

University of Mary Hardin-Baylor

University Policy # SAF 5.05
Subject: Drug and Alcohol-Free Workplace
Effective Date: November 14, 2014

The University of Mary-Hardin Baylor is dedicated to maintaining a drug and alcohol-free environment. This policy applies to all employees of UMHB regardless of rank or position and includes temporary and part-time employees.

The University is an equal opportunity employer and does not unlawfully discriminate in employment transactions because of age, color, disability, sex, national origin, race, genetic information, or veteran status. The University is a non-profit Christian institution of higher learning and as such, reserves the right to discriminate in employment based on its sincerely held religious beliefs.

The University expects its employees to obey the law. Therefore, a violation of alcohol or drug laws while working for the University, wherever that violation occurs, is a violation of this policy. Employees are required to report a violation of this policy by another employee to their supervisor or to the Vice President for Human Resources.

Definitions

"Drug" or "drugs" means a controlled substance as defined by the Texas Controlled Substances Act and a dangerous drug as defined by the Dangerous Drug Act, including but not limited to: marijuana, narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate; alcohol or alcoholic beverage; abusable glue, aerosol paint, or other chemical substance for inhalation; and any other intoxicant or illegal, controlled, or unauthorized substance that may cause addiction, alter moods, behavior, or brain function, and/or affect coordination or memory.

Prohibitions

The University explicitly prohibits:

- The use, possession, solicitation for, or sale of narcotics or other illegal drugs, alcohol, or prescription medication without a prescription for the person for whom the drug was intended on university premises or while performing an assignment, including travel.
- Being impaired or under the influence of legal or illegal drugs or alcohol away from the university or customer premises, if such impairment or influence adversely affects the employee's work performance, the safety of the employee or of others, or puts at risk the university's reputation.
- Possession, use, solicitation for, or sale of legal or illegal drugs or alcohol away from the university or customer premises, if such activity or involvement adversely affects the employee's work performance, the safety of the employee or of others, or puts at risk the university's reputation.
- The presence of any detectable amount of prohibited substances in the employee's system while at work, while on the premises of the university or its customers, or while on university business. "Prohibited substances" include illegal drugs, alcohol, or prescription drugs not taken in accordance with a prescription given to the employee.

- As a practical matter of enforcement and in order to prevent disagreements regarding violations of the alcohol policy and health hazards, empty alcoholic beverage containers are not permitted on campus. Such containers will result in employees being charged with an alcohol violation.

An employee who uses or possesses a drug authorized by and in the manner prescribed by a licensed physician through a prescription specifically for that employee's use will not be considered to have violated this policy.

Testing Policy

The Vice President for Human Resources shall serve as the sole contact for the coordination of testing described in this policy. Supervisors shall immediately report any concerns regarding employees and drug or alcohol use to Human Resources, or in the event of an emergency or other serious situation involving imminent harm, to the Campus Police.

The University may conduct drug and/or alcohol testing under any of the following circumstances:

- Post Offer Pre-Employment Testing may be required for certain employment positions
- Contractual Obligation Testing may be required of university employees by schools, hospitals or other agencies with whom the university has an agreement.
- Random Testing: Employees may be selected at random for drug and/or alcohol testing at any interval determined by the University.
- Reasonable Suspicion (for-cause) Testing: The University may ask an employee to submit to a drug and/or alcohol test at any time a reasonable suspicion exists that the employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:
 - evidence of drugs or alcohol on or about the employee's person or in the employee's vicinity,
 - unusual conduct on the employee's part that suggests impairment or influence of drugs or alcohol,
 - negative performance patterns,
 - or excessive and unexplained absenteeism or tardiness.

Such reasonable belief may be based on, but not limited to, the presence of some or all of the following: alcohol or marijuana odor; red/glassy eyes; unusual drowsiness; slurred and/or incoherent speech; unusually aggressive behavior; disorientation or inability to concentrate; lack of coordination in walking or performing other tasks, erratic or continuing poor attendance.

A reasonable suspicion to test also may arise when the University receives reliable information from a credible person indicating that the employee has violated or is violating this policy; such information will be carefully evaluated in conjunction with other available evidence before being used as a basis for drug or alcohol testing. The University's decision that a reasonable suspicion exists shall be conclusive and binding.

- Post-Accident Testing: The University may require an employee, as a condition of continued employment, to undergo drug and/or alcohol testing following any work related injury sustained by the employee during the course of the employee's work on university owned or leased property, while driving any vehicle on behalf of the university, while representing the university at any event, or at a university sponsored event held off university property. Further, the University will require an employee, as a condition of continued employment, to undergo drug and/or alcohol testing following any work related

accident or injury in which an employee's action or inaction results in an injury to another individual or to university property.

Drug and/or alcohol testing may be required by urinalysis, hair testing, blood test, breathalyzer, or any other screening device as required or permitted by law and designated and paid for by the University. All information from drug or alcohol testing will be treated confidentially except to the extent required by law.

The testing process will involve preparation of two specimens. If an employee tests positive for use of illegal drugs on one specimen, a confirming test will be automatically conducted on the second specimen. If any testing procedure indicates that an employee has used illegal drugs or alcohol in violation of this policy, the applicant or employee may elect to provide, in writing, information to rebut and/or explain the results of the test. This information will be evaluated by a physician or other qualified medical personnel at the facility or laboratory that performed the testing.

Employees who are asked to undergo testing must do so promptly, under the supervision of the University. An employee is subject to termination if he or she:

1. refuses to submit to a drug and/or alcohol test in accordance with this policy,
2. unduly delays reporting to the testing site during working hours or
3. refuses to fill out and sign the written consent form agreeing to permit the University to receive the testing results.

An employee who switches or alters any sample submitted for testing will be subject to termination.

If an employee is tested for drugs or alcohol outside of the employment context and the results indicate a violation of this policy, the employee may be subject to appropriate disciplinary action, up to and possibly including discharge from employment. In such a case, the employee will be given an opportunity to explain the circumstances prior to any final employment action becoming effective.

Medical Examinations and Medical Inquiries

The Vice President for Human Resources shall serve as the sole contact for the coordination of medical examination and inquiries described in this policy.

The University may seek information about a current employee's medical condition when it is job related and consistent with business necessity. This means that the University must have a reasonable belief based on objective evidence that:

1. an employee will be unable to perform the essential functions of his or her job because of a medical condition; or
2. the employee will pose a direct threat because of a medical condition.

In these situations, the inquiries or examinations must not exceed the scope of the specific medical condition and its effect on the employee's ability, with or without reasonable accommodation, to perform essential job functions or to work without posing a direct threat. Any inquiry concerning an employee's medical condition shall be conducted in accordance with all applicable federal and state laws.

The determination that an employee poses a direct threat must be based on an individualized assessment of the employee's present ability to perform safely the essential functions of the job. This assessment must be based on a reasonable medical judgment that relies on the most current

medical knowledge and/or best objective evidence. Any medical examination, however, must be limited to determining whether the employee can perform his/her job without posing a direct threat, with or without reasonable accommodation. The University must pay all costs associated with the employee's visit(s) to any health care professional selected by the University and made at the University's request.

Recordkeeping

All records regarding violations of this policy, testing, medical examination and medical inquiry shall be maintained solely by Human Resources.

Violations

Violation of this policy may result in any sanction deemed appropriate by the University, including, but not limited to, required participation in an approved drug or alcohol treatment or rehabilitation program, suspension, disciplinary action, demotion or termination of employment. The University may refer any violation of the law to the proper law enforcement authorities. Criminal convictions are not required for sanctions to be imposed on employees of the University.
<https://go.umhb.edu/resources/police/drugs-alcohol#1845>

Information about drug and alcohol counseling and rehabilitation is available through UMHB's confidential Employee Assistance Program (EAP).

Employees should contact Human Resources if further guidance is needed regarding this policy.

(signed)

Randy O'Rear, Ed.D.
President and Chief Executive Officer

REFERENCES:

Policy HR 4.01 Employee Standards of Conduct
Policy HR 4.12 Employee Personnel Files
Texas Dangerous Drug Act
Texas Worker's Compensation Act

Oversight of this policy is assigned to:
Administrator:
Through office(s):

Human Resources
Vice President for Human Resources
Senior Vice President for Administration

Date of Origin: July 1, 2012
Revised: November 14, 2014
Revised:
Revised: