



# TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

## Operating Policy and Procedure

**HSC OP:** 70.39, **Drug-Free Workplace Policy**

**PURPOSE:** The purpose of this policy is to establish and maintain a drug-free workplace at the Texas Tech University Health Sciences Center (TTUHSC), its regional campuses and Health Care Systems operations. Methods used to achieve this purpose include education, intervention, rehabilitation, and disciplinary action. TTUHSC intends to maintain a substance free workplace. Individuals impaired by the use of alcohol and drugs are potentially harmful to themselves, the University's mission, the treatment of patients, their job performance and the well being of co-workers, students, and visitors. TTUHSC maintains drug and alcohol abuse is preventable and treatable. TTUHSC recognizes that employees and health care professionals who are treated and monitored over the course of their rehabilitation for addiction have excellent outcomes, and the majority will remain valuable employees, educators and providers of health care. TTUHSC adheres to the provisions of the Drug-Free Workplace Act of 1988. Individuals are expected and required to report for work, and to perform assigned duties, in a condition free from the effects of alcohol and drugs.

This policy shall apply to the following individuals: faculty; staff; volunteers; residents; fellows; post-doctoral fellows; and clinical associates (all categories hereinafter referred to as "individuals"). (See Section I, Definitions) All TTUHSC students will adhere to HSC OP 10.03, Alcohol and Illegal Drugs, and the HSC Student Affairs Handbook and policies of the school in which the student is enrolled. All outside contractors conducting business or providing services on a TTUHSC campus will be required to maintain and enforce a drug-free workplace policy for their employees. Contract employees with alleged violations of the TTUHSC policy will be referred to the contractor for appropriate action.

**REVIEW:** This HSC OP will be reviewed on February 1 of each even-numbered year (ENY) by the Assistant Vice President for Human Resources and the Senior Associate General Counsel, with recommendations for revisions forwarded to the Executive Vice President for Finance and Administration by March 1.

### **POLICY/PROCEDURE:**

#### **1. Definitions.**

- A. **Faculty:** Refers to all individuals, regardless of compensation or tenure status; holding full- or part-time appointments; permanent or temporary; and will include adjunct, clinical, research, emeritus, or visiting faculty.
- B. **Staff:** Professional and administrative personnel, other than faculty, with duties and responsibilities that support the mission and administration of TTUHSC. Staff includes full-time and part-time classified, student assistants, research grant and temporary employees, as well as unclassified administrators.
- C. **Resident:** Refers to individuals typically in a clinical post-doctoral training program e.g., Medicine or Pharmacy on any TTUHSC campus.
- D. **Illegal Drug:** Refers to any drug, chemical, substance or plant/animal material, which is classified by the Drug Enforcement Administration (DEA) as a controlled substance with a classification of C-I, C-II, C-III, C-IV, or C-V. In the event the drug is a controlled substance, which is a prescribed drug in the United States, "illegal" shall mean that the

drug was not prescribed to the individual under the influence of said drug or who was in possession of said drug.

## 2. **Responsibilities of TTUHSC.**

TTUHSC prohibits the unlawful possession, use, distribution, dispensation, or manufacture of alcohol or illegal drugs on TTUHSC property unless specifically permitted by the TTUHSC Board of Regents and in accordance with law. Any individual, who is convicted, pleads guilty or nolo contendere, or otherwise violates this policy will be subject to disciplinary action up to and including termination. The use, sale, purchase, transfer, theft, or possession of an illegal drug (see Definitions, Section II.) is a violation of law. Similarly, individuals carrying out their responsibilities on a TTUHSC campus under the influence of alcohol are in violation of TTUHSC policy and, therefore, subject to disciplinary action. TTUHSC will refer such illegal drug activities and alcohol abuse to law enforcement, licensing, and credentialing agencies when appropriate, and as required by law. When appropriate, TTUHSC will encourage physicians, nurses, pharmacists, dentists and other licensed health care professionals to self-report to the appropriate Texas licensing board and enroll in a program of rehabilitation and monitoring.

TTUHSC respects the right to confidentiality of recovering individuals and will assist them to continue their education and employment. However, TTUHSC also respects the rights of patients, visitors, students, employees, etc., and seeks to protect them from the harm that impaired individuals may cause.

TTUHSC encourages all individuals to seek help voluntarily and favors the earliest possible intervention. TTUHSC favors a treatment program that is separate from the disciplinary process and will make referral for treatment services available. TTUHSC is not obligated to pay for rehabilitation services.

Financial responsibility will lie with the individual who chooses to participate in a rehabilitation program.

## 3. **Responsibilities of Individual.**

Any individual aware of substance abuse by another individual in the workplace is expected to report this information to his/her immediate supervisor or the Human Resources Department. This information will then be relayed to the individual's supervisor. The supervisor will be required to monitor the suspected individual's behavior closely and to take appropriate actions when necessary. (See Section IV.A., Voluntary Intervention and Section IV.B., Mandatory Intervention.) For residents and fellows, the supervisor is the attending faculty or the Program Director. The attending faculty or Program Director must report substance abuse to the Chair of the Department. Any individual taking prescribed medication should inquire as to whether the medication could impair his/her ability to safely perform his/her job functions. If the medication could have an impairing effect, the individual should notify his or her supervisor of the potential impairment and its expected duration. This requirement is intended to prevent individuals from endangering themselves or others.

Any criminal drug violation by an individual whose salary is funded through a federal grant or contract must be reported to the contractor or grantee in accordance with the 1988 Drug-Free Workplace Act. A report of conviction must be made in writing by an individual within five calendar days of the conviction to his/her respective Department Head, Chair, Dean, or Vice President. Failure of an individual to report a criminal drug conviction within five calendar days subjects the individual to a violation of this policy and disciplinary action up to and including termination. The funding agency will be notified by the appropriate administrator within ten days after receiving notice from the employee.

Any individual suspended or terminated due to substance abuse must be disciplined in accordance with the applicable TTUHSC policies and procedures. All suspensions and terminations must be approved in advance by the Assistant Vice President for Human Resources or his/her designee.

## 4. **Intervention.**

TTUHSC is committed to maintaining a safe and healthy campus, free from the detriments of workplace substance abuse. TTUHSC believes that intervention is a key element to maintaining a safe and healthy workplace. Intervention can either be voluntary or mandatory. Voluntary intervention is an agreement by the individual to seek or enter a rehabilitation program for substance abuse treatment. (See Section A below.) Mandatory intervention occurs when there is reasonable evidence to indicate impairment or diversion of controlled substances in the workplace. (See Section B below.) The individual under suspicion may be asked to submit to a "for cause" screen. If the individual refuses, the individual will be subject to disciplinary action up to and including termination.

Managers and supervisors will receive an initial orientation of the Drug Free Workplace Prevention Policy and Procedures. Instruction will be provided on identifying individuals with possible alcohol or drug abuse, confrontation, and referral to an appropriate rehabilitation program. Managers and supervisors are responsible for documenting incidents and efforts to confront and address the behavior.

A. Voluntary Intervention

TTUHSC encourages individuals having a substance abuse problem to obtain appropriate rehabilitation services to ensure TTUHSC is drug free. Certain rehabilitation services are available. These rehabilitation services include the Employee Assistance Program (EAP) and the Southwest Institute for Addictive Disease. Additionally, individuals can seek outside professional rehabilitation services and should refer to their health insurance carrier for approved sites.

For employees, outside rehabilitation programs must also be approved by an EAP therapist and/or the EAP Director to ensure the program meets appropriate treatment guidelines. If an individual's job performance is satisfactory, his/her position may not be jeopardized if the individual seeks assistance with an approved program prior to any violation of policy or law and disciplinary action. To the extent possible, all requests and/or actions are strictly confidential.

1. The following provisions apply to any individual who is confronted and voluntarily admits to having a chemical dependency problem. (See Mandatory Intervention, below.)

Supervisors are reminded to inquire whether the individual in question could be taking prescribed medication which could impair one's ability to safely perform his/her job functions.

- a. The Assistant Vice President for Human Resources (AVPHR) will be notified. If the AVPHR is unavailable, the Managing Director of Human Resources - Lubbock must be notified.
- b. For residents and sub-specialty fellows, the Departmental Chair must be informed, and the Director of the appropriate residency program will also be notified.
- c. The individual will be removed from the work area.
- d. The individual must attend a rehabilitation program. Outside rehabilitation programs must be approved by an EAP therapist and/or the EAP Director to ensure the program meets appropriate treatment guidelines.
- e. TTUHSC does not assume financial responsibility for the payment of rehabilitation services. The individual is responsible for payment for participation in a rehabilitation program.
- f. The individual must notify the Director of the EAP of the rehabilitation program in which he/she is enrolled. The Director of the EAP may periodically verify enrollment.
- g. When appropriate, the EAP will recommend to licensed health care professionals that the individual self-report to the appropriate licensing board. (See Section II, Responsibilities of University.)

2. Any individual who elects to voluntarily participate in a rehabilitation program must comply with the treatment and rehabilitation requirements set forth below.
  - a. The individual is responsible for paying for participation in a rehabilitation program. TTUHSC does not assume such responsibility.
  - b. The individual must satisfactorily participate in a rehabilitation program.
  - c. The Employee Assistance Program will help monitor the individual to ensure rehabilitation requirements are satisfactorily met.
  - d. TTUHSC reserves the right to periodically perform unannounced “for cause” screening of individuals participating in a local drug rehabilitation program. Such testing may include, but is not limited to, breath-alcohol screening, blood-alcohol testing, bodily fluids analysis, hair follicle analysis, and urinalysis.
  - e. The individual must remain substance free after completing a rehabilitation program. The individual will be subject to unannounced “for cause” screening for a minimum of two years following the completion of a drug rehabilitation program. The appropriate Dean, Vice President or the President may extend the period for greater than two years depending on the circumstances. The decision to extend the unannounced “for cause” screening beyond two years must be communicated in writing to the individual and the AVP for Human Resources. Failure to comply with these requirements will result in disciplinary action up to and including termination.
  - f. Sick and annual leave may be granted in accordance with TTUHSC policy for the purpose of participating in public or private treatment programs. For additional information, refer to HSC OP 70.01, Leaves of Absence.
  - g. Any individual who admits to having a substance abuse problem and elects not to enroll in a rehabilitation program will be subject to disciplinary action up to and including termination.

B. Mandatory Intervention

Should an individual demonstrate impairment on the job, or if there is evidence that an individual may be impaired, the observer of such an incident should immediately notify the individual's supervisor and/or Human Resources representative at that campus location. The supervisor should also be notified when there is evidence of an occurrence of a diversion. The supervisor and at least one other individual should witness and document the individual's behavior.

1. The supervisor must contact the Texas Tech Police or other appropriate law enforcement authority for that location upon suspicion of a drug diversion.
2. Supervisors must confront an individual who appears to be in an impaired condition on the job. Supervisors are reminded to inquire whether the individual in question could be taking prescribed medication, which could impair his/her ability to safely perform his/her job functions. Supervisors should also confront any individual upon the occurrence of a diversion. An individual may be asked by the supervisor to voluntarily submit to a “for cause” screen to determine whether he or she is under the influence of alcohol or drugs. These types of tests include, but are not limited to, breath-alcohol screening, blood-alcohol testing, bodily fluids analysis, hair follicle analysis, and urinalysis. The following behaviors can be used as the basis of a “for cause” screen:
  - a. Observable phenomena, such as direct observation of illegal drug use or possession;
  - b. Excessive tardiness or absenteeism;
  - c. Performance deviations;
  - d. Scent of alcohol, regardless of the source of odor;
  - e. Physical symptoms of being under the influence of drugs or alcohol, i.e., glazed expressions, dilated pupils, red eyes, or nosebleeds;
  - f. A pattern of abnormal, erratic, or unusual behavior during working hours;

- g. Information provided either by reliable and credible sources, or independently corroborated, which suggests on-duty impairment from drugs or alcohol;
  - h. Evidence indicating that the individual tampered with a previous drug or alcohol test; or
  - i. Evidence indicating that a diversion of controlled substances may have occurred.
5. During regular working hours (8:00 a.m. - 5:00 p.m. Monday - Friday) the supervisor is to notify the AVPHR and/or the local Director of Human Resources that the individual must be tested for drugs or alcohol. The supervisor should then escort the individual to the local Human Resources Office or other designated official. For employees of Correctional Managed Health Care, the Executive Director for CMHC will determine where employees will report for testing.
  6. For residents and fellows, the Program Director or the highest ranking Departmental faculty person will be notified before or immediately after the testing location has been notified. The Program Director will be notified as soon as possible. After regular working hours, and on weekends or holidays, the Program Director will be notified as soon as possible.
  7. After an individual is confronted regarding alcohol or drugs he/she can either refuse or voluntarily submit to a "for cause" screening. (See Section A, Voluntary Intervention, above.) The employee will be asked to complete a release form (Attachment A) thereby agreeing to submit to a voluntary drug screen. If the individual refuses to submit to a "for cause" screening, he/she will be subject to disciplinary action up to and including termination.
  8. Once a "for cause" screening is complete, arrangements should be made for the individual to get home safely. Under no circumstances should the individual be returned to work. The individual should not be allowed to operate a motor vehicle. Therefore, the supervisor may arrange for the individual's family to provide transportation, call a taxi, or have Texas Tech Police provide assistance. If an individual becomes unruly or leaves the location before transportation arrangements are made, Texas Tech Police should be immediately notified. Additionally, supervisors at off-campus sites should also seek assistance in dealing with an individual who becomes unruly or leaves the location before transportation arrangements are made. This includes contacting the police, if necessary. **Note: Only law enforcement personnel are authorized to detain a suspect through physical means.**

**Appropriate disciplinary actions will be taken once the individual returns to work. For further information, refer to paragraph 16.**

9. If an individual voluntarily submits to a drug or alcohol test and the test results are positive, the following actions will be taken. These actions may not be all inclusive.
  - A. The individual and supervisor will be notified of the test results.
  - B. For residents and fellows, the Program Director will also be notified of the test results.
  - C. The supervisor should contact the Assistant Vice President for Human Resources for counsel and advice. If the AVPHR is absent, the Managing Director of Human Resources – Lubbock should be contacted.
  - D. If the test is positive, the supervisor should inform the individual that he/she has the right to voluntarily seek professional help.
  - E. If the individual refuses to enroll in the rehabilitation services offered at TTUHSC or an outside agency, the individual will be subject to disciplinary action up to and including termination.
  - F. Positive drug or alcohol test results of an individual who holds any professional license will be reported to the appropriate professional board, to include current status and disposition, i.e., whether or not the individual has entered a rehabilitation program.
10. Costs associated with an initial "for cause" screen will be the responsibility of TTUHSC. However, costs incurred for any subsequent tests will be the responsibility of the individual being tested.

11. The individual has the right to request that the retained portion of a confirmed positive sample be re-tested, only if there is a portion suitable for re-testing. A written request for re-testing must be provided to the supervisor within three days. The requesting individual must pay for the re-test up front, and the test must be performed at a certified lab approved by TTUHSC. If the retained portion of a confirmed positive sample comes back negative, the individual may be reimbursed. During the re-testing period there will be no change in the individual's employment status.
12. The supervisor will be responsible for determining if, or when, the individual can return to work, and the AVPHR is responsible for determining the pay status during his/her suspension or leave from the workplace. For staff, supervisors should consult with the AVPHR or, if unavailable, the Managing Director of Human Resources - Lubbock, to determine if, or when, the staff member can return to work and pay status during the suspension or leave from the workplace. For faculty, the Dean of the faculty member's school should be consulted and will recommend the faculty's pay status during any suspension or leave from the workplace. For residents and fellows, the Program Director will be responsible for determining if, or when, the individual can return to work and may recommend the pay status during any suspension or leave from the workplace. Any leave of absence must comply with TTUHSC policies and procedures.
13. A post-accident drug screen will be required when an employee apparently caused, or played a part in causing, an on-the-job accident or safety-related incident resulting in the following:
  - A. Lost time from work;
  - B. Serious injury to self or others requiring medical attention;
  - C. Fatality;
  - D. Significant damage to property;
  - E. The hospitalization of one or more persons;
  - F. If the supervisor suspects the individual may be under the influence of drugs or alcohol.
14. An individual asked to submit to a "for cause" or post-accident screen will be immediately removed from the workplace until the screen results are available. Once screen results are available, the supervisor will notify the individual within 24 hours of the results and pending actions, if any. Leave status will be in accordance with TTUHSC policies and procedures. Any leave of absence must comply with TTUHSC policies and procedures and must be approved by the AVPHR, his designee, or other person as indicated, i.e., Program Director, Dean, etc. If an individual is removed from the workplace in a leave without pay status and the screen results are negative, the individual will be paid retroactively. If the screen results come back positive, the individual will not be paid for the period. The individual's supervisor is responsible for ensuring that the individual's leave without pay status is reported in a timely manner on the appropriate form through the administrative chain to the Payroll Office.
15. If the screen is negative, the individual may be reinstated within 24 hours to the current job at the discretion of the supervisor or Dean/Vice President. The supervisor should seek counsel and advice from the AVPHR or his designee.
16. If the screen is positive, the individual will be subject to disciplinary action up to and including termination. (Refer to HSC OP 70.31, Standards of Conduct, Discipline and Separation of Employees or *Regents' Rules*, Chapter 4 – Faculty.)
17. TTUHSC reserves the right to interpret, change, modify, amend or rescind this policy, in whole or in part, at any time without the consent of its employees.

**NOTE: The language used in this document does not create an Employment Contract between the Employee and Texas Tech University Health Sciences Center (TTUHSC).**