

 <p><b>Category:</b> Human Resources</p> <p><b>Policy applicable for:</b> Faculty/Staff/Student Workers/Volunteers</p>	<p><i>Policy Title:</i> <b>Reasonable Cause Drug and Alcohol Testing</b></p> <p><b>Effective Date:</b> 07/01/2015</p> <p><b>Prior Effective Date:</b> 05/01/2011</p>	<p><i>Policy Number:</i> <b>15.06</b></p> <p><b>Policy Owner:</b> Sr. VP for Administration and Finance</p> <p><b>Responsible Office(s):</b> Appropriate Vice President, Human Resources, General Counsel, University Health Services</p>
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## Background

This policy applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding this subject.

1. The University of Cincinnati is committed to providing a safe and secure environment for its students, faculty, staff and visitors. Toward that goal, faculty, staff, volunteers and student workers are prohibited from being impaired due to illegal drugs and/or alcohol use while on the job. The following policy addresses the process for reasonable cause drug and alcohol testing.
2. 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 illicit drugs or alcohol on its campuses or as part of any university activity.
3. This policy applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding this subject.

## Definitions

1. **Illegal Drug** means a substance whose use or possession is controlled by federal or state law but that is not being used or possessed under the supervision of a licensed health care professional.
2. **Refuse to Consent** means to obstruct the collection or testing process; to submit an altered, adulterated, or substitute sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or 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 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 confirmed positive test result for illegal drug use per this policy. In addition, it means the misuse of legal drugs (prescription and possibly over-the-counter) where there is not a valid prescription from a physician for the lawful use of a 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).

## **Policy**

1. Any faculty, staff, volunteer or student worker suspected of being impaired due to illegal drug and/or alcohol use while on the job shall be required to submit to a drug and/or alcohol test. The test shall be administered by University Health Services (UHS) or an agency contracted through UHS.
2. The university shall not conduct random drug and/or alcohol tests unless required by federal or state law.
3. Refusal by faculty, staff, volunteers or student workers to submit to a drug and/or alcohol test shall have the same force and effect as a positive test result.
4. Managers, supervisors and administrators are responsible for enforcing this policy in a consistent manner. Managers, supervisors and administrators who are found to have knowingly violated this policy will be subject to disciplinary action up to and including termination of employment.
5. All faculty, staff, volunteers or student workers are required to report known or suspected violations of this policy to their supervisor, manager or an appropriate administrator. Any faculty, staff, volunteer or student worker convicted of any criminal drug statute violation shall notify his or her supervisor, manager or appropriate administrator not later than five days after such conviction. Failure to follow these requirements may result in disciplinary action up to and including termination of employment.
6. This policy is subject to all applicable collective bargaining agreements and state and federal statutes.

## **Procedure**

### **1. Criteria for Reasonable-Cause Testing:**

Drug and/or alcohol testing may be ordered when a manager, supervisor or appropriate administrator has a reasonable suspicion that a faculty, staff, volunteer or student worker is under the influence of drugs and/or alcohol while on the job. Reasonable suspicion may be based on, among other things:

1. Direct observation of the physical symptoms of being impaired by drugs or alcohol in the workplace;
2. A pattern of abnormal conduct or erratic behavior in the workplace that is consistent with impairment;
3. Information provided either by reliable and credible sources or independently corroborated; or
4. Newly discovered evidence that the faculty, staff, or student worker has tampered with a previous drug test.

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

- 1) slurred/incoherent speech
- 2) drowsiness and/or sleepiness
- 3) unusually aggressive behavior
- 4) unexplained work errors
- 5) rapid changes in mood
- 6) impaired manual dexterity
- 7) lack of coordination in walking
- 8) dilated pupils
- 9) 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 those facts that led him or her to believe the faculty, staff, volunteer, or student worker was impaired. In addition, personnel at UHS will evaluate the faculty, staff, volunteer, or student worker before testing (if possible) to ensure reasonable suspicion of drug or alcohol use or impairment exists.

## **2. Confirmation and Documentation of Reasonable Suspicion:**

Where a manager, supervisor or appropriate administrator has reasonable suspicion that a faculty, staff, volunteer or student worker is impaired by drugs and/or alcohol on the job, he or she shall immediately notify his or her immediate supervisor or other appropriate administrator. If the immediate supervisor is unavailable for confirmation, the manager or supervisor may utilize any of the following to confirm his or her reasonable suspicion of impairment due to drugs or alcohol:

- 1) another manager, supervisor or administrator
- 2) public safety or health services personnel
- 3) another UC employee
- 4) union official (for bargaining unit employees)

Where the reasonable suspicion is confirmed, the manager or supervisor shall, soon after ensuring the suspected faculty, staff, volunteer or student worker is transported to UHS, prepare a written report supporting his or her finding that a reasonable suspicion exists. The report will be kept confidential to the extent permitted by law and the use of the report shall be limited to the administration of this policy. Copies of the report shall be filed with UHS and Human Resources.

Information and records relating to positive test results, drug and alcohol dependencies and legitimate medical explanations provided by the suspected faculty, staff, volunteer or student worker shall be kept confidential to the extent required by law and maintained in secure files separate from personnel files. Such records and information may be disclosed among managers and supervisors on a need-to-know basis and may also be disclosed where relevant to a grievance, charge, claim or other legal proceeding initiated by or on behalf of an employee or applicant.

If this suspicion takes place on third shift, weekends, holidays, etc., and no one listed above is available, then the manager or supervisor shall act on his/her own suspicion. In this case, the supervisor or manager will call On Site Drug & Alcohol Collection Service (ODACS) Inc. at 513-761-0539. ODACS Inc. will respond to the place of employment within 30 minutes for testing.

### **3. Relief of Duty:**

Where reasonable suspicion exists, the faculty, staff, volunteer or student worker shall be immediately relieved of all duty pending the outcome of the screen by UHS or ODACS Inc. The faculty, staff, or student worker may be placed on paid administrative leave pending the outcome of the screen. Under no circumstances shall the faculty, staff, volunteer or student worker be permitted to operate machinery or equipment, including a motor vehicle, until cleared to do so by UHS or ODACS Inc.

### **4. Submission for Drug or Alcohol Screen:**

The supervisor or designee shall arrange for the suspected faculty, staff, volunteer or student worker to be transported to UHS for a drug and/or alcohol screen. If UHS personnel are not available, ODACS, Inc. will respond to the place of employment. Either UHS or ODACS Inc. personnel will, at that time, confirm and document the existence of reasonable suspicion for testing. The faculty, staff, volunteer or student worker will be asked to consent to permission to perform the drug and/or alcohol screen and release the resulting information to UHS, the employing unit and Human Resources. A copy of the consent form is attached hereto. Faculty, staff, volunteers or student workers who refuse to consent will be advised that no screen will be conducted. Refusal by faculty, staff, volunteers or student workers to consent to a test shall have the same force and effect as a positive test result, and may result in disciplinary action up to and including termination of employment. A positive result may result in

disciplinary action up to and including termination of employment. All appropriate chain-of-custody procedures will be observed by UHS and ODACS Inc.

#### **5. 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 and/or alcohol impairment on the job. Failure to receive such training, however, shall not invalidate otherwise proper reasonable suspicion testing.

#### **6. Employee Assistance**

Faculty and staff are encouraged to take advantage of the university's employee assistance plan (EAP). Voluntary submission for treatment of substance abuse problems will not subject faculty, staff, volunteers or student workers to disciplinary action; however, submission for treatment shall not serve as a shield or a substitute for disciplinary action under this, or any other university policy.