



Procedure: Drug- free workplace

Procedure Number: 3364-25-104.1

Effective date: 2/9/1999

Responsible Department: Human Resources

Scope: All Campuses

This procedure is authorized by the University's policy 3364-25-104 Drug free workplace and is in compliance with the federal Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V Subtitle D); the DOD rule on maintaining a drug-free workforce; the provisions of the Federal Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), § 504; the applicable provisions of the Americans with Disabilities Act of 1990 and the Americans with Disabilities Amendments Act of 2008 (ADAA); and sets forth the University's standards as an employer providing a workplace that is a safe, healthy and drug-free working environment for all employees. This procedure fulfills the conditions set by the federal government for institutions who receive contracts or grants from federal agencies.

Students in as far as they are employed by the University are subject to policy 3364-25-104 Drug free workplace, and will, as terms of their employment, abide by all policies and procedures established by the University in as far as specific regulations affect their work as temporary employees. The Office of Student Affairs has issued policies regarding the activities of students in their classroom and living areas.

The procedure created herein is campus-wide affecting all working environments. The Drug-Free Workplace Act of 1988 specifically affects contractors who hold funding from any source in an amount greater than \$100,000 or who hold federal grants or contracts in any amount. Individuals who hold or receive funding at any value are subject to the regulations of the policy and must comply by individual certification. All University employees are subject to the policy regardless of source of support.

The University prohibits the unlawful manufacture, distribution, dispensing, possession or use of controlled substances as listed in Schedule I and II of Section 802 (8) of the Controlled Substance Act (21 U.S.C. 812) by employees on Federal

Defense contracts who are employed in sensitive positions, i.e., employees granted access to classified information; those in positions involving national security, health, or safety; or, in positions requiring a high degree of trust and confidence.

(A) Procedure: Establishing and maintaining a drug-free workplace

(1) VIOLATIONS AND PERSONNEL ACTION

Violation of the University policy 3364-25-104 Drug-free workplace results in appropriate disciplinary action according to the academic or non-academic unit to which the violator belongs. Under certain circumstances violators will be subject to drug testing measures.

Unclassified/Professional Staff and Bargaining Unit Discipline:

Policy 3364-25-105 Drug and alcohol abuse outlines University policy on the use of controlled substances on UT property. Policy 3364-25-111 Corrective action, non-bargaining unit employees, outlines procedure for addressing violations by personnel.

Bargaining Unit employees are subject to the disciplinary policies outlined in the respective collective bargaining agreements.

(2) DRUG-FREE AWARENESS PROGRAM

Through the office of Human Resources (HR) at The University of Toledo, emphasis is placed on prevention of drug abuse as part of the Employee Assistance Program (EAP). HR makes the University statement concerning the establishment of a drug-free workplace available to all employees as they are hired into the institution. Drug counseling and rehabilitation referral is available through HR.

(3) DISSEMINATION OF PUBLISHED UNIVERSITY STATEMENT

The University statement is distributed by HR by general mailing or electronic mail to all University employees. All newly hired employees will be provided a copy of the statement and are requested to sign an acknowledgment form which remains on file in their permanent employment record.

(4) NOTIFICATION OF CONDITIONS OF EMPLOYMENT

Signing the acknowledgment of the University statement on establishing a drug-free workplace is a condition of employment with The University of Toledo.

In signing the acknowledgment, the employee agrees to not only abide by the terms of the statement, but to also notify the employer of any criminal drug statute convictions no later than five (5) days after that conviction.

Employees who accept employment with The University of Toledo accept the conditions of a drug-free workplace.

If an employee is offered the opportunity to work on a University approved and accepted DOD contract which is funded by the U.S. Department of Defense, a condition of employment may be drug testing, under certain limited circumstances. In most cases, drug testing will not be a requirement. If such testing is a requirement, the employee will have the choice of declining the position.

(5) NOTIFICATION OF THE FEDERAL FUNDING AGENCY The

University is responsible for notifying the federal funding agency within ten (10) days after receiving notice from an employee or otherwise receiving actual notice of the conviction.

The University must take one of the following actions within thirty (30) days of receiving notice that an employee has been convicted of violating the statement published by the University under the Drug-Free Workplace Act:

- (a) Take appropriate personnel action against such employee, up to and including termination.
- (b) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

(6) CONSEQUENCES OF NON-COMPLIANCE

The federal government may levy a sanction against an institution if the funding agency determines that a contractor or grantee has violated the Drug-Free Workplace Act by:

- (a) Filing a false certification
- (b) Failing to carry out any obligation specified in its establishment and maintenance plan in the requirements for compliance
- (c) Having a sufficiently high employee rate of criminal drug convictions

Sanctions are imposed, in writing, by the head of the federal funding agency (or designee) and may be appealed through standard agency suspension and debarment proceeding. The agency head may waive the sanction under appropriate circumstances.

Sanctions include the following:

- (a) Termination of the grant or contract by the federal agency
- (b) Suspension of payments under the grant or contract
- (c) Suspension including a temporary, emergency form of debarment, the administrative equivalent of a preliminary injunction
- (d) Debarment

(7) MAINTAINING THE DRUG-FREE WORKPLACE ENVIRONMENT

The University of Toledo, through HR and its administrative framework, enforces its policy statement concerning the establishment and subsequent maintaining of a drug-free environment. Employees of the institution bear a responsibility for reporting specific abuses and acts which threaten the eligibility of the institution to receive federal funding.

(8) BIENNIAL REVIEW

The Associate VP and Chief HR Officer will be responsible for coordinating the biennial review of our policy to (a) determine its effectiveness and implement changes if they are needed and (b) ensure that the sanctions are consistently enforced.

(B) Definitions

- (1) "Controlled Substance" means a controlled substance in schedules I through V of §202 of the Controlled Substance Act (21 U.S.C. 812), and further defined by regulation at 21 CFR 1300.11 through 1300.15.
- (2) "Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.
- (3) "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use or possession of any controlled substance.
- (4) "Drug-free workplace" means a site for the performance or work done in connection with a specific grant at which employees of the grantee are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession or use of controlled substances.
- (5) "Employee" means the employee of a grantee directly engaged in the performance of work pursuant to the provisions of the grant.
- (6) "Federal agency" or "agency" means any U.S. executive department, Government corporation, government controlled corporation, any other establishment in the executive branch (including the Executive Office of the President), or any independent regulatory agency.
- (7) "Grant" means an award of financial assistance, including a cooperative agreement in the form of money, or property in lieu of money, by a Federal agency directly to the grantee. The term grant includes block grant and entitlement grant programs, whether or not exempted from coverage under the grants management government-wide regulation ("Uniform Administrative Requirement for Grants and Cooperative Agreement"). The term does not include technical assistance which provides services instead of money, or other assistance in the form of loans, loan guarantees, interest subsidies, insurance, or direct appropriations; or any veterans' benefits to individuals.
- (8) "Grantee" means a person who applies for or receives a grant directly from a Federal agency.
- (9) "Individual" means a "natural person". An individual differs both from an organization made up of more than one individual and from corporations which can be regarded as a single "person" for some legal purposes.

Reviewed by:

/s/
John Elliot
Senior Associate Vice President and Chief Human Resources
Officer

July 12, 2021
Date

Initial effective date:
2/9/1999
Review/Revision Date:
7/12/2021
Next review date:
7/12/2024

Review/Revision Completed by:

HR Policy Committee

References:

1. Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V Subtitle D);
2. DoD rule on maintaining a drug-free workforce;
3. The provisions of the Federal Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), § 504;
4. The applicable provisions of the Americans with Disabilities Act of 1990 and the Americans with Disabilities Amendments Act of 2008 (ADAA);
5. 21 CFR Sec. 1308.11 through 1300.15;
6. Controlled Substance Act (21 U.S.C. 812).

THE UNIVERSITY OF TOLEDO
DRUG-FREE WORKPLACE
STATEMENT

Instructions:

Please read the following statement regarding The University of Toledo's policy on maintaining a Drug-Free Workplace. In compliance with the federal regulations established in the Drug-Free Workplace Act of 1988, all employees who are employed on a grant in an amount exceeding \$100,000 or a federal grant or contract regardless of value, are asked to read and retain a copy of this statement. All other employees of the University are also covered by these regulations and are asked to acknowledge the policy as well.

"The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace by The University of Toledo. Employees, both full-time and part-time, who violate this prohibition are subject to the University's regulations establishing action in such cases. These actions may result in possible suspension, dismissal, or referral to appropriate assistance programs.

In the case of employees on grants and contracts, misconduct and resulting conviction of violation of University policy must be reported to the federal funding agency supporting the grant or contract. The agency may impose a sanction against the University, terminate the contract, suspend payments, or impose debarment from any future federal funding.

In all cases, violation of the University policy is a serious offense. The University of Toledo intends to maintain a drug-free workplace for all employees."

I have received a copy of The University of Toledo Drug-Free Workplace Statement.

Employee Signature

Date

Employees return this receipt to office of Human Resources where all acknowledgments will be filed.

THE UNIVERSITY OF
TOLEDO
STATEMENT OF NOTIFICATION
SUPPORTING A DRUG-FREE
WORKPLACE

Instructions:

In compliance with federal regulations imposed by the Drug-Free Workplace Act of 1988, those employees, whether full-time, part-time, or fully employed student research or program assistants, directly engaged in the performance of work supported by a grant funded in an amount exceeding \$100,000 or any federally funded grant, contract, or program, are provided a copy of this statement and are asked to retain a copy.

All employees are provided a Drug-Free Workplace Statement.

"Employees directly engaged in the performance of work supported by a grant or contract in an amount exceeding \$100,000 or any federally funded program, contract or grant, will abide by the terms of the Drug-Free Workplace Statement.

As a condition of employment under the grant, contract or program, the employee will: (a) abide by the terms of the statement, and (b) notify the employer of any criminal drug statute conviction for the violation occurring in the workplace not later than five days after that conviction."

RECEIPT

I have received a copy of The University of Toledo Statement of Notification.

Employee Signature

Date

Employees return this receipt to office of Human Resources where all acknowledgments will be filed.