

# Utah Tech University Policy

## 323: Employee Physical, Mental, and Alcohol or Drug Examinations



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### I. Purpose

- 1.1 This policy outlines the procedure if an employee is required to complete a Physical, Mental, Alcohol or Drug Test as a condition of future or continued employment with Utah Tech University (“the University” or “UT”).

### II. Scope

- 2.1 This policy applies to all UT employees and UT volunteers as defined by University Policy 301, as required.

### III. Definitions

- 3.1 **Accident:** Any incident occurring in a University Workplace or while an employee or volunteer is performing official University duties or activities, in which anyone is injured or any University property is damaged.
- 3.2 **Alcohol:** Ethyl Alcohol, or ethanol, is an intoxicating ingredient found in beer, wine, and liquor.
- 3.3 **Drug:** A controlled medicine or substance, which has a physiological effect when ingested or otherwise introduced into the body, that is legal or prescribed for personal use by a licensed health care provider in accordance with Utah laws.
- 3.4 **Drug Paraphernalia:** Any equipment, product, or material used, or intended for use, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repack, store, contain, conceal, inject, ingest, inhale, or to otherwise introduce an Illegal Drug into the human body.

- 3.5 **Illegal Drug:** A controlled medicine or substance, which has a physiological effect when ingested or otherwise introduced into the body, that is not legal or validly prescribed for personal use by a licensed health care provider in accordance with Utah laws.
- 3.6 **Marijuana:** The psychoactive dried resinous flower buds and leaves of the female hemp or cannabis plant (*Cannabis sativa* or *Cannabis indica*) that contain high levels of tetrahydrocannabinol (THC) and are smoked, vaped, or ingested (as in baked goods), especially for their intoxication effect.
- 3.7 **Medical Cannabis Card:** A card that the Utah Department of Health issues to allow a UT employee or UT volunteer access to medical cannabis.
- 3.8 **Physical Examination:** An examination performed by a qualified and licensed physician to document and quantify an individual's bodily fitness, especially for a specified activity or service.
- 3.8.1 **Lift Test:** A specific Physical Examination that determines whether an individual is able to lift a specific weight as part of a job duty requirement.
- 3.8.2 **Drug Test:** A specific Physical Examination of biological material (such as urine, hair, saliva, or sweat) performed by a qualified and licensed provider and/or clinic to detect the presence of specific drugs that may be used to and determine prior Drug use.
- 3.9 **Mental Examination:** A structured assessment performed by a qualified and licensed psychiatrist or psychologist to document and quantify an individual's behavioral and cognitive functioning.
- 3.10 **Reasonable Suspicion:** An objective and justifiable suspicion that an UT employee or UT volunteer is Under the Influence of Alcohol, Marijuana, or a Drug, based on specific facts or circumstances that would lead a reasonable person to conclude that further action is warranted.
- 3.11 **Rehabilitation Program:** A service provider that provides confidential, timely, and expert identification, assessment, treatment, and resolution of employee Alcohol or Drug abuse that may include inpatient or outpatient programs, as well as the Employee Assistance Program.
- 3.12 **Security Sensitive Position:** A position with duties that require, provide for, or encompass the potential to incur human, financial, property, or other loss or harm to the University and/or its constituents. See University Policy 329.
- 3.13 **Under the Influence:** Refers to impairment, to any degree, of a UT

employee's or UT volunteer's ability to safely or competently perform the work activity in question as a result of the use of Alcohol, Drugs, or a combination of both.

- 3.14 **University Premises:** All land, buildings, facilities, parking lots, roads, and other property in the possession of, or owned, used, leased, or controlled by the University.
- 3.15 **Workplace:** A place where work is done, such as an office, classroom, lab, grounds of the University, or a home office for employees with an approved Alternative Work Arrangement under University Policy 326.

#### IV. Policy

- 4.1 The President and/or a Vice President may require any faculty or staff member within their division or reporting line to obtain a Physical, Mental, Alcohol or Drug Examination as a condition of employment or if a reasonable doubt exists about the employee's ability to meet reasonable physical and mental health requirements of the position.
- 4.2 In addition to the above, the University has the option to require Alcohol or Drug Testing under the following conditions:
  - 4.2.1 Where there is Reasonable Suspicion that a UT employee or a UT volunteer is Under the Influence of Alcohol, Marijuana, or any Illegal Drug either:
    - 4.2.1.1 During the employee's working hours.
    - 4.2.1.2 In any University Workplace (including the employee's remote Workplace, if applicable) while University work is being performed.
    - 4.2.1.3 On any University Premises.
    - 4.2.1.4 In any University vehicle, regardless of whether the vehicle is being operated.
    - 4.2.1.5 While engaged in any University business or University-sponsored activity (e.g., considered employee's working hours) not approved for Alcohol consumption under Policy 158. University business includes University-related travel as it applies to employee's working hours when traveling, as defined in University Policy 352.
  - 4.2.2 When an employee in a Safety Sensitive Position is involved in an

Accident, as defined by this policy, an employee or volunteer may be tested for Alcohol within eight (8) hours following an Accident and tested for Marijuana and/or Illegal Drugs within 32 hours following an Accident.

- 4.2.3 As part of, or as a follow-up to, counseling or Rehabilitation for Alcohol, Marijuana, and/or Illegal Drug use.
- 4.2.4 In compliance with the federal Drug Free Workplace Act of 1988, 41 U.S.C. 701 through 767, or other federal and state required Drug and Alcohol policies.
- 4.3 Random Drug and Alcohol Testing may be performed on a UT employee and UT volunteer who holds or applies for Safety Sensitive Positions. These include, but are not limited to, those persons holding or seeking positions that require a Commercial Driver's License.
  - 4.3.1 Random Drug and Alcohol Testing may be performed just before or just after an employee operates a vehicle in a Safety Sensitive Position.
  - 4.3.2 When a random Drug Test is performed, fifty percent (50%) of employees in Safety Sensitive Positions within the Vice President's division or President's reporting line must be tested for controlled substances, and twenty-five percent (25%) of employees in Safety Sensitive Positions within the Vice President's division or President's reporting line must be tested for Alcohol.
- 4.4 An Employee or prospective employee undergoing Drug and Alcohol Testing will submit a urine sample, according to guidelines determined by the testing agency.
- 4.5 Positive test results, indicating a violation of the law and/or the University's Drug and Alcohol-Free Workplace policies, require disciplinary sanctions against an employee and/or participation in a Rehabilitation/education Program.
  - 4.5.1 First run positive test results will be rerun with the opportunity for the employee or prospective employee to supply information that the person considers relevant to the test, including identification of currently or recently used prescription and non-prescription Drugs or other related medical information.
  - 4.5.2 Second run positive test results for prospective employees will result in applicant rejection.

- 4.6 Failure to comply with the above Drug and Alcohol Testing requirements (Sections 4.2 – 4.5) may result in immediate termination of employees and volunteers or automatic rejection of prospective employees and volunteers.
- 4.7 Results of a test or of a Physical Examination or Mental Examination will be submitted to Human Resources for record keeping (in accordance with HIPAA regulations) and disclosed to the department responsible for the hiring decision and/or supervision of the employee or volunteer.
- 4.8 The cost of Physical Examinations or Mental Examinations requested by the University are borne by the University. The University shall select health professionals and/or health clinics to perform the Physical Examination or Mental Examination; special accommodations for the employee may be made upon request and approval.
- 4.9 The University reserves the right to adopt such health standards as conditions to employment or continuation thereof as may be necessary to ensure the health, safety, and welfare of students and/or employees.
- 4.10 If an employee's or volunteer's health becomes a concern for continued employment, the medical opinion of two qualified health professionals shall be obtained, one of which shall be selected by the employee and one selected by the University. In the event of differing opinions, a third medical opinion by a qualified health professional, selected by the University, will be the final and determining judgment.

## **V. References**

- 5.1 Drug-Free Workplace Act of 1988, 41 U.S.C. 701 through 767
- 5.2 University Policy 158: Alcohol Beverages for on and/or off Campus Events, Ceremonies, Receptions, Fundraisers, and/or Private Events
- 5.3 University Policy 301: Personnel Definitions and Classifications
- 5.4 University Policy 324: Drug and Alcohol-Free Workplace
- 5.5 University Policy 329: Criminal Background Checks
- 5.6 University Policy 352: Staff Compensation

## **VI. Procedures**

- 6.1 New hires must complete and successfully pass any pre-employment requirements prior to beginning work with the University. Such

requirements will be stipulated in the offer letter of employment given to the employee by the University.

- 6.2 Vice Presidents and/or the President requesting a Physical and/or a Mental Examination of an existing employee must work with their associated division personnel and Human Resources to ensure this Policy is followed and to facilitate the requested testing.

## **VII. Addenda – N/A**

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Policy Owner: Executive Director of Human Resources

Policy Steward: Executive Director of Human Resources

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