**Drug Testing for Non-Faculty UPPS No. 04.04.18**

**Employees Issue No. 4**

 **Effective Date: 04/05/2024**

 **Next Review Date: 03/01/2029 (E5Y)**

 **Sr. Reviewer: Associate Vice**

 **President for Human Resources**

**POLICY STATEMENT**

*Texas State University is committed to maintaining a safe, healthy, and productive environment for all members of the community.*

**01. SCOPE**

01.01 This document establishes policies and procedures for alcohol, drug, controlled substance, and any other performance-altering substance testing of non-faculty employees in order to:

1. help ensure a safe and productive work environment; and
2. comply with federal, state, and Texas State University System (TSUS) requirements regarding the use of alcohol, drugs, controlled substances, and any other performance-altering substances, in and out of the workplace, including the [Drug Free Workplace Act of 1988](https://www.govinfo.gov/content/pkg/USCODE-2009-title41/pdf/USCODE-2009-title41-chap10.pdf); [Drug Free Schools and Communities Act of 1989](https://www.congress.gov/bill/101st-congress/house-bill/3614); [TSUS Rules and Regulations](https://www.tsus.edu/about-tsus/policies.html); and the [Rules of the Texas Workers’ Compensation Commission](https://www.tdi.texas.gov/wc/rules/documents/wcrules.pdf).

01.02 Texas State University is dedicated to maintaining a work environment free from substance abuse. To that end, the university expects employees to assume responsibility for their personal and professional conduct regarding the use of alcohol, drugs, controlled substances, and any other performance-altering substances, in and out of the workplace.

01.03 The provisions of this policy apply to all applicants, staff, and student employees, except those listed as faculty in the [University Pay Plan](https://www.hr.txstate.edu/compensation/universitypayplan.html). The provost and executive vice president for Academic Affairs will determine any similar policy for faculty.

**02. DEFINITIONS**

02.01 Controlled Substance – as listed in schedules [I through V, Section 2.02, of the Controlled Substance Act (21 U.S.C. §812)](https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title21-section812&num=0&edition=prelim), or the [Texas Controlled Substances Act (Tex. Health & Safety Code Ann. §481, Vernon 2002)](https://statutes.capitol.texas.gov/Docs/HS/htm/HS.481.htm).

02.02 Conviction – a finding of guilt, an admission of guilt, a no contest plea, or an imposition of sentence by any judicial body for violation of a criminal statute involving the unlawful manufacture, distribution, dispensation, possession, or use of alcohol or drugs.

02.03 Drug – alcohol, a controlled substance, and any other drug, narcotic, or performance-altering substance.

02.04 Employee – all staff and student employees, except those listed as faculty in the [University Pay Plan](https://www.hr.txstate.edu/compensation/universitypayplan.html).

02.05 Performance-Altering Substance – any substance outside those identified in Section 02.01 which produces behavior that is unsafe, disruptive to the workplace, or prevents the effective performance of the employee’s job duties and responsibilities.

02.06 Safety-Sensitive Position – for the purposes of this policy, a position whose duties involve:

1. carrying firearms;
2. access to controlled substances;
3. the medical diagnosis, treatment, or care of patients;
4. the operation of medical equipment or the performance of a medical test or analysis used to diagnose or treat patients; or
5. the care or welfare of children.

02.07 [Supervisor’s Guide to Drug, Alcohol, and Performance-Altering Substance Testing](http://gato-docs.its.txstate.edu/jcr%3Aa7539cf2-0b6d-491b-b6f8-24eded83fe1e/Supervisor%27s%20Guide%20to%20Substance%20Testing%20_08.2017.pdf) – a reference to assist supervisors in performing their duties in accordance with this policy and provides the guidelines that must be followed for implementing the testing procedures required in this policy.

**03. GENERAL PROVISIONS**

03.01 The [TSUS Rules and Regulations](https://www.tsus.edu/about-tsus/policies.html) provide that a university employee who violates controlled substance laws is subject to disciplinary sanctions, including termination.

03.02 The use of alcohol, drugs, controlled substances, or any other performance-altering substance during work hours is prohibited. Employees who report to work and appear to be under the influence of alcohol, drugs, controlled substances, or any other performance-altering substance may be asked to submit to testing.

03.03 An applicant who refuses to consent to testing or who attempts to thwart or evade testing will be disqualified for that position. An employee who refuses to consent to any required testing or who attempts to thwart or evade testing will be disqualified for employment for that position and subject to disciplinary action up to and including termination, as appropriate.

03.04 Any employee who is convicted of violating any federal or state criminal alcohol or drug statute, as defined in Section 02.02, must notify their department head no later than the next workday following the conviction. Failure to provide notice as required in this section may result in disciplinary action up to and including termination.

**04. DRUG TESTING PROCEDURES**

04.01 The university will conduct, through an approved testing facility, pre-employment testing, and may conduct random testing and reasonable suspicion testing as determined to be appropriate.

The university will contract with an approved independent drug-testing facility to conduct all drug testing. The facility must meet all legal requirements for a qualified and secure testing process.

When an individual reports to a designated testing facility for any required testing, that individual must present photo identification. If an individual cannot present photo identification, the testing facility will not be able to perform testing.

In the case of on-site testing, the individual must present photo identification, and if the individual cannot present photo identification, the supervisor may identify the employee.

The department requesting the drug testing will pay the cost of the drug testing.

a. Pre-Employment Testing – Testing is required for persons employed in safety-sensitive positions as provided in the supervisor guidelines. The person must pass all testing prior to employment. The university will conduct the test after an offer of employment, but prior to the person’s first active-duty date, or prior to a person being transferred, promoted, or reclassified to a position covered by this policy. Failure to pass the required testing will render the individual ineligible for employment in the position for which the individual was tested.

b. Random Testing – may be required for individuals in safety-sensitive positions. The university recognizes the privacy interest of its employees and ordinarily will not conduct random testing. However, the university does have an interest in conducting random testing for individuals in safety-sensitive positions due to the extraordinary safety hazards posed by a drug or alcohol-impaired employee in one of these positions. The vice president in the employees’ reporting line, the TSUS associate general counsel, and the associate vice president for Human Resources must approve, in advance, any program for random testing of safety-sensitive positions. Less intrusive means than random testing may be used if it is determined that such means will achieve the desired objective.

c. Reasonable Suspicion Testing – All employees, as defined in Section 02.04, are subject to reasonable suspicion testing for alcohol, drugs, controlled substances, or any other performance-altering substances whenever there is a reason to believe that the employee may have used these in violation of this policy. The specific process that must be used to determine and require reasonable suspicion testing is provided in the [Supervisor’s Guide for Drug, Alcohol, and Performance-Altering Substance Testing](http://gato-docs.its.txstate.edu/jcr%3Aa7539cf2-0b6d-491b-b6f8-24eded83fe1e/Supervisor%27s%20Guide%20to%20Substance%20Testing%20_08.2017.pdf) found on the Human Resources [website](https://www.hr.txstate.edu/).

After a reasonable suspicion interview as defined in [Supervisor’s Guide for Drug, Alcohol, and Performance-Altering Substance Testing](http://gato-docs.its.txstate.edu/jcr%3Aa7539cf2-0b6d-491b-b6f8-24eded83fe1e/Supervisor%27s%20Guide%20to%20Substance%20Testing%20_08.2017.pdf), an employee may not return to work until so directed by the supervisor. Time away from the job will be paid administrative leave or leave without pay, as determined to be appropriate by the supervisor.

04.02 Time taken by an employee (including travel) to take a required test is paid time unless the test outcome is positive. If the test outcome is positive, the time taken to take the test (including travel) must be charged to vacation, compensatory time, or leave without pay, as appropriate.

All time and travel expense by an applicant to take and complete any required testing are considered the applicants own and are not paid or reimbursable.

04.03 Test results are confidential. Only Human Resources, the appropriate supervisory officials in the employee’s chain of command, the individual tested, and the designated substance abuse treatment professional approved by the university may receive the results of an employee’s drug test.

04.04 An appropriate management official will meet with an employee who has failed a test to:

1. inform the employee of the test results;
2. determine what disciplinary action, if any, should be taken; and
3. explore the possibilities for the employee to participate in a university-approved counseling or rehabilitation program as a condition of continued employment.

As an employee benefit, the university provides access to an employee assistance program (EAP). This EAP, referred to as “[Bobcat Balance](https://www.hr.txst.edu/worklife/bobcatbalance.html),” will be available to benefits-eligible staff, graduate student employees, and members of their household for confidential assistance with drug and alcohol concerns.

**05. SUPERVISORY TRAINING**

05.01 All employees with a supervisory role as assigned in SAP must complete, a one-time required online drug and alcohol abuse training program provided by a qualified substance abuse resource approved by Human Resources. Notification to attend and complete training will be automatic through the SAP system. Employees who supervise others, but are not assigned the supervisory role in SAP, are also encouraged to take this training which can be accessed through the SAP portal. This training will help supervisors determine if reasonable suspicion testing may be warranted.

**06. REVIEWERS OF THIS UPPS**

06.01 Reviewers of this UPPS include the following:

Position Date

 Associate Vice President for Human March 1 E5Y

 Resources

Associate Vice President for March 1 E5Y

Student Success and Dean of

Students

Chair, Staff Council March 1 E5Y

**07. CERTIFICATION STATEMENT**

This UPPS has been approved by the following individuals in their official capacities and represents Texas State policy and procedure from the date of this document until superseded.

 Associate Vice President for Human Resources; senior reviewer of this UPPS

 Executive Vice President for Operations and Chief Financial Officer

 President