

University of Louisiana at Lafayette
Drug Testing Policy
Revised January 2013

PURPOSE

University of Louisiana at Lafayette believes that the workplace should be free from the risks associated with the use of alcohol and drugs. The University has a legitimate interest in promoting reasonable working conditions and is committed to providing a safe and healthy environment for employees and the public.

The University is authorized to proceed with drug testing of employees under the provisions of Louisiana Revised Statute 49:1001-1021, which can be reviewed and revised regularly by the Louisiana State Legislature. As such, the context of this policy will be pursuant to any future revisions of this Statute unless expressly prohibited otherwise. Other applicable Federal and State regulation includes the Drug-Free Schools and Communities Act of 1986, the federal Drug-Free Workplace Act of 1988, the Drug-Free Public Housing Act of 1988, the Louisiana Drug Testing Act of 1990, the Omnibus Transportation Employee Testing Act of 1991, and the Federal Motor Carrier Safety Administration procedures, Title 49CFR part 40 and part 382 et al.

DEFINITIONS

As used in this Chapter, the following words and phrases shall have the meanings contained herein unless the context clearly requires otherwise:

1. "CAP-FUDD-certified laboratory" means a laboratory certified for forensic urine drug testing by the College of American Pathologists.
2. "Employee" means any person, paid or unpaid, in the service of an employer, as defined in Paragraph (3) of this Section. The person may be classified, unclassified, probationary (rehabilitation), temporary or non-temporary in a safety-sensitive and/or security-sensitive position. For the purposes of this policy, an employee who is a person, firm, or corporation that contracts or subcontracts with the employer need not be considered, in whole or in part, to be an employee of such employer. For the purposes of this policy, an employee shall not include any person, firm, or corporation that is subject to a federally mandated drug testing program
3. "Employer" means the University of Louisiana at Lafayette, the University President, and/or the University of Louisiana System Board of Directors.
4. "Employer's Agent" means anyone hired by the employer to perform contracted drug testing under SAMHSA, CAP-FUDD, Federal, State, and other regulation.

5. "Medical review officer" means a licensed physician responsible for receiving laboratory results generated by employer or testing entity's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with his medical history and any other relevant biomedical information.
6. "Negative employment consequences" means any action taken by an employer or an employer's agent which negatively impacts an employee's or prospective employee's employment status. Examples of "negative employment consequences" include but are not limited to termination of employment, refusal to hire, or altered conditions of employment such as counseling, probation, suspension, and demotion.
7. "Prospective employee" means any person who has made application to an employer, whether written or oral, to become an employee.
8. "SAMHSA" means the Substance Abuse and Mental Health Services Administration.
9. "SAMHSA-certified laboratory" means a laboratory certified for forensic drug testing by the Substance Abuse and Mental Health Services Administration.
10. "SAMHSA guidelines" means the Mandatory Guidelines for Federal Workplace Drug Testing Programs as published in the Federal Register on April 11, 1988 (53 FR 11970), revised on June 9, 1994 (59 FR 29908), further revised on September 30, 1997 (62 FR 51118), and any further revised guidelines issued by SAMHSA.
11. "Sample" means urine, blood, saliva, or hair.
12. "Screening laboratory" means any building, place, or facility in which operations and procedures for the biological, serological, immunological, chemical, immuno-hematological, or other examination of materials derived from the human body are performed for the purpose of drug testing and which is not SAMHSA-certified or CAP-FUDT-certified for forensic urine drug testing and if the following apply to the drug testing of said "screening laboratory":
 - (a) If, as a result of such testing, mandatory or discretionary negative employment consequences will not be rendered to the individual.
 - (b) Drug testing is performed for any or all of the following classes of drugs: marijuana, opioids, cocaine, amphetamines, barbiturates, methadone, propoxyphene, creatinine, and phencyclidine.
13. "Screening test" means an immunoassay screen to eliminate "negative" specimens from further consideration.

14. "Split sample" means one specimen from one individual that is separated into two specimen containers.

APPLICABILITY

1. This policy applies to testing for the presence of marijuana, opioids, cocaine, amphetamines, phencyclidine, and alcohol. Except where otherwise required, urine will be analyzed for the testing of drugs using the nine panel drug screen and blood or breath analyzed for the testing of alcohol.
2. This Chapter does not preclude or regulate the testing for drugs other than those specified in number one (1) of this Section or other controlled substances as defined in 21 U.S.C. 812, Schedules I, II, III, IV, and alcohol.
3. This Chapter shall not apply to drug testing conducted under legal authority including testing of persons in the criminal justice systems, such as arrestees, detainees, probationers, incarcerated persons, or parolees.
4. This Chapter shall not apply to drug testing mandated by Federal Executive Order 12564.
5. This Chapter shall not apply to drug testing conducted by the National Collegiate Athletic Association (NCAA). This Chapter shall not apply to any athlete who is currently being drug tested under the auspices of any recognized international, national, regional, or state governing authority.
7. This Chapter does not preclude an employer or an employer's agent from utilizing a USFDA cleared specimen testing method that uses a sample as defined in R.S. 49:1001 provided that such sample is processed in a laboratory with a SAMHSA certification using generally accepted cutoff levels as established by the USFDA for a saliva or oral fluid testing product, or by SAMHSA at such time when SAMHSA implements a final rule to regulate saliva or oral fluid testing. Any saliva or oral fluid sample collected shall be subject to USFDA-cleared immunoassay screening and confirmation testing at a SAMHSA certified laboratory. Such samples that test positive shall be preserved by the laboratory and available for challenge testing at the request of the donor. No sample shall be used to collect or analyze DNA.

DRUG TESTING PROCEDURES AND STANDARDS

Use of certified laboratories for drug testing of samples collected

1. All drug testing of employees shall be performed in SAMHSA-certified or CAP-FUDD-certified laboratories, if both of the following apply:
 - A. If, as a result of such testing, mandatory or discretionary negative employment consequences will be rendered to the individual.
 - B. Drug testing is performed for any or all of the following classes of drugs: marijuana, opioids, cocaine, amphetamines, phencyclidine, and alcohol.
2. Drug testing as provided in this Subsection shall be performed in compliance with the SAMHSA guidelines except as provided in this Chapter or pursuant to statutory or regulatory authority under R.S. 23:1081 et seq. and R.S. 23:1601 et seq. The cut off limits for drug testing shall be in accordance with SAMHSA guidelines with the exception of initial testing for marijuana. Test results for marijuana of fifty nanograms/ml or higher shall be considered preliminarily positive and processed further for quantitative confirmation and, if appropriate, review by the medical review officer, as specified by the University or the testing entity.

EMPLOYEE DRUG TESTING

Rights of the employee

1. Any employee, confirmed positive, upon his written request, shall have the right of access to records within seven days relating to his drug tests and any records relating to the results of any relevant certification, review, or suspension/revocation-of-certification proceedings.
2. An employer may, but shall not be required to, afford an employee whose drug test is certified positive by the medical review officer the opportunity to undergo rehabilitation without termination of employment, but this option for rehabilitation is not intended to be a substitute for any other disciplinary action as applicable in this policy or under State law. The University has a Counseling and Testing Center on campus. An initial evaluation is available to current employees.
3. When an employee is drug tested, the following persons shall have access to or be notified of the test results:
 - A. The MRO will report all results to the appropriate university official.
 - B. The University official will contact the employee;
 - C. The University official will contact the appropriate supervisor, director, or department head.

Responsibility of employer

1. The University shall ask employees to acknowledge that they have received or provided access to a copy of this policy. This shall be done either during the hiring process within the Personnel Department, and/or a the employee's subsequent orientation session.

2. All information, interviews, reports, statements, memoranda, or test results received by the employer through its drug testing program are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

3. No cause of action for defamation of character, libel, slander, or damage to reputation or privacy arises in favor of any person against an employer or testing entity who has established a program of drug or alcohol testing in accordance with this Chapter, unless:

A. The results of that test were disclosed to any person other than the employer or testing entity, an authorized employee or agent of the employer or testing entity, the tested employee, or the tested prospective employee;

B. The information disclosed was based on a false test result or a failure to comply with the provisions of this Chapter;

C. All elements of an action for defamation of character, libel, slander, or damage to reputation or privacy as established by statute or civil law, are satisfied.

3. Any provision of this Chapter held to be prohibited by the laws of the state of Louisiana shall be ineffective to the extent of such prohibition without invalidating the remaining provisions of this Chapter.

Types of employee drug testing

For the purposes of this Subsection, "public vehicle" shall include any motor vehicle, watercraft, aircraft or rail vehicle owned or controlled by the state. The employer shall perform drug testing under the following condition

Pre-employment for Safety-Sensitive Positions: Prior to the first time an employee performs a safety-sensitive function, the individual must undergo drug testing for controlled substances. The employee shall not be permitted to perform safety-sensitive functions unless the driver has received a controlled substances test result indicating a verified negative test result (see Appendix A).

Post-accident: A post-accident test will be conducted for any employee driver in an accident involving a loss of human life and may be done where the employee receives a moving traffic violation for a collision. A collision or occurrence meets the definition of an “accident” when the incident involves a motor vehicle operating on a public road, which results in a death or bodily injury to a person who immediately receives medical treatment away from the accident; or one or more vehicles is disabled and must be towed from the scene.

Random : Such testing shall be conducted for employees in safety-sensitive and security-sensitive positions or participating in a rehabilitation program utilizing a fair and equitable method of selection (see Appendix A).

Reasonable Suspicion: A supervisor’s belief must be based on specific observation concerning the appearance, behavior, speech, or body odors of the driver. Such determinations should be confirmed by a second employee when possible. When applicable, a reasonable cause checklist will be used with appropriate consent forms (see Appendix B).

Return-to-duty: An employee who has violated a prohibition on alcohol or controlled substance use must have a negative alcohol or controlled test before returning to duty.

Alcohol testing may be required in all of the above conditions except pre-employment as specified in 49:CFR part 40. Following a determination that an employee has misused alcohol, the employee will be removed from safety-related functions.

What is the Consequence of a Confirmed Positive?

1. Prospective employees who have a confirmed positive will have their employment offer rescinded.
2. Currently employed employees in a safety-sensitive and security-sensitive position, having a confirmed positive, will be placed on leave and referred to the University Counseling Center. Employees may return to duty only after a confirmed negative test.
3. The University may also recommend that additional disciplinary action be taken.
4. Second time confirmed positive may result in termination of employment.

Cost Associated With Drug Testing

1. The University will pay the cost of initial drug testing.
2. After a confirmed positive test, an employee may request a second test at his/her own expense.

Appendix A

Safety-Sensitive and Security-Sensitive Positions

DOT Testing:

Bus & Shuttle Drivers

Non-DOT Testing:

Director of University Police
Police Major
Police Captain
Police Sergeant
Police Lieutenant
Police Officers (All)
Student Police Officers
Communications Officer 1, 2 & 3

Safety Officer

RN Supervisor/Student Health Services
Registered Nurse
RN/Nurse Practitioner
Practical Nurse
Nursing Assistant
Physician/Student Health Services

Horticultural Attendant Leader
Horticultural Attendant Foreman
Horticultural Attendant Superintendent

Locksmith Master

Maintenance Foreman
Maintenance Repairer, 1, 2 and Master
Mobile Equipment Operator
Mobile Equipment Operator Light
Mobile Equipment Maintenance Mechanic
Mobile Equipment Master Mechanic
Mobile Equipment Shop Foreman
Mobile Equipment Overhaul Mechanic

Research Farm Assistant
Research Farm Specialist

Non-DOT Safety Sensitive/Security Sensitive Positions Cont.

NIRC:

Director
Head, Research Resources
Head, Behavioral Sciences
Head, Animal Resources
Head, Veterinary Sciences
Senior Clinical Veterinarian
Study Director
Clinical Veterinarian
Veterinary Technological Associate
Research Associate
Research Coordinator
Coordinator
Coordinator, Primate Breeder Program
Coordinator, Primate (African Green) Breeder Program
Lab Technical Assistant 3
Lab Technician Supervisor
Lab Technician Manager
Laboratory Technician 1
Laboratory Technician 2
Laboratory Technician 3
Purchasing Tech I
Purchasing Tech 2
Procurement Specialist II
Administrative Coordinator 2
Maintenance Superintendent 1
Maintenance Repairer, 1, 2 and Master
Administrative Coordinator 1
Manager, Physical Facilities
Manager, Purchasing/Central Supply

Nursing Department (Clinical Faculty):

Instructor
Assistant Professor
Associate Professor
Professor

Parking & Transit:

Director
Accountant
Auditor
Guard
Booth Attendant

APPENDIX B
REASONABLE SUSPICION CHECKLIST
(STRICTLY CONFIDENTIAL)

Employee Name: _____

Date/Time of Evaluation: _____

This checklist is intended to assist a supervisor in referring a person for drug testing under reasonable suspicion.

****Note: The employee must exhibit at least one of the following behaviors in Part A to be tested under reasonable suspicion.**



A. Specific Observations Concerning Appearance

- | Yes | No | |
|-----|-----|--|
| ___ | ___ | 1. Smell of Alcohol and/or Marijuana on employee's breath or person |
| ___ | ___ | 2. Bloodshot eyes or tired eyelids |
| ___ | ___ | 3. Excessively constricted or dilated pupils |
| ___ | ___ | 4. Increasingly irritable; displays excess amounts of physical emotion, crying, etc. |
| ___ | ___ | 5. Has trouble maintaining balance and composure (stumbles) |
| ___ | ___ | 6. Persistent runny nose and/or nosebleeds |
| ___ | ___ | 7. The appearance of hypodermic needle marks on employee |
| ___ | ___ | 8. Other (please describe) _____ |

If you checked **yes to any statements in Part A; please read and check all that apply for Parts B, C & D.



B. Quality and Quantity of Work

- | Yes | No | |
|-----|-----|---|
| ___ | ___ | 1. Clear refusal to do assigned tasks |
| ___ | ___ | 2. Repeated errors in spite of increased guidance |
| ___ | ___ | 3. Reduced quantity of work |
| ___ | ___ | 4. Behavior that disrupts workflow |
| ___ | ___ | 5. More than usual supervision necessary |
| ___ | ___ | 6. Other (please specify) _____ |

C. Interpersonal Work Relationships

- | | | |
|-------|-------|---|
| Yes | No | |
| _____ | _____ | 1. Significant change in relations with co-workers, supervisors |
| _____ | _____ | 2. Frequent or intense arguments |
| _____ | _____ | 3. Physical abusiveness |
| _____ | _____ | 4. Intentional avoidance of supervisor |
| _____ | _____ | 5. Complaints by co-workers or subordinates (temper tantrums/angry outbursts, etc.) |
| _____ | _____ | 6. Demanding, rigid, inflexible |



D. General Job Performance

- | | | |
|-------|-------|--|
| Yes | No | |
| _____ | _____ | 1. Excessive absences in last 12 months |
| _____ | _____ | 2. Frequent Monday/Friday absences or other patterns |
| _____ | _____ | 3. Experiences or causes job related accidents |
| _____ | _____ | 4. Major change in duty or responsibility |
| _____ | _____ | 5. Interferes with or ignores established procedures |



Signatures

I hereby certify that the information given above is true to the best of my knowledge.

Supervisor #1-Name and Telephone

Date

Witness/Supervisor #2 – (if available)

Date

