

**EASTERN WEST VIRGINIA COMMUNITY & TECHNICAL COLLEGE
BOARD OF GOVERNORS
Policy No. BP 6.14**

Title: **Alcohol, Tobacco and Other Drugs Policy**

Scope: The purpose of this policy is to protect the health, safety and welfare of the members of the Eastern West Virginia Community & Technical College community and the public served by Eastern and to comply with the federal and state regulations set forth in the Authority section of this policy.

Authority: *Drug-Free Workplace Act of 1988*
41 U.S.C. §8101, *et seq.*; 22 C.F.R. Part 513
48 C.F.R. Part 23.504; 48 C.F.R. Part 52.223-6
Drug-Free Schools and Communities Act: Amendments of 1989
20 U.S.C. §1011i; 34 C.F.R. Part 86
Drug-Induced Rape Prevention and Punishment Act of 1996
21 U.S.C. §841(b)(7)(A-B); *see also* 21 U.S.C. §801
Alcohol and Drug Overdose Prevention and Clemency Act
West Virginia Code §§ 16-47-1, *et seq.*
Federal Motor Carrier Safety Administration
49 C.F.R. Part 382 *et seq.*
Federal Transit Administration
49 C.F.R. Part 655 *et seq.*
Uniform Controlled Substances Act
West Virginia Code §§ 60A, *et seq.*

Effective Date: March 18, 2020

Section 1 General

- 1.1 Eastern West Virginia Community and Technical College (“Eastern” or “College”) is required to communicate to students, employees, visitors and third parties, information regarding unlawful possession, use or distribution of alcohol, tobacco and illegal drugs in accordance with the laws set forth in the Authority section of this policy.

- 1.2 Eastern West Virginia Community & Technical College is a drug-free workplace. Eastern recognizes the importance of a safe, efficient and healthy work and educational environment. Being under the influence of any illegal drug or alcohol on campus or at college-sponsored functions interferes with educational and occupational success. This policy provides standards of conduct related to alcohol, tobacco and other drugs and clearly prohibits the unlawful possession, purchase, use, or distribution, of tobacco, alcohol and other drugs on its property or as part of any college sponsored activities.

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- 1.3 This policy applies to all Eastern employees, including faculty, adjunct faculty classified and non-classified staff, administrators, students, student organizations, visitors, vendors, contractors, and volunteers as well as third party users of Eastern facilities.
- 1.4 This policy applies to conduct that occurs on Eastern property, on public property adjacent to the College, in off-campus buildings or property of the College, at College sponsored, education programs and activities regardless of location and while conducting College business.
- 1.5 This policy also applies to College students studying abroad through a College approved study abroad program.

Section 2 Standards of Conduct and Disciplinary Sanctions

- 2.1 The unlawful manufacture, dispensing, possession, purchase, use or distribution of alcohol, tobacco or other drugs, including but not limited to marijuana and/or synthetic drugs is prohibited. Eastern is a tobacco free campus. (See Eastern West Virginia Board of Governors Policy No. BP 6.10). The possession or use of alcoholic beverages is prohibited on or in property or facilities owned or leased by Eastern West Virginia Community and Technical College, except in dwellings located thereon and occupied as a family residence. (See Eastern West Virginia Board of Governors Policy BP 6.3).
- 2.2 Employees are prohibited from reporting to the workplace or from conducting College business under the influence of alcohol or other drugs.
- 2.3 Using any prescribed drug in a manner inconsistent with the prescription; driving or operating a vehicle while under the influence of any illicit/illegal drug, synthetic drug, or other controlled substance; or intentionally or recklessly inhaling, ingesting, or using in any manner inconsistent with its purpose any chemical, liquid, substance or other compound is prohibited.
- 2.4 It is unlawful and a violation of this policy to distribute a controlled substance to an individual without that individual's knowledge with intent to commit a crime of violence, including rape. "Without that individual's knowledge" means that the "individual is unaware that a substance with the ability to alter that individual's ability to appraise conduct or to decline participation in or communicate unwillingness to participate in conduct is administered to the individual."
- 2.5 Legally prescribed medications taken properly are excluded from prohibition and permitted only to the extent that such medications do not adversely affect job performance, or the safety of others. Abuse or misuse of prescription drugs which interfere with performance or orderly conduct of business is prohibited. This prohibition shall apply while employees are engaged in any work-related activity which includes performance of agency business during scheduled work periods, periods of overtime, meal breaks, social occasions with a connection with the job and/or any other College sponsored program, event or activity.
- 2.6 The illegal use of controlled substances and the misuse of alcohol by professional drivers of large trucks, passenger buses, and vehicles transporting hazardous materials or employees in other safety-sensitive roles is prohibited. Employees who use alcohol or

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illegal drugs or substances while on duty as a driver or in other safety-sensitive roles are subject to disciplinary sanctions up to and including termination.

- 2.7 As a condition of Eastern employment, every employee shall (a) abide by the terms of this policy and (b) notify his/her supervisor and the Division of Human Resources of any conviction of drug, alcohol or tobacco related charges resulting from any activity occurring in the workplace or otherwise on Eastern premises or during a Eastern sponsored event regardless of location and/or while conducting College business no later than five (5) calendar days after such conviction. Employees found to have concealed a conviction resulting from drug, alcohol or tobacco related charges will be subject to disciplinary action, up to and including dismissal. Employees may be subject to disciplinary action for convictions of alcohol, tobacco or drug related charges and/or conduct resulting from activity not occurring in the workplace or during College business or during a College sponsored event if the conduct interferes with the employee's ability to perform job duties or otherwise bears a rational nexus to the employee's job responsibilities.
- 2.8 All students under the age of 21 are prohibited from the use or possession of alcohol and tobacco in violation of law and/or College policies. Students are prohibited from use and possession of illegal drugs or controlled substances. The Family Educational Rights and Privacy Act (FERPA) has given colleges/universities the option to notify parents/guardians about specific types of information from a student's conduct record. Eastern will notify parents/guardians the first time and any subsequent time a student is found to have violated student College policies on the use or possession of alcohol or other drugs when he/she is under the age of 21.
- 2.9 Any person who violates this policy shall be subject to disciplinary action consistent with institutional policies, and local, state, and/or federal laws. Violations of this policy by employees is considered gross misconduct. Violations of this policy by employees and students may result in referral for treatment, mandatory suspension from the College, termination of employment, expulsion, program removal, employment suspension without pay and/or any other sanction set forth in College student employee disciplinary policies and procedures. Investigations of violations of this policy will be conducted in accordance with College disciplinary policies and procedures applicable to students and employees. Visitors who violate this policy may be referred to law enforcement agencies and will immediately be escorted off college campus. Any individual who violates this policy may be referred to law enforcement for criminal prosecution.
- 2.10 Students and employees are responsible for knowing relevant College alcohol, tobacco and other drugs policies and procedures, as well as state and federal laws, and to conduct themselves in accordance with those laws and policies. A law enforcement investigation will not take the place of an administrative investigation of a violation of this policy and the results of a law enforcement investigation or adjudication are not determinative of whether an individual is responsible for violating this policy.
- 2.11 In addition to this policy, academic programs may have other specific tobacco, alcohol and other drugs policies. Students, faculty, and staff are expected to consult the College Catalog and any program specific policies or handbooks for more information about program specific tobacco, alcohol and other drugs policies and disciplinary sanctions related to violations of those program specific policies.

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- 2.12 Eastern West Virginia Community and Technical College supports an environment free from retaliation. Retaliation against any student or employee for bringing forth a good faith concern or participating in an investigation of a violation of this policy is prohibited. Violators of this provision prohibiting retaliation is subject to disciplinary action up to and including program removal, expulsion, and/or employment termination.

Section 3 Prevention, Education and Assistance

- 3.1 Eastern West Virginia Community and Technical College has established awareness programs for students, faculty, and staff to educate employees and students regarding the nature and consequences of drug and alcohol dependency and/or abuse. These two programs inform individuals about the policy of maintaining a drug-free workplace and also address the dangers of alcohol and drug abuse in the workplace, as well as provide appropriate information, education, consultation, and referral.
- 3.2 As part of its drug prevention program for students and employees, West Virginia Eastern annually distributes in writing to each student and employee the following information:
- Standards of conduct that clearly prohibit the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as a part of any of its activities.
 - A description of applicable local, state, and federal legal sanctions pertaining to the unlawful possession, use, or distribution of illicit drugs and alcohol including but not limited to drug and alcohol related driving offenses.
 - A description of health risks associated with the use of illicit drugs and the abuse of alcohol.
 - A description of available drug and alcohol counseling, treatment, rehabilitation, and reentry programs.
 - A clear statement of the disciplinary sanctions that Eastern will impose upon students and employees who violate the standards of conduct.

Students who enroll at some date after the initial distribution will be provided with the above information. Eastern will conduct a biennial review of its drug prevention program to determine its effectiveness, implement needed changes, determine the number of drug and alcohol-related violations and fatalities that occur on campus or as part of Eastern's activities, and ensure that disciplinary sanctions are consistently enforced.

- 3.3 Students may obtain assistance and information about available community resources and community drug and alcohol counseling, treatment rehabilitation and reentry programs, from the Learner Support Services offices. Services are confidential. Employees may obtain the same assistance and information from the Human Resources Office.

Section 4 Drug and Alcohol Testing

- 4.1 Eastern does not conduct random drug or alcohol testing, but does reserve the right to test for drugs and/or alcohol for cause. When reasonable suspicion exists that an employee or student has reported to work or to a clinical and/or program/course related educational experience under the influence of alcohol, drugs, or is impaired due to abuse

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or misuse of controlled substances including prescription medication, the employee and/or student may be subject to medical assessment and/or alcohol and/or drug testing, disciplinary action and/or mandatory referral into a substance misuse assistance or rehabilitation program. Refusal by an employee to comply with the applicable requirements may be grounds for immediate dismissal from employment.

- 4.2 Academic programs may have program specific drug and alcohol testing policies. Students, faculty, and staff are expected to consult the College catalog, and any program policies and handbooks for more information about program specific drug and alcohol testing requirements and disciplinary action.
- 4.3 Drug and alcohol testing is federally required for all professional drivers and safety sensitive employees including interim, temporary, casual, classified, non-classified, faculty, students, and volunteer workers. Eastern will impose testing on employees whose duties require, or individuals who apply for positions that require, the possession of a valid Commercial Driver License (CDL); those responsible for the operation/driving, maintenance, and/or controlling dispatch or movement of regulated vehicles; individuals whose duties require the possession of a firearm for security purposes; and/or other employees in safety-sensitive roles as determined by Eastern.

Section 5 Medical Amnesty

- 5.1 To promote a healthy working and learning environment, the College encourages individuals to seek medical attention in life-threatening situations that result from alcohol and/or drug use. Individuals who have received medical attention for alcohol and/or drug use and/or who have helped others obtain medical attention who want to apply for medical amnesty are required to follow the procedures outlined in this policy.
- 5.2 Consistent with the purpose of the *Alcohol and Drug Overdose Prevention and Clemency Act* which finds it is in the public interest to encourages citizens to intervene in drug and alcohol overdose situations by seeking potentially life-saving emergency medical assistance for others without fear of being subject to certain criminal penalties, the College recognizes that the potential for disciplinary action may act as a barrier to students seeking medical assistance for themselves or other students in alcohol or other drug-related emergencies. In these incidents, the primary concern is the well-being, health, and safety of students.
- 5.3 Any student or student organization who, in good faith and in a timely manner, seeks emergency medical assistance for a person who reasonably appears to be experiencing an overdose from alcohol or drugs will not face formal conduct action by the College for drug and alcohol violations of this policy if the student or student organization does all of the following:
 - Remains with the person who reasonably appears to be in need of emergency medical assistance due to an overdose until such assistance is provided;
 - Identifies himself or herself, if requested by emergency medical assistance personnel, law-enforcement officers, or College officials;

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- Cooperates with and provides any relevant information requested by emergency medical assistance personnel, law-enforcement officers, or College officials needed to treat the person reasonably believed to be experiencing an overdose; and
 - Follows any other medical amnesty procedures enacted by the college
 - Complies with any recommendations made in accordance with the medical amnesty procedures.
- 5.4 If the person who reasonably appears to be experiencing an overdose from alcohol or drugs is also a student and/or seeks help on his/her own, he or she will not face formal conduct action by the College for drug and alcohol related violations of this policy if the student follows the medical amnesty procedures enacted by the College.
- 5.4 Medical amnesty applies only to alcohol or other drug-related offenses and does not apply to other prohibited conduct including but not limited to sexual misconduct, sexual assault property damage or distribution of illicit substances. Failure to comply with the College's medical amnesty procedures will result in the pursuit of formal disciplinary action in accordance with this policy and the College's student disciplinary procedures.
- 5.5 Academic programs may have more stringent drug and alcohol requirements to which medical amnesty may not apply. Students, faculty, and staff are expected to consult the College Catalog and any program specific policies or handbooks for more information about program specific tobacco, alcohol and other drugs policies and disciplinary sanctions related to violations of those program specific policies.

Section 6 Responsibilities

- 6.1 The Director of Human Resources is responsible for development and communication of drug and alcohol prevention programs for employees in compliance with the Drug Free Workplace Act of 1988, which includes:
- 6.1.1 Distribution of this policy to each employee and collection of signed "Drug Awareness Certification Form". The distribution may be in writing or electronically.
 - 6.1.2 Maintaining a copy of this policy in an accessible location and posting the policy on the institutional web site.
 - 6.1.3 Inclusion of a copy of this policy in every new employee orientation.
- 6.2 The Dean of Student Access and Success or designee is responsible for development and communication of a drug and alcohol awareness program for students in compliance with the Drug Free Schools and Communities Act which includes:
- 6.2.1 Annual distribution of this policy or information contained herein, to every student taking one or more classes for credit. The distribution may be accomplished by

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- 6.2 The Dean of Student Access and Success or designee is responsible for development and communication of a drug and alcohol awareness program for students in compliance with the Drug Free Schools and Communities Act which includes:
- 6.2.1 Annual distribution of this policy or information contained herein, to every student taking one or more classes for credit. The distribution may be accomplished by publication of this policy in electronic or printed format in the Student Handbook, Eastern Catalog and web site.
 - 6.2.2 In compliance with the Department of Education a biennial review will be conducted by the Dean of Student Access and Success or designee in even numbered years, focusing on the two preceding academic years. Records used for review and report preparation will be retained for a period of three (3) years after the fiscal year in which the record was created. If any litigation, claim, negotiation, audit, review, or other action involving the records has been started before expiration of the three-year period, the records will be retained until completion of the action and resolution of all issues that arise from it, or until the end of the regular three-year period, whichever is later.
- 6.3 The Executive Dean of Administrative Services or designee is responsible for ensuring that contractors, subcontractors, or volunteers for all services, including those paid by federal grants certify that they maintain a drug free workplace and commit to and comply with the terms and conditions of this policy.
- 6.4 The Human Resources Designee and the Student Services Designee are responsible for developing and distributing Medical Amnesty Procedures for employees, visitors, and/or students.
- 6.6 Local law enforcement is responsible for enforcing alcohol, tobacco and other drug criminal laws.
- 6.7 The President or designee(s) may develop procedures to implement this policy.


BOARD OF GOVERNORS, CHAIR

SEP 3, 2020
DATE

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