Scope

This policy applies to employees, including student workers, who are not covered by a collective bargaining agreement or individual employment agreement that provides contrary language.

Purpose

The University of Cincinnati (“University”) is committed to providing a safe and secure environment for its students, faculty, staff, and visitors. To that end, employees are prohibited from being under the influence of drugs or alcohol while on the job. The following policy addresses the process for reasonable suspicion drug and alcohol testing.

In compliance with the Drug-Free Workplace Act and the Drug-Free Schools and Community Act, the University maintains a drug-free campus and prohibits the unlawful manufacture, distribution, dispensing, or possession of illegal drugs on its campuses or as part of any University activity.

Definitions

1. “Illegal drug” means a substance whose use or possession is controlled by federal or state law, and is not being prescribed and used or possessed under the supervision of a licensed health care professional. Marijuana, including medical marijuana, cannabis, and/or THC remains a drug or controlled substance under federal law and is considered an illegal drug.

2. “Refuse/refusal to consent” means to obstruct the collection or testing process; to submit an altered, adulterated, or substituted sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; to refuse to release the results of the test to the appropriate University entities; or to fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure.
3. “Under the influence of alcohol” means a positive test result for alcohol, or actions, appearance, speech or bodily odors that reasonably cause a supervisor, manager, or administrator to conclude that an employee is impaired because of alcohol use.

4. “Under the influence of drugs” means a positive test result for illegal drug use. In addition, it means a positive test result for the use of legal drug(s) (prescription and possibly over-the-counter) where either: (1) there is not a valid prescription from a physician for the lawful use of the prescription drug in the course of medical treatment (prescription containers must include the patient’s name, the name of the substance, quantity/amount to be taken, and the period of authorization); or (2) the test results present a finding that the legal drug was taken in a manner that was inconsistent with how it was prescribed and/or exceeded its dosage instructions.

5. “On the job” means any time the employee is engaged in activities on behalf of the University. This includes, but is not limited to, travel between work sites, breaks, training, meetings, and time spent performing duties. This also includes any time the employee is present on University property or in any building or vehicle owned or leased by the University during the working hours of the employee.

Policy

1. Any employee found to be under the influence of drugs or alcohol while on the job will be subject to disciplinary action up to and including termination of employment.

2. Refusal by an employee to consent to a drug or alcohol test or to have their drug or alcohol test results shared with the University has the same force and effect as a positive test result.

3. Any employee suspected of being under the influence of drugs or alcohol while on the job may be required to submit to a drug or alcohol test. The test will be administered by University Health Services (UHS), an agency contracted through UHS for testing, or the On Site Drug & Alcohol Collection Service Inc. (“ODACS”).

4. The University does not conduct random drug or alcohol tests on its employees unless required by federal or state law, or as set forth in this policy. This policy does not prohibit, infringe, or address the ability of an academic or clinical program to require students to submit to random drug or alcohol testing. The University may conduct random drug or alcohol testing on employees when the employee operates a University vehicle in the course and scope of their employment.

5. Managers, supervisors, and administrators are responsible for enforcing this policy in a consistent manner. Managers, supervisors, and administrators who knowingly violate this policy will be subject to disciplinary action up to and including termination of employment.

6. All employees are required to report known or suspected violations of this policy to their supervisor, manager, or an appropriate administrator. Any employee who is
convicted of or pleads guilty to any criminal drug statute violation shall notify their supervisor, manager or appropriate administrator not later than five days after such conviction or plea. Failure to follow these requirements may result in disciplinary action up to and including termination of employment.

7. This policy is subject to all applicable collective bargaining agreements and state and federal laws and regulations.

Procedure

1. **Criteria for Reasonable Suspicion Testing:**

Drug or alcohol testing may be ordered when a manager, supervisor, or appropriate administrator has a reasonable suspicion that an employee is under the influence of drugs or alcohol while on the job. Reasonable suspicion may be based on, among other things:

- Direct observation of the physical symptoms of being under the influence of drugs or alcohol in the workplace;
- A pattern of abnormal conduct or erratic behavior in the workplace that is consistent with being under the influence of drugs or alcohol;
- Information provided either by reliable and credible sources or independently corroborated; or
- Newly discovered evidence that the employee has tampered with a previous drug test.

Physical symptoms and abnormal behavior may include, but are not limited to the following:

- slurred/incoherent speech
- drowsiness or sleepiness
- unusually aggressive behavior
- unexplained work errors
- rapid changes in mood
- impaired manual dexterity
- lack of coordination in walking
- dilated pupils
- smell of alcohol or marijuana on the breath with observed behavior issues

Note: Because the symptoms listed above could be attributable to causes other than drugs or alcohol, the manager, supervisor or appropriate administrator will document the facts that led them to have a reasonable suspicion that the suspected employee was under the influence of drugs or alcohol. In addition, personnel from either UHS, the agency contracted through UHS for testing, or ODACS will evaluate the employee
before testing (if possible) to ensure reasonable suspicion of being under the influence of drugs or alcohol exists.

2. **Confirmation and Documentation:**

When a manager, supervisor, or appropriate administrator has reasonable suspicion that an employee is under the influence of drugs or alcohol on the job, they shall immediately notify their immediate supervisor or other appropriate administrator for confirmation. If the immediate supervisor is unavailable for confirmation, the manager or supervisor may utilize any of the following to confirm their reasonable suspicion:

- another manager, supervisor or administrator;
- a public safety or health services personnel;
- another UC employee; or
- a union official (for bargaining unit employees).

If no one listed above is available to confirm the manager or supervisor’s reasonable suspicion, then the manager or supervisor must act on their own reasonable suspicion.

The manager or supervisor should then arrange for the employee to be transported to UHS or the agency contracted through UHS for testing. If during off-hours (e.g. third shift, weekends, holidays, etc.), the supervisor or manager should call ODACS at 513-761-0539.

Personnel from UHS, the agency contracted through UHS for testing, or ODACS will also confirm and document the existence of reasonable suspicion prior to testing, if possible.

After ensuring the employee is transported to UHS, the agency contracted through UHS for testing, or ODACS, the supervisor or manager must prepare a written report documenting the facts that led them to have a reasonable suspicion that the employee was under the influence of drugs or alcohol on the job. The manager or supervisor must provide that report to UHS and Central Human Resources in a timely manner.

3. **Submission for Drug or Alcohol Test:**

Once at UHS, the agency contracted through UHS for testing, or ODACS, the employee will be asked to execute a consent form to authorize the testing entity to perform the drug or alcohol test and release its results and information to UHS, the employing unit, and Central Human Resources. Employees who refuse to consent to the test and release of its results will not be tested. If possible, the employee should be informed that refusal to consent to the test and the release of its results will be treated by the University as having the same force and effect as a positive test result and will subject them to discipline up to and including termination of employment. Failure to inform the employee of the potential consequences of their refusal to consent shall not prevent or
hinder the University from treating their refusal to consent as a positive test result, which may subject them to discipline up to and including termination.

4. **Relief of Duty:**

When reasonable suspicion exists, the employee shall be immediately relieved of all duties. The employee may be placed on administrative leave pending the outcome of the test. Under no circumstances will the employee be permitted to operate machinery or equipment, including a motor vehicle, until cleared to do so by UHS, the agency contracted through UHS for testing, or ODACS.

5. **Confidentiality:**

Test results (including information gathered during the testing process, information regarding drug or alcohol dependencies, and legitimate medical explanations provided by the suspected employee) and the report prepared by the supervisor or manager that provides the basis for the reasonable suspicion will be kept confidential to the extent required by law. Test results may be disclosed to managers and supervisors on a strictly need-to-know basis, and to the tested individual upon request. Disclosure without consent may also occur when: (1) the information is compelled by law or by judicial or administrative process; or (2) the information has been placed at issue in a formal dispute between the University and employee.

6. **Supervisory Training:**

Managers and supervisors may be trained to recognize behaviors that give rise to and to document circumstances that support reasonable suspicion of drug or alcohol use on the job. Failure to receive such training, however, shall not invalidate otherwise proper reasonable suspicion testing.

7. **Employee Assistance:**

Employees are encouraged to take advantage of the University’s employee assistance plan (EAP). Voluntary submission for treatment of substance abuse problems will not subject employees to disciplinary action. However, submission for treatment shall not serve as a shield from or a substitute for disciplinary action under this policy, or any other University policy.

**Related Resources and Contacts:**

**ODACS:** Phone: 513-761-0539

**UHS:** Phone: 513-584-4457

**UC Employee Assistance Program (EAP)**
Website: https://www.uc.edu/hr/benefits/eap.html

UC Central Human Resources - Labor Relations and Policy Development:
Phone: 513-556-6372
Email: emplabor@ucmail.uc.edu
Website: https://www.uc.edu/hr/labor-relations-policy-development.html