



Institutional Handbook of Operating Procedures
Policy 08.01.09

Section: Health, Safety, and Security Policies	Responsible Vice President: Vice President and Chief Human Resources Officer
Subject: Preventative Occupational and Environmental Medicine	Responsible Entity: Human Resources

I. Title

Manufacture, Sale, Possession, Distribution, or Use of Alcohol, Controlled Substances or Illegal Drugs

II. Audience

The information in this document is for use by all The University of Texas Medical Branch (UTMB) employees.

III. Policy

UTMB is required by the Drug-Free Workplace Act of 1988 (41 U.S.C.A. §§701-707) to notify all employees that the unlawful manufacture, sale, distribution, dispensing, possession, or use of a controlled substance in or on any premises or property owned or controlled by the University is prohibited.

The use or possession of alcohol while on duty or while in vehicles used for University business is prohibited. Use of alcohol or an illegal drug or controlled substance while not on duty which adversely affects job performance or may adversely affect the health or safety of other employees, students, visitors, or patients is prohibited.

Note: Although the provisions of the Act restrict its application to those employees and workplaces specifically utilized for performance of a grant or contract, there is no margin for error in identifying and applying the requirements of the Act to covered employees or workplaces; therefore, in order to ensure compliance, the requirements of the Act will be applicable to all employees and workplaces of UTMB.

IV. Employee Guidelines

- A.** Any employee who is found guilty (including a plea of no contest) or has a sentence, fine, or other penalty imposed by a court of competent jurisdiction under a criminal statute for an offense involving a controlled substance that occurred in or on premises or property owned or controlled by UTMB shall report such action to his or her supervisor within five (5) business days.
- B.** An employee who violates the policy regarding the use or possession of alcohol will be subject to appropriate disciplinary action which may include termination.
- C.** An employee who unlawfully manufactures, sells, distributes, dispenses, possesses, or uses a controlled substance in or on premises or property owned or controlled by UTMB or correctional premises or property, regardless of whether such activity results in the imposition of a penalty under a criminal statute, will be subject to appropriate disciplinary action which may include termination.

- D.** At the discretion of the University with consultation from Human Resources, an employee whose performance is adversely impacted or may adversely affect the health or safety of any other person by the use of alcohol, controlled substance, or illegal drug may be referred to the Employee Assistance Program and/or may be required to participate in and satisfactorily complete a chemical abuse rehabilitation program as a condition of continued employment. UTMB has adopted the [same criteria](#) used by the Texas Department of Transportation for determining drug or substance impaired behavior and performance.

V. Implementation Regulations

UTMB will certify that it provides a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace is prohibited and specifying the actions that will be taken against employees for violations.
2. Establishing a program to inform employees about 1) the dangers of drug abuse in the workplace; 2) the institution's drug-free workplace policy, 3) any available drug counseling, rehabilitation, and employee assistance programs; and 4) the penalties that may be imposed for drug abuse violations occurring in the workplace.
3. Notifying all employees in writing in the statement required by statement #1, that as a condition of employment, the employee will:
 - a. abide by the terms of the statement
 - b. notify the institution no later than five (5) business days after a conviction under a criminal statute for a drug-related offense that occurred in the workplace
4. Notifying the Vice President and Chief Human Resources Officer in writing within 10 days after receiving notice from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee.
5. Within 30 days after receiving notice of an employee's conviction, taking one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
 - a. taking appropriate personnel action against such employee, which may include termination.
 - b. requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purpose by a federal, state, or local health, law enforcement, or other appropriate agency.
6. Making a good faith effort to continue compliance with the requirements of the Act.

VI. Institutional Violations

UTMB will be considered in violation if the funding agency determines that:

- the required certification is false
- the institution has failed to comply with the specific requirements of the certification
- the number of employees convicted under criminal statutes for drug-related offenses occurring in the workplace indicates that the institution has failed to make a good faith effort to provide a drug-free workplace

If UTMB is found in violation of the above, one or more of the following actions may be taken:

- suspension of payments under the grant or contract
- suspension of termination of the grant or contract
- suspension or debarment of the institution from future grants or contracts for a period not to exceed five years

VII. Definitions

Controlled Substance - an illegal drug that can have a detrimental effect on a person's health and welfare. Drugs and other substances that are considered controlled substances under the Controlled Substances Act (CSA) are divided into five schedules. An updated and complete list of the schedules is published annually in Title 21 Code of Federal Regulations (C.F.R.) §§ 1308.11 through 1308.15. Substances are placed in their respective schedules based on whether they have a currently accepted medical use in treatment in the United States, their relative abuse potential, and likelihood of causing dependence when abused.

VIII. Related UTMB Policies and Procedures

- [IHOP - 03.02.06 - Criminal History Background Checks for Employment](#)
- [IHOP - 03.07.01 - Fitness for Duty](#)
- [IHOP - 03.07.02 - Employee Assistance Program](#)
- [IHOP - 08.01.05 - General Requirements for Use of Vehicles](#)
- [IHOP - 08.01.07 - Evaluation and Treatment of Impaired Physicians](#)

IX. Dates Approved or Amended

<i>Originated:</i> 04/16/2002	
<i>Reviewed with Changes</i>	<i>Reviewed without Changes</i>
08/03/2004	04/12/2019

X. Contact Information

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