee's drug or alcohol test without the employee's consent in any lawsuit, grievance, or administrative proceeding brought by or on behalf of an employee or resulting from a positive drug or alcohol test or a refusal to test, including but not limited to, adulterated or substituted test results. For purposes of release, proceedings also include criminal or civil proceedings resulting from an individual's performance of safety-sensitive duties after receipt of a court order or determination of relevance to the proceedings.

The employee has the right to review his/her drug and/or alcohol testing records, provide information to dispute the results, and shall have access to any pertinent records such as equipment calibration records and records of laboratory certifications. Copies of such records shall be made available to the employee upon his or her written request.

Disciplinary action taken as a result of a positive drug screen and/or confirmatory test are not subject to further grievance or appeal rights. No employee who has tested positive may reenter the NSU workforce.

## **Consequences, Penalties, and Sanctions**

Irrespective of possible criminal and/or civil proceedings which may arise as a result of prohibited drug use or alcohol misuse, NSU reserves the right to apply administrative disciplinary and/or civil penalties or actions against any individual who violates any rule encompassed by this policy.

Minimum associated consequences of prohibited drug use and/or alcohol misuse are as follows:

- Removal from duty (remainder of the day or work shift - minimum eight consecutive hours):

1. Reporting for or remaining on duty with a BAC (breath alcohol concentration) of 0.02 or greater.
  2. Consumption of alcohol within four hours of reporting or returning to duty.
- Dismissal:
  - Violations including, but not limited to, one or more of the following circumstances or conditions constitutes a severe affront to the safety and well-being of other employees and the general public, and is punishable as a major infraction of policy under "Rules and Regulations Covering Disciplinary Actions" including dismissal for cause:
    1. Engaging in the manufacture, distribution, dispensing, possession, and/or use of a prohibited substance on NSU property, in NSU vehicles, in uniform, or while on NSU business.
    2. Refusal to submit to drug and/or alcohol testing, including the inability to provide an adequate specimen or breath sample without valid medical explanation.
    3. Leaving the scene of an accident without proper authority, resulting in the inability to conduct drug and/or alcohol testing.
    4. Obstructive behavior, providing false information in connection with a test, or attempting to falsify test results through tampering, contamination, adulteration, or substitution of specimen samples.
    5. A verified positive drug or alcohol test.
    6. Failure to notify NSU within five days of any criminal drug statute conviction.

## **Drug & Alcohol Testing Policy and Testing Provisions and Procedures**

### **APPENDIX A**

#### **System Contact**

Employees who have any questions regarding this policy or any other aspect of NSU's prohibited drug and alcohol testing program should contact the following staff representative:

#### **CONTACT INFORMATION for NSU**

Name: Diane Emery  
Title: Director of Benefits  
**Address:**  
NSU-Office of Human Resources  
3301 College Ave  
Fort Lauderdale, FL 33314

**Phone:** (954) 262-7873  
**Fax:** (954) 262-6860  
**Email:** demery@nsu.nova.edu

If you have a question concerning specimen collection, laboratory analysis, or any other procedural aspect of drug and/or alcohol testing, you should contact the MRO. The designated MRO is:

**MRO CONTACT INFORMATION for NSU**

Name: National Diagnostics Inc.  
Address: 6407 Idlewild Road, Suite 211  
Charlotte, NC 28212  
Phone: (800) 684-9570

NSU uses the following-listed DHHS-certified laboratory for urine for drug testing:

**DHHS-certified DRUG TESTING LABORATORY**

***Concentra (formerly Workers' Compensation Medical Centers)***

Location: **Broward**  
Address: 501 SE 24th Street  
Ft Lauderdale, FL 33316  
Phone: (954) 522-6009  
Fax: (954) 522-6077

Location: **North Broward**  
Address: 150 SW 12th Ave (Andrews Ave.) Pompano Beach, FL 33069  
Phone: (954) 941-6301  
Fax: (954) 941-7849

Location: **Dade**  
Address: 6504 NW 77th Court  
Miami, FL 33166  
Phone: (305) 593-2174  
Fax: (305) 593-1417

Location: **North Dade**  
Address: 17601 NW 2nd Ave, Suite S  
Miami, FL 33169  
Phone: (305) 770-4500  
Fax: (305) 770-0020

Name: Diane Emery  
Title Director of Benefits

**Address:**  
NSU-Office of Human Resources  
3301 College Ave  
Fort Lauderdale, FL 33314

**Phone:** (954) 262-7873  
**Fax:** (954) 262-6860  
**Email:** [demery@nsu.nova.edu](mailto:demery@nsu.nova.edu)

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Address: 501 SE 24th Street  
Ft Lauderdale, FL 33316  
Phone: (954) 522-6009  
Fax: (954) 522-6077

Location: **North Broward**  
Address: 150 SW 12th Ave (Andrews Ave.) Pompano Beach, FL 33069  
Phone: (954) 941-6301  
Fax: (954) 941-7849

Location: **Dade**  
Address: 6504 NW 77th Court  
Miami, FL 33166  
Phone: (305) 593-2174  
Fax: (305) 593-1417

Location: **North Dade**  
Address: 17601 NW 2nd Ave, Suite S  
Miami, FL 33169  
Phone: (305) 770-4500  
Fax: (305) 770-0020



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[Federal Trafficking Penalties](#)