



## **HRM 60.118: DRUG AND ALCOHOL FREE WORKPLACE**

### **PURPOSE**

Mississippi State University implements this drug and alcohol policy and conducts a testing program pursuant to Sections 71-7-1, *et seq.*, of the Mississippi Code of 1972, Ann., entitled “Drug and Alcohol Testing of Employees” (hereinafter referred to as “the Act”), and you are hereby advised of the existence of said Act. The use and abuse of illegal drugs and alcohol is a serious and growing problem throughout the United States. A substance abuse policy and substance testing policy has been implemented in response to concern that the use and abuse of illegal drugs and alcohol by employees in and applicants for certain employment, presents among other things, serious safety and security risks. The Mississippi Legislature has supported the implementation of drug and alcohol free workplace policies by enacting the Act.

### **POLICY**

University employees expect to work in a drug-free environment. The University expects its employees to be free from the effects of alcohol and drugs while on the job or in the workplace. This policy is intended as a vehicle to aid in meeting these expectations.

If an employee believes that he or she has a problem with alcohol or drugs or if substance abuse is causing problems in his or her life, that employee is requested to please review the information regarding outside resources available to the employee as posted on the Human Resources Management Web site (<http://www.hr.missstate.edu/development/onlinecourses/>).

### **Confidentiality**

All information, interviews, reports, statements, memoranda, and test results, written or otherwise, received by the University through its drug and alcohol testing program are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with the Act and this policy. Any information obtained by the University pursuant to the Act and these regulations shall be the property of the University. The University shall not release to any other person other than the applicant, or employer medical, supervisory or other personnel, as designated by the University on a need to know basis, information related to drug and alcohol test results unless: (a) the employee or job applicant expressly, in writing, granted permission for the University to release such information; it is necessary to produce a confirmed test result into an administrative hearing under applicable state law or local law, or a judicial proceeding, provided that information is relevant to the hearing or proceeding, or the information must be disclosed to a federal or state agency or other unit of the state or United States government as required under law, regulation or order, or in accordance with compliance requirements of a state or federal government contract, or disclosed to a drug abuse

rehabilitation program for the purpose of evaluation or treatment of an employee; or there is a risk to public health or safety that can be minimized or prevented by the release of such information; provided, however, that unless such risk is immediate, a court order permitting the release shall be obtained prior to the release of the information. The confidentiality provisions provided for by the Act shall not apply to other parts of an employee's or job applicant's personnel or medical files. If an employee refuses to sign a written consent form for the release of information to persons as permitted by the Act, the University shall not be barred from terminating or disciplining the employee.

### **Notice of Currently or Recently Used Prescription or Nonprescription Drugs**

An employee to be tested shall be given (1) a medication disclosure form to permit the employee to disclose any non-prescription or prescription medications that have been taken within the last forty-five (45) days which may result in a positive test result, and (2) a statement that the form shall be submitted directly to the laboratory in order that the University has access to the information disclosed on the form. The procedure for submission of the form shall ensure that no person other than the laboratory has access to the information disclosed on the form.

### **Testing Policy for Employees**

Employees may be required to undergo testing for the presence of unlawful drugs and controlled substances, based on one of the following circumstances:

1. Follow-up To and as a Part of Rehabilitation Testing; Testing Pursuant to Special Contract: The University may require an employee to submit to neutral selection or routine drug and alcohol tests if the employee, in the course of his/her employment, enters a drug abuse rehabilitation program, and as a follow-up to such rehabilitation; or if previous drug and alcohol testing of the employee within a twelve-month period resulted in a positive confirmed test result; or the drug and alcohol test is conducted in accordance with the terms of an applicable agreement; or if an employee is performing services pursuant to a contract that permits drug and alcohol tests on a neutral selection or routine basis. If an employee is participating in drug abuse rehabilitation, then drug and alcohol testing may be conducted by the rehabilitation provider as deemed appropriate by the provider.
2. Testing Pursuant to Department of Transportation Regulations (DOT): For those employees subject to regulation by the United States Department of Transportation (i.e., those employees whose job requires a Commercial Drivers' License), the University will follow its Policy HRM 60-121, Controlled Substances and Alcohol Use Testing of Employees with a Commercial Drivers' License.
3. Testing Pursuant to the Drug Free Workforce Act: For those employees working in sensitive positions on grants and/or contracts (a) funded by the U.S. Department of Defense (DOD) and its branch agencies and (b) that contain the provisions of the DOD Drug-Free Workforce Rule of 1988. These persons are subject not only to the Drug-Free Workplace Act of 1988, but also to the more stringent regulations of the DOD Drug-Free

Workforce Rule of 1988 as described in the DFARS at Section 23.7500 and its associated contract clause, 52-233-7500. This Rule covers all controlled substances included in Schedules I and II, as defined in 21 U.S.C. 802(6), specifically, opiates, marijuana, cocaine, amphetamines, and phencyclidine (PCP) proscribed by Section 2.3 of Subpart B of the Mandatory Guidelines for Federal Workplace Drug Testing Programs, also known as the NIDA (National Institute for Drug Abuse) guidelines when testing for cause. The University will follow its Policy HRM 60-119, Drug Free Workforce.

4. University Police Department: Prior to beginning work in safety or security sensitive positions in the University Police Department, potential employees will be tested for controlled substances use and alcohol misuse. Offers of employment to affected new employees shall indicate that the offer is contingent upon completion of drug/alcohol tests that indicate an absence of drug use/alcohol misuse. New employees will be referred to the Department of Human Resources Management by the hiring authority to schedule the required tests. Any potential employee who tests positive for alcohol/drugs will not be allowed to begin work and the offer of employment will be withdrawn. If documentation of justification of the presence of the alcohol/drug can be provided to the University's Medical Review Officer the offer will be reconsidered. The individual will be informed by the Chief Human Resources Officer of the positive alcohol/drug screen.
5. Reasonable Suspicion of Drug or Alcohol Use: Testing based on reasonable suspicion of drug and alcohol use means drug and alcohol testing based on a belief that an employee is using or has used drugs or alcohol in violation of this policy drawn from specific facts and reasonable inferences drawn from those facts, and may be based upon, among other things:
  - (a) Observable phenomena, such as direct observation of drug or alcohol use while working or while on the University premises;
  - (b) A report of drug use provided by reliable and credible sources and which has been independently corroborated;
  - (c) Evidence that an individual has tampered with a drug and alcohol test during employment with the University;
  - (d) Evidence that an employee is involved in the use, possession, sale, solicitation or transfer of drugs while working or while on the University premises or operating a University vehicle, machinery, or equipment.

### **Definitions**

Testing Specimen - employees undergoing testing shall be required to give a "Specimen," which means a tissue or product of the human body chemically capable of revealing the presence of

drugs in the human body.

### Positive Alcohol Test Levels

- Under age 21 – greater than 0
- Over age 21 - .04 or greater

### **Testing Procedures**

The University shall follow the guidelines and procedures for its testing and confirmation testing as established by the Mississippi State Board of Health on April 9, 2003, or amended thereafter, a copy of which is available for inspection in the Department of Human Resources Management, Mississippi State University.

### **Consequences of a Positive Test**

An employee who tests positive with respect to an unlawful drug or alcohol may be temporarily suspended or transferred to another position. Once the test is confirmed according to the Act, the University may respond in the following manner, and it retains the right, in its sole discretion, to take appropriate corrective or disciplinary actions, up to and including termination.

### **Refusing to Submit to Testing**

In the event an employee refuses to submit to a drug and/or alcohol test pursuant to this policy, the University will take appropriate corrective or disciplinary actions, up to and including termination.

### **REVIEW**

The [Chief Human Resources Officer](#) is responsible for review of this policy as needed but no less frequently than 4 years.

**REVIEWED BY:**

/s/ Judy Spencer  
Chief Human Resources Officer

11-30-2015  
Date

/s/ Jerome A. Gilbert  
Provost and Executive Vice President

12-17-2015  
Date

Reviewed by:

/s/ Timothy N. Chamblee  
Assistant Vice President and Director  
Institutional Research and Effectiveness

11-30/2015  
Date

/s/ Joan Lucas  
General Counsel

12-19-2015  
Date

**APPROVED:**

/s/ Mark Keenum  
President

12-11-2015  
Date

**This policy has been superseded**