

## **34.02.01.R1.01 Drug Free Workplace and Campus Procedure**



Approved August 6, 2012  
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### **Procedure Statement**

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Texas A&M University-Commerce is committed to a campus wide plan to educate students and employees about alcohol and drug issues, deter the irresponsible use of alcoholic beverages, and prohibit the unlawful manufacture, use, possession, or distribution of controlled substances. The university will act to ensure compliance with all local, state and federal laws and The Texas A&M University System (system) policies dealing with controlled substances, illicit drugs, and use of alcohol.

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### **Reason for Procedure**

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Administrators should exercise extreme caution in all matters relating to drug and alcohol policies. They should assure that procedures are carefully followed and that substantial evidence from reliable sources supports a decision to confront a student or an employee concerning a possible violation. The appropriate administrator will contact The Texas A&M University System Office of General Counsel and secure their advice before taking any action regarding testing.

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### **Procedures and Responsibilities**

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#### **1. GENERAL**

1.1 To implement an effective alcohol and drug abuse prevention plan, the university will use both formal and informal channels of communication to:

1.1.1 Disseminate information describing patterns of addiction and the physical, mental, and emotional consequences that result from the abuse of alcohol and controlled/illegal substances.

1.1.2 Distribute information that describes and encourages the use of counseling and treatment modalities available to both students and employees in the local and

regional area.

- 1.1.3 Make available to the campus population referrals to local treatment centers and counseling programs. These referrals will be made within a supportive, confidential and non-punitive environment under the auspices of the University Health Services, Counseling Center, and/or Human Resources.

## 2. LEGAL REQUIREMENTS CONCERNING THE USE OF ALCOHOL

- 2.1 Any use of alcoholic beverages on campus or at university functions is subject to the alcoholic beverage laws of the State of Texas.

### 2.2 These laws prohibit:

- 2.2.1 The purchase, consumption, or possession of alcohol by a minor.
- 2.2.2 The purchase of alcohol for a minor; furnishing alcohol to a minor.
- 2.2.3 Misrepresentation of age by a minor.
- 2.2.4 Public intoxication.
- 2.2.5 Driving while intoxicated.
- 2.2.6 Consumption of alcohol while operating a motor vehicle (open container law).

- 2.3 Additionally, state law prohibits the sale of any type of alcoholic beverage unless the seller possesses a valid license or permit. A license to sell beer and wine on campus will be held by the university's contract food service company and trained food service employees are the only approved servers of alcoholic beverages. The term "sale" is broadly interpreted by law enforcement authorities to include such practices as charging admission to events when alcohol is being served. In addition, tickets, activity fees, membership dues, or other exchanges that are in any way restrictive, are viewed as indirect payment for alcoholic beverages and are, therefore, illegal unless the alcohol is obtained through a valid liquor license.

## 4. UNIVERSITY RULES CONCERNING THE USE OF ALCOHOL ON UNIVERSITY PROPERTY

The following apply to all persons on campus:

- 4.1 The university prohibits the use or possession of alcoholic beverages on campus by any individual under the age of 21. Failure to comply with this rule violates state law and the rules governing student conduct and will subject the individual to disciplinary action.
- 4.2 The possession or use of alcoholic beverages on university property will not be permitted except in special use buildings and facilities as may be designated by the president, approved by the chancellor, and subsequently reported to The Texas A&M University System Board of Regents. The authorized locations, and the restrictions that apply, are defined in the A&M-Commerce procedure *34.03.01.R0.01*.

- 4.3 In addition, students of lawful age under Texas Statutes may be permitted to possess and/or consume alcoholic beverages in the privacy of their rooms or apartments in the campus residence halls. However, residence hall occupants and their guests must comply with state and local statutes concerning possession, sale, and consumption of alcoholic beverages. Further restrictions can be found in the current *Student Guidebook*.
- 4.4 Except as noted in *34.03.01.R0.01*, the possession of open containers and consumption of beer, wine, and/or distilled spirits is prohibited in all public areas of the campus. For the purposes of this procedure, residence hall balconies, and patios are considered public areas. Although students of lawful age may possess and consume alcoholic beverages in the privacy of their rooms or apartments, all alcoholic beverages transported through public areas on university property and in the residence halls must be unopened and concealed.
- 4.5 Any purchase of alcoholic beverages by a unit of the university must comply with System Policy *34.03* and University Procedure *34.03.01.R0.01*.
- 4.6 Athletics has specific procedures relating to the inappropriate use of alcohol by intercollegiate athletes.
- 4.7 Additional rules applying specifically to employees will be discussed later in this document.

## 5. UNIVERSITY RULES REGARDING THE USE OF DRUGS

- 5.1 In compliance with the Drug-Free Workplace Act of 1988, the Drug-Free Schools and Communities Act Amendments of 1989, and system policy, the university is committed to provide and maintain a safe and healthy workplace for learning and work. Drug abuse will not be tolerated.
- 5.2 All members of the university community are expected to abide by state and federal laws pertaining to controlled substances and illicit drugs. Standards of conduct strictly prohibit the unlawful manufacture, distribution, possession, or use of controlled substances or illicit drugs on university property, at university-sponsored activities, and/or while on active duty. Individuals may use prescriptive medications that are medically necessary and prescribed for them by a licensed physician.
- 5.3 Students or employees found violating the drug rules will be subject to the disciplinary measures of all pertinent local, state, and federal statutes. In addition, the disciplinary procedures outlined in the *Student Guidebook*, *University Rules and Procedures*, and other relevant university publications will be enforced. Sanctions may include completion of an appropriate rehabilitation or assistance program, expulsion from school or termination from employment, other disciplinary action, or referral to authorities for prosecution.

## 6. RULES SPECIFICALLY RELATED TO EMPLOYEES

- 6.1 A copy of the university's drug and alcohol rules will be provided to each employee in the university enrollment packet. The university may require that the employee sign an acknowledgment of receipt of the rules. The signed statement will be kept on file.
- 6.2 Employees are prohibited from using or being under the influence of controlled substances during working hours, except for the legal use of a controlled substance prescribed by a licensed physician, who will be used only in the manner, combination, and quantity prescribed and which will only be used by the person for whom it is prescribed.
- 6.3 Any employee whose off-duty use of alcohol, drugs, or other controlled substances results in absenteeism, tardiness, impairment of work performance, or is the cause of workplace accidents, will be referred to an assistance program and may be subject to discipline (up to and including discharge) if he or she rejects participation in the program.
- 6.4 Employees whose work-related performance gives cause for reasonable suspicion of use or possession of alcohol or a controlled substance may be subjected to testing for the substance in accordance with System Regulation *34.02.01*. A refusal to submit to a test, combined with a reasonable suspicion of usage, may be a sufficient basis for termination.
- 6.5 Any disciplinary action will be governed by the university and system policies on discipline and dismissal and on tenure. A record of the action will be placed in the employee's personnel file.
- 6.6 As a condition of employment, employees on government 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 university business to their employer no later than five days after such conviction. The employer, in turn, must so 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. Such sanctions may take the form of personnel actions against such an employee, up to and including termination or requiring the employee to satisfactorily participate in an approved drug abuse assistance or rehabilitation program.
- 6.7 Faculty members have the responsibility to supervise student activities on field trips. Faculty members should inform students that actions violating state laws, local regulations, and university rules regarding alcohol and drugs will not be permitted on any university field trip. Students who violate these guidelines regarding alcohol and drug use on field trips will be subject to disciplinary action.

## 7. DRUG AND ALCOHOL ABUSE PREVENTION PROGRAM

- 7.1 Texas A&M University-Commerce will establish or participate in an alcohol and drug-free awareness program to inform students and employees about: (1) the dangers of alcohol and drug abuse; (2) the system policy of maintaining a workplace and learning environment free from alcohol and drug abuse; (3) any available alcohol and drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon students and employees for alcohol and drug abuse violations.
- 7.2 Student Access and Success as well as Student Health Services will work with other offices, such as Human Resources and the University Police, to create an effective program. Drug and alcohol abuse prevention measures will include, but are not limited to:
  - 7.2.1 The distribution of relevant printed materials to all students and employees, as explained below in 7.2.3.
  - 7.2.2 The presentation of campus workshops, seminars, and other programs to educate students and employees about alcohol and drug abuse prevention.
  - 7.2.3 The posting of current, relevant printed material concerning the prevention of drug/alcohol abuse in the residence halls, the Student Center, the employee/ faculty lounges, and other locations. Postings may be electronically provided.
  - 7.2.4 The development of evaluation/assessment methods to identify drug and alcohol issues among the students and employees, as well as the efficacy of current policies.
  - 7.2.5 The distribution of relevant information on drug use to students and employees through Health Services, the Counseling Center, and Human Resources. Information may be posted electronically on university web sites.
  - 7.2.6 The development of informal small-group inquiry and information sessions in the residence halls to encourage peer support and counseling for residents.
- 7.3 As part of the drug and alcohol prevention program, the university will distribute annually to each employee:
  - 7.3.1 Standards of conduct that clearly prohibit, at a minimum, the unlawful manufacture, possession, use, or distribution of illicit drugs and alcohol by students and employees on the university's property or as part of any university activity.
  - 7.3.2 A description of the key applicable legal sanctions under local, state, or federal law for the unlawful possession or distribution of illicit drugs or alcohol.
  - 7.3.3 A description of the health risks associated with the use of illicit drugs and the abuse of alcohol.

7.3.4 A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to students or employees.

7.3.5 A clear statement that the university will impose disciplinary sanctions on students and employees (consistent with local, state and federal law), and a description of those sanctions, up to and including expulsion from school or termination from employment and referral for prosecution, for violations of the standards of conduct. A disciplinary sanction may include the completion of an appropriate rehabilitation program.

7.4 The university will conduct a biennial review of its drug and alcohol abuse prevention program to: (1) determine its effectiveness and implement changes if needed and (2) ensure that sanctions are consistently enforced.

7.5 Texas A&M University-Commerce will have available for review by the Secretary of Education, or designee, other applicable government agencies, and the general public, if requested, copies of all documents distributed to students and employees under the drug and alcohol abuse prevention program and also copies of the biennial review.

7.6 The university shall certify the availability of a drug abuse prevention program for officers, employees and students of the institution, as required under 20 USC, Section 1094.

## 8. SUSPICION OF USAGE (EMPLOYEES)

8.1 Administrators or supervisors seeking advice on appropriate responses to possible violations of alcohol or drug rules by employees may consult with the Human Resources Office and/or System General Counsel. A discussion of general procedures follows.

8.1.2 If a supervisor reasonably suspects that usage of a controlled substance, illicit drug, or alcohol has affected an employee's job performance, the supervisor will immediately notify the appropriate department head, or other designated administrator. Upon direction, the supervisor or other designated administrator will discuss with the employee the suspected alcohol or drug-related problems. The employee should be advised of any available alcohol and drug counseling, rehabilitation, or employee assistance programs, and the terms of any applicable disciplinary sanctions. Prior to imposing any disciplinary action, supervisory or administrative personnel should consult with the Human Resources Office. If requested, that office will provide assistance in referring the employee to appropriate local community agencies.

8.1.3 The Human Resources Office can provide employees with information on community resources and can provide referrals. These guidelines apply to referrals:

8.1.3.1 If the employee is responsible for any cost/fees incurred for professional services provided by community agencies.

8.1.3.2 To the extent possible, information concerning an employee's diagnosis, referral and treatment will be kept strictly confidential.

8.1.3.3 The rights of employees will be respected by all administrative and supervisory personnel. Employee rights are delineated in *University Rules and Procedures*, and other University publications.

8.1.4 All meetings between the employee and the supervisor or other designated administrator to address the suspected alcohol or drug-related problem and/or its resolution will be documented and filed in the employee's personnel file.

8.1.5 Should discussions and/or participation in any available alcohol or drug counseling, rehabilitation, or employee assistance program fail to resolve the suspected alcohol or drug-related problems, or should the employee fail to meet the terms of any applicable disciplinary sanctions, the employee may be subject to disciplinary action up to and including termination, or a chemical screening may be required.

## 9. SUSPICION OF USAGE (STUDENTS)

9.1 Students suspected or found in violation of university drug and alcohol policies, rules and regulations will be notified in writing to appear for a hearing with the Office of Judicial Affairs. Procedures for hearings are outlined in the Student Code of Conduct in the *Student Guidebook*. Procedures for intercollegiate athletes who have demonstrated a reasonable suspicion of drug use are outlined in the Athletics Code of Conduct.

9.2 Students will be advised of available alcohol and drug counseling at the University Counseling Center and/or referred to a community organization. The University Counseling Center and the University Health Services can provide assistance and referral to appropriate local community agencies. The following guidelines apply to referrals:

9.2.1 The student is responsible for any cost/fees incurred for professional services provided by community agencies.

9.2.2 To the extent possible, information concerning a student's diagnosis, referral and treatment will be kept strictly confidential.

9.2.3 Student rights are delineated in the *Student Guidebook* and other university publications. The rights of students will be respected by all administrative and supervisory personnel.

9.3 Sanctions for violations of drug or alcohol rules, policies and regulations may include expulsion, suspension, probation, and/or a letter of reprimand.

## 10. RULES AND PROCEDURES FOR TESTING (SCREENING)

- 10.1 System Regulation *34.02.01* discusses the procedures for testing employees suspected of usage, including employees in sensitive positions under Department of Defense contracts. Please refer to System Regulation *34.02.01* for specific information. The decision to require a chemical screening for an employee whose work patterns create a reasonable suspicion of usage must be reviewed with legal counsel before the screening.
- 10.2 The university will comply with Department of Transportation rules requiring routine testing of employees who drive certain types of vehicles. The Department of Transportation alcohol testing rules apply to entities that employ: (1) drivers of motor vehicles carrying more than 15 passengers; (2) drivers of trucks weighing more than 26,000 pounds; and/or (3) drivers of any size motor vehicle used to transport material considered hazardous under the Hazardous Materials Transportation Act and required to be placarded under the Hazardous Materials Regulations.
- 10.3 Rules and procedures related to testing of students may be developed by the university and approved by System General Counsel. Drug screening procedures for intercollegiate athletes are outlined in *Athletics Policies*.

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

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20 U.S.C. § 1011i, [Drug and Alcohol Abuse Prevention](#)

41 U.S.C. Ch. 10 (§§ 701-707), [Drug-Free Workplace Act of 1988](#)

34 C.F.R. Pt. 86, [Drug and Alcohol Abuse Prevention](#)

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

System Regulation [34.02.01 Drug and Alcohol Abuse and Rehabilitation Programs](#)

System Regulation [34.03 Alcoholic Beverages](#)

University Rule [34.02.01.R1 Drug Free Workplace and Campus](#)

University Procedure [34.03.01.R0.01 Alcoholic Beverages on University Property](#)

University Procedure [34.03.01.R0.02 Alcoholic Beverages at University-Sanctioned Tailgate Events](#)

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## Definitions

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“Drugs or other controlled substances” mean any substance, including alcohol, Capable of altering an individual's mood, perception, pain level or judgment.

A "prescribed drug" is any substance prescribed for individual consumption by a licensed medical practitioner. It includes only drugs that have been legally obtained and are being used for the purpose for which they were prescribed or manufactured.

An "illicit drug" or chemical substance is: (a) any drug or chemical substance, the use, sale or possession of which is illegal under any state or federal law, or (b) one that is legally obtainable but has not been legally obtained. The term includes prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes.

"Controlled substance" means a substance listed in schedules I through V of section 202 of the Controlled Substance Act (21 U.S.C.S. 812) or whose possession, sale or delivery results in criminal sanctions under the Texas Controlled Substances Act (Texas Health and Safety Code, Chapter 481). In general, controlled substances include all prescription drugs, as well as those substances for which there is no generally accepted

"Alcohol" refers to any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

"Alcohol abuse" means the excessive use of alcohol in a manner that interferes with: (1) physical or psychological functioning; (2) social adaptation; (3) educational performance; or (4) occupational functioning.

"Reasonable suspicion" shall be established by: (1) observation of the actions/behaviors of the individual; (2) supervisor or other reliable individual witnessing possession or use; or (3) any other legal measure used for alcohol or drug detection.

"Sanctions" may include completion of an appropriate rehabilitation or assistance program, suspension or expulsion from school, suspension or termination from employment, other disciplinary action, or referral to authorities for prosecution. If an employee has been convicted of a criminal drug statute, sanctions must be imposed within 30 days.

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## **Contact Office**

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Office of Human Resources  
903.886.5041