



SISTEMA UNIVERSITARIO ANA G. MÉNDEZ
Vice Presidency for Human Resources

POLICY FOR A COMMUNITY AND A WORKPLACE AND STUDY ENVIRONMENT FREE OF DRUGS, ALCOHOL AND TOBACCO

Policy Number: RH-14-213-001 **Effective Date:** August 1, 2014

<input type="checkbox"/>	New
<input type="checkbox"/>	Amends norms and provisions established in the Human Resources Manual
<input type="checkbox"/>	Amends Executive Order No. _____ dated _____
<input checked="" type="checkbox"/>	Amends Policy No. <u>RH-02-032-001</u> dated <u>February 1, 2002</u>

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I. SCOPE

The *Policy for a Community and a Workplace and Study Environment Free of Drugs, Alcohol, and Tobacco* (hereinafter referred to as “Policy”) has been established by Sistema Universitario Ana G. Méndez (hereinafter referred to as “SUAGM” or “Institution”). Therefore, it affects all of its academic and student components, as well as all of its institutions, installations and affiliated entities, including, but not limited to, Universidad del Este, Universidad Metropolitana, Universidad del Turabo, the University Centers, the Ana G. Méndez University Virtual Campus, Sistema TV (Channel 40), campuses in the United States, and Central Administration.

Hence, it follows that this document shall apply to all employees, including, but not limited to, professors on full-time, term, lecturer or other types of contracts; as well as regular, temporary, institutional, or grant-related administrative personnel; and all SUAGM students.

SUAGM recognizes that the use and abuse of alcohol and controlled substances, as well as the dependency on these, limits one’s capacity to function effectively, increases absenteeism, causes job performance deficiencies, increases the number of accidents, and affects social and moral harmony. Furthermore, the influence, manufacturing, use, possession, sale or distribution of controlled substances are considered criminal acts under the law in both Puerto Rico and the United States.

II. PURPOSE

This Policy promotes a study and work environment that is free from the use, influence, sale, possession, and/or distribution of controlled substances, and of the improper use or abuse of controlled substances or alcohol on SUAGM premises. The Institution has established it so in order to:

- Promote a safe and healthy study and work environment;
- Protect students, professors, employees and the general public;
- Maintain optimum levels of productivity and quality in the delivery of services;
- Protect property; and
- Comply with applicable laws and regulations, including, but not limited to:
 - *US Drug-Free Workplace Act of 1988*
 - *US Drug-Free Schools and Campuses Regulations*
 - Act 4 of 1971, known as the *Controlled Substances Act of Puerto Rico*, as amended, and
 - Act 59 of 1997, known in Puerto Rico as the *Law to Regulate Tests to Detect Controlled Substances in the Private Sector*.

The bulk of the Policy details its restrictions, assigns responsibilities, and lays the framework for a program on alcohol and controlled substances.

III. DEFINITIONS

- Accident** : Any eventual occurrence or consequence of an act, function or omission that causes or places **any person or entity** at imminent risk of danger, harm or loss of health, security or property.
- Employee** : Any person employed by SUAGM. This includes regular employees or for an indeterminate time; temporary employees or those for a determinate time; full-time, part-time, on probation, contracted with institutional funds, sponsored with external funds or who fall under any other category.
- Job Candidate** : A person who has been identified via the SUAGM recruitment process and to whom a job offer has been extended, even on a conditional basis.
- Illegal Drugs or Controlled Substances** : Those listed under Class I and II as per Title 24, Section 2202 in Laws of Puerto Rico Annotated, as amended, commonly referred to as the *Controlled Substances Act of Puerto Rico* or within any other legislation of the Commonwealth of Puerto Rico or the United States of America, with the exception of the use of controlled

substances prescribed by a physician or other uses authorized by law, such as over-the-counter medications.

“Illegal drugs” or “controlled substances” include narcotics, hallucinogenic drugs, depressants, stimulants, synthetic drugs or other substances capable of creating or sustaining adverse effects on the physical, emotional or mental state of a person. It also includes controlled substances for the purposes of self-medicating, which have not been acquired with a corresponding prescription that has been endorsed and disbursed by a medical professional who is duly certified, or the use of which is not authorized by law.

For a list of the drugs and controlled substances referred to in this Policy see **Appendix 1**.

Legal Drugs or Medications:

Includes medications prescribed by a physician, over-the-counter medications or remedies, and alcoholic beverages. Medications prescribed by a physician comprise drugs that an individual may take under the supervision or guidance of a health professional who is duly certified in order to treat a specific condition, be it physical, emotional or mental.

Student : Any person who has been admitted and is officially enrolled in each semester or course and who has not been suspended as per the Standards of Satisfactory Academic Progress or other disciplinary sanction.

Institutional Physician : A physician who works for SUAGM, be it as an employee, independent contractor, referred doctor or any other type of physician designated or contracted by SUAGM with the purpose of implementing and enforcing this Policy, as well as the program and rules which stem from it.

Specimen : Refers to a sufficient minimum quantity of 45ml of urine, or any other type of bodily fluid or tissue that is obtained by non-invasive means, and which is determined to comply with the reliability criteria and exact measures accepted by laboratories for carrying out initial screening and confirmation testing, and sufficient for retaining a portion to allow the employee or student to carry out their own confirmation testing.

Unjustified Refusal : Refusal to submit to alcohol or controlled substances testing or to cooperate for these to be carried out as required. This includes:

- Failure to appear at the location where the specimen is to be collected without proper justification;
- Leaving the location where the specimen is to be collected without proper justification;
- Leaving the place of work on the day in which screening is to take place without proof of an emergency situation and/or without having provided prior notification of absence;
- Outright refusal to submit to testing procedure;
- Failure to abide by or follow instructions from the laboratory or person in charge so that the specimen can be collected in an appropriate manner;
- Improperly altering the specimen;
- Failure to present him/herself to alcohol testing immediately and no later than a two-hour window from the moment at which it is requested.

SUAGM Premises : All the areas and venues of which SUAGM is owner—be they leased or under the control of Sistema Universitario Ana G. Méndez—including, but not limited to, places where services are rendered or products are managed, as well as parking lots, access points within the premises or SUAGM venues, lockers, and storage areas.

All the areas and venues in which work or study takes place by SUAGM representative or agents, any of its employees or who have been assigned to SUAGM for the use of its facilities, and/or use by any of its employees, students, professors, contractors, suppliers, visitors and/or lessors or lessees, as well as the movable property located within said areas and venues.

The aforementioned includes, but is not limited to, classrooms, offices, sport facilities, libraries, conference rooms, hallways, bathrooms, green areas, parking lots, cafeterias, book stores, grounds, buildings, activities sponsored by the Institution, building structures and/or movable and immovable property located within SUAGM.

Random Sampling: Method with which to randomly select employees who should submit to a drug, alcohol or controlled substance test.

Individualized

Reasonable Suspicion : Moral conviction that a specific individual is under the influence, such as that they are using alcohol or controlled substances, independently of whether or not said act can be proven at a later time. Said suspicion should be founded on observable factors and objectives, such as:

- a) Direct observation of the use or possession of alcohol or controlled substances;
- b) Physical symptoms that signal the effects of alcohol consumption or of any controlled substances;
- c) Recurring pattern of abnormal conduct or erratic behavior at work.

Individualized reasonable suspicion should be established by at least two (2) supervisors of said employee, one (1) of which should be the employee's direct supervisor.

SUAGM Vehicles : Automobiles, trucks, towing vehicles, boats, ships, motor vehicles, and any other vehicles belonging to or leased by SUAGM, used for SUAGM operations, and/or which are under SUAGM control or that of any of its representatives, employees, professors, contractors, visitors and/or lessors or lessees.

IV. PROHIBITIONS

SUAGM students and employees are strictly prohibited from using, consuming, selling, distributing, being in possession of and/or being under the influence of alcohol or any controlled substance during working hours within or outside of work, student areas, or at activities hosted by the Institution. Any student or employee who engages in this conduct shall be considered in violation of this Policy. As a result, sanctions shall be applied as per the corresponding federal and local applicable legislation and in accordance with the rules stipulated in the *SUAGM Human Resources Manual*, the *Student Handbook* or as per established in this Policy.

All students and employees are prohibited from being in possession of, using, being under the influence of, hiding or storing, transporting, promoting, buying, selling and/or distributing within SUAGM premises any of the following articles or substances:

1. Illegal drugs or related substances;
2. Over-the-counter drugs that may cause a negative side effect and put workplace security at risk, and/or any other controlled substance;
3. Synthetic drugs, designer drugs or of a similar nature;
4. Alcoholic beverages, and,
5. Drug paraphernalia.

Furthermore, students and employees are prohibited from working, coming into work or class, or entering SUAGM premises under the influence of alcohol. Students or employees are considered to be “under the influence of alcohol” when they exhibit any of the following conditions:

1. Blood alcohol level of 0.02% or more;
2. If considered under the influence of alcohol, as defined by any federal or local law or regulation; or
3. When other circumstances point to the fact that they are under the influence of alcohol.

This means that employees who use illegal drugs during or outside of working hours may face disciplinary action, including job termination. Likewise, students may be subject to expulsion from SUAGM.

Furthermore, the use of tobacco, cigarettes, and electronic cigarettes on SUAGM premises is prohibited.

V. RESPONSIBILITIES

In addition to the rules and regulations established herein, all employees and students must comply with SUAGM rules and requirements that apply to their work or study, and those of which employees and/or students have been informed.

All students and employees must show up for work or study free from the influence of controlled substances or alcohol, and be in optimum condition to carry out their duties in a way that is safe, reliable and adequate. Likewise, they shall remain as such during the execution of their duties.

All employees and students are obligated to notify SUAGM immediately in writing regarding any accusation or conviction pertaining to a violation of this Policy or to the laws on controlled substances or alcohol, even if the events that motivated the accusation or conviction did not happen in the workplace or study area.

Supervisors and employees are responsible for immediately notifying a Representative from Human Resources or Security (institutional or systemic) and students are responsible for notifying the Vice Chancellor for Student Affairs regarding any incident, situation, act or conduct that they themselves witness or of which they have been made aware, which demonstrates or indicates that a person has violated this Policy. This notification shall also be carried out when there is reasonable suspicion to believe that an employee or student is using, consuming, selling, distributing, in possession of, promoting the use of and/or is under the influence of alcohol or controlled substances.

SUAGM recognizes that on occasion employees and students may use prescription medications or over-the-counter medications. **Prescription medications** shall be transported in their original containers and shall be used according to the guidelines set by the physician who prescribed them. **Over-the-counter medications** may be transported and used on SUAGM premises if and when they are in their original container and used as per the guidelines set by the manufacturer. Inappropriate use, abuse or ill use by an employee or student with regard to the use or

consumption of prescription or over-the-counter medications, with no regard for the effects of said medications (such as causing drowsiness, for example) constitutes a violation of this Policy. Furthermore, if there is individualized reasonable suspicion, SUAGM may consult a health professional if the use or consumption of any medication, be it prescribed or over-the-counter, affects an employee's ability to work in a safe and productive manner, or a student's ability to function effectively.

Any employee or student who takes prescribed medications or over-the-counter medications should consult the physician who prescribed it or the pharmacist, respectively, to determine if the drug may cause adverse effects that may put them or others at risk, or interfere with their ability to function properly.

("Adverse effects" include, among others: drowsiness, disorientation, dizziness, lack of coordination or any other effect on a person's senses.)

In the event a medication may cause harm or impair judgment or function, the employee shall notify his/her supervisor and, respectively, the student shall notify a Representative from the Office of the Vice Chancellor for Student Affairs or a professor as soon as possible that he/she is on a medication, preferably before using or consuming it. In the case of employees, SUAGM shall explore alternatives to make reasonable accommodations or arrangements with regard to their functions and duties as employees, so long as they can carry out their duties properly.

If said accommodation cannot be made or a reasonable accommodation is not possible, the employee may avail him/herself of sick leave or any other type of license when absence is pertinent. In the case of students, their cases shall be evaluated by the Office of the Vice Chancellor for Quality of Life.

All SUAGM employees who are requested to submit to mandatory screening are obligated to do so, be they selected randomly or due to individualized reasonable suspicion. All employees may be randomly required to submit to controlled substances testing two (2) times per year, unless one of these tests has yielded a positive result that has been duly confirmed, or as part of a counseling, treatment or rehabilitation program.

All SUAGM students or candidates for admission who have been requested to be screened shall also be required to do so for the aforementioned reasons. Employees may be required to undergo controlled substance and/or alcohol testing, without this limiting the scope of this Policy, if they are currently or will be carrying out any of the following duties:

1. Any person who oversees or drives motor vehicles for freight transport on any public road, or any other type of vehicle designated to transport passengers or freight by sea or air;
2. University security personnel;
3. Employees whose duties involve the management and/or control of drugs and controlled substances, explosives, gas, and materials that are hazardous, flammable, radioactive, toxic, high-voltage or of similar nature.

In accordance with the *Drug-Free Schools and Communities Act*, which serves as guidance for the implementation of the *Drug-Free Workplace Act (1988)*, SUAGM requires that all its students and employees comply with this Policy with respect to the abuse of controlled substances, alcohol, and cigarette use. Any student or employee must notify the Institutional authorities within five (5) days of a conviction or violation of alcohol and drug statutes. In the case of students, they must notify the Vice Chancellor for Student Affairs of the Institution. In the case of employees, they must notify their immediate supervisor and a Representative from Human Resources of the Institution or the Director of Security.

The Vice Presidency for Human Resources will coordinate the efforts, alongside the Vice Presidency for Marketing and Student Affairs, to enforce the stipulations in this Policy for the student community, following the best practices of their office. This implies creating initiatives, programs, protocols, procedures, and creating or adapting similar documents to those generated by Human Resources with the end goal of responding in an appropriate manner to the student community.

Testing shall be conducted by entities with no affiliation to SUAGM so as to preserve the reliability and accuracy of these. A well-known laboratory shall be contracted to administer and protect these tests against the possibility of contamination or to avoid test analysis errors. All tests administered to any employee or student that yields an initial positive result for drugs shall be confirmed by alternate methods so that there is the highest degree of reliability in these results.

VI. SANCTIONS

When deciding on which disciplinary measures or sanctions shall be applied, or what action shall be taken against an employee or student involved who violates this Policy, SUAGM shall take into account:

1. The nature of the infraction;
2. The job or function that the employee performs;
3. Work history as per their SUAGM personnel file;
4. How the situation was handled or what charges are being brought up by the courts or public officials; and/or
5. Any other additional factor, such as: the impact of the situation on other employees, students, and/or the way in which SUAGM operations are affected.

Any employee who incurs in a violation of this Policy shall be subject to disciplinary action, which may include: reprimands, warnings, immediate job suspension or termination in accordance with the procedures established herein, with those stipulated in other SUAGM policies, to the degree in which said infraction affects the wellbeing of the university community and, along with it, results in further repercussions to the statements that uplift the educational mission of SUAGM. In the case of students, these shall be referred to the Vice Chancellor for Student Affairs and shall be subject to the sanctions stipulated in the *Student Handbook*.

An employee or student accused of using, consuming, selling, distributing, being in possession of and/or under the influence of any controlled substance during work hours, within or outside

their place of work or study, may face suspension of work or study during the time the case is in the courts.

All employees that yield the first instance of a positive result for narcotics shall receive immediate suspension of their job and salary on a temporary basis, and they shall be required to submit to and complete a rehabilitation program. SUAGM shall refer the employee or student to a substance abuse professional (SAP) for an evaluation and recommendation. The employee or student shall present a certificate from this professional, which indicates the recommended course of treatment and the date at which they can resume their duties. Subsequently, the employee shall be required to submit to periodic testing for controlled substances. The main objective is to provide individuals with the opportunity for rehabilitation and to rejoin society free from this addiction, which certainly prevents them from carrying out their daily duties. There will be just cause for termination if the employee refuses to submit to the rehabilitation program or if, after completing the program, the employee resumes drug use once again or if they are not able to satisfactorily complete the rehabilitation program approved by SUAGM.

An employee or student has the right to use an alternate laboratory to obtain a confirmation result from the same specimen and, if he/she so wishes, the minimum necessary quantity from the original sample can be transferred to the independently contracted laboratory to carry out said test. Every sample that yields a positive result shall be submitted for confirmation testing to verify the results prior to imposing disciplinary action.

Unjustified refusal by an employee or student to submit to controlled substances and/or alcohol testing shall constitute *prima facie* evidence that the test would have yielded a positive result had a sample been taken. In the first instance of a positive test result, SUAGM shall refer the employee or student to a substance abuse professional (SAP) for their evaluation and recommendation. The employee or student shall present a certificate by said professional that indicates the recommended course of treatment and the date at which they can be reinstated. In the case of a student, he/she shall be referred to the Vice Chancellor for Student Affairs and will be subject to the sanctions listed in the *Student Handbook*.

The sanctions for these prohibited actions shall be applied according to the code of conduct in the *Human Resources Manual*, *Student Handbook*, or as stated in this Policy.

In the event a student fails to comply with this Policy, he or she shall be referred to the Vice Chancellor for Student Affairs. Sanctions will depend on the gravity of the infraction and the level to which it affects the wellbeing of the university community and other students, employees or visitors.

Any failure to comply with this Policy could mean federal or state law violations pertaining to alcohol and controlled substances. Therefore, the Institution is empowered to take immediate disciplinary measures, independently of where the transgression occurred. In addition, any violation of federal and state laws can be referred to the District Attorney's Offices of the Department of Justice for due investigation or processing. Depending on the nature of the offense, a student may be called to the Student Disciplinary Committee, which shall conduct an investigation and determine the pertinent course of action (according to the stipulations in the *Student Handbook*).

VII. SEARCHES AND INSPECTIONS

SUAGM reserves the right to carry out searches and inspections whenever deemed necessary with the purpose of determining if employees or students have on their person, are using, are under the influence of, transporting or hiding any prohibited article or substance as defined herein. Such searches and inspections shall be carried out after receiving approval from pertinent SUAGM officials. These measures shall be conducted in a professional manner according to current federal and local legislation and as per the procedures stipulated by the Office of Security, Office of Human Resources, or the *Student Handbook*. Under these circumstances, the pertinent authorities shall be notified.

VIII. PROGRAM

The Vice Presidency for Human Resources shall develop a program that comprises:

1. Risks and effects linked to alcohol and controlled substances consumption;
2. Controlled substances and alcohol testing;
3. Circumstances within which SUAGM can conduct such testing;
4. Protocols for accurate and immediate action for achieving an employee's rehabilitation, if positive results are yielded
5. Handbook that establishes the official nature of the provisions of this initiative, dissemination method, confidentiality, actions that can violate what is put forth in this Policy, transgression, evaluation strategies/activities, and other necessary documents.

(Refer to the Drug and Alcohol Testing Program.)

IX. EMPLOYEE ASSISTANCE PROGRAM

SUAGM will refer any employee who yields a positive test result for alcohol or controlled substances to the Employee Assistance Program for evaluation, rehabilitation and treatment.

X. PROGRAM FOR STUDENT QUALITY OF LIFE

Student affairs issues shall be referred to the Office of the Vice Chancellor for Student Affairs and shall be addressed as per the regulations in the *Student Handbook*.

XI. EFFECTIVE DATE

This Policy has been established in the interest of assuring the physical health and wellbeing of employees, students and visitors on SUAGM premises, as well as to preserve the wellbeing of the general public.

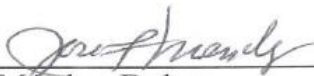
This Policy shall be in governing effect sixty (60) days after the required announcement to all SUAGM personnel.

The cooperation of all employees and students necessary to achieve the purposes and goals detailed herein is required and of vital importance.

XII. CONFIDENTIALITY

All medical exams and tests shall be carried out by a medical clinical laboratory contracted by SUAGM so as to protect the information disclosure process with respect to test results. SUAGM will also protect with the strictest confidentiality all results of the tests carried out, positive or negative, which shall be preserved in a file separate from a person's personnel file. Such information shall not be available to be offered nor admitted into evidence in a criminal proceeding against any employee or student, unless the person offers it willingly.

XIII. SIGNATURES, TITLES OF CONCERNING AUTHORITIES AND APPROVAL DATE



José F. Méndez, Dr.h.c.
Presidente

12/2/14


Fecha



Victoria de Jesús, Ed.D.
Vicepresidenta de Recursos Humanos

12/12/2014

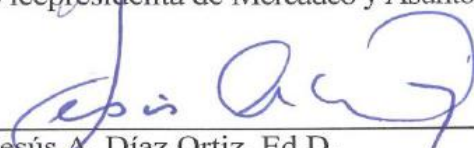
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Mayra Cruz Rivera, Ed.D.
Vicepresidenta de Mercadeo y Asuntos Estudiantiles

9/12/2014

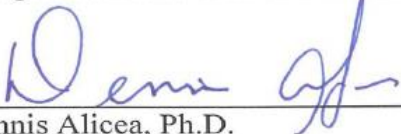
Fecha



Jesús A. Díaz Ortiz, Ed.D.
Vicepresidente de Asuntos Administrativos

12/4/14


Fecha



Dennis Alicea, Ph.D.
Rector

12/12/14

Fecha



Carlos M. Padín, Ph.D.
Rector

12/12/14

Fecha



Lcdo. Alberto Maldonado Ruiz
Rector

12/9/2014

Fecha



Migdalia Torres Rivera, Ph. D.
Rectora

12/12/2014

Fecha