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**UNIVERSITY OF MIAMI POLICY AND PROCEDURE MANUAL**

TITLE:	Drug and Alcohol Policy	REFERENCE: Controlled Substances Act, 21 U.S.C. § 801 <i>et seq.</i> , as amended;
CATEGORY:	Human Resources	PAGE: 1 of 5
APPROVER:	Office of Human Resources	SUPERSEDES: Policy Nos. B026, B027, B071, and B072
		EFFECTIVE: February 17, 2017

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**PURPOSE**

The University of Miami (“University”) has a longstanding commitment to provide a safe and healthy work environment. Abuse of alcohol and/or controlled substances poses a threat to the health and safety of the University’s employees, patients, students, visitors, and to the security of the University’s equipment and facilities. In turn, the purpose of this policy is to establish a framework designed to address instances alcohol and/or controlled substance use in the workplace.

This policy supersedes the following policies in their entirety:

- Administrative/Professional: *Drug Free Workplace*, Policy No. B071, dated 11/01/2006
- Administrative/Professional: *Drug/Alcohol Policy*, Policy No. B072, dated 12/01/2004
- Clerical/Nursing/Technical/Service: *Drug Free Workplace*, Policy No. B026, dated 01/01/2007
- Clerical/Nursing/Technical/Service: *Drug/Alcohol Policy*, Policy No. B027, 12/01/2004
- Research: *Drug Free Workplace*, Policy No. B071, dated 01/01/2007
- Research: *Drug/Alcohol Policy*, Policy No. B072, dated 01/01/2006

**POLICY**

It is the policy of the University to maintain a safe and healthy environment for all employees, patients, students, and visitors of the University. Employees are expected to report to work free of any adverse effects of alcohol or controlled substances. The University prohibits the use, possession, distribution, or being under the influence of alcohol or any controlled substance by any employee in the following circumstances: (1) while at work; (2) while operating a University vehicle; (3) while present on the University’s premises; or (4) conducting University-related business offsite at any time. Additionally, the University also prohibits employees from making arrangements for such acts while conducting University business, or on or off University premises. Lastly, the possession, use manufacturing, purchase, sale or distribution of controlled substances by an employee away from the University’s premises while off duty may also result in disciplinary action since such conduct may reflect unfavorably on the University.

This policy does not prohibit employees from the lawful use and possession of alcohol off University premises, provided such use does not unfavorably reflect upon the University. The policy also does not prohibit employees from the lawful use and possession of prescribed or over-the-counter medications. Employees must, however, consult with their doctors about the medications' effect on their fitness for duty and ability to work safely, and they must promptly disclose any work restrictions to their supervisor. Employees taking a prescribed medication must carry it in the container labeled by a health care provider or be prepared to produce it if asked by management. Also, this policy does not prohibit employees' lawful consumption of alcohol at University-sponsored events where alcohol is sold or distributed. Lastly, this policy does not prohibit the exchange of gifts of alcohol amongst employees, provided that use of such gifts on University premises is prohibited.

In furtherance of the aforementioned policy statements, the University requires the pre-employment testing of candidates for employment, and the testing of University employees where there is reasonable suspicion of drug or alcohol use in violation of this policy, including the occurrence of an accident or injury at the work place.

## **DEFINITIONS**

**“Employee”** shall mean any individual employed with the University on a full-time, part-time, temporary or casual basis who works for salary, wages or other remuneration.

**“Candidate”** shall mean an individual seeking initial employment or reemployment with the University and who has been offered employment contingent upon successfully passing a background screening and a drug/alcohol test.

**“Controlled Substance”** shall mean any substance whose use or possession is controlled by federal law (Controlled Substances Act, 21 U.S.C. § 801 *et seq.*, as amended), but that is not being used or possessed under the supervision of a licensed health care professional. The term “drug” may be used interchangeably. For the purpose of this policy, this term shall also include drug paraphernalia.

**“Drug/Alcohol Test”** shall refer to a technical analysis of a biological specimen to determine the presence or absence of a controlled substance or alcohol.

**“Reasonable Suspicion”** shall refer to the belief, based upon a showing of objective and specific facts, that an employee is suspected of using alcohol or controlled substances in violation of this policy. Reasonable suspicion exists when an employee exhibits patterns of behavior that rationally suggest use or impairment as a result of alcohol or any controlled substance. Such behavior is based upon specific and articulable observations concerning the employee's appearance, behavior, and/or conduct. Factors that can be used to determine the existence of reasonable suspicion include, but are not limited to, observation of: slurred speech; appearance of disorientation; staggering or stumbling; abnormal or erratic behavior; red, glazed or watery eyes; dilated or contracted pupils; drowsiness and/or sleeping on the job; odors on an employee's breath or clothes; and credible eyewitness reports of usage. Additionally, the arrest or conviction of a drug or alcohol related offense, the possession of alcohol, drugs, or drug paraphernalia, shall also be grounds for reasonable suspicion.

**“Safety-sensitive position”** shall mean any position, including a supervisory or management position, in which drug/alcohol impairment would constitute an immediate and direct threat to

public health or safety. This includes any employee in a position that participates in clinical care to patients.

**“Under the influence of alcohol”** shall mean an alcohol concentration equal to or greater than .04 or actions, appearance, speech or bodily odors that reasonably suggest that an employee is impaired because of alcohol use.

**“Under the influence of a controlled substance”** shall mean a confirmed positive test result for a controlled substance prohibited under this policy. This term shall also mean the misuse of prescribed or over-the-counter medications.

**“University premises”** shall mean all property owned or managed by the University. This term includes, but is not limited to the following interior areas: buildings; facilities; common or private work areas; elevators; hallways; garages; restrooms; dining areas; employee lounges; conference or meeting room space; and any other enclosed or semi-enclosed area owned or managed by the University. This term includes, but is not limited to the following exterior areas: parking facilities and lots; facility/building entrance/exit ways; courtyards and plazas; rooftops; grounds; University-owned or leased vehicles (regardless of location); and any other outdoor area owned or managed by the University.

## **PROCEDURE**

### **I. EMPLOYEE ASSISTANCE**

The University will assist and support employees who voluntarily seek help for drug/alcohol use before becoming subject to disciplinary action under this or other University policy. Such employees will be allowed to use accrued paid time off, placed on the appropriate leave of absence, referred to the Faculty and Staff Assistance Program (FSAP) or other treatment providers, and otherwise provided assistance as required by law. Such employees may be required to document that they are successfully following prescribed treatment and to take and pass follow-up tests if they hold a safety-sensitive position or require the operation of a University vehicle.

The FSAP is available at the following locations:

FSAP OFFICE (Coral Gables)  
Plumer Building, LC: 2429  
5915 Ponce de Leon Boulevard, Suite 48  
Coral Gables, FL 33146  
(305) 284-6604

FSAP OFFICE (Miller School of Medicine)  
Dominion Tower, LC: M831  
1400 NW 10<sup>th</sup> Avenue, Suite 816  
Miami, FL 33136  
(305) 284-6604

Where an employee has voluntarily taken an approved leave of absence in connection to drug/alcohol use, the employee must have a *Return to Work* certification completed by the appropriate treatment provider or rehabilitation program and successfully complete testing as provided Section III below. An employee’s failure to submit the required documentation or an employee’s positive test result could warrant termination of employment with University.

## **II. PRE-EMPLOYMENT TESTING**

All prospective employees offered a position with the University shall be required to submit to a drug/alcohol test within 72 hours of acceptance. Human Resources shall communicate instructions for the completion of the drug screening. All applicants must pass a drug/alcohol test before commencing work for the University. Refusal to submit to testing or failure to test by the established deadline will result in disqualification from further consideration for employment with the University.

### **A. TESTING PROCEDURE**

The drug/alcohol test must be administered by a qualified laboratory under established methods that follows accepted standards of testing and chain-of-custody requirements. All positive results will be confirmed by re-testing the same sample by using appropriate laboratory procedures. Subsequently, if the positive results are not confirmed in the second test, the overall test will be reported as negative.

### **B. TESTING RESULTS**

If a drug/alcohol test concludes in a final positive result, the candidate shall not be employed to the position for which the candidate was selected. Additionally, candidates who test positive will not be eligible for employment to any University position for a period of one (1) year from the date the University's decision is communicated to the candidate.

## **III. REASONABLE SUSPICION TESTING**

Employees are subject to testing based upon reasonable suspicion of drug/alcohol use or impairment, which also includes the occurrence of an accident or injury at the work place, and the employee's own admission of drug/alcohol use or impairment.

### **A. TESTING PROCEDURE**

Where an employee is reasonably suspected to have used or be impaired as a result of alcohol or any controlled substance, Human Resources must be contacted immediately to evaluate the facts and circumstances giving rise to the suspicion. The employee's supervisor will be required to complete an [Impairment Checklist](#) by providing a written statement attesting to the behavior suggesting use or impairment as a result of alcohol or any controlled substance. Supervisors should describe behavior, performance deterioration or policy violation only, and should not comment on suspected reasons for the behavior or opinions about it. This form must be provided to Human Resources as part of its review.

If testing is approved by Human Resources, the employee will be advised by Human Resources of the basis for the reasonable suspicion testing and presented with a [consent form](#). If the employee refuses to be tested, the employee will be considered to have voluntarily resigned and will be deemed ineligible from future employment with the University.

Once an employee signs the [consent form](#), the employee will be accompanied to the testing site by the supervisor or designee. The University will arrange transportation to and from the test facility. Additionally, the University will make arrangements for the transportation of the employee to their place of residence once the test has been administered. Under no circumstances will the

employee be permitted to operate a vehicle. The employee shall be placed on administrative leave by Human Resources pending the outcome of test results.

## **B. TESTING RESULTS**

Employees with a negative test result shall meet with Human Resources and their supervisor to address the behaviors leading up the initial test to determine a course of positive corrective action. The employee shall immediately be reinstated to their position.

Employees with a positive test result shall be deemed to have violated this policy, and shall be subject to disciplinary action up to and including termination, and/or any other terms or conditions for an employee's continued employment. Such terms may include, but are not limited to, enrollment and completion of an approved treatment program, referral to and confirmation of compliance with FSAP recommendations, and/or consent to random drug/alcohol testing for a period not to exceed one (1) year. The supervisor will consult with Human Resources to determine the most appropriate course of action. The University has the sole discretion to immediately terminate the employment of any employee upon notification of a positive test result regardless of the employee's disciplinary history.

When the decision is for the employee to receive disciplinary action short of termination and referral to FSAP, the employee must agree to complete rehabilitation and other recommendations issued by FSAP or designee. Furthermore, the employee must agree to undergo random screening for a period of one (1) year. In this case, an employee understands that their failure to agree to these conditions, non-compliance with FSAP's recommendations, or future policy violations shall result in the employee's termination of employment.

## **IV. CONFIDENTIALITY**

Information and records relating to positive test results, drug and alcohol dependencies, and legitimate medical explanations disclosed shall be kept confidential and will not be disclosed, except to the extent necessary to administer and enforce this policy, or as may be required by law. The University reserves the right to notify the appropriate professional or occupational licensing board of positive test results.

## **V. POLICY VIOLATIONS**

Employees who are determined to have violated this policy shall be subject to disciplinary action up to and including termination of employment. Violations include, but are not limited to: using, possessing, distributing, or being under the influence of alcohol or any controlled substance as prohibited by this policy; making arrangements for such acts while conducting University business, or on or off University premises; falsifying or attempting to falsify test results for him/herself or for another employee; failing to comply with the procedures set forth above; and failing to adhere to terms and conditions imposed following a positive test result.

Any controlled substances confiscated from an employee under this policy will be turned over to an appropriate law enforcement agency.