



## Policy # 53015

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### **SAFETY SENSITIVE AND SECURITY RELATED EMPLOYMENT SUBSTANCE ABUSE SCREENING (EMPLOYEE DRUG TESTING)**

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**Effective Date:** January 15, 2008

**Revised Date:** September 1, 2007

**Responsible Office:** Human Resources

**Division:** Finance

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#### **I. PURPOSE/OBJECTIVE**

To pursue drug testing of employees occupying and applicants offered safety and security sensitive positions.

The objectives of this policy are:

1. To maintain safety for University students, employees, and the general public;
2. To educate employees about the dangers of substance abuse;
3. To maintain productivity and quality of services; and
4. To encourage rehabilitation of non-temporary and non-probational employees without jeopardizing their jobs.

#### **II. STATEMENT OF POLICY**

The University has a legitimate interest in promoting reasonable working conditions for its employees.

The University supports maintaining a drug and alcohol-free workplace, pursuant to the federal Drug-Free Workplace Act of 1988, the Louisiana Drug Testing Act of 1970, the Drug-Free Schools and Communities Act of 1986 and the Omnibus Transportation Employee Testing Act of 1991 and the Federal Highway Administration procedures, Title 49CRF part 40 and part 382 et. al.

While enforcement of this policy may reveal employees who have violated its prohibitions, it is not the University's intention to actively seek out employees engaged in illegal activity. However, the University fully intends to comply with its obligation to maintain a drug-and-alcohol-free workplace.

This policy applies specifically to all persons employed in safety-sensitive or security related positions, both classified and unclassified. Additionally, this policy applies to all applicants (external and internal) for positions designated as safety sensitive and

security related. This identified group of employees and applicants will henceforth be referred to as employee(s) and applicant(s).

This policy should in no way be construed as creating a contract of employment and should not be construed as limiting the University's right to administer other disciplinary measures that are not outlined in this policy.

- A. Grambling State University is committed to maintaining a safe, productive, and wholesome work environment for all employees by preventing accidents and other dangerous incidents that may result from the unlawful use of drugs and the abuse of alcohol. The University will comply with all laws and governmental regulations to create and maintain a workplace free from illegal drugs and alcohol abuse. The sale, purchase, transfer, concealment, transportation, storage, possession, distribution, cultivation, manufacture, dispensing of illegal drugs, drug-related paraphernalia and/or alcohol while on duty and/or engaged in Grambling State University business on or off Grambling State University premises is strictly prohibited.
- B. Each employee shall report to work in the appropriate mental and physical condition to perform his other job assignments and responsibilities and shall maintain this condition while on the job. Therefore, no employee shall at any time work while under the influence of illegal drugs or alcohol. Drug paraphernalia or alcohol is strictly prohibited in or on property owned, operated, or controlled by the University.
- C. All employees and applicants of designated positions must abide by the provision of this policy as a condition of continued employment.
- D. The University hereby reaffirms its commitment to its employees to utilize our employee assistance program emphasizing education, counseling, referral for rehabilitation, and coordination with available community resources. The University hereby makes a commitment to supervisory training to assist supervisors and managers in identifying and responding to illegal drug use and alcohol abuse by employees. In Appendix II, Alcohol and Drug Effects, employees are provided with training material discussing the effects of alcohol and controlled substance use on an individual's health, work and personal life.

**E. GENERAL GUIDELINES**

1. Definitions

- a. Alcohol – any beverage, mixture, or preparation containing alcohol, including, but not limited to, whiskey, beer, wine, and other

spirituous liquor or malt beverages. For purposes of this policy, alcohol is a drug.

- b. Appointing Authority – the individual(s) lawfully delegated by the University to make appointments to position in the state service.
- c. CAP-FUDT Laboratory – a laboratory certified for forensic drug testing by the College of American Pathologists.
- d. Controlled Substance – any drug, substance or immediate precursor listed in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C Section 812) and La R.S. 40:964 and any revisions thereto.
- e. Conviction – a finding of guilt (for purposes of this policy, including a plea of “no contest”) by any judicial body charged with the responsibility to determine violations of federal or state criminal drug prohibition statutes.
- f. Criminal Drug Prohibition Statutes – all federal and state laws concerning the manufacture, distribution, dispensing, use or possession of any controlled substance.
- g. Detectable Level - the concentration which indicates the presence or absence of the drug or metabolites in the specimen submitted for testing as set forth in applicable local, state, and/or federal statutes and any revisions thereto.
- h. Drug Paraphernalia – any item commonly used or known to be used for administering, packaging or transporting illegal drugs.
- i. Employee Assistance Program – a confidential program of counseling and referral to community resources designed to restore the employee to productivity and to encourage the employee to seek assistance before his or her job is in jeopardy.
- j. Employee Assistance Program Representative – the University employee(s) who oversees and administers the employee assistance program.
- k. Illegal Drugs – drugs prohibited by law and otherwise legal substances which have not been obtained or used for the purpose or in the manner intended by the manufacturer. For the purposes of this policy, “look-alike” and “designer” drugs are considered drugs.

1. Medical Review Officer – a licensed physician responsible for receiving laboratory results generated by a drug testing program and interpreting and evaluating an individual positive test result together with his/her medical history and other relevant biomedical information.
- m. Safety-Sensitive Position – a position in which one of the following situations exists:
  - i. a hazardous condition or practice in the workplace could result in a potential danger which could reasonable be expected to cause death or physical harm to the employee, his co-workers, or the general public; or
  - ii. operation of machinery and equipment could cause serious injury to employees or others in the work area; or
  - iii. public safety demands that employees carry deadly weapons in the course and scope of their duties and must be prepared to make clear-headed instant decisions that could cause injury or death to our clientele and the general public; or
  - iv. access to drugs or other hazardous substances.
2. Screened Drugs – the drugs for which urine-screening is conducted include the following:
  - a. Amphetamines
  - b. Cannabinoids (marijuana metabolites)
  - c. Cocaine Metabolites
  - d. Opiates
  - e. Phencyclidine
  - f. Alcohol (special circumstances, such as accidents, may require testing for blood-alcohol levels.)
3. Security-Related Position – a position wherein the individual is authorized to carry a firearm.
4. Substance Abuse – the self-administration of controlled substances outside the course of medical practice for their mood-altering affects; an abnormal pattern of drug or alcohol use that continues in spite of social, occupational, psychological, or physical impairment caused or aggravated by such use.
5. Driver – any person who operates a commercial motor vehicle. This includes, but is not limited to: full-time, regularly employed drivers,

casual, intermittent or occasional drivers. For purposes of pre-employment, a pre-duty testing only, the term “driver” includes a person applying to an employer to drive a commercial motor vehicle.

**F. ADMINISTRATIVE GUIDELINES**

1. This policy shall be applied uniformly to all applicable employees and applicants.
2. This policy will be enforced by the respective Department Heads, in conjunction with the Department of Human Resources and the EEO Office.
3. Personal dignity and the right to reasonable privacy will be respected in reaching the goal of a drug-free workplace.
4. No employee will be subjected to unreasonable searches or detention.
5. All information, interviews, reports, statements, memoranda, or test results received by the University through its drug- and alcohol-testing program are confidential communications, and may not be used except in a claim or hearing set for unemployment compensation or litigation where drug or alcohol use by the tested employee is relevant.
6. Results of drug and alcohol tests shall not be disclosed unless authorized by law.
7. All illegal drugs and drug paraphernalia found in or on University property will be turned over to the appropriate law enforcement authorities.
8. Substance abuse testing shall conform to scientifically accepted analytical methods and procedures and shall be performed by an independent toxicology laboratory that has SDAMSA and or CAP-FUDT Certification.
9. Should a drug or alcohol test be required, the appointing authority or designee will notify the employee of the time he or she is to report for testing, the location of the collection site, and the requirement for appropriate photo identification.
10. All test results will be reported to a Medical Review Officer (MRO) within 72 hours. The MRO will review the lab results, consult with the

employee and then communicate to the University Administrator whether or not the lab result is justifiable.

11. Any employee who refuses to cooperate with the University's investigation of possible substance abuse and/or any required testing procedures shall be subject to disciplinary action. Furthermore, furnishing a false or adulterated specimen when a drug test is required will be grounds for immediate termination.
12. Tested employees will have an opportunity to provide to the MRO any information which they consider relevant to the test, including identification of currently or recently used prescription or nonprescription drugs or other relevant medical information.
13. When a supervisor has a reason to suspect that an employee is not able to perform his or her duties as a result of an impairment that may be caused by alcohol abuse or illegal drug use, the supervisor shall consult with the appointment authority or the employee assistance program representative regarding how to proceed with further investigation as well as the advisability of testing the employee.
14. Administrative review by the Equal Employment Opportunity Officer shall be available to any employee who believes he or she has been wrongly selected for drug-testing.
15. Any regular employee with a verified first offense confirmed positive test result shall be referred to the employee assistance program for referral to treatment programs for rehabilitation. Confirmed positives in two separate incidents will result in disciplinary action up to and including permanent termination of employment.
16. Any employee who voluntarily admits to illegal drug use or alcohol abuse, obtains counseling or rehabilitation through the employee assistance program, and thereafter remains free from illegal drug use or alcohol abuse, may receive favorable consideration in any proposed disciplinary actions relation to same.
17. The University's financial participation in the rehabilitation of employees will be limited to existing sick, annual and compensatory leave and the employee's health care benefits. All other cost, charges and fees, will be the responsibility of the employee and will not be subject to reimbursement by the University.

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**G. DRUG AND ALCOHOL TESTING**

**1. Types of Testing**

The appropriate authority may require drug-or alcohol-testing for employees and applicants of the safety sensitive and security positions for the following situations: on a random basis, when there is reasonable suspicion that an employee uses drugs, as a follow up to drug counseling or rehabilitation, after an on-the-job accident/incident of serious or potentially serious results and when employees are selected for transfer or promotion to positions identified in Appendix I. Testing for substance abuse may be by Breathalyzer, blood, urine or any other appropriate and scientifically accepted tests.

- a. **Reasonable Suspicion Testing** – a supervisor may have reason to believe or suspect that this policy is being violated by an employee based on observation of drug use; abnormal or erratic behavior that indicates impairment in normal sensory and/or motor body function; investigation, arrest, or conviction of alcohol or drug-related offenses; or evidence that the employee tampered with a previous alcohol or drug test. An employee may be required to submit to a drug or alcohol test when such reasonable suspicions arise and a second (additional) supervisor also observes the behavioral manifestations of the employee.
- b. **Follow-up Testing** – employees who have previously been found to be users of illegal drugs or abusers of alcohol may be monitored for abstinence, with adverse job action following apparent relapse.
- c. **Random Drug Testing** – all University employees whose job titles are listed in Appendix I shall be eligible for random drug testing at all times during each fiscal year. A non-discriminating method shall be used to select employees for testing.
- d. **Post on the Job Accident/Incident** – following an on-the-job injury or potentially serious accident, injury, or incident in which safety precautions were violated or unusually careless acts were performed.
- e. **Final Applicants for Employment** – all applicants for job titles listed in Appendix I shall be drug tested prior to employment.
- f. **Employees Seeking Transfers/Promotions to Safety Sensitive and Security Related Positions** – any employees as applicants for transfer or promotion to one of the positions identified in Appendix I shall be drug tested and found free of drugs as a condition of the transfer or promotion.

**2. OTHER TYPES OF TESTING**

- a. **Initial Test** – a test designed to eliminate “negative” specimens from further consideration.
- b. **Confirmatory Test** – a second analytical procedure to identify the presence of a specific drug or metabolite. This test will involve a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy.

**3. CONSEQUENCES OF POSITIVE DRUG OR ALCOHOL TESTS**

**a. Probationary and Non-Probationary Employees**

**i. First Confirmed Positive Test**

- 1. These employees will be prohibited from operating any University motor vehicle or machinery for a period not less than 30 days or until released from a treatment program, whichever shall be deemed appropriate under the circumstances.
- 2. The employee shall be referred to the employee assistance program by the appointing authority for referral.
- 3. The employee shall be required to participate in and successfully complete a rehabilitation program.
- 4. The employee shall be subject to follow-up testing.
- 5. The employee assistance program coordinator shall monitor the employee’s progress.

**ii. Second Confirmed Positive Test**

- 1. If any employee tests positive a second time for either illegal drugs or alcohol abuse as a result of any required test, the employee shall be terminated for misconduct for violation of this policy as well as any other impairment to state service caused by such conduct, within the regulations and rules of Civil Service.

**4. APPEALING A CONFIRMED POSITIVE TEST**

1. Applicant – In the event of a confirmed positive test result in the post-offer drug test, the applicant will not be considered for immediate employment. He/she will be notified of the test results and informed that he/she will no longer be considered for immediate employment. The applicant may reapply only after twelve (12) months have expired.
2. All applicants with a confirmed positive drug test will be allowed to challenge the results of the test within seven (7) working days of notification and in the following manner(s):
  - a. If the individual wishes to challenge the test results, it is his/her responsibility to notify the MRO in writing.
  - b. If the test of the first bottle is confirmed positive, and a split sample is collected, the applicant may request that the MRO direct that the second bottle be tested, at the applicant's own expense, in and NIDA-certified or CAP-FUDDT-certified laboratory (or one which meets current state/federal certification requirements as outlined by appropriate laws) for presence of the drug(s) for which a positive result was obtained in the test of the first bottle. The result of this test is transmitted to the MRO without regard to the cutoff values as listed in the NIDA guidelines. The MRO shall honor such a request if made within seventy-two (72) hours of the applicants having actual notice that he or she tested positive.
  - c. The second test must be equal to or of greater sensitivity for the drug in question as was the initial test. A copy of the second test result must be submitted to the MRO before the applicant can be reconsidered for employment.
  - d. If the result of the second test is negative, the MRO shall cancel the positive results of the first test.
3. Current Employees – If the employee wishes to challenge a confirmed positive test result he/she may do so in writing within seven (7) days of notification and with the understanding that he/she will be placed on leave until the challenge is resolved.
4. All employees with a confirmed positive drug test may contest the results in the following manner:

- a. A written request for such is submitted to the MRO within seven (7) working days by the employee.
- b. If the test of the first bottle is confirmed positive, and a split sample is collected, the employee may request that the MRO direct that the second bottle be tested, at the employee's own expense, in an NIDA-certified or CAP-FUDDT-certified laboratory (or one which meets current state/federal certification requirements as outlined by appropriate laws) for presence of the drug(s) for which a positive result was obtained in the test of the first bottle. The result of this test is transmitted to the MRO without regard to the cutoff values as listed in the NIDA guidelines. The MRO shall honor such a request if made within seventy-two (72) hours of the employee's having actual notice that he or she tested positive.
- c. The second test must be equal to or of greater sensitivity for the drug in question as was the initial test. A copy of the second test result must be submitted to the MRO before the applicant can be reconsidered for employment.
- d. Action taken by the employer as the result of a positive drug test such as removal from performing a safety-sensitive function is not stayed pending the result of the second test.
- e. If the result of the second test is negative, the MRO shall cancel the positive results of the first test.
- f. If the result of the second test is negative, the employee will have any leave used restored for the scheduled work loss or will be paid for any work time lost not taken as leave with pay.

#### **H. INDEMNIFICATION PROVISION**

This University hereby declares its policy that it shall defend and indemnify all officers and employees of this University from any financial loss, which for purposes of this indemnity shall mean and include court costs, judicial interest and monetary damages, arising out of any claim, demand or judgment from a state or federal court or any decision from any administrative law body by reason of any act by said officer or employee at the time damages were sustained was acting reasonable in the discharge of his duties and within the scope of his employment and such damage did not result from the intentional wrongful act of gross negligence of said officer or employee.

**I. EMPLOYEE ASSISTANCE PROGRAM**

The Employee Assistance Program, or EAP, is a University referral assistance program which helps employees and their families resolve problems affecting their personal lives and/or job performance. Besides being confidential, the program is voluntary. The program is designed to allow the employees to seek help on their own. However, referrals to the EAP may be initiated by the supervisor or management personnel when a serious job performance problem occurs.

When an employee makes a decision to enter a substance abuse rehabilitation/treatment program, the employee will be required to sign a "Return to Work Agreement" which will stipulate the responsibilities of the employee under the agreement.

Discussion of the problem is strictly between the employee and the EAP representative, who provides referral literature to the employee for follow-up. If the employee refuses to participate in a rehabilitation program, and a job performance or attendance problem continues, appropriate disciplinary action may result.

The University Liaison Representative for daily operations of this policy is Paula Woodfork-White, located in Room 151, Long-Jones Hall at phone number 274-2493.

The Employee Assistance Program Representative is Paula Woodfork-White, located in Room 151, Long-Jones Hall at phone number 274-2493.

The University Oversight Administrator for this policy is Monica Bradley, Room 148, Long-Jones Hall at phone number 274-2237.