



Procedure: Drug and Alcohol Testing

Procedure Number: 3364-25-105.1

Responsible Department: Human Resources

Scope: All Campuses

Effective date: 08/18/2021

Original effective date: 03/05/1995

This procedure is authorized by the university's policy on drug and alcohol abuse, 3364-25-105.

(A) Basis for ordering an employee to be tested

- (1) Employees may be tested under the following conditions:
 - a) Where there is reasonable suspicion that the employee to be tested engaged in illegal drug usage as defined herein or is intoxicated.
 - b) The reasonable suspicion must be based upon specific personal observation.
 - c) Observation must be by a supervisor and management level employee.
 - d) Reports of illegal drug usage or intoxication (alcohol abuse) must be documented, in writing, at the time of observation or as soon as possible thereafter. Reports of illegal drug usage, intoxication or alcohol abuse, which are not confirmed in writing, as provided herein, shall not constitute reasonable suspicion.

(B) Procedure

- 1) Ordering tests, restriction on orders, and refusal to submit to tests
 - a) No testing may be conducted without authorization of the House Supervisor, Department Head or higher ranking University representative. The authorized University representative must document, in writing, who is to be tested and why the test was ordered, including the specific objective facts constituting reasonable suspicion and the names of any informants or sources of the information. One copy of this documentation shall be given to the employee before testing. The employee must be given the opportunity to read the documentation and told the reasons the test is to be given.
 - b) Failure to follow any of the above steps shall result in elimination of test results as if no tests were administered. The test results will be voided, no documentation will be maintained in the employee's personnel file and no discipline administered to the affected employee.

- c) Employee may be given an opportunity to give an explanation of their condition to the University representative ordering the test.
 - i. AFSCME- if available within a reasonable amount of time, a union steward or representative may be present during such an explanation, if the employee so requests.
- d) If the University representative, after observing the employee, has a reasonable suspicion that the employee may be intoxicated or impaired, then by written order, signed by the University representative, the employee may be ordered to submit to a toxicology test designed to detect the presence of alcohol, chemical adulteration, marijuana metabolites, cocaine metabolites, opiates, amphetamines and phencyclidine in accordance with the procedure set forth below.
- e) Refusal to submit to urine or breath testing after being properly ordered to do so may result in disciplinary action. The employee tested will be deemed to be on leave with pay for the balance of the work day.
- f) Random or mass testing may not be ordered by the employer except as provided under section (B)(8) of this procedure.
- g) The University may order urine samples and breath analyzer methodology, as is available at the test facility. Blood test may not be ordered and if ordered may not be utilized.

2) Testing procedures

- a) Urine specimens may only be tested for covered drugs. Covered drugs are: marijuana, cocaine, opiates, amphetamines, phencyclidine. Specimens may not be used to conduct any analysis or test not specifically provided herein.
- b) A University representative who is involved in the discipline process shall not serve as the collection site person.
- c) Collection of urine specimens must allow individual privacy unless there is clear and convincing reason to believe that a particular person may alter or substitute the specimen. If specimen collection is directly observed by a non-medical person, the person must be of the same gender as the employee. The following circumstances are the only grounds to believe a person may alter, or may have altered or substituted a specimen:
 - i. The urine specimen is outside the normal temperature range (32.5°C, 90.5°-99.8°F) and the employee will not allow an oral body temperature to be taken, or the oral body temperature is 1°C/1.8°F different from the temperature of the specimen;
 - ii. The collection site person observes behavior that clearly indicates an attempt to alter or substitute a specimen; or
 - iii. The employee has previously been determined to have used a controlled substance and the test is a follow-up test after return to service.
- d) A split sample of urine must be collected. The employee shall be allowed

an opportunity, at the employee's expense, to have the specimen retested at a different certified laboratory. The employee shall have seventy-two (72) hours, after a positive test result is received, to request a test by a different laboratory.

- e) An employee must provide at least forty-five (45) milliliters of urine or a refusal to submit may be found unless there is a medical reason. An employee unable to provide the minimum urine specimen shall be allowed to drink sufficient water to provide a specimen.
- f) Each step in the collecting process of the urine specimens shall be documented to establish procedural integrity and the chain of evidence. A standard drug testing custody and control form must be used. All specimen containers, bottles, vials, and bags used to store and/or transport specimens shall be sealed with evidence tape and labeled in the presence of the employee. The testing shall be done by a laboratory certified by the State of Ohio as a medical and forensic urine drug testing laboratory and/or a laboratory which has a forensic urine drug testing certification by the College of American Pathology which complies with the scientific and technical guidelines for federal drug testing programs and Standards for Urine Drug Testing for Federal Agencies issued by the Alcohol, Drug Abuse and Mental Health Administration of the U.S. Department of Health and Human Services in effect at the time of the test, or comparable scientific and technical guidelines.
- g) The employee designated to give a sample must be positively identified prior to any sample being taken. Specimen samples shall be sealed, labeled and checked against the identity of the employee to ensure the drug and alcohol testing results match the testee. At all times practicable, samples shall be stored in a secured and refrigerated atmosphere until tested or delivered to the testing lab representative.
- h) The laboratory selected by the Employer to conduct the analysis must be experienced and capable of quality control, documentation, chain of custody, technical expertise, and demonstrated proficiency in urinalysis testing.
- i) The employee shall be provided a copy of the laboratory report of both specimens.
- j) No discipline shall be imposed until the employee has had seventy-two (72) hours from notification of a positive test to seek test of the same specimen by another certified laboratory as specified above. Seeking another test shall not be cause for discipline nor used against an employee in an arbitration proceeding.

3) Laboratory analysis procedures

- a) The testing or processing phase shall consist of a two-step procedure. A specimen initially testing positive will undergo an additional confirmatory test. An initial positive report will not be considered positive, rather it will be classified as confirmation pending or

- presumptive positive.
- b) The initial test will be performed by an immunoassay test. The cutoff levels (positive detection) for screening tests will be in accordance with the U.S. Department of Transportation, pertinent to the Omnibus Transportation Employee Testing Act of 1991, and Controlled Substances and Alcohol Use and Testing (49 CFR Part 382).
 - c) A confirmation test will be performed on all initial positive tests. The cutoff levels for screening tests will be in accordance with the U.S. Department of Transportation, pertinent to the Omnibus Transportation Employee Testing Act of 1991, and Controlled Substances and Alcohol Use and Testing (49 CFR Part 382).
 - d) All test results are to be reviewed by a Certifying Scientist. Test results must be completed as soon as possible.
 - e) Tests which are below the levels set forth above shall be determined as negative. If test results are negative, all Human Resources documentation regarding supervisory observations and testing will be destroyed.
 - f) An MRO shall examine all positive confirmed test results to determine if there is an alternative medical explanation for the positive test result. Before making a final decision as to whether a positive test is valid, the MRO must provide the employee with an opportunity to discuss the test result. If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO shall report to the Employer that the test is negative.
- 4) Alcohol tests
- a) All alcohol tests will be conducted in accordance with the Breath Analyzer Methodology in effect.
 - b) A positive test for alcohol shall be 0.05 grams/210 liters.
- 5) Employee Rights
- a) The University shall pay the costs of all tests, except the drug test secured by an employee.
 - b) An employee ordered to take a test shall be paid for all lost work time due to the University's order the day of the order. The University may, at its option, place an employee on unpaid leave until the employee is returned to work or disciplined. An employee whose test is negative shall be made whole for all lost wages and other benefits. Employees who test positive where proper procedures are followed shall not be made whole for any period of time on administrative leave.
 - c) Employees shall have the right to appeal any discipline imposed by the University.
 - d) Voluntary submission to a chemical dependence program shall not be grounds for discipline.

- e) Any discipline imposed as a result of a positive test for a first offense and any grievance filed in response thereto shall be held in abeyance pending completion by the employee of a mutually agreed upon substance abuse program.
- 6) Chemical dependency programs
- a) An employee testing positive for drugs or alcohol under the provision of the policy shall have the option of entering into a chemical dependency program in lieu of discipline. If the employee successfully completes such a program and is not disciplined for substance abuse for eighteen (18) months following the initial charge, the discipline shall be revoked and the employee's record cleared of the offense, and it shall not be used as a basis for any other disciplinary action in the future.
 - b) After evaluation, the program utilized by the employee must be sufficient to meet the rehabilitation needs of the employee.
 - c) Employees temporarily unfit to perform the duties of their position because of drug or alcohol abuse may use sick leave, vacation leave, compensatory time, and light duty assignment, if available, and leave without pay during absences required as part of the rehabilitation process.

7) Voluntary participation in a dependency program

An employee may, at any time, voluntarily enter a chemical dependency program. This may be done through an employee assistance program or by direct contact with the providers of such services. Employer knowledge gained by the employee's voluntary admission or participation in a chemical dependency treatment program shall not be used as the basis for discipline. Information regarding treatment of employees in chemical dependency programs shall remain confidential and shall not be released to the public. Although an employee will not be subject to disciplinary action where the employee voluntarily submits to a treatment program prior to being tested as provided in this policy, the Employer has the right to ensure that the employee is fit for duty when a request for reinstatement is made.

8) Duty assignment after treatment

Once an employee who tests positive successfully completes rehabilitation and is fit for duty, the employee shall be returned to the regular duty assignment. Duty reassignment during treatment shall be at the discretion of the Employer based on each individual's circumstances. If follow-up care is prescribed after treatment, this care may be imposed as a condition of continued employment. The employee may be tested on a random basis for eighteen (18) months no more than three (3) times the first six (6) months, two (2) times the second six (6) months and one (1) time the third six (6) months. Once treatment and any follow-up care is

completed, at the end of eighteen (18) months, the records of treatment and positive drug test results shall be retired to a closed medical record. The employee shall be given a fresh start with a clean administrative record, except that other than discipline records shall be retained.

(C) Definitions

- 1) Drug: includes cannabis as well as other controlled substances as defined in the Ohio Revised Code (ORC).
- 2) Illegal drug usage: includes the use of cannabis or any controlled substance which has not been legally prescribed and/or dispensed, or the abusive use of a legally prescribed drug.
- 3) Alcohol misuse: is defined as actual impairment of the employee with regard to his or her ability to perform job duties.
- 4) Reasonable suspicion: is defined as follows: aberrant or unusual on-duty behavior of an individual employee which:
 - i. is observed on duty by the employee's immediate
 - ii. supervisor or higher ranking employee and confirmed by the observation of another supervisory employee. Observation may also be confirmed by a Union steward where possible.
 - iii. is the type of behavior which is recognized and accepted as symptoms of intoxication or impairment cause by controlled substances or alcohol.
 - iv. is not reasonably explained and accepted as a result of some other cause such as, but in no way limited to, fatigue, lack of sleep or side effect of a prescription medication, or over the counter medication, reaction to non-toxic fumes or smoke, or other job related cause or factor.
- 5) Chain of custody: these are the procedures beginning at the time of collection to account for all handling and storage of each specimen.
- 6) Confirmatory Test: a second laboratory procedure used to analyze a positive test result from a screening test. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation test.
- 7) Cutoff Level: the concentration of a drug or drug metabolite in the urine at which a specimen is considered positive.
- 8) Medical Review Officer (MRO): the licensed individual who is qualified to interpret and evaluate test results and other relevant medical information.

/s/

John Elliot
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Chief Human Resources Officer

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