

**Policy 5-114: Drug Testing**

Revision 0. Effective date: April 9, 2001

**NOTE: Please do not act on this before contacting Human Resources**

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**I. Purpose and Scope**

A. Purpose.

It is the policy of the University of Utah Health Sciences Center to maintain a drug-free workplace to establish, promote and maintain a safe and healthy environment for patients and a safe, healthy, working and learning environment for employees, students and volunteers. It shall be a violation of this policy for any covered individual to engage in the unlawful manufacture, distribution,

dispensation, possession or use of a controlled substance at the work place, including being under the influence or impaired at the work place, while engaged in university business on or off campus, or in any manner that violates criminal drug statutes. Unauthorized use or possession of alcohol at the work place, including being under the influence or impaired by alcohol at the work place, or while engaged in university business on or off campus is also prohibited. By establishing a program to determine whether covered individuals are engaged in substance abuse, the University of Utah Health Sciences Center seeks to prevent the risks associated with such abuse.

B. Scope.

This policy applies to University of Utah Health Sciences Center employees, students, and volunteers, who are in patient sensitive positions, as defined below. These individuals are referred to as "covered individuals." University of Utah Schools and Colleges with students who work in patient sensitive positions, and Departments employing individuals or utilizing volunteers in patient sensitive positions, may enact regulations consistent with this Policy.

## II. Definitions

The following definitions apply for the limited purposes of this policy and any associated regulations.

- A. **Controlled Substance:** any controlled substance in schedules I through V of Section 202 of the Controlled Substance Act (21 U.D.V. 812):
- B. **Criminal Drug Statute:** any criminal drug statute regarding the manufacture, distribution, dispensation, use or possession of any controlled substance.
- C. **Drug Recognition Coordinator:** A person trained to identify and recognize drug and alcohol impairment.
- D. **Drug Test:** urine testing, oral swab, or other similarly minimally invasive test for the presence of controlled substances or their metabolites. Breath testing for

alcohol. Medical Review Officer (MRO): a licensed physician with knowledge of substance abuse disorders employed or utilized to interpret drug test results.

- E. Patient Sensitive Position: U of U Health faculty and staff in positions involving patient contact, patient diagnostic or therapeutic functions, research patient/participant contact, or positions in which the individual works in or has job-related access to patient care areas.

### **III. Grounds for Testing**

- A. Applicant Testing: A drug test may be administered to covered individuals (employees, volunteers, students), applying for patient sensitive positions, once the applicant has received a conditional offer of employment, agreement of service, or admission. Individuals transferring to a patient sensitive position may be tested prior to transfer.
- B. Reasonable Suspicion: A drug test may be administered to a covered individual when a supervisor and/or designee, after consulting with a Drug Recognition Coordinator, concludes, after reviewing the facts and circumstances, that it is more likely than not the covered individual has engaged in conduct that violates this policy. Reasonable suspicion of drug and/or alcohol use may be based on: (1) observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug or alcohol; (2) a pattern of abnormal conduct or erratic behavior; (3) information provided by reliable and credible sources regarding the covered individual's violation of this policy; or (4) newly discovered evidence that the employee tampered with a previous drug test. All employees tested under this provision shall be placed on paid administrative leave pending the results and review of the drug test by the designated management official. Tested volunteers and students will be temporarily relieved from service.
- C. Drug Loss or Diversion Event: A drug test may be administered when a drug loss and/or diversion event occurs (identified and/or unexplained controlled substances and/or alcohol missing or diverted from the workplace). A supervisor

may, in consultation with the Drug Recognition Coordinator, require any covered individual who had reasonable access to the controlled substances or alcohol during the time of the drug loss or diversion event to submit to a test.

- D. Return to Work Agreements: A drug and/or alcohol test may be required before a covered individual returns to work after engaging in conduct prohibited by this policy. Individuals in patient sensitive positions may be tested at random as part of a return to work agreement at the discretion of the MRO.
- E. Agency Directives: Individuals may be tested as required or requested by state or federal agencies.

#### **IV. Testing Process**

At the time a conditional offer of employment, contractual service agreement, or other position is extended to the prospective employee, volunteer, or student, they shall be informed about the University Drug-Free Workplace Policy and the University of Utah Health Sciences Center Drug Testing Policy.

- A. Once the covered individual is scheduled for a drug test, the individual must report to a designated collection site at the scheduled time. If a prospective employee fails to report or to provide a specimen suitable for testing, the offer of employment will be withdrawn. Current employees who fail to report to the collection at the designated time or who fail to provide a specimen suitable for testing shall be deemed to have failed the test and may be placed on paid administrative leave pending an investigation. Volunteers who fail to report for testing will be immediately relieved from service and referred to the Manager of Community Outreach and Volunteer Services. Students who fail to report for testing will be referred to the Academic Dean of the student's program of study.
- B. Upon arriving at the collection site, the covered individual will be asked to sign a waiver consenting to the test. Refusing to consent to a test may disqualify an applicant from further consideration for a position and will be grounds for employee or student discipline, up to and including termination. The Procedure for sample collection shall allow privacy for the subject of the test. Storage and

transportation shall be performed so as to reasonably preclude sample contamination or adulteration. Reasonable efforts will be made to respect the dignity of the individual tested.

- C. The University of Utah shall designate a certified laboratory to perform the testing. Testing will conform to scientifically acceptable collection, identification, handling and analytical methods, including confirmation of any positive test by a method consistent with industry standards.
- D. Once the sample has been analyzed, the MRO will review and interpret each confirmed positive test to determine if there is an alternative medical explanation for the positive result. The MRO may conduct any investigation deemed necessary, including but not limited to interviewing the individual testing positive; reviewing the individual's medical history and medical records to determine if the positive result was caused by a legally prescribed medication, requiring proof of a legal prescription; requiring a re-test of the original specimen; and/or verifying that the laboratory report and the specimen are correct. The MRO will be required to conduct themselves in accordance with guidelines published in the Medical Review Officer's Manual published by the Department of Health and Human Services.

## **V. Drug Test Results**

A test is positive and the individual has therefore failed the test if the sample contains drugs and/or metabolites for which the MRO concludes there is no legitimate explanation other than the use of a prohibited drug or alcohol. In addition, refusing to take a test, failing to report to the designated area for testing, failing to provide a sample suitable for testing, and attempting to alter or tamper with the specimen will be interpreted as a failed test. Drug test results will be reported to the Vice President of Human Resources, or designee, and to the student's Academic Dean only as pass or fail. The Medical Director of the Hospital, or a designee, shall be notified of all individuals failing a drug test who were working at a University Hospitals & Clinics Facility at the time the test was requested.

- A. All information relating to the MRO's investigation, test results and subsequent substance abuse treatment shall be treated confidentially and will be placed in a file maintained by the MRO and physically separate from the employee's personnel file and the student's academic file. Personnel and academic files will include only the pass/fail result from the test and the prohibited substance resulting in a "failed" test.
- B. Within 72 hours after the covered individual has received notice of a failed test, the covered individual may request, in writing a retest of a split sample at a certified laboratory of their choosing. The University shall pay half of the cost of the retest. The results of the retest shall be interpreted by the MRO.

## **VI. Disciplinary Action**

- A. Applicant/Transfers: Any offer of employment or services, including a transfer, will be revoked if an individual fails a drug test. The individual may be disqualified from employment or service for a period of 12 months from the date of the test.
- B. The employment of Staff Members in a benefits eligible position who are in their probationary period and other at-will employees as defined in Policy 5-001: Employee Definitions, who fail a drug test, may be terminated immediately, at the discretion of the supervisor, in consultation with Human Resources.
- C. Employees who are not at-will employees as defined in Policy 5-001: Employee Definitions, who fail a drug test, shall be placed on paid administrative leave pending an investigation. Further action will be based on the results of the investigation and existing University Policies and Procedures. A failed test may result in termination in accordance with Policy 6-316 (faculty), or Policy 5-111 (staff).
- D. Volunteers failing a drug test pursuant to this policy will be immediately relieved from service pending an investigation by the manager of the department to which the volunteer reports. A failed test may result in disqualification of service for a period of 12 months from the date of the test.

- E. Students failing a drug test pursuant to this policy shall be directed to the Academic Dean of the student's program of study and processed in accordance with Policy 6-400, Section II.C , Code of Student Rights and Responsibilities. A failed test may result in expulsion from the academic program in accordance with Policy 6-400, Section II.C.

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*Sections VII- X are for user information and are not subject to the approval of the Academic Senate or the Board of Trustees. The Institutional Policy Committee, the Policy Owner, or the Policy Officer may update these sections at any time.*

## **VII. Policies/ Rules, Procedures, Guidelines, Forms and other Related Resources**

- A. Policies/ Rules. [ *reserved* ]
- B. Procedures, Guidelines, and Forms. [ *reserved* ]
- C. Other Related Resources. [ *reserved* ]

## **VIII. References**

- A. Policy 5-113: Drug-Free Workplace
- B. Policy 5-111: Corrective Action and Termination Policy for Staff
- C. Policy 1-012: University Non-discrimination Policy
- D. Policy 6-316: Code of Faculty Rights and Responsibilities
- E. Policy 6-400: Code of Student Rights and Responsibilities
- F. Rule R3-300A: Tobacco Free Campus
- G. Federal Law Drug-Free Workplace Act of 1988
- H. Federal Law Drug-Free Schools & Communities Act Amendments 1989
- I. Relevant employee definitions are defined in Policy 5-001.

## **IX. Contacts**

The designated contact officials for this Regulation are

- A. Policy Owner(s) (primary contact person for questions and advice): Director of Employment Services
- B. Policy Officer(s): Chief Human Resource Officer

See Rule 1-001 for information about the roles and authority of policy owners and policy officers.

## **X. History**

Revision History.

- A. Current version. Revision 0.
  - 1. Effective Date. April 9, 2001.
  - 2. Editorial Revisions
    - a. Editorially revised February 28, 2023 to move to current regulations template
    - b. Editorially revised February 28, 2023 to replace gender-specific pronouns
    - c. Editorially revised October 11, 2011 to reflect the changes in employee definitions as set forth in Policy 5-100.
- B. Previous versions.  
[reserved]
- C. Renumbering
  - 1. Renumbered from Policy and Procedures Manual 2-12.1