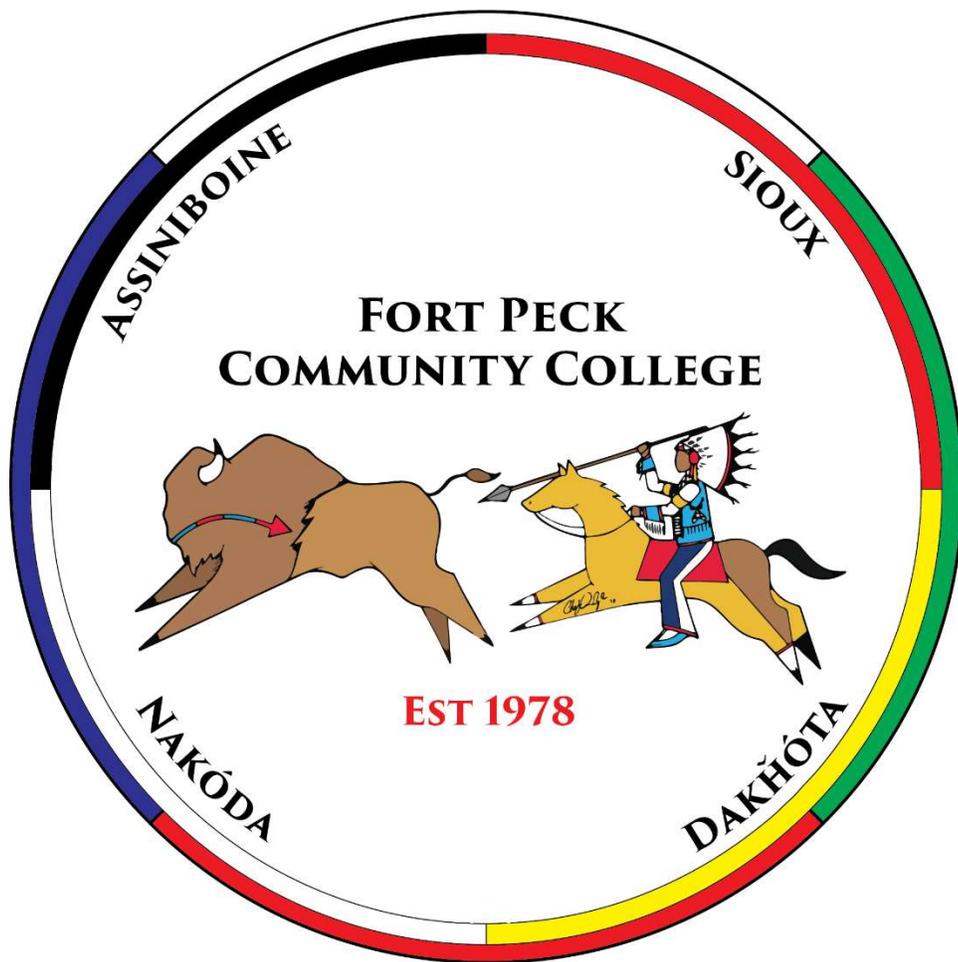


Controlled Substance Policy

FPCC BOD Reaffirmed August 2021



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Section I - Policy Statements

The Fort Peck Community College (FPCC) Board of Directors, Administration, Faculty and Staff are dedicated to the goal of providing a drug-free environment on its campus and in all college sanctioned/sponsored activities. In conjunction with all other drug awareness and drug-free workplace policies currently in effect at Fort Peck Community College (FPCC), this Controlled Substance Testing Policy (hereinafter referred to as the “policy”) is hereby established and implemented.

- A. While recognizing that the FPCC employees and other representatives are the college’s most valuable resource in accomplishing its goal of providing a quality education experience for each and every student, the administration also recognizes the problem of controlled substance use, manufacture, distribution and possession within the reservation community. FPCC strongly believes in its officials and employees, and desires to provide drug use combating/rehabilitative assistance for those who want and need such assistance.**

In meeting these goals and desires, this controlled substance testing policy shall be implemented to:

1. Assure that FPCC officials, employees and other representatives are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner;
2. Create a college environment free from the adverse effects of controlled substance abuse;
3. Prohibit the unlawful use, manufacture, distribution and possession of controlled substances; and
4. Fully protect each individual’s right to complete confidentiality and total test reliability.

Section II – Definitions

The following definitions shall apply throughout this policy:

Testing Site

A location designated by the Policy Implementation Committee for testing of urine specimens.

Collection Site

A place designated by the Policy Implementation Committee where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of controlled substances.

Testing & Review Officer

A person designated by the Policy Implementation Committee who instructs and assists individuals at the collection site and who receives and makes an initial examination of the urine specimen. The Testing & Review Officer shall also see to it that all required forms are properly completed and that the urine specimen is properly analyzed and results sent to the appropriate individual.

Controlled Substance

(sometimes referred to as “Drug(s)-any drug listed in schedule I or II of the “Controlled Substance Act”, but at a minimum includes heroin, marijuana, cocaine, opiates, amphetamines, and phencyclidine. For the purpose of this policy, controlled substance also included alcohol.

Full-time Employee

Any person who works full-time at FPCC, including but not limited to the President, Vice President(s), department heads, supervisors, faculty, faculty assistants, administrative staff and maintenance and custodians.

Employer

Fort Peck Community College (sometimes referred to as “FPCC” or the “college”).

PIC Representative

A staff member chosen by the PIC to represent the committee whose main responsibility is to collect the necessary paperwork and disseminate it to the correct individuals. This individual will maintain complete confidentiality as required by this policy.

Reasonable Suspicion

A standard of conduct, similar to the probable cause criminal law standard, in that it is a subjective standard used to validate a warrantless search and seizure and that it considers whether a supervisor acted upon personal knowledge of facts and circumstances which are reasonably trustworthy, and that would justify a person of reasonable caution to believe that such facts and circumstances did or do exist.

Section III – Policy Implementation Committee

A. The FPCC Board of Directors shall establish a “Policy Implementation Committee” (PIC) to be comprised of the following persons:

1. One (1) person elected by the instructors.
2. One (1) person selected by the administrative staff.
3. One (1) person selected by the Board of Directors.

The length of terms of appointments to the PIC shall be as follows:

1. Instructor –Two (2) Years
2. Administrative Representative –Two (2) Years
3. Board Representative –Two (2) Years
4. Alternate – in the case of the involvement of one of the PIC members, an alternate will be selected by the remaining committee as a replacement
5. Testing & Review Officer – selected by the PIC Committee

B. The duties of the Policy Implementation Committee shall, among other duties necessary to implement this policy, include:

1. General supervision over the operation of the policy
2. Implementation & review of testing procedures
3. Selecting a collection site and collection site Testing & Review Officer
4. Over-site of test types & purchasing

5. Determination of “reasonable suspicion” in accordance with the guidelines set forth within this policy
6. Review of employee complaints and concerns, including explanations in writing up request from an employee concerning any test result
7. Conducting hearings, safeguarding all due process procedural rights
8. Make employee discipline recommendations in writing to the employee’s immediate supervisor(s)
9. Assure that an individual who has tested positive is afforded an opportunity to discuss the test findings
10. Selecting and approving a drug counseling/rehabilitation program(s) if employee chooses this option.

Any PIC member who is found to have violated any aspect of confidentiality shall, after a hearing by the FPCC Board of Directors on the matter, will be disciplined accordingly by the FPCC President. A breach of confidentiality may cause the offending PIC member to be liable for subsequent civil action in any court of competent jurisdiction.

C. Testing & Review Officer shall, among other duties:

1. Review all test results
2. Consistent with confidentiality requirements, refer written determinations regarding all verified test results (including positive results) to the individual (on staff) so named by the PIC as their representative, together with all relevant documentation and a summary of findings.
3. Confirm with the PIC and/or PIC Representative whether an applicant who has been tentatively selected for employment has obtained a verified positive test result; and
4. Coordinate and report to the PIC’s Representative all activities and findings on a regular basis.

Section IV – Policy Coverage

This policy shall apply to all full-time/contracted employees of Fort Peck Community College. Under this policy, controlled substance testing shall be performed only under the following circumstances:

1. Pre-employment testing (initial employment);
2. Testing based upon reasonable suspicion; and
3. Post-treatment, follow-up testing.

Pre-Employment Testing

1. Goal of Pre-Employment Testing: To screen out applicants who are illegally using controlled substances prior to being hired. This will have a positive effect on reducing instances of controlled substance use by FPCC employees.
2. As a condition of employment within FPCC all full-time/contracted job applicants must pass a urine test prior to employment. For new applicants, the test shall be administered only after the successful completion of the interview process and the applicant has been selected for employment. As part of the application process, each applicant shall be provided with written notice of the pre-employment controlled test, and shall be required to sign a pre-employment controlled substance test consent form. The applicant shall also be provided with written instructions regarding the collection of a urine specimen for drug testing purposes.

3. The actual drug test shall be performed and the specimen analyzed in accordance with the guidelines set forth under Article VI herein.
4. As stated in the “Pre-employment Controlled Substance Test Consent Form” applicants who refuse to participate in the drug testing may be rejected for employment with FPCC.
5. FPCC shall decline to extend a final offer of employment to any applicant with a verified positive test result, and such applicant may not reapply to FPCC for a period of six (6) months.
6. FPCC shall decline to extend a final offer of employment to any applicant with a verified “diluted” test result, and such an applicant may be required to re-test prior to an offer of employment

Reasonable Suspicion Testing

1. Goal of Reasonable Suspicion Testing: To respond to documentable facts and circumstances leading to suspicion of controlled substance use, in order to protect the safety of the students and co-workers and provide the suspected employee with an opportunity for rehabilitation regarding a positive test result.
2. Reasonable Suspicion must be based upon facts, circumstances, physical evidence, physical signs and symptoms or a pattern of performance and/or behavior that would cause a supervisor or other employee to reasonably suspect that an employee has violated the FPCC’s anti-drug and /or drug-free workplace policies, or is under the influence of, or is intoxicated by a controlled substance.
3. Although Reasonable Suspicion testing does not require certainty, mere “hunches” are not sufficient to meet the Reasonable Suspicion standard. Factors to be considered in determining Reasonable Suspicion include, but are not limited to the following:
 - i. A well-documented pattern of unsatisfactory work performance in which no apparent non-impairment related reason exists
 - ii. Physical signs and/or symptoms consistent with controlled substance abuse
 - iii. Evidence or suspicion of illegal substance use, possession, sale or delivery while on duty
 - iv. The act of a serious or potentially serious accident that may have been caused by human error, or flagrant violations of established safety, security or any other procedures
 - v. Fighting, assaults or erratic, aggressive or violent behavior
 - vi. Administrative call for random drug test.
4. Reasonable Suspicion Incident Checklist: When an incident has occurred which provides a basis for reasonable suspicion that an employee is under the influence of a controlled substance the employee’s immediate supervisor shall provide detailed documentation of the incident on the Reasonable Suspicion Incident Checklist. All documentation and any other pertinent evidence shall be submitted to the Policy Implementation Committee or their PIC Representative. The Committee shall provide a written determination of the existence or non-existence of reasonable suspicion which shall include a detailed list of all factors supporting the determination.

Follow-Up Testing

1. Goal of Follow-Up Testing – To ensure that an employee who is found to be a substance abuser and is in counseling and rehabilitation for controlled substance abuse and while returning to duty at FPCC is following his or her treatment by refraining from the use of controlled substances.

2. All employees enrolled in a drug program approved by the PIC for the purpose of undergoing counseling and/or rehabilitation for controlled substance abuse, shall be subject to drug testing during the rehabilitation program and/or following completion of the approved drug rehabilitation program, for a period of 2 (two) years.
3. The PIC shall notify an employee of controlled substance testing under this section in accordance with Article V.

Section V – Employee Notification and Consent to Testing

- A. If the PIC determines that testing of an employee is required or necessary under this policy, the Committee shall immediately notify the employee of such decision using the Employee Notification of Controlled Substance Testing Form. The PIC shall also provide the employee with the Instructions to Employees for Collection of Specimen for Testing Purposes.
- B. Upon reaching the collection site the employee shall be given the appropriate consent form. Upon consent, collection of the specimen shall proceed in accordance with the guidelines established in Article VI.
- C. Refusal by the employee to consent to the collection of a urine specimen for testing purposes shall be immediately reported by the Testing & Review Officer to the PIC, PIC Representative or the employee's immediate supervisor. The employee's supervisor shall immediately suspend the employee until a hearing can be held for the purpose of ascertaining the existence of any acceptable reason for the employee's refusal to provide a test specimen. If the PIC does not find an acceptable reason for refusing to provide a test specimen, the employee may be terminated from employment by his/her supervisor. In lieu of termination, other appropriate sanctions may be recommended by the PIC to the employee's supervisor. The final sanction decision will be determined by the employee's immediate supervisor.
- D. Failure to appear for testing without a valid reason will be considered a refusal to participate in the required urine testing processes, and will subject the employee to the range of disciplinary actions/sanctions, including termination, and an applicant to the cancellation of an offer of employment.
- E. If an employee or job applicant is unable to report to the collection site or consent to a test because of an injury, the appropriate personnel shall be informed of this controlled substance testing policy and the requirements of employee testing. A specimen shall then be taken by such medical personnel in the presence of the Testing & Review Officer. Upon collection of the specimen, the Testing & Review Officer shall follow the remaining guidelines and procedures for testing the specimen.

Section VI – Guidelines for Performance Testing

- A. These guidelines shall govern, among other things, the drugs tested for, specimen collection procedures, interim certification procedures, reporting and review of results, protection of employee records and individual access to results. Guideline copies shall be available for review and/or copying on campus.
- B. Any individual subject to controlled substance testing under this policy shall be permitted to provide urine specimens in private and in a rest room or similar enclosure so that the employee is

not observed while providing the sample. Collection site personnel of the same gender as the individual being tested, however, may observe the individual provide the urine specimen when such personnel have reason to believe the individual may alter or substitute the specimen provided.

- C. The PIC shall be responsible for the selection of a collection site and a Testing & Review Officer. The collection site selected shall comply with the list of Collection Site Procedures.
- D. FPCC shall pay all costs related to the testing of any individual done pursuant to this policy.

Section VII – Positive Test Results-Consequences

- A. The PIC shall hold a confidential hearing concerning an applicant or employee whenever their controlled substance urine test shows a positive result as reported to the PIC by the Testing & Review Officer. This hearing shall be attended by all PIC members, the applicant or employee, anyone else the applicant or employee would like to have in attendance, and the employee's supervisor. The purpose of this hearing is to decide the legitimacy of the positive test results and if legitimate, to decide the consequences of a positive test result.
- B. Any applicant who fails the pre-employment controlled substance test may not be hired, unless the applicant provides the PIC with evidence of wellness from a drug treatment specialist. The PIC, after a hearing, shall provide a written recommendation concerning the applicant's employment, including employment after completion of a treatment program, to the applicant's proposed supervisor.
- C. Any employee who fails any controlled substance test performed pursuant to this policy is subject to:
 - 1. Immediate suspension without pay, by the employee's supervisor, until the PIC can hold a hearing on the matter, but in no case shall suspension without pay be for a period not to exceed ten (10) working days; or
 - 2. Termination from employment by the employee's supervisor, or
 - 3. The employee may also be referred to a drug treatment/rehabilitation program, approved by the PIC, for counseling and treatment. The preferred consequences shall be placement of the employee into the approved treatment program. Employees shall be responsible for payment of all treatment/rehabilitation costs which are not covered by health insurance or other benefits.

The PIC, after a hearing, shall provide to the employee's supervisor, a written recommendation concerning any sanctions which may be levied on the employee. The final sanction decision is the responsibility of the employee's immediate supervisor.

Section VIII – Confidentiality and Record Keeping

- A. Individual expectations of privacy and confidentiality shall be upheld at all times throughout the testing and hearing processes authorized by and undertaken pursuant to this policy.

- B. The results of any test performed pursuant to this policy shall not be released to anyone other than the PIC, the individual employee's supervisor, the Testing & Review Officer, without the expressed written permission of the tested individual.
- C. All documentation concerning testing and test results of any individual pursuant to this policy shall be kept strictly confidential. In order to secure the confidentiality of the documentation concerning testing and test results while assuring that such documentation is available for review by authorized individuals, the PIC shall be responsible for the following record keeping requirements:
1. Documentation of the "reasonable suspicion" testing processes-including the "Controlled Substance Testing Notice" and "Consent to Testing" forms, as well as the "Reasonable Suspicion Incident Checklist" and the "Reasonable Suspicion Employee Observation Checklist forms
 2. Documentation of the pre-employment testing processes-including all notices and pre-employment drug testing consent forms
 3. Documentation of the post-treatment testing processes-including all applicable forms
 4. Records of the collection process to indicate specimen identification, accountability and chain of custody-including any urine specimen custody and control forms
 5. Records of test results provided by the Testing & Review Officer
 6. Records/notices of positive test results referred by the Testing & Review Officer
 7. Any written documentation provided by the Testing & Review Officer
 8. Any written documentation provided by the employee or applicant tested
 9. Any written determinations made by the PIC concerning any employee or applicant
 10. Any other records, reports, documents or materials involved in the testing process

Section IX – Testing Policy to Be Published

This Controlled Substance Testing Policy shall be made available to all FPCC employees, and notice of procedure to acquire copies shall be posted in all FPCC facilities.

Section X – Controlled Substance Testing Policy Forms

1. Pre-Employment Testing Form
2. Notice to Employee of Controlled Substance Test
3. Employee Consent to Controlled Substance Follow-Up Testing
4. Employee Consent to Controlled Substance Testing Based Upon Reasonable Suspicion

5. Collection Site Procedures List for Urine Specimens
6. Instructions to Employees for Collection of Specimen for Controlled Substance Testing Purposes
7. Reasonable Suspicion Incident Checklist Confidential
8. Reasonable Suspicion Employee Observation Confidential

FORT PECK COMMUNITY COLLEGE

Certification

I acknowledge that I have received, read and understand the Controlled Substance Testing Policy adopted by the Fort Peck Community College Board of Directors. I am aware that I may attend any employee awareness briefing regarding the implementation of this policy given by the Administrative of FPCC. As a condition of my employment, I agree to abide by the provisions of this all drug-related policies adopted and implemented by Fort Peck Community College.

Employee Signature

Date/Time

