MEMORANDUM OF UNDERSTANDING #23

EMPLOYEE DRUG AND ALCOHOL POLICY

Para 403

I. PURPOSE

The purpose of this policy is to inform all University of Michigan P.O.A.M. employees of the policy on drug and alcohol use, abuse and testing.

II. POLICY

The critical mission of law enforcement establishes a compelling need to maintain a drug-free work environment. Employees who engage in unauthorized use of drugs and controlled substances risk their safety, that of their colleagues, students, patients, staff and the community we serve. Therefore, it is the policy all University of Michigan, Public Safety areas to maintain a drug-free workplace in part through pre-employment testing and for cause. As part of the University’s commitment to maintaining a healthy work force, should an employee test positive under this policy (and be retained as an employee), part of the corrective action will include treatment programs, as provided by University benefit plans.

III. PROCEDURES – PROHIBITED ACTIVITY

A. Prohibited Activity

1. No employee shall illegally possess any controlled substance.
   a. The illegal use of drugs shall include the illicit use, procurement, possession, distribution, or delivery of narcotics or controlled substances.

2. No employee shall ingest any controlled substance unless prescribed by and taken in accordance with directions of a licensed medical practitioner.
   a. Before reporting for duty, employees must report the use of any controlled substance that may impair their ability to perform their assigned duties.

3. Any employee who unintentionally ingests, or is made to ingest, a drug or controlled substance shall immediately report the incident to their supervisor so that appropriate medical steps may be taken to ensure their health and safety.

4. Any employee having a reasonable basis to believe that another employee is illegally using or in possession of any controlled substance or drug shall immediately report the facts and circumstances to their supervisor.

5. No employee shall consume any intoxicating beverage while on duty or on police premises, unless authorized by a supervisor in the course of their training or employment.

6. No employee shall:
   a. report for duty or be on duty with the odor of alcohol on his or her breath, or
   b. report for duty or be on duty when his or her judgment or physical condition has been impaired by narcotics, controlled substances or alcohol.
IV. PROCEDURES – SUBSTANCE ABUSE

A. Employees who suspect that they may have a substance abuse problem are encouraged to seek diagnosis and treatment, without fear of an adverse employment action. University programs which exist to assist employees through this challenge include, but are not limited to:
   1. Employee Assistance Program;
   2. Faculty and Staff Assistance Program;
   3. Select programs presented through M-Healthy;
   4. In/out-patient treatment programs as provided by benefit plans;

B. Supervisors who identify concerns through behavior based qualifiers shall bring this information forward to their Department Chief, Director or designee.
   1. Some factors in the totality of circumstances include, but are not limited to:
      a. unsatisfactory job performance or attendance;
      b. Abnormal conduct or aberrant behavior;
      c. Information provided by a reliable and credible source; and/or
      d. Observed difficulty or unusual speech, concentration, movement or the behavior characteristics symptomatic of controlled substance use.

V. PROCEDURES – DRUG TESTING

A. Applicant Drug-Testing
   1. All applicants shall be required, and will be notified in writing, that they must take a drug test as a condition of continued employment consideration.
   2. The test shall be administered on the basis of a conditional offer of employment as determined by Department Chief, Director or designee.
   3. Applicants shall be disqualified from further consideration for employment should they refuse to submit to a required drug test or fail a drug test.

B. Reasonable Suspicion Drug Testing
   1. Supervisory and command personnel may request the Chief, Director or designee, to order a drug test of any employee when there is reasonable suspicion to believe the employee is under the influence of or abuses a drug or controlled substance.
   2. A written summary of the facts supporting the request shall be forwarded to the Chief, Director or designee, and a summary of pertinent facts provided to the employee prior to conducting any test. If the test is required to be administered immediately, the summary may be presented verbally. In this case, written documentation shall be submitted as soon as practical.
   3. Reasonable suspicion to request a drug test is based on a totality of circumstances that include but are not limited to:
      a. unsatisfactory job performance or attendance;
      b. abnormal conduct or aberrant behavior;
      c. information provided by reliable and credible sources; and/or
      d. observed difficulty or unusual speech, concentration, movement or the behavior characteristics symptomatic of drug or controlled substance usage.
   4. An employee, under reasonable suspicion, may be reassigned, pending the outcome of a drug test. However, under the most egregious circumstances, an employee may be suspended.
C. Drug-Test Results

1. Drug test results and records shall be stored and retained in compliance with law.
2. Test results, in and of itself, will not be used to initiate a criminal investigation.

VI. PROCEDURES – ALCOHOL TESTING

A. Reasonable Suspicion Alcohol Testing

1. Reasonable suspicion to request an alcohol test is based on the totality of circumstances that include but are not limited to:
   a. Unsatisfactory job performance or attendance;
   b. Abnormal conduct or aberrant behavior;
   c. Information provided by reliable and credible sources;
   d. Observed difficulty or unusual speech, concentration, movement or the behavior characteristics symptomatic of controlled substance use; and/or
   e. The odor of alcohol on the employee’s breath.

B. Alcohol Testing Procedures

1. Supervisors shall order a preliminary breath test (PBT) when they have reasonable suspicion that an employee is under the influence of or abuses alcohol.
2. In the event that a PBT is refused, testing will be coordinated through UHHS, Occupational Health Services, or other participating regional hospitals or third-party vendors.

C. Alcohol Testing Results

1. Alcohol testing and results shall be stored and retained in compliance with law.
2. Test results, in and of itself, will not be used to initiate a criminal investigation.

POLICY PROCEDURES AND DEFINITIONS

I. PROCEDURES – RESPONSIBILITIES

A. Employee Responsibility

1. All staff observing, receiving information or having personal knowledge concerning the illegal use of drugs, controlled substances, or the use/abuse of alcohol by any employee of their department shall immediately report the matter to a supervisor.

B. Supervisor Responsibility

1. A supervisor receiving information, observing or having personal knowledge of the illegal use of drugs, controlled substances, or use/abuse of alcohol by another employee shall immediately notify their Chief, Director or designee.
2. Following notification, a supervisor shall prepare a complete written summary. This written summary is to include any actions, information or statements exactly as observed, received or stated, being particular to include all witness information.

C. Withholding Knowledge

1. Employees withholding knowledge of the illegal use of drugs or controlled substances, or the use/abuse of alcohol by other employees may be subject to discipline, up to and including discharge of employment.
D. Duty to Report

1. Employees who come into contact with any illegal drug or controlled substance during the course of their official duties, except in those circumstances where contact is part of their normal job duties, shall notify their supervisor in writing of such contact or use as soon as is practical.
2. Employees are responsible for reporting, prior to reporting for duty, the use of any substance that may impair their ability to perform their assigned duties.

II. PROCEDURES – EMPLOYMENT IMPACT

A. The Michigan Medical Marijuana Act (MMMA) MCL 333.26421 prohibits the arrest and prosecution of patients or caregivers who use or possess marijuana pursuant to the provisions of the Act. Michigan enacted legislation allowing for the medical use of marijuana.
B. In spite of the above legislation, use, possession, or production of marijuana is in violation of US Federal Law. Therefore, employees of Ann Arbor, Flint and Dearborn Department of Public Safety who use, possess, or are involved in the production of marijuana are subject to disciplinary action up to, and including discharge, regardless of the employee’s compliance with the MMMA.

PROCEDURES - CRIMINAL CHARGES

A. In appropriate circumstances, criminal charges will be sought for violations of applicable statutes.

III. DEFINITIONS

A. Drug Test: The compulsory production and submission of urine or submission to a breathalyzer, in accordance with departmental procedures, to detect prohibited drug usage. While this policy generally provides for only the submission of urine for detection and analysis of controlled substances, there may be times when an employee may be required to provide blood or other test samples for the same purposes.
B. Sensitive Employment Positions: Non-sworn employees working in positions accessible to restricted or confidential information and/or who are members of the collective bargaining agreement, or designated as such by state law or the agency chief executive.
C. Random Selection: A method of selection in which each and every employee in selected employee classifications has an equal chance to be selected for drug testing each and every time a selection is conducted.
D. Controlled Substance: Any substance which is illegal to consume, possess, manufacture or distribute or any psychoactive substance drug or medication that requires the prescription of a licensed medical practitioner.
E. Drug: Any substance including, but not limited to, narcotics, controlled substances or alcohol that is restricted or prohibited by this policy.
F. Substance Abuse: A maladaptive pattern of use of a substance that is not dependent.