

## MIDWESTERN UNIVERSITY

### DRUG FREE WORKPLACE AND SUBSTANCE ABUSE POLICY

#### PURPOSE:

- I. To establish policies and procedures whereby Midwestern University shall, in order to appropriately serve the needs of both employees and students, implement a drug free workplace and academic environment consistent with federal and state law, including the terms and conditions whereby faculty, staff, interns and residents may be disciplined for violation of these policies and tested for suspected use of an illegal drug or alcohol.

#### POLICY:

##### II. Scope

- A. Except as may be expressly limited herein the following policies and procedures apply to all:
  - (1) Employees of Midwestern University, including but not limited to all supervisors, management, and executive personnel;
  - (2) Faculty of Midwestern University, whether in full-time or part-time employment, or under contract to act as adjunct faculty;
  - (3) Interns and residents of Midwestern University, while serving an internship, residency, affiliation or similar association at affiliated sites;
- B. The following policies and procedures do not apply to use or possession of alcohol during MWU sponsored events or in the personal residences of any employee, student, or faculty member which residence may be located in or around MWU property.

##### III. General Policy

- A. Faculty, staff, interns and residents whose expected performance may be impaired by alcohol or illegal drugs pose an unacceptable risk to safe operations.
- B. The manufacture, possession, use, or distribution of illegal drugs or alcohol in or around MWU property, including the confirmed presence, in excess of the legal limit, of an illegal drug or alcohol in the blood or urine of any faculty, staff, intern or resident shall not be tolerated and such conditions are grounds for disciplinary action, up to and including discharge, suspension, and loss of faculty status.

Faculty, staff, interns or residents under suspicion of abusing or being under the influence of an illegal drug or alcohol shall also be referred for further evaluation and/or testing.

#### IV. Definitions

- A. **Illegal Drug** - Any drug defined as illegal under federal or state law or any drug for which a prescription is required and where no prescription has been issued to the faculty, staff, intern or resident for a valid and specific purpose.
- B. **Under the Influence** - The usual behavior of any faculty, staff intern or resident or his or her ability to perform usual tasks is diminished or impaired due to apparent use of an illegal drug, alcohol, or a combination thereof.
- C. **Drug Trafficking** - The sale, purchase, theft, transfer, conversion, distribution, possession, manufacture, and dispensing of an illegal drug.

#### V. Treatment and Counseling

- A. Faculty, staff, interns and residents are encouraged to voluntarily seek treatment or counseling for drug or alcohol addiction or habituation, including, where relevant, a medical leave of absence in accordance with established leave of absence policies and procedures or a referral to any employee assistance program then sponsored by MWU.
- B. Any faculty, staff, intern or resident who has been disciplined under this Policy and successfully completes a drug or alcohol rehabilitation program, upon presenting adequate documentation, will be considered for reassignment, re-employment, reinstatement, or re-enrollment consistent with the availability of that person's former position or the requirements of the AOA regarding re-enrollment of interns and residents following a leave of absence.
- C. MWU may, at its discretion, create a special job or position for a rehabilitated faculty, staff, intern or resident or may offer to reassign, reinstate, or re-enroll such a person to a position deemed appropriate; however, it is not obligated to do so.
- D. As a condition to reassignment, re-employment, reinstatement, or re-enrollment, such faculty, staff, intern or resident shall comply with any terms of a written aftercare plan and shall submit to random drug or alcohol testing in accordance with Section VII of this policy.

#### VI. Physician Evaluation

- A. Human Resources should be notified immediately if there is suspicion of any faculty, staff, intern or resident appearing to be under the influence of alcohol or illegal drugs or is using alcohol or an illegal drug on MWU property. If Human Resources concur with the suspicion, the individual shall be immediately escorted to the specified Medical Facility for prompt evaluation

by a physician. Security may be contacted in instances when assistance is required.

- B. Such evaluation may include a drug or alcohol screening by a blood or urine sample so long as the physician and affected person's supervisor document the basis for performing such a screening consistent with Section VII of this Policy.

## VII. Penalties for Drug-Related Offenses and Positive Testing

- A. If the physical evaluation performed on the faculty, staff, intern or resident through the Medical facility demonstrates the presence of any illegal drug or alcohol in an amount deemed by scientific standards to be more than insignificant, the affected person shall be subject to discipline, which shall include, as relevant, discharge and/or suspension, expulsion, and loss of faculty status. However, the option to suspend rather than discharge or expel shall only be exercised upon the written approval of the Executive Vice President. A second finding of drug or alcohol abuse shall result in discharge or expulsion.
- B. Faculty, staff, interns and residents who are convicted of any drug trafficking offense, regardless of where such trafficking has occurred, shall, upon reliable notice to MWU, be immediately discharged, expelled, and/or lose faculty status.
- C. Faculty, staff, interns and residents who have not been convicted but are reasonably believed to have committed a drug trafficking offense on or about MWU property, or are formally charged with a drug trafficking offense by a law enforcement agency regardless of where such offense has allegedly occurred, shall be subject to discipline, including possible suspension, discharge, expulsion, or loss of

faculty status, without pay as relevant, pending further investigation and/or resolution of the charge. However, the option to suspend rather than discharge or expel shall only be exercised upon the written approval of the Executive Vice President.

In the event either the investigation proves inconclusive or no conviction, guilty plea, or court imposed sentence occurs, decisions to reinstate the faculty, staff, intern or resident will be made on a case by case basis.

- D. No faculty, staff, intern or resident shall be exempted from the terms and conditions of this policy on the ground that he or she is suffering from a drug or alcohol addiction or habituation.
- E. In the case of faculty subject to such penalties, the relevant terms and conditions of the Faculty Handbook shall take precedence.

## VIII. Drug and Alcohol Screening

- A. MWU shall require a blood, urine, or other similar drug screening test and if, in the opinion of the examining physician, there is evidence of alcohol use, MWU shall require an alcohol screening test:
  - (1) As a part of any post-offer, pre-employment or pre-enrollment physical examination; and,
  - (2) Periodically without prior notice after reassignment, re-employment, reinstatement, or re-enrollment of any faculty, staff, intern or resident who has successfully completed a rehabilitation program, and is re-employed, reinstated, or re-enrolled; such period of testing is to continue in accordance with the aftercare program.
- B. MWU may require a blood, urine or other similar test when there is objective evidence tending to show that faculty, staff, intern or resident is under the influence of or is impaired by the apparent use of alcohol or illegal drugs; or that person is involved in an accident or unusual incident reasonably believed to be alcohol or drug-related while on the property owned or controlled by MWU.
- C. Where a test for alcohol or illegal drugs performed on a current faculty, staff, intern or resident in accordance with this policy is deemed positive, that person shall be promptly advised of the outcome of the test by the Director of Human Resources and offered the opportunity to further confirmatory testing. The results of the initial test shall be deemed conclusive if the affected person declines the opportunity to be retested.
- D. No person shall be compelled by use of force to submit to a physical examination to detect the presence of an illegal drug or alcohol, including submission to a blood, urine or other screening procedure. However, a refusal to comply shall be considered insubordination and subject the affected person to discharge, expulsion, loss of faculty status or failure to hire.

Where a test for alcohol or illegal drugs performed as part of a post-offer, pre-employment or enrollment physical examination is deemed positive, the person tested shall not be offered employment or enrollment.
- E. Confidentiality of Testing and Test Results
  - (1) All test results and written authorizations to perform tests shall be treated confidentially, and stored in a secure area of the Human Resources Department.
  - (2) Supervisors either requesting employees or other persons affected by this policy to submit to testing and/or escorting such persons to the Medical facility shall do so with due consideration for the rights of that person and shall not communicate the reason for such actions except on a need to know basis.

- (3) All samples of blood or urine shall be drawn in accordance with accepted standards for preserving the chain of control over that sample.
- (4) Disclosure of test results of current or past impairment of a person covered by this policy shall be governed by and limited to:
  - a) Federal and state laws requiring or prohibiting disclosure, e.g. Health Care Quality Improvement Act;
  - b) A need to know basis within MWU;
  - c) At the written request of the affected person, either pursuant to that person's application for employment or appointment at another facility or otherwise; or,
  - d) Upon the valid order of a court or governmental agency.

IX. Drug Free Awareness Program

- A. MWU shall establish a drug-free awareness program to inform employees and students of:
  - (1) The dangers of drug abuse in the workplace;
  - (2) MWU's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, or other assistance programs which may be implemented by MWU; and,
  - (4) The penalties to be imposed for violation of this policy.

X. Conditions of Employment, Enrollment, or Faculty Status

- A. MWU shall notify each faculty member, staff, intern and resident that, as a condition of employment, enrollment, or faculty status, such person shall:
  - (1) Abide by the terms of this Policy; and,
  - (2) Notify MWU that he/she has been convicted of a violation of a criminal drug statute no later than five (5) days after such conviction and regardless of where the violation occurred or whether the conviction will be appealed.
- B. Upon receipt of notice that faculty, staff, intern or resident has been convicted of a violation of a criminal drug statute, MWU shall:

- (1) Notify the U.S. Department of Health and Human Services within ten (10) days of receiving actual notice from any source if the employee has been convicted of a drug violation occurring in the workplace.
- (2) Within thirty (30) days of receiving actual notice that a faculty, staff, intern or resident has been convicted of a drug violation, wherever such violation occurred, impose disciplinary action on the convicted faculty, staff, intern or resident in accordance with this policy.

#### PROCEDURE:

##### Department Manager/ Supervisor

- (1) Escort the employee to a private office for consultation (if the employee is a member of a collective bargaining unit, arrange for appropriate union representation at the meeting).
- (2) Discuss the objective evidence with the employee.  
  
Obtain approval from Human Resources to escort the employee to the Medical facility for a drug/blood alcohol screening test to determine the presence (or lack of) a foreign substance.
- (3) Obtain a Consent for Requested Drug/ Blood Alcohol Screening Test form from the Human Resources Department and complete the appropriate sections. If other than normal business hours, obtain the consent form from the Security Department.
- (4) Present the consent form to the employee, informing the employee that refusal to consent to a drug/blood alcohol screening test shall be considered insubordination and shall be grounds for immediate discharge.

##### Employee

- (5) Sign Consent for Requested Drug/Alcohol Screening Test indicating either consent or refusal to be tested.

##### Department Manager/ Supervisor

- (6) If the employee consents to the drug/blood alcohol screening test, refer to procedure #8; if the employee refuses to be tested, refer to procedure #7.  
  
Request that a witness sign the form (for example: union representative, supervisor, etc.)
- (7) Complete disciplinary action form and obtain authorization for discharge as described in the Progressive Disciplinary Procedure.
- (8) Contact Medical facility to arrange for an immediate and confidential drug/blood alcohol screening test.

- (9) Escort the employee to Medical facility for an immediate physician evaluation.
- (10) The examining Physician determines if a Drug/ Alcohol Screening Test is indicated.  
  
If a Drug/ Alcohol Screening Test is not indicated, it should be duly noted to the accompanying supervisor who will then refer to procedure #15.

#### Medical Facility

- (11) If a drug/ blood alcohol test is recommended by the physician, it will be immediately administered by the Medical facility.
- (12) Escort the suspected employee back to work. Deliver the original consent form to the Director, Human Resources.

#### Department Manager/ Supervisor

- (13) If the drug/blood alcohol screening test was administered to the employee, refer to the Progressive Discipline Procedure addressing suspension. Complete the Disciplinary Action Form and inform the employee of his/her suspension without pay pending the results of the drug/blood alcohol screening test.

Determine that the employee has a safe means of transportation and assist if necessary; arrange for an employee escort off the premises.

- (14) Deliver the completed Disciplinary Action Form and original consent form to the Director, Human Resources. Do not make any copies.
- (15) If the drug/blood alcohol screening test was not recommended by the physician, inform the employee of his/her clearance to return to work.

#### Director, Human Resources

- (16) If the initial test results are negative, notify the appropriate Department Manager/ Supervisor to arrange for the employee to return to work with back pay.
- (17) If the initial test results are positive, notify the employee and offer the opportunity for further confirmatory testing.
- (18) If the offer for further confirmatory testing is refused by the employee, process the employee's discharge in accordance with the Progressive Discipline Procedure.
- (19) If the offer to confirm the initial test results is accepted by the employee, arrange for a confirmation test with the Medical facility.

- (20) If the confirmation test results are positive, notify the Executive Vice President and process the employee's discharge in accordance with the Progressive Discipline Procedure.
- (21) If the confirmation test results are negative, notify the appropriate Department Manager/Supervisor to arrange for the employee to return to work with back pay.
- (22) Collect and maintain the documents related to the drug/blood alcohol screening test in a locked and confidential file in the Human Resources Department.



## EMPLOYEE CONSENT FORM FOR DRUG SCREENING

It is the policy of Midwestern University to maintain a safe and efficient work environment. Midwestern University requires that all employees (Faculty, Staff, Interns or Residents) who are suspected of being under the influence or impaired by the apparent use of alcohol or illegal drugs while at work undergo a drug/alcohol screening procedure.

The drug screen may include a blood test, urinalysis, and/or other drug/alcohol screening procedure. Continued employment is conditional upon satisfactory results of the physical and drug screen. Those who test positive for drug/alcohol usage will be subject to disciplinary procedures, up to and including discharge from employment in accordance with H.R. Policy 0006.

An employee's consent to submit to such a test is a material condition of continued employment. An employee's refusal to consent will result in discharge from employment.

I, \_\_\_\_\_, understand and agree that I will receive a drug screening procedure to test for illegal substance use, substance abuse, or chemical dependency. I further understand that a positive result will lead to disciplinary procedures as outlined in H.R. Policy 0006.

I authorize the testing laboratory/facility to perform the appropriate tests and to convey the results of my drug screening to Midwestern University. I agree to release and hold harmless Midwestern University, its officers, employees, and agents from any liability based upon the request for, administration of, or use of the results of my drug screen.

I understand that if I decline to sign this consent form and thereby decline to take the test, the drug/alcohol screening procedure will not be completed and I will be subject to immediate discharge.

If the test is confirmed as positive, the results will be reported to Midwestern University. An exception will be made for the proper use of legally prescribed medications taken under the direction of a physician.

Please list all prescription medications you are currently taking:

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Please list all food items you have eaten in the past 24 hours:

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Signature

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Witness

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Print name

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Date

**Confidentiality:** All medical records pertaining to drug screening are kept in confidentiality. Information concerning drug screening procedures and results involving current employees will be revealed as appropriate only on a need-to-know basis for the purpose of protecting employee safety and company property.