ADMINISTRATIVE DIVISION	HR Division of Human Resources
POLICY NUMBER	HR 1.95
POLICY TITLE	Drug and Alcohol Testing Policy
SCOPE OF POLICY	USC System
DATE OF REVISION	May 28, 2020
RESPONSIBLE OFFICER	Vice President for Human Resources
ADMINISTRATIVE OFFICE	Division of Human Resources

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PURPOSE

The purpose of drug and alcohol testing is to prevent the hiring and/or continued employment of individuals in safety-sensitive or security-sensitive positions who, due to the abuse of alcohol or use of illegal drugs, may harm themselves or others, or cause damage to property.

DEFINITIONS

Diluted Sample: A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Drug and/or Alcohol Test: Any evaluation used to detect the presence of illegal drugs and/or alcohol in an individual's system. Testing will usually consist of urine sampling for drugs and/or breath testing for alcohol.

Employee: Any person having an employment relationship with the university, regardless of the appointment type (e.g. classified, unclassified, full-time, part- time, temporary, student, intern, affiliate), who works in a safety-sensitive or security-sensitive position. This policy also will apply to volunteers working in safety- sensitive or security-sensitive positions.

Illegal Drug: Any illegal substance, including but not limited to narcotics, hallucinogens, cocaine, marijuana, and designer drugs, and any controlled substances, including but not limited to amphetamines and barbiturates, that are used either without being prescribed by a licensed physician or in excess of the amount prescribed by a licensed physician. Any drug that is not legally obtainable or

that has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by an individual other than the person for whom prescribed.

Medical Review Officer (MRO): A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

Negative Result: The result reported by a certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Non-Negative Specimen: A urine specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid.

Positive Result: The result reported by a certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.

Reasonable Suspicion: Belief based upon reliable, objective facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators being of sufficient import and quantity to lead a reasonable person to suspect that an employee has used or may be impaired by drugs or alcohol.

Safety-Sensitive or Security-Sensitive Position: A position determined by the Vice President for Human Resources or their designee to contain duties of such a nature that a compelling university interest to keep the incumbent drug-free outweighs the employee's privacy interests.

Unfit Condition: Behavior including but not limited to: drowsiness, sleepiness or sleeping, slurred and/or incoherent speech, unusually aggressive behavior, unusually depressive behavior, unusual and rapid changes in mood, disorientation or inability to concentrate, or lack of coordination in walking or performing other tasks.

Workplace: Any location on university property, including all offices and facilities (including all vehicles and equipment) whether owned, leased or otherwise used by the university or by an employee on behalf of the university from any location from which an individual conducts university business.

POLICY STATEMENT

Drug and alcohol testing applies to all employees of the university who are employed in safety-sensitive or security-sensitive positions and to employees who are required to have a Commercial Driver's License (CDL) in order to perform the essential function of their job.

Drug testing for employees required to have a CDL must conform to USDOT Regulation 49 CFR Part 40.

Job announcements for safety-sensitive or security-sensitive positions must contain language indicating that employees are subject to pre-employment and post-employment drug testing in accordance with this policy.

Every employee in a safety-sensitive or security-sensitive position shall be required to submit to random drug testing. Employees selected at random are required to report for testing within two hours after notification. All such testing shall, if practicable, occur during the selected employee's scheduled work hours and will be considered hours worked.

The university shall also require drug testing under the following conditions:

A. Pre-employment – Each prospective employee accepting a safety-sensitive or security-sensitive position shall be required to submit to drug testing at a designated time and place following a job offer contingent upon a "negative" drug-testing result. A prospective employee who tests "non-negative" for the presence of drugs in the initial test shall be eliminated from consideration for employment. Prospective employees whose test results in a diluted sample may receive up to one re-test at the discretion of the hiring official. A subsequent diluted sample will result in the withdrawal of the job offer.

B. Each current employee who is offered a safety-sensitive or security-sensitive position (as defined in this policy) shall be required to pass a drug test before being placed in such position, whether through appointment or promotion.

C. Reasonable Suspicion – Any employee in a safety-sensitive or security-sensitive position shall be required to submit to a drug or alcohol test if there is reasonable suspicion (as defined in this policy) that the employee is using and/or under the influence of drugs and/or alcohol.

D. Immediately following the discharge of a firearm or other weapon, or any use of physical force by a USC police officer that results in hospitalization, serious bodily injury, or fatality.

E. Post-accident – Each employee in a safety-sensitive or security-sensitive position involved in an accident that occurs during the course and scope of employment shall be required to submit to a drug or alcohol test if the accident:

1. Involves circumstances leading to a reasonable suspicion of the employee's drug or alcohol use; or

2. Results in hospitalization, serious bodily injury, or fatality; or

3. Results in or causes the release of hazardous materials.

F. Rehabilitation Monitoring – Any employee in a safety-sensitive or security-sensitive position who is participating in a mandatory substance abuse after-treatment program (such as the Employee Assistance Program) following a "non-negative" test shall be required to submit to quarterly drug testing for a period of one year following completion of the treatment program.

An employee may not refuse to submit to substance abuse testing administered under the terms of

this policy. An employee who refuses to submit to such tests will be subject to corrective disciplinary actions and penalties up to and including termination of employment.

Employees in safety-sensitive or security-sensitive positions who test "non-negative" for illegal drugs and/or alcohol must be immediately removed from their safety-sensitive or security-sensitive duties. Employees who test "non-negative" will be subject to corrective disciplinary actions and penalties up to and including termination of employment and/or may be offered the opportunity for treatment depending on the facts/circumstances of the incident for which the test was required.

Section 56-1-2220 of the SC Commercial Driver's License Drug Testing Act requires that all employers report to the SC Department of Motor Vehicles within three business days if an employee holding a CDL refuses to submit to a drug and/or alcohol test, tests positive for drugs and/or alcohol, or submits an altered drug and/or alcohol test.

Violation of this policy by staff will be cause for disciplinary actions up to and including termination, pursuant to university policy HR 1.39 Disciplinary Action and Termination for Cause, and may have legal consequences.

Violation of this policy by faculty will lead to disciplinary actions up to and including termination based upon the criteria in the Faculty Manual of the applicable campus, and may have legal consequences.

All information and/or test results received by the university through its drug and alcohol testing program are confidential communications, but may be used or disclosed in any civil or administrative proceeding as allowed by applicable law. Only university employees who have a need to know will have access to test results, and those employees shall keep test results confidential.

Supervisors have a significant role in establishing and maintaining the university's drug and alcohol testing program, including identifying positions that qualify as safety-sensitive or security-sensitive. Their understanding and support are key factors in establishing a successful program. Supervisors of safety-sensitive or security-sensitive positions will receive training on their responsibilities relating to alcohol and drug testing. Supervisor training is not intended to train supervisors to be drug- or alcohol-abuse experts, counselors, or to conduct medical evaluations.

The university will provide drug- and alcohol-awareness information to all employees. This is available to employees on the university's website in the Cleary Annual Security Report provided by the Division of Law Enforcement and Safety.

The University of South Carolina recognizes drug and/or alcohol dependence as a treatable illness. Per HR 1.01 Drug-Free Workplace, employees are encouraged to seek assistance for drug and/or alcohol problems before there is an incident that would cause the university to impose sanctions.

PROCEDURES

A. Campuses/Departments must use the drug testing vendor under contract with the university's Division of Human Resources, unless the Vice President for Human Resources has approved the campus/department to use an alternate vendor.

B. Campuses/Departments employing safety-sensitive or security-sensitive positions will designate an employee who will be responsible for the drug testing function in their respective campus/departments, to include record keeping and report generation.

C. Testing will be conducted by a certified drug testing laboratory that follows accepted standards of testing and chain-of-custody requirements. Testing will usually consist of urine sampling and/or breath testing for alcohol.

D. All "non-negative" tests will be confirmed by a second test using the same sample. All "non-negative" tests will receive a professional medical review by a licensed Medical Review Officer (MRO) whose services will be provided by the certified drug testing laboratory (vendor), which includes the opportunity for employees to explain the result.

E. Employees who test "non-negative" will be subject to disciplinary action and/or may be offered the opportunity for treatment depending on the facts/circumstances of the incident for which the test was required.

F. The failure of an employee to take an alcohol or drug test is considered equivalent to a verified "non-negative" drug test and subjects the employee to the same adverse employment action up to and including termination of employment.

G. An employee who refuses to submit to an alcohol or drug test is subject to adverse employment action up to and including termination of employment. Refusing to submit to testing may include any of the following:

    1. Expressly declining to submit to testing.

    2. Failure to appear for testing after proper notification.

    3. Failure to provide adequate breath for alcohol testing without a valid medical explanation.

    4. Failure to provide adequate urine for drug testing without a valid medical explanation.

    5. Providing a urine sample determined by the testing laboratory and/or the Medical Review Officer to have been tampered with or otherwise altered.

    6. Engaging in conduct that clearly obstructs the testing process.

H. Prospective employees, or employees hired contingent upon a "negative" drug test, will not be offered employment or will be terminated immediately if they test "non-negative."

The following are examples of safety-sensitive and security-sensitive positions:

1. Positions with duties that are required or are authorized to perform the safety inspection of a structure;

2. Positions with duties that are required or are authorized to carry a firearm or other weapon or

are authorized to use physical force when necessary that could result in bodily injury or death;

3. Positions with duties that allow access to controlled substances (drugs);

4. Positions involved in patient care, to include those providing direct patient care or those drivers of State vehicles who transport patients receiving care;

5. Positions with duties that are required or authorized to inspect, handle, or transport hazardous materials;

6. Positions with duties that are authorized to operate or exercise any responsibility over potentially heavy or dangerous equipment;

7. Positions with duties that require the operation or supervision of heavy equipment or machinery;

8. Employees who are required to have a CDL in order to perform the essential functions of their position.

RELATED UNIVERSITY, STATE AND FEDERAL POLICIES

USDOT Regulation CFR 39 Part 40
Section 56-1-2220 of the SC Commercial Driver's License Drug Testing Act
HR 1.01 Drug-Free Workplace
HR 1.39 Disciplinary Action and Termination for Cause

HISTORY OF REVISIONS

DATE OF REVISION	REASON FOR REVISION
May 28, 2020	Updated to new format Added definitions of key terms Clarified pre-employment testing (diluted sample) Clarified Rehabilitation monitoring Clarification of results of "non-negative" test Added information regarding reporting requirements under the CDL Drug Testing Act Clarified role of supervisors Removed language provided in HR 1.01 Provide for approval of alternative drug testing vendors Provided information regarding what qualifies as refusal to submit to a test