

<b>Policies of the University of North Texas Health Science Center</b>	<b>Chapter 05 Human Resources</b>
<b>05.509 Drug and Alcohol Testing</b>	

Policy Statement.

**Purpose:** It is the policy of the University of North Texas Health Science Center at Fort Worth to promote a safe, healthy and productive learning and working environment free from the influences of drugs and alcohol. As a health science center, UNTHSC-FW is responsible for the management of public health and well-being. The health science center must set an example to ensure the safety, health and welfare of its employees, students and the citizens which it serves, by taking the appropriate steps for maintaining a drug-free workplace as mandated by the State and Federal governments. This policy supplements all other health science center policies regarding drug and alcohol use and related topics by establishing the guidelines for drug and alcohol testing. The drug and alcohol testing program is for the purpose of ensuring a healthy and safe medical workplace, and may not be used for the purpose of criminal prosecution.

**Policy:** To ensure compliance with health science center policies regarding drug and alcohol use, UNTHSC-FW may require the administration, faculty, staff and students to submit to drug and/or alcohol testing based upon reasonable suspicion; or, the unauthorized use or possession of alcohol during work hours; or, the use of or possession of illicit drugs at any time.

Application of Policy.

Faculty, Staff and Students

Definitions.

1. Reasonable suspicion may be based upon, but not limited to, the following criteria:
  - a.) direct observation of drug or alcohol use or possession and/or demonstration of physical symptoms of the influence of a drug or alcohol,
  - b.) a pattern of abnormal or erratic behavior, consistent with alcohol or drug abuse,
  - c.) arrest or conviction of a drug or alcohol related offense on or off the job; identification of an employee or student as the focus of a criminal investigation into illicit drug use, possession or trafficking,
  - d.) information provided by reliable or credible sources,
  - e.) information which is independently corroborated,
  - f.) evidence that an employee or student has tampered with a previous drug or alcohol test, or

g.) possession of drug paraphernalia.

2. Alcohol test - A scientifically recognized test which establishes an individual's blood alcohol level.
3. Aliquot - A portion of a specimen used for testing.
4. CAP guidelines- Guidelines for the Forensic Urine Drug Testing program published by the College of American Pathologists (CAP).
5. Chain of custody - Procedures to account for the integrity of each urine and/or blood specimen by tracing its handling and storage from point of specimen collection to final disposition, utilizing an approved chain of custody form from time of collection to receipt by the laboratory, and upon receipt by the laboratory, an appropriate laboratory chain of custody form(s) to account for the sample or sample aliquot within the laboratory (chain of custody forms, at a minimum, include an entry documenting date and purpose each time a specimen or aliquot is handled or transferred and identifying every individual in the chain of custody).
6. Collection site - A place designated by the health science center where individuals present themselves for the purpose of providing a specimen to be analyzed for the presence of drugs and/or alcohol.
7. Collection site persons - A specially trained person who instructs and assists individuals at a collection site and who receives and makes an initial examination of the specimen provided by those individuals.
8. Confirmatory test - A second analytical procedure conducted after the result of an initial test is positive, to identify the presence of a specific drug or metabolite. (This test is independent of the initial test and uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. At this time, gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, phencyclidine, barbiturates, benzodiazepines, methadone, and propoxyphene.)
9. Drug test - A scientifically recognized chemical test administered in accordance with CAP guidelines and which analyzes an individual's urine or blood for evidence of marijuana, cocaine, opiates, phencyclidine (PCP), amphetamines, barbiturates, benzodiazepines, methadone, and propoxyphene (this test consists of two parts, an initial test and a confirmatory test, respectively conducted with portions of the same original specimen).
10. Employee - Any person engaged in work for the health science center and/or receiving payment through the health science center payroll or receiving payments from UNTHSC-FW as an independent contractor.

11. Student/Employee Assistance Program (S/EAP) - A program designed to assist employees/students and their family members in dealing with emotional and personal problems, including alcohol and drug abuse, affecting or potentially affecting the individual's work/academic performance and safety.
12. Illicit drug - Any drug, inhalant or chemical substance, the use, sale or possession of which is illegal under any state or federal law; this includes one which is legally obtainable but has not been legally obtained. The term also includes prescribed drugs legally obtained but not being used for prescribed purposes.
13. Impaired performance - The inability to perform assigned duties or to perform those duties in a safe and efficient manner.
14. Initial test (also known as screening test) - An immunoassay screen to eliminate negative urine specimens from further consideration.
15. Laboratory - A laboratory which is certified to meet the standards of the CAP guidelines.
16. Medical Review Officer (MRO) - A licensed physician identified to evaluate laboratory conclusion of the Alcohol and Drug Test who has knowledge of substance abuse disorders, and appropriate medical training to interpret and evaluate an individual's positive test result(s) together with other relevant biomedical information.
17. Pass a test - A negative test result indicating no presence of alcohol or drugs in the individual's system or an amount of alcohol or drugs which is below the initial or confirmatory test cutoff levels or a condition whereby there is a legitimate medical reason for the presence of legal drugs.
18. Permanent record book - A permanently bound book in which identifying data on each specimen collected at a collection site is permanently recorded in the sequence of collection.
19. Program - The health science center substance abuse program which implements the policy and procedures for prevention, deterrence, and rehabilitation aimed at eliminating the possession, use, distribution, sale, or consumption of illicit drugs or unauthorized use of alcohol in the workplace.
20. Reasonable Cause - A reasonable and articulate belief evidenced by direct observation of specific physical, behavioral, or performance indicators of probable use.
21. Student - Any person enrolled in a course of study or attending classes at UNTHSC-FW.

22. Substance Control Officer (SCO) - An individual appointed to administer the Substance Abuse Program. The health science center has designated individuals in positions of department head or higher as SCO.
23. Texas Department of Public Safety guidelines - State guidelines for alcohol breath tests, appearing in the Texas Administrative Code, Title 37, Chapter 19.
24. Use of alcohol or an illicit drug - The unauthorized consumption of an alcoholic beverage, the taking of an illicit drug (whether orally, by inhalation, or by injection), or being under the influence of alcohol or a dangerous drug.
25. Workplace - For the purpose of this program, workplace is a generic term that includes any site for the performance of work, instruction or academic activity for the health science center. This includes all buildings, grounds, vehicles, rental space, affiliated hospitals or locations of official health science center functions.

Procedures and Responsibilities.

Procedure / Duty

Responsible Party

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. Individuals having reasonable suspicion, based on the above criteria, must contact the appropriate Substance Control Officer (SCO) or Human Resource Services. When feasible the Office of the General Counsel will be contacted by the SCO or Human Resource Services to confirm whether a given circumstance is sufficient to conduct a test.</li> </ol>  | <p>All Employees,<br/>Human Resource<br/>Services</p> |
| <ol style="list-style-type: none"> <li>2. Reporting personnel shall document the exact reasons why they suspect that a certain employee or student has violated a health science center drug and/or alcohol policy to include: the symptoms exhibited by the employee/student; the actions of the administrator, faculty, employee or student; if at all possible, corroborating statements from other administrators, faculty, employees or students; and other evidence which tends to establish a reasonable suspicion of illicit drug or unauthorized alcohol use. In the statement, conclusions such as "he looks stoned" or "she was drunk" should be avoided. Instead, reporting personnel should make every effort to document the specific facts about an employee's/student's behavior which could lead a reasonable person to the conclusion that the employee/student was using or in possession of illicit drugs or unauthorized alcohol. The emphasis should be placed on how the behavior of the employee/student is affecting his/her performance.</li> </ol> | <p>Reporting Employees</p>                            |
| <ol style="list-style-type: none"> <li>3. Until the results of a test are received, an individual may be suspended with pay (or denied attendance in the academic</li> </ol>  | <p>Human Resource<br/>Services</p>                    |

program) if the continued participation of that individual presents a real and present danger to personal safety or property or threatens the health and safety of the individual, patients or peers.

4. **Test Procedures:** When reasonable suspicion exists and a determination to test has been made, the employee/student shall be transported to the designated site for collection of a urine specimen and/or a blood sample to test for drugs and/or alcohol. Human Resource Services
- a.) The employee/student may request that a blood sample be collected in addition to a urine sample for a directed analysis.
  - b.) An individual who is required to undergo a drug/alcohol test shall complete a pretest notification and release form. All alcohol and drug tests will be conducted at UNTHSC-FW expense.
  - c.) Procedures for collecting urine specimens shall comply with those outlined by current federal requirements, but shall allow individual privacy without violation of a strict chain of custody. Each specimen shall be analyzed in accordance with the Forensic Urine Testing program of the College of American Pathologists (CAP) for testing of:
    - Marijuana;
    - Cocaine;
    - Opiates;
    - Phencyclidine (PCP);
    - Amphetamines;
    - Barbiturates;
    - Benzodiazepines
    - Methadone; and
    - Propoxyphene.
  - d.) In addition, testing for alcohol (ethanol) may be conducted.
  - e.) A chain of custody for each specimen to be tested will be established and maintained from the time of specimen collection through the testing of the specimen and any possible retest appeal.

5. **Reporting and Reviewing of Drug Test Results:** The designated Testing Laboratory laboratory will report all test results in an expeditious manner (special handling may be requested for a student on rotations, due to the time constraints of rotations). All test results shall be reviewed by a Medical Review Officer (MRO). Any test results with less than a predetermined level will be negative and no further testing will be performed, per the guidelines of the Department of Health and Human Services.
- a.) Only specimens confirmed positive by gas chromatography/mass spectrometry or gas chromatography are reported positive for a specific drug or drug metabolite. Any positive drug test result will be reviewed by an MRO before it is reported to the health science center.
  - b.) Prior to making a final decision to confirm a positive test result, the Medical Review Officer may give the individual an opportunity to discuss the test result with him/her. If it is determined that there is a legitimate medical explanation for the positive test result, a conclusion will be reported as negative and no further action will be taken under this policy.
  - c.) All final test results must be reported to the Vice President of Human Resources by telephone (after obtaining positive identification), followed by a written report sent via confidential mail. The tested individual will be notified of the official test results in a face-to-face meeting or by telephone (after obtaining positive identification) by an appropriate UNTHSC-FW official. Test results will not be transmitted to the employee/student via the mail or via facsimile.
6. **Appeal and Retesting:** Employees may appeal positive test results by submitting a written request to the Vice President of Human Resources within three (3) days after being informed of the positive test result. Students may appeal positive test results by submitting a written request to the Vice President of student Affairs within three (3) days after being informed of the positive test result. The appellant has the right to have a second test performed at a certified laboratory of his/her choice. The specimen transfer between the laboratories will follow standard protocol. An MRO shall interpret the alternate laboratory's test Employee

results. All expenses for such retests will be the responsibility of the appellant.

7. **Personnel/Student Actions:** Upon receipt of test results, Human Resource Services shall notify the appropriate administrator who will determine and implement the appropriate action. Any employee or student who fails an alcohol or drug test will be subject to applicable disciplinary policies, i.e., the Discipline and Discharge Policy located in the Personnel Policies and Procedures Manual, the Faculty Misconduct Policy located in the Faculty Bylaws, or the Code of Student Conduct and Discipline located in the Student Handbook. This disciplinary action may include termination or expulsion.
- Human Resource Services

An individual's participation in and successful completion of a health-science-center approved drug or alcohol counseling program coupled with his/her consent to random testing may be considered in the disciplinary process, but does not ensure that termination or expulsion will not occur.

8. **Refusal to Consent to Testing:** Any employee or student who refuses to consent to an alcohol or drug test or who fails to provide an adequate specimen will be subject to discipline, up to and including termination or expulsion. The UNTHSC-FW disciplinary policies will apply in such circumstances.
- Human Resource Services
9. **Confidentiality:** All information related to the alcohol and drug testing of individuals will be held in strict confidence consistent with the provisions of applicable law. Employee records will be retained in the Department of Human Resource Services and student records in the Office of Student Affairs. Individuals who breach said confidentiality shall be subject to discipline, up to and including termination or expulsion, and may face potential legal liability.
- Human Resource Services / Student Affairs
10. **Violations based on reasonable cause:** An employee/student who is reasonably suspected of using alcohol or illicit drugs in the workplace or of performing official duties while under the influence of alcohol or illicit drugs is required to undergo an alcohol or drug test.
- a.) The decision to test must be based on a reasonable and articulate belief evidenced by direct observation of specific physical, behavioral, or performance indicators of probable use.

- b.) When a supervisor or other individual has a reasonable suspicion that an employee/student is using alcohol or illicit drugs in the workplace; or, performing official duties while under the influence of alcohol or illicit drugs, the individual shall contact a Substance Control Officer (SCO) and make an oral report. The reporting individual will then prepare a written report of his or her observations.
  
- c.) When there is reasonable suspicion that an employee/student is under the influence of alcohol or drugs, and that the individual may be impaired to the extent that his or her continued performance of duties will constitute a real and present danger to personal safety or property, the employee/student will be immediately relieved of those duties, and, if appropriate, reassigned or removed from UNTHSC-FW premises.
  
- d.) The SCO will make an inquiry as soon as practicable into the circumstances. The SCO will observe and confer with the employee/student, as may be appropriate. Based on the initial report and the officer's independent observation and analysis, the officer will decide whether testing is justified. When feasible the Office of General Counsel will be contacted to confirm whether circumstances are sufficient to require a test. If testing is required, the employee/student shall be immediately transported by Campus Police to a designated collection site. The SCO will prepare a written report of his or her observations and document the rationale for the decision. The SCO will accompany the employee/student to the testing site.

**Test Not Warranted:**

- a.) If the SCO determines a test is not warranted, supervisory personnel shall consult with the SCO and decide whether the employee/student may return to his/her assigned duties or be permitted to take the remainder of the day off. Employees must use accrued leave. If accrued leave time is not available, the time will be carried as without pay. An individual judged unable to resume his/her duties will not be allowed to transport him/herself home. A supervisor, Police Officer, or designate should transport the employee/student home.

- b.) The supervisor and SCO shall complete their written reports of the incident. The original reports will be filed in the SCO's files. No other distribution shall occur.

**Individual is Uncooperative:**

- a.) An employee/student who refuses to submit to an approved alcohol or drug test will be subject to appropriate discipline up to and including termination/dismissal.
  
- b.) If the employee/student becomes uncooperative, argumentative or unruly while waiting for the SCO, Campus Police should be contacted for assistance. The employee/student should not be permitted to transport him/herself away from the site. A supervisor, Police Officer, or designate should transport the employee/student home. After the employee/student has been safely transported home, the supervisor shall prepare a narrative report that same workday or the next workday. The report shall immediately be sent to the SCO for review.
  
- c.) The employee/student shall be contacted at home (via telephone or personal visit) the next working day following the incident and instructed to report to the department head's office (to attend a pre-discipline meeting) at a specific time and day, preferably the day of notification but no later than the day after the employee/student is notified.
  - i. If the employee/student cannot be contacted, a certified letter will be prepared identifying the pre-discipline meeting place, date and time and, notifying the employee/student that failure to attend could result in immediate suspension, dismissal or termination.
  
  - ii. If the employee/student is contacted but fails to attend the meeting or fails to call to reschedule before the scheduled meeting date, the employee/student shall be notified via certified mail of UNTHSC-FW's decision.

**Individual Cooperates:**

- a.) If the employee/student is cooperative, the SCO will have an opportunity to observe the person and make a decision whether or not an alcohol/drug screen is warranted.
- b.) If the SCO determines a test is warranted, the SCO shall complete a Notice to Test Based on Reasonable Cause (form) and explain the notice to the employee/student and ask the individual to sign the form. If the employee/student refuses to sign the form, he/she is considered uncooperative and procedures outlined above should be followed.
- c.) If the employee/student agrees to be tested by signing the notice, the Campus Police or designate shall transport the individual to the designated collection site for collection of a urine specimen to test for drugs. If alcohol abuse is suspected, a breath alcohol and a drug screen test will be administered. The SCO will accompany the employee/student to the collection site.
- d.) If the employee/student fails to provide an adequate breath, urine or blood specimen to test, he/she is considered uncooperative and procedures outlined in Section 10.6 should be followed.
- e.) The result of a breath alcohol test will be available immediately. The SCO will be given a copy of the result and the employee/student will be given a copy. If the test is positive, a copy will be forwarded to the Vice President of Human Resource Services. If the positive test involves a student, the Vice President of Human Resource Services shall immediately notify the Vice President of Student Affairs. A copy will be retained with the employee/student's drug test results.
- f.) Upon completion of the applicable test, the employee/student shall be transported to the designated drug testing collection site regardless of the breath alcohol test result (negative blood alcohol content is below 0.10 or positive blood alcohol content is 0.10 or higher). After a urine specimen has been collected, the employee shall be transported to his/her residence.

- g.) The time off due to testing will be considered as time worked. Testing based on reasonable cause will be done at health science center expense.

The supervisor and SCO who observed the employee/student (and determined testing was warranted) shall each prepare written reports of the incident. The reports will be filed in the Human Resource Services office. The files on drug and alcohol testing of employees shall be maintained separately from their regular personnel files. A copy of the report(s) will be available to the MRO upon request.

After evaluation of the test results by an MRO, the Vice President of Human Resource Services shall be notified. All final drug test results must be reported to the tested individual by a designated UNTHSC-FW official in person or by telephone. If the results are reported by telephone, the designated official must positively identify that the individual he/she is speaking with is the tested individual.

- a.) Final test results will be reported to a tested employee by a designated UNTHSC-FW official. Students shall be notified by the Vice President for Student Affairs. If the employee/student cannot be notified or is notified but fails to cooperate, steps outlined in Section 10.06 are to be followed.
- b.) If a drug or alcohol test is invalidated, the test results (if any) will not be released or considered. The employee/student will be notified by the appropriate UNTHSC-FW official and will be retested as soon as possible.
- c.) If the MRO receives the initial results of the drug test, and it is determined that there is a legitimate medical explanation for the positive test, the test report to the Vice President of Human Resource Services shall indicate that the result is negative, and no further disciplinary action shall be taken. Appropriate action should be taken in response to the incident which precipitated the need to test.

- d.) The day the Vice President of Human Resource Services is notified of a positive test result(s) is the last day the employee will be carried on UNTHSC-FW time. Depending upon the circumstances, the next work day may be time worked, accrued leave if requested and approved, leave without pay, or the date of termination. Restrictions on student activities will be determined by the Vice President for Student Affairs under applicable policies.
  - e.) If it is determined appropriate, the department head shall direct the employee to a substance abuse treatment program for evaluation. The Vice President for Student Affairs shall direct students.
11. An employee/student who fails an alcohol or drug test will be terminated/dismissed unless he or she meets the following criteria:
- a.) If the employee/student whose test results are positive fails to participate in a substance abuse evaluation as instructed, a pre-discipline meeting shall be scheduled.
  - b.) The employee/student whose test results are positive must follow all institutional instruction. The Vice President for Human Resources, in conjunction with the supervisor or the Vice President for Student Affairs, shall determine the appropriate course of action regarding the status of the employee/student (e.g. return to work/class, off work for treatment, treatment program being developed, appropriate disciplinary action, etc.).
  - c.) The employee/student must successfully complete an assigned counseling/ rehabilitation treatment program. He/she must pass an alcohol or drug test at the completion of the counseling or rehabilitation program and agree, in writing, to unannounced testing for a period up to 36 months.
12. **Recurrence of Substance Abuse:** Upon the second occurrence of the necessity to refer an employee/student to counseling, or rehabilitation treatment under the health science center's substance abuse policy, the employee/student will not be referred but will be terminated/dismissed.

13. **Subsequent disciplinary actions:** Except as provided in section 12, when an employee/student has experienced work related problems as a result of alcohol or drug use and has been reinstated, subsequent disciplinary action will not be taken for the previous work- related problems provided the problems cease after reinstatement.
  
14. **Unauthorized consumption of alcohol or illicit use of drugs in the workplace:** The following procedures will apply when there is direct observation of unauthorized consumption of an alcoholic beverage or illicit drug use by an employee/student in the workplace.
  - a.) The employee/student will be placed on immediate suspension (without pay for employees) pending the individual's response. The SCO will determine if testing is warranted.
  
  - b.) The employee/student will be provided with a letter as soon as practical which:
    - i. summarizes the observed circumstances and behavior;
  
    - ii. notifies the employee/student that the unauthorized consumption of alcohol or use of dangerous drugs in the workplace subjects the employee/student to termination or dismissal;
  
    - iii. advises the employee/student that he/she will have a specified period of time in which to provide a reasonable explanation; and
  
    - iv. advises the employee/student that if his/her response is insufficient or not acceptable, or if he/she refuses to consent to testing or fails to successfully complete requested counseling or rehabilitation treatment, the employee/student will be terminated/expelled.
  
  - c.) The employee/student shall be terminated/expelled if he/she fails to respond within the specified period; does not provide an acceptable explanation; or, refuses (or fails) to successfully complete requested counseling or rehabilitation treatment.

- d.) If appropriate, the matter should be turned over to law enforcement authorities at the earliest possible time and a request made of such authorities to investigate. The SCO should contact the Campus Police.

## 15. Testing Procedures

- a.) Drug tests will be administered according to Department of Health and Human Services (DHHS) guidelines and College of American Pathologists (CAP) guidelines, and alcohol breath tests according to Texas Department of Public Safety guidelines. DHHS and CAP guidelines for drug testing are summarized as follows.
  - i. Specimen collection and shipping procedures will be administered in accordance with DHHS guidelines.
  - ii. A chain of custody for each specimen to be chemically tested will be established and maintained from the time of specimen collection through the testing of the specimen. If a specimen is not immediately prepared for shipment, it will be safeguarded during temporary storage. Every effort will be made to minimize the number of persons handling specimens.
  - iii. Procedures for collecting urine specimens will allow individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided.
  - iv. To deter the dilution of specimens at the collection site, toilet bluing agents will be placed in toilet tanks wherever possible, so the reservoir of water in the toilet bowl always remains blue. There will be no other source of water (e.g., no shower or sink) in the enclosure where urination occurs.
  - v. When an individual arrives at the collection site, the collection site person will request the individual to present photo identification.
  - vi. The collection site person will ask the individual to

remove any unnecessary outer garments such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the individual's urine specimen. The collection site person will ensure that all personal belongings such as a purse or briefcase remain with the outer garment. The individual may retain his or her wallet.

- vii. The individual will be instructed to wash and dry his/her hands prior to urination.
- viii. After washing his/her hands, the individual will remain in the presence of the collection site person and will not have access to any water fountain, faucet, soap dispenser, cleaning agent, or any other materials which could be used to adulterate the specimen.
- ix. The individual may provide his/her specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy.
- x. The collection site person will note any unusual behavior or appearance in the permanent record book.
- xi. Whenever there is reason to believe that a particular individual has altered or substituted the specimen provided, a second specimen will be obtained as soon as possible under the direct observation of a same gender collection site person.
- xii. Specimens will be shipped by an expeditious means to the laboratory.

b.) Laboratory analysis procedure.

- i. Each specimen will be analyzed in accordance with CAP guidelines which require testing for the drugs identified by this policy and other illicit substances as necessary.
- ii. The initial test will use an immunoassay screen which

meets the requirements of the Food and Drug Administration for commercial distribution.

- iii. All specimens identified as positive on the initial test will be confirmed by a confirmatory test using gas chromatography/mass spectrometry (GC/MS) techniques.
- iv. A specimen which indicates the presence of an illicit drug at a level equal to or exceeding the levels established in CAP guidelines is reported to the health science center MRO as positive.
- v. Quality assurance and quality control designed, implemented, and reviewed to monitor the conduct of each step of the process of testing for drugs will be in accordance with CAP guidelines.

c.) Reporting and reviewing of drug test results.

- i. The laboratory will report all test results as required within a reasonable time, normally five days after receipt of a specimen by the laboratory. Special handling may be requested for a student on rotations, due to the time constraints of rotations.
- ii. The laboratory will report as negative all specimens which are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive are reported positive to the MRO.
- iii. The MRO will review and interpret all test results prior to the transmission of results. In carrying out this responsibility, the MRO will examine alternate medical explanations for any positive test result. This action may include conducting a medical interview with the individual, review of the individual's medical history, or review of any other relevant biomedical factors. The MRO will review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication. If

deemed relevant, the MRO may request permission to examine the individual.

- iv. Prior to making a final decision to verify a positive test result, the MRO may give the individual an opportunity to discuss the test result with him/her at the sole discretion of the MRO.
- v. If the MRO determines there is a legitimate medical explanation for a reported positive test result, he/she will determine that the result is consistent with legal drug use and take no further action.
- vi. In the event of a positive test result, the Vice President of Human Resource Services will be notified by telephone (after positive identification). A written report will be sent via confidential mail

d.) Alcohol Breath Testing Procedures.

- i. The individual will be transported to the alcohol breath testing site.
- ii. The testing will comply with the Texas Department of Public Safety methods as amended with the following exceptions:

Testing will be done by personnel certified competent to perform breath alcohol tests; certification by the Texas Department of Public Safety is not required, but the testing personnel must satisfy the proficiency requirements incumbent upon certified personnel.

Testing will be done on an instrument that has met the stated requirements of the Texas Department of Public Safety for certification.

- iii. Test results will be available immediately and the routing of the test results shall be as follows:

Copy to the employee/student.

Copy to Human Resource Services and the Vice

President of Student Affairs as appropriate (only if the test is positive).

- iv. Upon completion of the alcohol breath test, the individual will be transported to the approved drug testing collection site for a drug test.

#### **16. Drug Test Appeals**

An employee/student may appeal a positive drug test result by submitting a written request to the Vice President of Human Resource Services within 3 working days after being informed of the positive test result.

The Human Resource Services will contact the laboratory holding the original specimen and provide instruction and guidance to the appellant as how to proceed to have a record confirmatory test conducted. All expenses for retests will be the responsibility of the appellant. In the event the retest is negative, and it can be substantiated by reasonable proof that the positive result of the first test was erroneous, the health science center will reimburse the employee/student for the reasonable cost of the retest.

#### **17. Alcohol Breath Test Appeals**

- a.) An employee/student may appeal a positive alcohol breath test by requesting a blood alcohol content test. Given the nature of the human body's metabolism and alcohol, the appeal test must take place at the same time the urine specimen is collected for drug testing. A blood alcohol test may only be administered with the voluntary consent of the employee/student. All expenses for an appeal will be the responsibility of the appellant. In the event the blood alcohol test result is negative, and it can be substantiated by reasonable proof that the positive result of the first test was erroneous, the health science center will reimburse the employee/student for the reasonable cost of the retest.
- b.) Employees/students will immediately receive the results of the alcohol breath test and will, therefore, know whether or not an appeal would be appropriate.

**18. Sale, distribution, transportation, or manufacture of drugs in the workplace:**

If an employee/student is reasonably suspected of selling, distributing, transporting, or manufacturing illicit drugs in the workplace, due to direct observation or evidence of such acts, the following procedure shall be followed.

- a.) The employee/student will be placed on immediate suspension (without pay for employees), pending appropriate investigation. If such acts are confirmed, the individual shall be subject to immediate suspension, termination or dismissal. If such acts are not confirmed, the employee shall be reimbursed for lost wages. The Vice President for Student Affairs will determine if a student will be removed from classes.
- b.) The employee/student shall be provided with a letter as soon as practical which:
  - i. summarizes the observed circumstances and behavior;
  - ii. notifies the employee/student that selling, distributing, transporting, or manufacturing illicit drugs in the workplace subjects the employee/student to termination or suspension;
  - iii. advises the employee/student that he or she will have a specified period of time in which to provide a reasonable explanation; and
  - iv. advises the employee/student that if his/her response is insufficient or not acceptable and if an investigation by law enforcement authorities, the health science center, or other authorities confirms the suspicion, the employee/student will be terminated.
- c.) The matter should be turned over to law enforcement authorities at the earliest possible time and a request made of such authorities to investigate. The SCO should contact the Campus Police.
- d.) The employee/student shall be terminated or suspended if:

- i. the employee/student fails to respond within the specified period or to provide an acceptable explanation; and/or
  - ii. investigation by law enforcement or other authorities confirms the suspicion that the employee/student was selling, distributing, transporting, or manufacturing drugs in the workplace.
- e.) If the investigation reveals that the employee/student was using drugs in the workplace and not selling, distributing, transporting, or manufacturing drugs in the workplace, the employee/student will be subject to appropriate discipline or may be given the opportunity to successfully complete a rehabilitation program.
- f.) If a substance which appears to be a illicit drug is found within an area under the effective control of an employee/student, provisions contained in section a.) through e.) shall be followed.
- g.) If an employee/student is arrested inside or outside of the workplace and is charged with selling, distributing, dispensing, transporting, or manufacturing drugs, actions contained in section a.) through d.) shall be followed.

References and Cross-references.

None.

Forms and Tools.

None

Approved: 9/1/2006

Effective: 9/1/2006

Revised: