

## 34.02.01 Drug and Alcohol Abuse and Rehabilitation Programs



Reviewed [November 16, 2018](#)

Next Scheduled Review: November 16, 2023

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### Regulation Summary

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The Texas A&M University System (system) and each member is committed to a drug-free environment and protecting the safety, health and well being of all employees and students.

This regulation provides guidelines for implementation of a drug and alcohol abuse awareness, prevention and intervention program for students and employees in accordance with the Drug-Free Workplace Act of 1988, the Drug-Free Workplace Rules for Department of Defense (DOD) Contractors, and the Drug-Free Schools and Communities Act of 1989.

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### Definitions

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### Regulation

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#### 1. ADMINISTRATION

The System Office of General Counsel (OGC) must be informed by the appropriate administrator of possible violations of this regulation and the advice of an OGC attorney must be secured before testing anyone due to reasonable suspicion of drug or alcohol use or abuse. Advice of OGC is not needed for required testing as described in Section 4, and OGC may waive the requirement to seek OGC's advice for reasonable suspicion testing when a member shows documented evidence of training for administrators and supervisors in alcohol and drug awareness.

#### 2. MEMBER RULE

Each member chief executive officer (CEO) must establish a rule for the implementation of System Policy 34.02, *Drug and Alcohol Abuse*, and this regulation. Requirements of the Drug-Free Workplace Act of 1988, the Drug-Free Schools and Communities Act of 1989 and the Drug-Free Workplace Rules for Department of Defense Contractors and the requirements of the Department of Transportation or other regulatory bodies and applicable state laws must be included as applicable for students and employees.

### 3. ALCOHOL AND DRUG-FREE AWARENESS AND PREVENTION PROGRAM

- 3.1 In accordance with the Drug-Free Schools and Communities Act of 1989, each member must develop and implement an alcohol and drug-free awareness and prevention program (program) for students and employees. Programs must conform to system policies and regulations as well as related state and federal laws.
- 3.2 Annually, each member must notify, in writing, each employee and each student of:
  - (a) the standards of conduct that prohibit the unlawful manufacture, distribution, dispensation, use and possession of illicit drugs and alcohol by students and employees on system property or as part of any system activity;
  - (b) a description of the applicable legal sanctions under local, state or federal law for the unlawful manufacture, distribution, dispensation, use or possession of illicit drugs or alcohol;
  - (c) a description of the health risks associated with the use of illicit drugs and alcohol;
  - (d) a description of drug or alcohol counseling, treatment, rehabilitation, re-entry or employee assistance programs that are available to students and/or employees;
  - (e) a clear statement that the member, consistent with local, state or federal law, will impose sanctions against a student or employee who violates the standards of conduct. The statement must include a description of the possible sanctions; and
  - (f) a description of the member's program, including alternative support, education and re-entry programs for students who are expelled as a result of violating standards required by these minimum requirements.
- 3.3 As required by federal law, each member must conduct a biennial review of its program and report:
  - (a) the effectiveness of the program;
  - (b) the consistency of sanction enforcement;
  - (c) the number of drug and alcohol-related violations and fatalities that occur on system property or at system activities and reported to campus officials, and the number and type of sanctions that are imposed by the member for such reported violations and fatalities on system property or at system activities; and
  - (d) whether any changes to the program are needed and implement any such changes.
- 3.4 Each member will, upon request, make available to the U.S. Secretary of Education or designee, other applicable governmental agencies and the general public, all documents outlined in Section 3.1, as well as the biennial review.
- 3.5 Members must certify the accessibility of a drug abuse prevention program for officers, employees and students of the member, as required under 20 U.S.C.A. § 1094.

### 4. EMPLOYEE DRUG TESTING

#### 4.1 Department of Defense

- 4.1.1 In accordance with the Drug-Free Workplace Act of 1988 and the Drug-Free Workplace Rules for Department of Defense (DOD) Contractors, government contractors will institute and maintain a program for achieving the objective of a drug-free work force. The program will include employee assistance programs emphasizing education, counseling and rehabilitation; training to assist in identifying and addressing illicit drug use; provisions for self-referrals as well as supervisory referrals for treatment; and procedures for identifying illicit drug users, including a random drug testing program for employees in sensitive positions.
- 4.1.2 As a condition of employment, employees on federal governmental grants or contracts must abide by the required notification statement and must report any criminal drug statute conviction for a violation occurring in the workplace or on system business to their employer no later than five days after the conviction. The employer, in turn, must notify the contracting federal agency within 10 days after receiving notice from an employee or otherwise receiving actual notice of such conviction and, within 30 days, must impose sanctions on the employee involved. Sanctions may take the form of personnel actions against the employee, up to and including termination, or requiring the employee to satisfactorily participate in an approved drug abuse assistance or rehabilitation program.
- 4.1.3 Testing of an employee in a DOD-funded sensitive position will be undertaken under the following circumstances: (1) when there is reasonable suspicion that an employee uses illicit drugs, (2) when an employee has been involved in an accident or unsafe practice, (3) as part of or as a follow-up to counseling or rehabilitation for illicit drug use or (4) as part of a voluntary employee drug testing program.

#### 4.2 Department of Transportation

Drug testing of employees required to have commercial driver's licenses must comply with Federal Highway Administration and Department of Transportation regulations and will be conducted in the following situations: (1) pre-employment, (2) post-accident, (3) reasonable suspicion, (4) random and (5) return-to-duty and follow-up.

### 5. REASONABLE SUSPICION OF EMPLOYEE DRUG OR ALCOHOL ABUSE

- 5.1 If a supervisor reasonably suspects that use of a controlled substance or alcohol has resulted in absenteeism, tardiness or impairment of work performance or is the cause of workplace accidents, the supervisor must immediately notify the appropriate department head or designated administrator. Upon direction from the department head or designated administrator, the supervisor or designated administrator will discuss with the employee the suspected alcohol or drug-related problem(s). The employee will be advised of available alcohol and drug counseling, rehabilitation or employee assistance programs, and the terms of any applicable disciplinary sanctions. The employee may be required to participate in an assistance program and be subject to discipline (up to and including termination of employment) if the employee rejects participation in the program. All meetings between the employee and the supervisor or designated

administrator to address the suspected alcohol or drug-related problem and/or its resolution must be documented in a memorandum to the record and filed in the employee's personnel file.

- 5.2 If discussion and/or participation in available alcohol or drug counseling, rehabilitation or the employee assistance program fails to resolve the suspected alcohol or drug-related problem(s) or if the employee fails to meet the terms of any applicable disciplinary sanctions, the employee may be subject to disciplinary action up to and including termination.
- 5.3 Any disciplinary action will be governed by system policies on discipline and dismissal and academic freedom, responsibility and tenure. A record of the action will be placed in the employee's personnel file.
- 5.4 Testing of employees other than those occupying DOD-funded sensitive positions or those required to have a commercial driver's license may be undertaken only when there is reasonable suspicion that the employee is under the influence of alcohol or illicit drugs while on the job and the employee's job performance has been affected by the use of alcohol or illicit drugs. The decision to test an employee in these circumstances will be made by the appropriate member CEO or designee with the advice of OGC. The employee should be informed that a refusal to submit to a test, combined with a reasonable suspicion of usage, may be sufficient basis for termination.

## 6. TESTING PROCEDURES

The expense of the screening and any retest will be borne by the member. The screening will be kept confidential, with the results being reported to the employee and the appropriate senior-level administrator as soon as they are available. Any written documentation will be kept in the employee's confidential medical file.

### 6.1 Drug Testing

- 6.1.1 Prior to the administration of a drug test, the appropriate administrator or supervisor must explain the drug testing procedures to the employee and arrange for a member employee(s) to transport and accompany the employee to a hospital or clinic for the taking of a specimen for screening purposes. If the member has laboratory or medical facilities with personnel trained for such testing, those facilities may be used if there are adequate chain-of-custody procedures established for the samples, and precautions are taken to guarantee the integrity of the testing against tampering or substitution.
- 6.1.2 Before the specimen is taken, the employee will be asked to sign a consent form agreeing to the taking of a specimen for testing purposes. The signed form will be required by the hospital or clinic. The employee may be asked to list any medications being taken. The employee will have a reasonable opportunity to rebut or explain a positive test result, including an independent retest of the sample.

### 6.2 Alcohol Testing

Alcohol testing will be conducted using an Evidential Breath Testing Device (EBT) that has been approved by the National Highway Traffic Safety Administration.

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## **Related Statutes, Policies, or Requirements**

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[20 U.S.C. § 1011i](#)

[20 U.S.C.A. § 1094](#)

21 U.S.C.A. § 812, [The Controlled Substances Act](#)

41 U.S.C. §§ 701-707, [The Drug-Free Workplace Act of 1988](#)

34 C.F.R. 86 (Authority: 20 U.S.C. 1145g), [The Drug-Free Schools and Communities Act of 1989](#)

48 C.F.R. 252.223-7004, [The Drug-Free Work Force Rules for Department of Defense \(DOD\) Contractors](#)

[Tex. Health & Safety Code, Ch. 481, Texas Controlled Substances Act](#)

[System Policy 34.02, Drug and Alcohol Abuse](#)

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## **Member Rule Requirements**

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A rule is required to supplement System Policy 34.02, *Drug and Alcohol Abuse*, and this regulation. See Section 2.

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## **Contact Office**

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System Offices Human Resources  
(979) 458-6169