

SJSU Research Foundation Drug and Alcohol Policy

Human Resources

Policy No.: HR. 01-11-001 Rev. A

Effective
Date: 06-01-2017

Supersedes: HR.nn-11

Publication
Date: 06-01-2017

1.0 Purpose

The purpose of this policy is to delineate the San José State University Research Foundation's ("Research Foundation") policy concerning use and abuse of alcohol and/or illegal drugs or substances (including marijuana), to provide procedural guidelines, and to communicate the consequences of failing to adhere to established policies.

2.0 Responsibility

The Research Foundation executive director, through designated executive-level operations and Human Resources teams, is responsible for ensuring strict compliance with this policy. The director of Human Resources or designee is the designated lead in this endeavor.

3.0 Scope

The following rules and standards of conduct apply to **all** employees of the Research Foundation, irrespective of employee status, while on Research Foundation property (to include all areas of assignment, irrespective of formal ownership or title, and to include parking lots) and during the course of the work day (including meals and rest periods).

4.0 Definitions

This table provides definitions for special terms, acronyms, and abbreviations used in this policy.

Term, Acronym, or Abbreviation	Description
Federal Drug Free Workplace Act of 1988	Employers who fall under this category must have a policy prohibiting the unlawful manufacture, distribution, dispensation, possession, or use of illegal drugs, including marijuana, or controlled substances in the workplace, and must specify what actions will be taken in the event of violations.
California Drug-Free Workplace Act of 1990	California's Drug-Free Workplace Act of 1990 is almost identical to the federal act (noted above). This law applies only to businesses contracting with or receiving grants from the California state government. Affected businesses must certify that they do, or will, provide a drug-free workplace before doing business with the state, including a workplace free of marijuana use.

Proposition 64	<p>Proposition 64, also known as the Adult Use of Marijuana Act, which amends the California Health and Safety Code and other California statutes, legalizes the recreational use of marijuana for adults 21 years old and over and establishes a regulatory framework for the sale of marijuana.</p> <p>The provisions related to legalizing recreational marijuana use took effect November 9, 2016. While the enactment of Proposition 64 legalizes recreational use of marijuana in California, it does not impact workplace drug policies. Employers are still required to comply with applicable federal laws and do not have to change their policies prohibiting marijuana use. Marijuana continues to remain an illegal Schedule I substance under the federal Controlled Substances Act.</p> <p>As a federal contractor, the Research Foundation continues to be legally obligated, pursuant to the Drug Free Workplace Act, to maintain a workplace free of illegal drugs, including marijuana. Proposition 64 does not impact the Research Foundation's Drug and Alcohol Policy.</p>
----------------	--

5.0 Policy

The Research Foundation maintains a drug free workplace pursuant to its legal obligations, as a recipient of federal contracts and funding, pursuant to the provisions of the Federal Drug Free Workplace Act of 1988. The Foundation also complies with the provisions of California's Drug-Free Workplace Act of 1990.

As a responsible employer and partner of the San José State University community, the Research Foundation is concerned about employees' use, sale, or possession of alcohol, illegal drugs, narcotics, or controlled substances, as they affect both the individual and their workplace. The use or possession of alcohol, illegal drugs or controlled substances on the job constitutes a potential danger to the safety and welfare of colleagues and fellow employees, and exposes the Research Foundation to the risks of injury or property loss or damage. Even misuse of prescription drugs and/or over-the-counter drugs can affect an employee's job performance and may likewise seriously impair the employee's productive contributions. Use or possession of illegal substances, including marijuana, or alcohol when abused, can seriously detract from an employee's good judgment, work performance, efficiency, safety, and health, and thus tends to seriously impair the employee's ability to productively contribute to the company's objectives.

While the passage of Proposition 64 in California legalized recreational use of marijuana in California, marijuana remains an illegal Schedule I substance under the federal Controlled Substances Act. Both federal and state drug-free workplace acts continue to prohibit use of "controlled substances," as defined under the federal Controlled Substances Act. Federal and state laws continue to require federal contractor employers such as the Research Foundation to maintain a workplace free from drugs and to certify that the organization is drug-free. Proposition 64 expressly does not change the Research Foundation's status as a drug-free workplace. Also, Proposition 64 does not change the Research Foundation's policies prohibiting the use of marijuana or complying with federal law.

Conduct that violates the Research Foundation's Drug and Alcohol policy includes the following:

- a) Manufacture, use, possession, offer for sale, or being under the influence of illegal drugs, including marijuana, or of alcohol during working hours, including lunch and break periods.
- b) Manufacture, use, possession, offer for sale, or being under the influence of illegal drugs, including marijuana, on Research Foundation property at any time. "Research Foundation" property includes all work areas of a Research Foundation's assignment, irrespective of formal ownership or title.
- c) An employee's conviction on a charge of illegal sale or possession of any controlled substance, including marijuana, while off company property also violates this policy. Such conduct, even though off duty, reflects adversely on the Research Foundation, its business, and its employees, and may also compromise employee safety and welfare.

5.1 Required Notifications

Any employee who is using prescription or over-the-counter drugs that may impair the employee's ability to safely perform the job, or affect the safety or well-being of others, must notify their manager or supervisor of such use immediately before starting or resuming work, to ensure the safety of their co-workers and of the integrity of the assignments.

Federal law mandates that any employee who has been convicted of any criminal drug statute for a violation occurring in the workplace must notify the company's Human Resources department no later than five (5) days following the conviction. The Research Foundation is then obligated to notify the government contracting office within ten (10) days of receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace.

5.2 Corrective Action

Violations of these rules and standards of conduct will not be tolerated. An employee who violates any of the terms of this policy is subject to corrective action, at the Research Foundation's discretion, depending upon seriousness of the infraction, which will include any or all of the following, individually or in combination:

- a) Mandatory referral to drug counseling, rehabilitation, and/or Employee Assistance Programs (EAPs).
- b) One of these conditions or requirements may be that the employee participate in and successfully complete a formal drug abuse assistance or rehabilitation program that is approved by federal, state or local health agencies, law enforcement or other appropriate agencies. Referral will be made by company representatives and rehabilitation services. Every effort will be made to coordinate this program through employee's health benefits, as appropriate. The employee is expected to **strictly** adhere to and abide by all recovery assignments, duties, and tasks, as specified and prescribed by professionals. Failure to strictly abide may lead to termination of employment.
- c) Formal corrective action, including a formal written warning, up to and including termination of employment. Formal corrective action will include a statement of

specific conditions for the employee’s continued employment, to be decided at the sole discretion of the Research Foundation.

- d) Failure by the employee at any time to strictly adhere to the guidelines and conditions established for continued employment will result in termination of employment.

As part of its overall policy enforcement, the Research Foundation reserves the right, among other actions, to conduct searches on company property, including company instrumentalities, or of employees and/or their personal property, and to implement other measures as necessary and appropriate to detect and/or deter abuse of this policy, as determined by circumstances involved. The Research Foundation reserves the right to bring any such related matters to the attention of appropriate law enforcement authorities, including the San Jose State University Police Department, and to partner with them in addressing and resolving issues and concerns.

6.0 Related Policy Information

Not applicable.

7.0 Required Forms

Not applicable.

8.0 References and Related Information

Not applicable.

9.0 Record Retention

All documents and records are maintained in accordance with SJSU Research Foundation *Record Retention* requirements.

Record	Retention
<i>Drug and Alcohol Policy</i>	This document is effective until further revised or updated. Outdated or revised documents will be maintained in accordance with Research Foundation Record Retention requirements. The Research Foundation will maintain the signed original and electronic copies of the approved policy and all updates and replacements.