

California State University, Fresno Association Inc.
CSUF Dining Services Drug Testing Policy& Procedures

DRUGS AND ALCOHOL POLICY

A. Purpose:

The Association has a vital interest in maintaining safe and efficient working conditions for its employees and ensuring that all Association vehicles are properly maintained and operated in a safe manner. Consequently, the Association is concerned about the use of alcohol or illegal drugs as it affects the workplace and as it reflects upon the Association. Use of these substances whether on or off the job can adversely affect an employee's work performance, efficiency, safety and health and poses a significant danger to the welfare and safety of other employees and the public. The purpose of this policy is to assure employee fitness for duty and to protect our employees, the public and Association property from the risks posed by the use of alcohol or illegal drugs in the workplace and to protect the reputation of the Association as an organization that respects the law.

The Association reserves the right to change, alter, amend, and interpret this policy without notice. However, any and all revisions will be provided to the affected employees in writing.

B. Scope:

The following rules and standards of conduct apply to all employees either on or off Association property during the workday (including meals and break periods), and also to employees when they are driving Association vehicles, their own vehicles, or any other vehicles, on Association business. Visitors, vendors, and contracted employees are governed by this policy while on Association premises, and they will not be permitted to conduct business if found to be in violation of this policy.

C. Definitions:

1. "Alcohol" means any beverage that contains the intoxicating agent ethyl alcohol (ethanol) or other low molecular weight alcohols, including methyl or isopropyl alcohol, and includes but is not limited to beer, wine and distilled spirits.

2. “Association premises” means all campus property including, but not limited to, the offices, facilities and all areas on the California State University, Fresno campus, parking lots, and storage areas. The term also includes Association-owned or leased vehicles and equipment wherever located.

3. “Drug test” means the scientific analysis of urine, blood, breath, saliva, hair, tissue, and other specimens of the human body for the purpose of detecting a drug or alcohol.

4. “Illegal drugs” means any drug which is not legally obtainable; any drug which is legally obtainable but has not been legally obtained; any prescribed drug not legally obtained; any prescribed drug not being used either for the prescribed purpose or in the manner prescribed; or any over-the-counter drug being used at a dosage level other than recommended by the manufacturer or being used for a purpose other than intended by the manufacturer.

5. “Legal drug” means any prescribed drug or over-the-counter drug that has been legally obtained and is being used for the purpose for which prescribed or manufactured.

Prohibited Conduct:

1. The use, sale, purchase, transfer, possession, or being under the influence of an illegal drug or alcohol by any employee while on Association premises or while performing Association business or the conviction on a drug-related charge as specified in section S.

2. The use or being under the influence of a legal drug that impairs the employee’s ability to safely perform his or her job duties, or affects the safety and well-being of others. The Association reserves the right to judge the effect that a legal drug may have on the employee’s job performance and to restrict the employee’s work activity or presence at the workplace accordingly.

Being under the influence of illegal drugs or alcohol on the job or during work hours will be presumed by the Association to pose a serious safety and health risk. Therefore, violation of this policy or failure to cooperate fully and timely with any search and/or request to test will result in disciplinary action up to and including termination of employment. The Association may also bring the matter to the attention of appropriate law enforcement authorities.

E. Testing for Prohibited Substances:

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities, which have been approved by the Department of Health and Human Services (DHHS). The Association pays for the drug testing costs.

Analytical urine, saliva or breath testing for illegal drugs and alcohol will be conducted. The illegal drugs that will be tested for include, but are not limited to, marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). An employee whose test results are verified negative for presence of prohibited substances will be returned to duty. An employee whose test results are verified positive for presence of prohibited substances by an Association-specified Medical Review Officer will be considered in violation of this policy, removed from his/her position and will be subject to disciplinary action in accordance with this policy. A diluted or otherwise unreadable sample is treated as a positive result test for purposes of this policy.

F. Use of Legal Drugs:

Legal drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription, and use of such medication does not pose a safety risk to the employee, co-workers or others. However, the use of certain legal drugs may affect an employee's work performance, efficiency, health and safety, and the health and safety of others. This includes the use of medicinal marijuana.

Any employee taking a legal drug is responsible for consulting with the prescribing physician and/or pharmacist to ascertain whether the legal drug may interfere with the safe performance of the employee's job. If the use of a legal drug impairs the employee's ability to safely perform

his or her job duties, or affects the safety and well-being of others, it is the employee's responsibility to use the appropriate personnel procedures to avoid any unsafe work practices. This includes using sick leave or vacation, or requesting a change of duties during the time the employee is using the legal drug. An employee who reports to work under the influence of legal drugs that could compromise the safety of the employee, co-workers, or the public and fails to request a change of duties that eliminates the safety risk, or fails to notify his/her supervisor of the use of the legal drug may be subject to discipline up to and including termination of employment. Nothing in this policy requires an employee to self-disclose the particular legal drug being taken or the reason for such when the employee uses the appropriate personnel procedures to avoid any unsafe work practices.

G. Pre-Employment Drug Testing:

Upon a conditional offer of employment, prospective employees may be required to submit to a drug test by an Association-approved testing facility at the Association's expense. Refusal to submit to or failure to pass the drug test will result in a withdrawal of the offer of employment. The Association must receive the completed test results **prior** to the applicant beginning employment. The pre-employment drug test is the last step in the pre-employment process. Employees who have been off work for more than 15 days and who are not on an approved leave of absence may be required to submit to a pre-employment drug test in order to be rehired.

H. Testing Based on Reasonable Suspicion:

Employees will be referred by a supervisor to an Association-approved testing facility for evaluation and drug testing when the supervisor has reason to believe that an employee is intoxicated or under the influence of drugs during work hours, or at a time which may affect job performance or safety. Evidence of such behavior may include, but is not limited to: slurred speech, uneven gait, mood swings, violent temper, excessive absenteeism and tardiness, violation of safety precautions or standards, reportable work-related accident or injury, or an accident involving a vehicle or causing property damage.

Testing may also be required if an employee is found to be in possession of physical evidence, i.e., drugs, alcohol or paraphernalia, possibly connected with the use of an illegal drug. Testing

may also be required if illegal drugs and/or alcohol are found in the employee's immediate work area, including Association vehicles that the employee has driven. However, it should be emphasized that possession of drugs or alcohol is prohibited whether or not it is determined that the employee also used such substances on work time.

When the supervisor(s) suspects that the employee may be under the influence of illegal drugs and/or alcohol, the employee will be immediately suspended from duty (with pay) and driven by Association staff (or others designated) to the testing facility. The Association will take reasonable precautions to prevent the employee being tested from going back to work and driving his/her own car home. Instead, the employee will be given assistance in obtaining a ride home from the testing facility.

I. Testing Based on Work-Related Injury:

An employee who suffers a work-related injury may be required to submit to a drug and alcohol test. An employee who causes an injury to a fellow employee will be required to submit to a drug and alcohol test. When the supervisor(s) suspects that the employee may be under the influence of illegal drugs and/or alcohol, the employee will be immediately suspended from duty (with pay) and driven by Association staff (or others designated) to the testing facility.

The Association will take precautions to prevent the employee being tested from going back to work and driving his/her own car home. Instead, the employee will be given assistance in obtaining a ride home from the testing facility. If emergency or other circumstances prohibit use of an approved testing facility for first treatment, the employee must, within 24 hours of the incident, contact his/her supervisor or the Human Resources Department and arrange for the test at the approved facility.

J. Disciplinary Action:

Any employee who tests positive will be subject to discipline up to and including termination of employment.

K. Random Testing for Non-DOT ²-Regulated Safety-Sensitive Positions:

Because of concerns including the need to maintain sanitary food conditions and to avoid food poisoning of consumers, transmittal of hepatitis or the transmittal of other dangerous pathogens, the Association has adopted the policy provisions contained in this section K.

A non-DOT-regulated safety-sensitive position is one that (1) presents a clearly significant danger of serious bodily injury or life threatening danger to the employee so occupied, his fellow employees, or the general public, and is performed in a manner or place inherent with or inseparable from such danger, and (2) requires the exercise of discriminating judgment or a high degree of care and caution. Non-DOT-regulated safety-sensitive positions, include, but are not limited to the following positions: any employees who are at any time involved in either the preparation or serving of food products, the use of food preparation tools, machinery or equipment or the use of motorized vehicles (gas, electric or any other means of propulsion). Employees performing managerial, administrative, janitorial, or other such functions shall not be subject to random testing unless they are performing any of the functions referenced in the immediately preceding sentence.

DOT-regulated drivers are subject to the DOT drug and alcohol regulations found in 49 Code of Federal Regulations Part 40, which are administered by the Human Resources Department.

Employees working in non-DOT-regulated safety-sensitive positions will be subject to randomly selected, unannounced testing. The random selection will be by a scientifically valid method. Each employee in a safety-sensitive employment position will have an equal chance of being tested each time selections are made. Employees in safety-sensitive employment positions will be tested either just before the employee is to perform safety-sensitive functions, while the employee is performing such functions, or just after the employee has ceased performing his/her duties.

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U.S. Department of Transportation.

Once the employee in a safety-sensitive employment position receives notification directing him or her to go to the collection site for alcohol and/or controlled substance testing, he or she will report to the collection site immediately. The time spent taking a random drug test is considered work time and the employee will be paid for such time.

L. Employee Consent to Release Drug Test Results:

All non-DOT-regulated employees required to submit to drug testing are required to sign an Employee Consent Form authorizing the results of such testing to be forwarded to the Association. Refusal to sign the Employee Consent Form is considered a violation of this policy and may result in discipline up to and including termination of employment.

M. Compliance with Testing Requests:

It is a violation of this policy for an employee to refuse to fully and timely submit to a request for drug testing. Refusal to submit to a test can include an inability to provide a urine specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior or physical absence resulting in the inability to conduct the test. Providing false information in connection with a test or attempting to falsify test results through tampering, contamination, adulteration, or substitution, is a violation of this policy and is grounds for disciplinary action up to and including termination of employment.

N. Employee Requested Testing:

Any employee who questions the result of a required drug test may request that an additional test be conducted. This additional test may be conducted at the same laboratory or at a different DHHS certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are to be paid by the employee unless the second test invalidates the original test. The employee's request for a retest must be made in a writing received by the Association's Human Resources Manager within 72 hours of notice of the initial test result.

O. Disciplinary Action:

Any employee who engages in any conduct prohibited by this policy and/or who tests positive for illegal drugs shall be immediately relieved from performing duties and shall be subject to disciplinary action up to and including termination of employment. The type of discipline imposed will depend upon the circumstances of each case and may include discipline up to and including termination even for a first offense.

P. Confidentiality of Test Results:

Test results and other laboratory reports are confidential and will not become part of the employee's personnel file and will be disclosed to Association management on a strictly need-to-know basis and to the tested employee upon written request. Disclosures, without employee consent, may also occur when: (1) The information is compelled by law or by judicial or administrative process; (2) The information has been placed at issue in a formal dispute between the Association and the employee; (3) The information is to be used in administering an employee benefit plan; or (4) The information is needed by medical personnel for diagnosis or treatment of the patient who is unable to authorize disclosure. In addition, records of DOT-regulated employees will be made available to a subsequent employer or other identified persons only as expressly requested in writing by the employee.

Q. Inspection and Search Policy:

The Association reserves the right, without cause, to inspect or search any employee's work area, toolbox, locker, desk or any other enclosed container kept by the employee on the work premises or in an Association vehicle. Such inspection or search may be done with or without notice. If the employee has a lock on a toolbox, locker, container, purse, briefcase, etc., the employee shall open the container upon request. Failure to unlock a toolbox, locker, purse, briefcase or container shall be deemed a violation of this policy and shall be grounds for termination. The Association also reserves the right to inspect and search an employee's private vehicle, toolbox or other personal property if reasonable suspicion exists that the employee's personal property contains illegal drugs in violation of this policy. An employee's refusal to cooperate in an inspection and/or search for illegal drugs will result in disciplinary action up to and including termination of employment.

R. Employee Amnesty/Rehabilitation:

Disclosure by an employee, prior to any reason for or method of discovery as outlined in this policy, that the employee has a drug or alcohol abuse problem and volunteers for treatment or rehabilitation will be reasonably accommodated and will not suffer any adverse actions as a result of the voluntary disclosure. If the employee wishes to utilize this amnesty program, such disclosure must be made in advance of the employee receiving a notice to submit to a drug test with respect to which the employee either fails to comply or which results in any positive test result. Employees desiring such assistance should request a treatment or rehabilitation leave. Available sick leave and medical coverage, if any, for which the employee is eligible will be used in coordination with an appropriate treatment plan for the rehabilitation of the employee.

The Association is not obligated to continue to employ an employee whose performance of his/her essential job duties is impaired due to drug or alcohol use, nor is the Association obligated to re-employ an employee who has participated in treatment and/or rehabilitation if that person's job performance remains impaired as a result of dependency. Additionally, employees who are given the opportunity to seek treatment and/or rehabilitation, but fail to successfully overcome their dependency, will not automatically be given a second opportunity to seek treatment and/or rehabilitation. This amnesty program is not intended to alter the Association's treatment of employees who violate the rules and regulations outlined above. Rather, it is an option for an employee who acknowledges a chemical dependency and voluntarily seeks treatment to end that dependency. An employee's involvement in a rehabilitation program does not excuse or limit the employee's obligation to comply with the Association's policies.

S. Off-Duty Usage: Any use of illegal drugs during non-work time which results in a positive test of the employee during work hours will be presumed to pose serious safety and health risks in the workplace. An employee's conviction on a charge of illegal sale or possession of any drug while on or off Association property will not be tolerated because such conduct, even though off duty, adversely reflects on the Association.

T. Contact Person: Employees should contact their supervisor or HR manager with any questions regarding this policy.

**EMPLOYEE ACKNOWLEDGMENT OF RECEIPT OF DRUG-FREE WORKPLACE
POLICY**

I, the undersigned, hereby acknowledge receipt of a copy of the Association's Drug-Free Workplace Policy and agree to comply with and be bound by this policy.

I also understand that this policy is not intended or to be construed as modifying in any manner the Association's policy that employment is terminable at-will at the option of the Association or any employee.

Date: _____

Employee Signature

**EMPLOYEE CONSENT TO DRUG AND/OR ALCOHOL TESTING AND
AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION**

I have been requested by the Association to provide a sample or samples of my urine, blood or breath to be tested for drugs and/or alcohol consistent the Association's Drug and Alcohol Policy.

I have been informed that ingestion of certain over-the-counter medication and prescription drugs may result in a positive drug test. I have listed any over-the-counter medication and prescription drugs which I have taken within the last thirty (30) days on a separate form which I will retain. I understand that I will have an opportunity to provide this list and any other relevant information to explain a positive drug test result, if necessary.

I hereby consent to the taking of any required sample or samples and to the testing of such sample(s) by any testing laboratory designated by the Association.

I hereby authorize the release of any test result to the Association. I further agree to hold the Association, its agents, directors, officers, and employees harmless from any and all liability in connection with this testing.

Witness: _____

Employee: _____

(or Applicant)

Date: _____

Date: _____

I refuse to consent to drug and/or alcohol testing. I understand that refusal to submit to drug and/or alcohol testing may affect my eligibility for employment and/or may result in disciplinary action being taken based on available facts.

Applicant Signature: _____ Date: _____