



## **Drug-Free Workplace**

### **I. Purpose of Guideline**

JPCatholic has a longstanding commitment to provide a safe and productive work environment. Alcohol and drug abuse pose a threat to the health and safety of employees and to the security of our equipment and facilities. For these reasons, JPCatholic is committed to the elimination of drug and/or alcohol use and abuse in the workplace. Employees who are under the influence of a drug or alcohol on the job compromise the University's interests and endanger their own health and safety and the health and safety of others. Substance abuse in the workplace can also cause a number of other work-related problems, including absenteeism and tardiness, substandard job performance, increased workloads for co-workers, behavior that disrupts other employees, and inferior quality in products or service.

To further its interest in avoiding accidents, to promote and maintain safe and efficient working conditions for its employees, and to protect its business, property, equipment, and operations, the University has established this Guideline concerning the use of alcohol and drugs. This policy outlines the practice and procedure designed to correct instances of identified alcohol and/or drug use in the workplace. This policy applies to all employees and all applicants for employment of JPCatholic. As a condition of continued employment with the University, each employee must abide by this Guideline. The Human Resource Representative is responsible for policy administration.

### **II. Definitions**

For purposes of this Guideline:

- "Illegal drugs or other controlled substances" means *any* drug or substance that (a) is not legally obtainable; or (b) is legally obtainable but has not been legally obtained; or (c) has been legally obtained but is being sold or distributed unlawfully.
- "Legal drug" means any drug, including any prescription drug or over-the-counter drug, that has been legally obtained and that is not unlawfully sold or distributed.
- "Abuse of any legal drug" means the use of any legal drug (a) for any purpose other than the purpose for which it was prescribed or manufactured; or (b) in a quantity, frequency, or manner that is contrary to the instructions or recommendations of the prescribing physician or manufacturer.
- "Reasonable suspicion" includes a suspicion that is based on specific personal observations such as an employee's manner, disposition, muscular movement, appearance, behavior, speech or breath odor; information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable; or a suspicion that is based on other surrounding circumstances.
- "Possession" means that an employee has the substance on his or her person or otherwise under his or her control.

### **III. Prohibited Conduct**

#### **A. Scope**

The prohibitions of this section apply whenever the interests of the University may be adversely affected, including any time an employee is:

- 1) On University premises;
- 2) Conducting or performing University business, regardless of location;
- 3) Operating or responsible for the operation, custody, or care of University equipment, any University vehicle or other property; or
- 4) Responsible for the safety of others in connection with, or while performing, University-related business.

## **B. Alcohol**

The following acts are prohibited and will subject an employee to discharge:

- 1) The unauthorized use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of alcohol; or
- 2) Being under the influence of alcohol from unauthorized consumption.

## **C. Illegal Drugs**

The following acts are prohibited and will subject an employee to discharge:

- 1) The use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of any illegal drug or other controlled substance; or
- 2) Being under the influence of any illegal drug or other controlled substance.

Despite California's legalization of recreational and medical marijuana, the University's zero tolerance policy prohibits any employee from having marijuana in their system while working and also prohibits any employee from possessing marijuana while on University property.

## **D. Legal Drugs**

The following acts are prohibited and will subject an employee to discharge:

- 1) The abuse of any legal drug;
- 2) The purchase, sale, manufacture, distribution, transportation, dispensation, or possession of any legal prescription drug in a manner inconsistent with law; or
- 3) Working while impaired by the use of a legal drug whenever such impairment might:
  - a. Endanger the safety of the employee or some other person;
  - b. Pose a risk of significant damage to University property or equipment; or
  - c. Substantially interfere with the employee's job performance or the efficient operation of the University's business or equipment.

# **IV. Disciplinary Action**

## **A. Discharge for Violation of Guideline**

A first violation of this Guideline will result in immediate discharge whenever the prohibited conduct:

- 1) Caused injury to the employee or any other person, or, in the sole opinion of management, endangered the safety of the employee or any other person;
- 2) Resulted in significant damage to University property or equipment, or, in the sole opinion of management, posed a risk of significant damage;
- 3) Involved the sale or manufacture of illegal drugs or other controlled substances;
- 4) Involved the possession, distribution, or dispensation of illegal drugs or other controlled substances or alcohol in a quantity greater than for personal use;
- 5) Involved an employee who had not completed the introductory period or was a casual, seasonal, or temporary employee; or
- 6) Involved the failure of an employee to report a criminal conviction, as required by below policy.

## **B. Discretion Not to Discharge**

In circumstances other than those described above, the University, in the discretion of management, may choose not to discharge an employee for a first violation of this Guideline if the employee satisfactorily participates in and completes an approved drug or alcohol abuse 'assistance' or rehabilitation program when recommended by the University or the employee contacts the Human Resources Department within two working days after being referred there by management and follows the recommendations made by the Human Resources Department, including satisfactory participation in and completion of an approved drug or alcohol abuse, assistance, or rehabilitation program.

## **C. Effect of Criminal Conviction**

An employee who is convicted under a criminal drug statute for a violation occurring in the workplace or during any University-related activity or event will be deemed to have violated this Guideline.

## **D. Written Warning**

An employee who is not discharged for a first violation of this Guideline will receive a final written warning and immediate suspension without pay for a period of 10 calendar days.

## **E. Effect of Second Violation**

A second violation of this Guideline at any time will result in immediate discharge.

## **F. Effect of Discharge on Eligibility for Rehire**

Employees who are discharged for a violation of this Guideline will not be eligible for rehire by the University.

## **V. Drug-Free Awareness Program**

### **A. Management Awareness**

Managers and supervisors should be attentive to the performance and conduct of those who work with them and should not permit an employee to work in an impaired condition or to otherwise engage in conduct that violates this Guideline. When management has reasonable suspicion to believe that an employee or employees are working in violation of this Guideline, prompt action will be taken. If the employee occupies a designated safety-sensitive position, such action may include drug testing in accordance with the procedures outlined in this policy.

### **B. Criminal Convictions**

Employees must notify the University of any conviction under a criminal drug statute for a violation occurring in the workplace or during any University-related activity or event. Employees must notify the University within five days after any such conviction. When required by federal law, the University will notify any federal agency with which it has a contract of any employee who has been convicted under a criminal drug statute for a violation occurring in the workplace.

## **VI. Use of Legal Drugs**

The University recognizes that employees may, from time to time, be prescribed legal drugs that, when taken as prescribed or according to the manufacturer's instructions, may result in impairment. Employees may not work while impaired by the use of legal drugs if the impairment might endanger the employee or someone else, pose a risk of significant damage to University property, or substantially interfere with the employee's job performance. If an employee is so impaired by the appropriate use of legal drugs, he or she may not report to work. To accommodate the absence, the employee may use accrued sick leave, personal leave, or vacation time. The employee may also contact Human Resources to determine whether or not he or she qualifies for an unpaid leave of absence, such as family care or medical leave. Nothing in this Guideline is intended to sanction the use of accrued sick leave, personal leave, or vacation time to accommodate absences due to the abuse of

legal drugs. Further, nothing in this Guideline is intended to diminish the University's commitment to employ and reasonably accommodate qualified disabled individuals. The University will reasonably accommodate qualified disabled employees who must take legal drugs because of their disability.

## **VII. Unregulated or Authorized Conduct**

### **A. Customary Use of Over-the-Counter Drugs**

Nothing in this Guideline is intended to prohibit the customary and ordinary purchase, sale, use, possession, or dispensation of over-the-counter drugs, so long as that activity does not violate any law or result in an employee being impaired by the use of such drugs in violation of this Guideline.

### **B. Off-the-Job Conduct**

Unless an employee is in a designated safety-sensitive position, this Guideline is not intended to regulate off-the-job conduct, so long as the employee's off-the-job use of alcohol or drugs does not result in the employee being under the influence of or impaired by the use of alcohol or drugs in violation of this Guideline. If an employee is in a designated safety-sensitive position, he or she will be subject to drug testing as described in Section X of this Guideline.

### **C. Authorized Use of Alcohol**

The University may provide alcohol for consumption at certain events, such as social functions. The consumption of alcohol at these events does not violate this Guideline.

## **VIII. Confidentiality**

Disclosures made by employees to Human Resources concerning their use of legal drugs will be treated confidentially and will not be revealed to managers or supervisors unless there is an important work-related reason to do so in order to determine whether it is advisable for the employee to continue working. Disclosures made by employees to Human Resources concerning their participation in any drug or alcohol rehabilitation program will be treated confidentially.

## **IX. Counseling/Employee Assistance**

Illegal drug use and alcohol misuse have a number of adverse health and safety consequences. JPCatholic will assist and support employees who voluntarily seek help for such problems before becoming subject to discipline and/or termination under this or other policies. Such employees may be allowed to use accrued paid time off, placed on leaves of absence, referred to treatment providers and otherwise accommodated as required by law. Such employees may be required to document that they are successfully following prescribed treatment and to take and pass follow-up tests if they hold jobs that are safety sensitive or that require driving or if they have violated this policy previously.

Employees should report to work fit for duty and free of any adverse effects of illegal drugs or alcohol. This policy does not prohibit employees from the lawful use and possession of prescribed medications. Employees must, however, consult with their doctors about the medications' effect on their fitness for duty and ability to work safely and promptly disclose any work restrictions to their supervisor. Employees should not, however, disclose underlying medical conditions unless directed to do so.

## **X. Drug Testing**

### **A. Reasonable Suspicion Testing**

Employees are subject to testing based on observations by a supervisor of apparent workplace use, possession or impairment. A Human Resource Representative must be consulted before sending an employee for reasonable suspicion testing.

If a supervisor or manager has a reasonable suspicion that the employee is working in an impaired condition or

otherwise engaging in conduct that violates this Guideline, the employee will be asked about any observed behavior and offered an opportunity to give a reasonable explanation. If the employee is unable to explain the behavior, he or she will be asked to take a drug test in accordance with the procedures outlined below.

If the employee refuses to cooperate with the administration of the drug test, the refusal will be handled in the same manner as a positive test result.

## **B. Procedures for Drug Testing**

The University will refer the applicant or employee to an independent, National Institute on Drug Abuse (NIDA)-certified medical clinic or laboratory, which will administer the test. The University will pay the cost of the test and reasonable transportation costs to the testing facility. The employee will have the opportunity to alert the clinic or laboratory personnel to any prescription or non-prescription drugs that he or she has taken that may affect the outcome of the test. All drug testing will be performed by urinalysis. Initial screening will be done by EMIT II. Positive results will be confirmed by gas chromatography/mass spectrometry.

The clinic or laboratory will inform the University as to whether the applicant passed or failed the drug test and may include a detailed testing report including alcohol and drug levels. If an employee fails the test, he or she will be considered to be in violation of this Guideline and will be subject to discipline accordingly.

## **C. Acknowledgment and Consent**

Any employee subject to testing under this policy will be asked to sign a form acknowledging the procedures governing testing, and consenting to (1) the collection of a urine sample for the purpose of determining the presence of alcohol or drugs, and (2) the release to the University of medical information regarding the test results. Refusal to sign the agreement and consent form, or to submit to the drug test, will result in the revocation of an applicant's job offer, or will subject an employee to discipline up to and including termination.

## **D. Confidentiality**

Information and records relating to positive test results, drug and alcohol dependencies and legitimate medical explanations provided to the Human Resources Representative shall be kept confidential to the extent required by law and maintained in secure files separate from normal personnel files.

## **Business Related Events and Functions and Alcohol Use**

On selected social occasions involving University employees, board members and guests, limited use of alcoholic beverages will be permitted with the approval of the President, CFO or Dean of Students. The use of alcohol during working hours except for the selected occasions is strictly forbidden. Employees are asked not to carry alcoholic beverages across campus from one building to another or into common areas or hallways.

The **Student Handbook** prohibits the use of alcohol on campus, except at events or in locations designated by the University. No open alcoholic beverage containers are permitted on campus grounds, except in designated areas.

Expenditures for the use of alcoholic beverages in any form are normally considered to be personal expenditures and are not to be charged against any University budget without approval and justification of the CFO.

## **Inspections and Searches on University Premises**

### **I. Purpose of the Guideline**

University believes that maintaining a workplace that is free of drugs, alcohol, and other harmful materials is vital to the health and safety of its employees and to the success of the University's business. The University also intends to protect against the unauthorized use and removal of University property. In addition, the

University intends to assure its access at all times to University premises and University property, equipment, information, records, documents, and files. At times, it may be necessary for the University to provide records, information or assistance to a government entity in accordance with the terms of a warrant, court order, or other order issued by law. Accordingly, the University has established this Guideline concerning inspections and searches on University premises. This Guideline applies to all employees of the University.

## **II. Definitions**

For purposes of this Guideline:

- 1) "Prohibited materials" means firearms or other weapons; explosives and/or hazardous materials or articles; illegal drugs or other controlled substances as defined in the University's Drug-Free Workplace Guideline; drug-related paraphernalia; the unauthorized use or consumption of alcoholic beverages on University property; or University property and/or proprietary and confidential information belonging to a third party that an employee is not authorized to have in his or her possession.
- 2) "University property" includes all documents, records, software, electronic codes, data, and files, in both hard copy and electronic form, relating to the University's business; and all equipment, hardware, and other property of any kind, whether owned, leased, rented, or used by the University.
- 3) "University premises" includes all premises and locations owned or leased by the University or under the control of the University, including parking lots, lockers, and storage areas.
- 4) "Reasonable suspicion" includes a suspicion that is based on specific personal observations such as an employee's manner, disposition, muscular movement, appearance, behavior, speech or breath odor; information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable; or a suspicion that is based on other surrounding circumstances.
- 5) "Possession" means that an employee has the prohibited material or University property on his or her person or otherwise under his or her control.

## **III. Inspections and Searches**

### **A. Access to University Property**

In order to ensure access at all times to University property, and because employees properly in possession of University property or information related to University business may not always be available to produce the property or information when needed in the ordinary course of the University's business, JPCatholic reserves the right to conduct a routine inspection or search at any time for University property on University premises. In addition, the University reserves the right to access at all times information and communications stored in University computer files, on University mobile devices and in employee voicemail boxes and electronic-mail systems.

- 1) Routine searches or inspections for University property may include an employee's office, desk, file cabinet, closet, computer files, voice mail, electronic mail, University-issued mobile device or similar places where employees may store University property or University-related information, whether or not the places are locked or protected by access codes and/or passwords.
- 2) Because even a routine search for University property might result in the discovery of an employee's personal possessions, all employees are encouraged to refrain from bringing into the workplace any item of personal property that they do not wish to reveal to the University.

### **B. Inspections and Searches for Prohibited Materials**

- 1) Inspections or searches for prohibited materials in or on University premises also will be conducted whenever the University has reasonable suspicion to believe that a particular employee or group of employees may be in possession of materials in violation of this Guideline.
- 2) Inspections or searches for prohibited materials may be conducted by an independent security service or by University personnel.
- 3) Inspections or searches for prohibited materials may be conducted on a regular or random basis at locations where employees enter or exit University premises, without regard to whether there is



reasonable suspicion that any employee may be in possession of prohibited materials in violation of this Guideline.

- 4) Inspections or searches for prohibited materials may be conducted from time to time even when there is no immediate reason to suspect the presence of the materials. In such cases, the University may announce the inspection in advance, *except* for inspections or searches conducted at locations where employees enter or exit University premises.
- 5) Inspections or searches for prohibited materials may include an employee's office, desk, file cabinet, closet, computer, University-issued mobile device or similar places where employees may place personal possessions or information, whether or not the places are locked, or password protected. Inspections or searches for prohibited materials also may include an employee's locker, or an employee's pockets, purse, briefcase, lunch box, or other item of personal property that is being worn or carried by the employee while on University premises.
- 6) In cases involving an inspection or search of an employee's pockets, purse, briefcase, or other item of personal property that is being worn or carried by the employee, the employee will be requested to conduct a self-search (i.e., by turning out or emptying pockets, purses, etc.) in the presence of an observer who will be a person of the same gender.
- 7) Employees who refuse to cooperate during an inspection or search will not be forcibly detained or searched. They will be informed, however, that the University will base any disciplinary decision on the information that is available, including their refusal to consent to the search as well as the information that gave rise to a reasonable suspicion that the employees were in possession of prohibited materials, if applicable, and that their failure or refusal to cooperate could deprive the University of information that may clear them of suspicion. In addition, the University reserves the right to take appropriate action to prevent the unauthorized removal from University premises of University property.

#### **IV. Approvals for Inspections**

- 1) When an inspection or search is conducted because there is reasonable suspicion that a particular employee or group of employees may be in possession of prohibited materials in violation of this Guideline or may be using University property in an unauthorized manner, and when an item of the employee's personal property will be searched, the inspection or search will be approved in advance by the highest ranking member of management in the Division who is available at the time the inspection or search is to be conducted and by the Human Resources Representative or his or her designated alternate(s) in the event of unavailability.
- 2) All inspections or searches that are conducted as part of the University's program of periodic (and unannounced) inspections will be approved in advance by the Human Resources Representative, who will inform the Division Manager of the impending inspection prior to its occurrence.

#### **V. Disciplinary Action**

Employees who are found to be in possession of prohibited materials in violation of this Guideline and/or in violation of University Property, Proprietary and Confidential Information Guideline, the Technology Use and Privacy Guideline, and the Drug-Free Workplace Guideline, or employees who are found to have used University property in an unauthorized manner, will be subject to discipline, up to and including discharge, regardless of the University's reason for conducting the search or inspection.

#### **VI. Confidentiality**

Managers and supervisors will make their best effort to restrict communications concerning a violation or possible violation of this Guideline to persons who have an important work-related reason to know.