Reasonable Suspicion
Drug/Alcohol Testing

Drug and Alcohol Abuse Policy
What does the policy say?

Policy No. 3364-25-105, Employee drug and alcohol abuse

It is The University of Toledo's objective to provide the highest quality health education, research, and services, with a responsibility to do so in a safe environment. Employees under the influence of drugs and/or alcohol while on the job create serious safety and health risks to themselves, patients, guests, coworkers, and the University.

The University prohibits the unlawful manufacture, distribution, dispensing, possession, or use of any controlled substance including the unsanctioned use of alcohol, on University property, or as any part of its activities. The term "controlled substance" means a controlled substance in schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812).

This includes all illegal drugs and legal drugs used without a physician's order. It does not prohibit taking prescribed medication as directed by a physician.
What does the policy say?

**Marijuana:** Even if prescribed or recommended pursuant to state law, remains illegal under federal law and the University considers it to be an illegal drug for purposes of this policy.

**Alcohol:** The use, possession, or being under the influence of alcohol while performing job responsibilities is prohibited and is subject to corrective action up to and including termination of employment. Employees suspected of being under the influence may be tested following the procedure 3364-25-105.1, Drug and alcohol testing.

**Illegal Drugs:** The use, sale, purchase, transfer, possession, or being under the influence of an illegal drug (and/or the use, sale, purchase, transfer, possession, or being under the influence of a legal drug for illegal purposes) is prohibited. Employees engaging in the use, sale, purchase, transfer, possession, or being under the influence of an illegal drug will be subject to corrective action up to and including termination and possible criminal prosecution. Employees suspected of being under the influence may be tested following the procedure 3364-25-105.1, Drug and alcohol testing.
What is “reasonable suspicion” testing?

• Testing based upon observable signs and symptoms of possible drug/alcohol use
• Testing conducted during a time when individual exhibits signs and symptoms
• Not based upon second hand reports or past behaviors
• Decision to test made by 2 supervisors who concur. If a second supervisor is needed to confirm reasonable suspicion, the House Supervisor may assist.
What is the testing process?

- Observe/Document (two supervisors)
- Collective Bargaining Agreement considerations
- Notification to individual
- Directive to test
- Specimen Collection
- Transportation
- HR notification
- Test Results
Observe/Document

• When a supervisor is notified an individual may be in violation of the Drug and Alcohol Abuse policy, the supervisor must observe the individual’s behavior and immediately complete the Reasonable Suspicion Testing Checklist.

• If the supervisor believes there is reasonable suspicion the individual may be in violation of the policy, the supervisor must contact their manager (if unavailable, another witness such as a supervisor, manager, or human resource professional must be utilized).

• The second witness must also observe the individual’s behavior and sign the Reasonable Suspicion Testing Checklist.

• The employee should be directly observed and not left alone during this process.
Observe/Document

MANAGER TOOLKIT

Reasonable Suspicion

- University Policy 3364–25–105
- Reasonable Suspicion Form– AFSCME only
- Reasonable Suspicion Form
Observe/Document (Main Campus and non-bargaining unit HSC)

CONFLICTUAL
Reasonable Suspicion Process & Notification Form

This form should be used to determine and communicate reasonable suspicion prior to testing an employee.
If reasonable suspicion is found, this document may also be used to notify employees that 1) reasonable suspicion has been established according to University of Toledo Policy 356-25-105, Drug and alcohol abuse, and 2) that they are being ordered to submit to a random drug and/or alcohol test in accordance with University procedure 356-25-105.

Observation / Document (Main Campus and non-bargaining unit HSC)

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Observation / Document (Main Campus and non-bargaining unit HSC)
Observe/Document (AFSCME Only)

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**AFSCME Reasonable Suspicion Process & Notification Form**

This form should be used to determine and communicate reasonable suspicion PRIOR to testing an employee. If reasonable suspicion is found, this document may also be used to notify employees that 1) reasonable suspicion has been established according to University of Toledo Policy 364-25-105: Drug and alcohol abuse, and 2) they are being ordered to submit to a random drug and/or alcohol test in accordance with University procedure 364-25-105.1 and UT/AFSCME: Collective Bargaining Agreement Article 54.

AFSCME employees have the right to union representation during the interview.

Date: ____________________  Time: ____________________ AM / PM

Employee being observed (please print): ____________________

**Check One:**
- _______________ Probanory
- _______________ Non-Probanory

Please note all observed on-duty behavior and physical signs or symptoms, which leads UT to reasonably believe that the employee above has recently used, or is under the influence of alcohol and/or drugs (check all that are applicable):

**Location of Observation:**

**PHYSICAL INDICATORS**

<table>
<thead>
<tr>
<th>APPEARANCE</th>
<th>EYES</th>
<th>FACE</th>
<th>BREATH</th>
<th>ODOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dirty</td>
<td>Stained Clothing</td>
<td>Messy</td>
<td>Watery</td>
<td>Bloodshot</td>
</tr>
<tr>
<td>Burns on Person</td>
<td>Clothing</td>
<td>Glassy</td>
<td>Dry Mouth</td>
<td>Closed</td>
</tr>
<tr>
<td>Ripped</td>
<td>Torn Clothing</td>
<td>Dizzy</td>
<td>Skobbling</td>
<td>Grinding Teeth</td>
</tr>
<tr>
<td>Odor on Person</td>
<td>Clothing</td>
<td>Partially Drunk</td>
<td>Unbalanced</td>
<td>Appears Normal</td>
</tr>
<tr>
<td>Partially Drunk</td>
<td>Appears Normal</td>
<td>Appears Normal</td>
<td>Appears Normal</td>
<td>Appears Normal</td>
</tr>
</tbody>
</table>

**Notes:**

**BEHAVIORAL INDICATORS**

<table>
<thead>
<tr>
<th>DEMEANOR</th>
<th>ACTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cooperative</td>
<td>Fighting</td>
</tr>
<tr>
<td>Poite</td>
<td>Profane</td>
</tr>
<tr>
<td>Calm</td>
<td>Erratic</td>
</tr>
<tr>
<td>Drowsy</td>
<td>Hostile</td>
</tr>
<tr>
<td>Cring</td>
<td>Threatening</td>
</tr>
<tr>
<td>Silient</td>
<td>Hypotensive</td>
</tr>
<tr>
<td>Eicited</td>
<td>Non-Communicative</td>
</tr>
<tr>
<td>Tuscerous</td>
<td>Appears Normal</td>
</tr>
<tr>
<td>Disorintated</td>
<td>Inensive</td>
</tr>
</tbody>
</table>

**PERFORMANCE INDICATORS**

**STANDING**
- Swaying
- Falling
- Locked Knees

**WALKING**
- Stumbling
- Unsteady
- Holding On
- Ragel

**Observers:** Must be by at least two supervisors or higher ranking officials.

☐ Observed by University Supervisor

Name: ____________________  Title: ____________________

☐ Observed by a Higher Ranking Employee or second University Supervisor

Name: ____________________  Title: ____________________

Name: ____________________  Title: ____________________

COPY TO EMPLOYEE BEING TESTED AND COPY TO UNION REPRESENTATIVE.

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Observe/Document

Both the supervisor and a second witness:

• involved in all steps of the process
• fully document the events immediately
Observe/Document

After completing the Reasonable Suspicion Testing Checklist, if the supervisor and witness believe the individual may be in violation of the policy, the supervisor and witness must escort the individual to an area where a conversation with the individual can be held in private.

The employee should not be left unsupervised.

When feasible, an HR consultant and labor/employee relations consultant should be consulted.
Employees covered by a CBA

If the employee is covered under a collective bargaining agreement and the employee requests steward representation, the employee has the right to consult with a union steward.
Notification to Individual

The supervisor will

• Inform individual of a *potential* violation of the Drug and Alcohol Abuse Policy based upon documented behaviors or appearance

• Inform individual of supervisor and witness observations

• Ask individual to offer an explanation of the observed behaviors

  “What explanation do you have for these behaviors?”

Both supervisor and witness will document the conversation (including a note if the individual declined to comment).
Notification to Individual

If both supervisor and witness believe the individual may be in violation of the Drug and Alcohol Abuse policy based on their observations:

• Inform employee they believe the employee may be in violation of the policy

• Direct individual to submit to a reasonable suspicion drug/alcohol test

• Ask individual to sign and complete the Reasonable Suspicion Process & Notification Form directing the individual to be tested

• Do not wait to contact HR before proceeding with testing – we have a limited window to test and get an accurate result
“At this time, we believe you are in violation of the Drug and Alcohol Abuse Policy and are directing that you submit to a reasonable suspicion drug/alcohol test. This test will involve screenings to detect the presence of alcohol or drugs in your system. A positive test could result in corrective action, up to and including termination of your employment. Please read this form and sign acknowledging your receipt of this directive. Failure to submit to and/or complete this testing may lead to corrective action, up to and including termination of your employment.”

If the individual is 17 years of age or younger, the parent or guardian must be contacted to provide consent.
DIRECTIVE TO TEST

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The University of Toledo Official Giving the Direct Order for Employee to be Tested:

Name: __________________________ Title: __________________________

Signature: __________________________ Date: __________________________

The employee is being ordered to submit to the following:

☐ BREATHALYZER designed to detect the presence of alcohol and/or

☐ TOXICOLOGY TEST/URINE TEST designed to detect the presence of chemical
addiction, marijuana metabolites, cocaine metabolites, opiates, amphetamines and
phenycyclidine

Refusal to submit to urine or breath testing after being properly ordered to do so may result in
disciplinary action up to and including termination of your employment.

For Toxicology Tests/Urinalysis only, you will be deemed to be on leave with pay for the balance
of the work day and until further notice.

The signatures below indicate your acknowledgement of this information and is not necessarily indicating your agreement.

Signature of Employee __________________________ Date: __________________________

Signature of Union Representative __________________________ Date: __________________________
Individual Refuses Testing
Employee Refuses Testing

• Explain again that refusal to submit to and complete the testing could subject them to corrective action up to and including termination of employment

• Again – direct the employee to submit to the testing

• If the individual again refuses, inform individual that the refusal could subject them to corrective action and inform the individual that s/he will be deemed to be on leave with pay for the balance of the shift and until further notice
Employee Refuses Testing

1. Instruct individual to make arrangements to be taken home safely

2. If individual insists upon driving, inform individual that both campus and local police will be notified and again instruct the individual to make arrangements to get home safely

3. If the individual refuses, supervisor may obtain vehicle information and notify campus and local police that the caller is the supervisor of an individual suspected of being under the influence of drugs and/or alcohol and that the suspected individual may be attempting to operate a motor vehicle
Employee Refuses Testing

- Report refusal to your HR consultant as soon as possible
- Provide original copies of checklists, directive form, and other documentation to your HR consultant
- HR consultant must notify their consultant and/or employee/labor relations specialist as soon as possible
- HR will work with the supervisor to determine next steps
Individual Consents to Testing
Individual Consents to Testing

Once individual consents to testing . . . .

Supervisor contacts and informs the House Supervisor at UTMC that they are the supervisor of an individual suspected of being in violation of the Drug and Alcohol Abuse Policy and that the suspected individual will be transported to the specimen collection location (UTMC Emergency Department) for a drug and/or alcohol test screening.
Individual Consents to Testing

- The House Supervisor contacts The Emergency Department Charge Nurse and notifies them that the employee will be escorted to the ED.

- The House Supervisor should indicate whether a breathalyzer (alcohol) or urine screen (drugs) or both is needed – blood test may not be ordered.
Individual Consents to Testing

- The supervisor and witness will transport the individual to the collection location: the emergency department at UTMC

- If feasible, and if the employee is in a bargaining unit, the union representative may accompany the employee

- If there is a safety concern, contact the University Police or HSC Security Department and a request will be made for an officer to follow the transporting vehicle containing the supervisor, manager and individual
Individual Consents to Testing

- Supervisor and witness remain with the individual while at the collection location.

- If individual refuses to cooperate in the testing process, supervisor must tell individual that refusal to submit to and complete the testing will subject them to corrective action up to and including termination of employment.

- If after reasonable efforts have been made to enable the individual to provide a breath or urine specimen and the individual is unable to do so, an evaluation by medical personnel is to be conducted to establish medical impediment to providing a specimen. If no medical impediment exists, it is considered a refusal to test.
Individual Consents to Testing

If the result is positive:

1. Inform the individual that s/he is deemed to be on leave with pay for the balance of the shift and until further notice

2. Offer Employee Assistance Program

3. Instruct employee to make arrangements to be taken home safely, and assist the employee if necessary

4. If individual insists upon driving, inform individual that both campus and local police may be notified and again instruct the individual to make arrangements to get home safely

5. If the individual refuses, supervisor may obtain vehicle information and notify campus and local police that the caller is the supervisor of an individual suspected of being in violation of the Drug and Alcohol Abuse Policy and that the suspected individual may be attempting to operate a motor vehicle
Individual Consents to Testing

If the result is negative:

1. Inform the individual that s/he is deemed to be on leave with pay for the balance of the shift

2. Inform the individual to return for his/her next scheduled shift

3. Offer Employee Assistance Program
Individual Consents to Testing

- Report incident to your HR consultant as soon as possible
- Provide original copies of checklists, directive to test form, and other documentation to the HR consultant
- The HR consultant must notify their Employee and Labor Relations Specialist as soon as possible
- HR will work with the supervisor to determine next steps
Thank-You

QUESTIONS?
Contact your HR Consultant or your Employment and Labor Relations Specialist