



**UNIVERSITY OF GUAM
UNIBETSEDAT GUÅHAN
Board of Regents**

Resolution No. 20-01

**RELATIVE TO UPDATING THE DRUG FREE WORKPLACE POLICY
OF THE UNIVERSITY OF GUAM**

WHEREAS, the University of Guam (UOG) is the primary U.S. Land Grant institution accredited by the Western Association of Schools and Colleges (WASC) Senior College and University Commission (WSCUC) serving the post-secondary needs of the people of Guam and the Western Pacific region;

WHEREAS, the governance and well-being of UOG is vested in the Board of Regents (BOR);

WHEREAS, the United States Congress has been requiring institutions of Higher Education to comply with Drug Free Workplace policies for more than 30 years;

WHEREAS, the BOR has approved various forms of Drug Free Workplace policies over the last 20 years;

WHEREAS, the Congress and the U.S. Department of Education have continued to revise laws and issue regulations concerning Drug Free Workplace policies during the time the UOG policies have been in effect;

WHEREAS, the UOG policy must be updated to remain in compliance with federal requirements and has been reviewed and endorsed by the Administrative Council and the Faculty Union for the President to forward to the BOR for review and approval; and

WHEREAS, the Academic, Personnel, and Tenure (AP&T) Committee has reviewed the attached Drug Free Workplace Policy and recommends it to the BOR for approval.

NOW, THEREFORE, BE IT RESOLVED, the BOR hereby approves the attached revised UOG Drug Free Workplace Policy.

Adopted this 13th day of February, 2020.

Elvin Y. Chiang, Chairperson

ATTESTED:

Thomas W. Krise, Ph.D., Executive Secretary



**DRUG FREE
WORKPLACE (DFW)**

**POLICY
AND
PROCEDURES**

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SECTION I: POLICY

SCOPE AND PURPOSE

Purpose

In compliance with the Drug-Free Workplace Act of 1988, University of Guam (UOG) has a commitment to provide a safe, quality-oriented and productive work environment consistent with the standards of the community in which we operate. Drug and Alcohol abuse possess a threat to the health and safety of UOG students and employees and to the security of the University's equipment and facilities. UOG also promotes maximum efficiency and effectiveness which can be adversely affected by drug and alcohol abuse. For these reasons, UOG is committed to the elimination of drug and alcohol use and abuse in the workplace.

Scope

This policy sets forth the response UOG will have to instances of identified drug and alcohol use in the workplace.

This policy applies to all employees of UOG. UOG Human Resources Office (UOG HRO) will be responsible for the implementation and management of this policy. The commitment to a Drug-Free environment extends to students, and contractors of the University, and all campus activities. Students will be provided a summary of this policy highlighting portions of the policy applicable to them at the beginning of each Academic Year. Contractors will be provided a summary of the policy at the beginning of each contract.

Substance Abuse Awareness

Illegal drug use and alcohol misuse have many serious adverse health and safety consequences. Information about those consequences and sources of help for drug or alcohol problems is available from the UOG HRO, which has been trained to make referrals and to assist employees with drug or alcohol problems.

Amendment to this Policy

The President of the University is empowered to make minor changes and adjustments to the policy. Substantial modifications must be approved by the Board of Regents (BOR).

OBJECTIVES

- A. To ensure a drug-free and alcohol-free work environment.
- B. To help provide efficient and economical services to UOG's employees, students, and the public.
- C. To help provide a safe and healthy work environment for UOG employees and the public.
- D. To provide a work environment free of adverse effects on job performance caused by drug or alcohol related problems.
- E. To help provide reasonable assistance to an employee seeking rehabilitation for a drug and/or alcohol related problem.
- F. To conform with the federal Drug-Free Workplace Act of 1988 and any applicable local law and/or mandate.

POLICY

- A. It is the policy of UOG to maintain a work force free of illegal drugs, substance and alcohol abuse.
- B. Reporting to work, or performing work for UOG, while impaired by or under the influence of illegal drugs or alcohol is prohibited.
- C. The illegal use, possession, dispensation, distribution, manufacture, and/or sale of a controlled substance by an employee at the work site, during work hours or while the employee is on duty, official UOG business or stand-by duty, is prohibited.
- D. Employees are required to notify the Appropriate Administrator within seventy-two (72) hours of any criminal drug statute conviction where such conviction was due to an occurrence at the work site, during work hours or while on duty, official business or stand-by duty.
- E. An employee who is convicted of violating any criminal drug statute is subject to Adverse Action procedures. A conviction means a finding of guilty (including a plea of *nolo contendere*) or the imposition of a sentence by a judge or jury or both in a court of law.
- F. The policy includes Safe Harbor provisions. Any employee with a drug or alcohol abuse problem is encouraged to apply immediately for the Safe Harbor provisions of this policy. Safe Harbor will not be available to any employee who is caught in an impaired status.
- G. Each UOG employee will be provided a copy of this UOG Drug Free Workplace Policy on an annual basis. Employees will be informed that they must abide by the terms of the policy as a condition of employment and of the consequences of any violation of such policy. Notification of this policy is part of new employee orientation/onboarding.
- H. New employees must read and sign the Drug Free Workplace Affirmation Form during the onboarding process and it will be made a part of their permanent Employee Health file and Personnel file.

AWARENESS PROGRAM

UOG will provide, as resources are available, instructional information to educate employees about the dangers of drug and alcohol abuse.

MARIJUANA USE AND POSSESSION ON CAMPUS

The use and possession of marijuana is prohibited on campus. The potential health and behavioral impacts of marijuana do not fit with UOG's mission as an academic institution and a safe, fast-paced, high-functioning work environment. Possessing, using, and/or selling marijuana continues to be prohibited on campus and during university activities - on any off-campus UOG properties or work locations; such as on boats and research stations. Federal agencies continue to enforce federal law against those who facilitate the illegal use of

marijuana, despite Guam law. UOG, as a land grant university, is obligated to enforce federal interests in these matters.

Public Law 35-5 dated April 4, 2019, legalizes certain activities related to marijuana, yet under the law, UOG – as a school and an employer – retains the ability to prohibit the possession and use of marijuana. In addition, marijuana remains illegal under the federal Controlled Substances Act, which prohibits marijuana possession and use. This federal law applies to recreational and medical uses of marijuana. It is not a defense that the person holds a medical marijuana card.

Students and employees who violate this policy are subject to university discipline. The use of marijuana in the workplace is also restricted by federal laws such as the federal Drug-Free Workplace Act and the federal Drug-Free Schools and Communities Act. These federal laws require UOG to prohibit the use of marijuana on campus. Campus Security, along with Enrollment Management and Student Success, enforces the campus-wide prohibition of marijuana.

UOG strives to maintain a safe workplace. Employees who are under the influence of marijuana, just like with alcohol, create serious safety risks when operating machinery or working with potentially hazardous materials or substances in the workplace.

While performing their job duties:

- UOG employees are prohibited from consulting or providing assistance with the cultivation, sale, distribution, or use of marijuana
- Any employee who provides such assistance shall be acting outside the scope of his or her employment and assumes personal liability for such action
- UOG is not required to accommodate medical or recreational use of marijuana by anyone covered by this policy.
- Illegal drug use is a bar to the acquisition or renewal of a federal security clearance

DRUG TESTING

- A. UOG will perform Drug Testing for all current employees.
- B. UOG's drug testing program includes the following types of drug testing:
 1. Reasonable suspicion testing
 2. Accident or unsafe practice testing
 3. Follow up testing following completion of Safe Harbor procedures
 4. Voluntary testing
- C. Follow-up testing shall be determined by the Appropriate Administrator based on the needs of UOG, availability of resources, and consistency with the duty to achieve a drug-free workplace but will be no less frequently twice (2x) annually for the first two (2) years following completion of the Safe Harbor procedures.

The Chief Human Resources Officer (CHRO), or his/her designee, will coordinate the dates, times and place of testing.

EMPLOYEE ASSISTANCE PROGRAM

UOG will make reasonable efforts to provide employee assistance programs (EAP), and refer employees (subject to the limitation of availability of local resources), for education, counseling, or rehabilitation.

SAFE HARBOR PROVISIONS

UOG's Drug Free Workplace policy includes an opportunity for an existing employee to self-declare a problem with abuse of drugs or alcohol in order to avoid the consequences for violation of this policy. Such employee will be allowed to receive treatment at a local treatment facility appropriate for the type of problem disclosed. If a drug or alcohol problem is determined apart from these Safe Harbor Provisions, there will not be any further treatment opportunities afforded to the employee.

A. Employee's Job Responsibilities

1. Some education, rehabilitation, and treatment programs may require the employee to be on full-time leave; others will not. A UOG Unit Head may detail an employee to another position or group of duties and responsibilities, if the supervisor has justifiable reasons that the employee is unable to perform his/her normal duties safely while receiving treatment in accordance with existing UOG personnel rules and regulations. If the employee is not on leave status for education, rehabilitation, or treatment, the employee will be expected to perform assigned work responsibilities during his/her normal work schedule.
2. The employee is expected to perform satisfactorily if on work status while undergoing an education, rehabilitation, or treatment program. The supervisor must continue to document work performance and behavior of the employee. If the employee's job performance is unsatisfactory, the employee may be disciplined for poor work performance. If the employee continues to exhibit behavior which may indicate continued drug or alcohol use during the education, rehabilitation or treatment period, the supervisor must provide documentation for reasonable suspicion.

The supervisor will require the employee to submit to subsequent drug testing for a period of not less than two years to confirm the employee is maintaining a drug free status and that employee, student and public safety is maintained.

SECTION II: POLICY IMPLEMENTATION

PURPOSE

To implement the UOG Drug Free Workplace Policy, hereafter referred to as "DFW Policy."

DEFINITIONS

- A. Academic Personnel - Academic personnel are Faculty and Administrators.
- B. Adverse Action - the process through which UOG takes disciplinary action against an employee. An Adverse Action process can result in a letter of warning, a suspension, or for the most serious offenses, a termination.

- C. Alcohol - the intoxicating agent in beverage alcohol or Ethyl alcohol or other molecular weight alcohol including Methyl or Isopropyl.
- D. Alcohol Use - the consumption of any beverage, mixture or preparation, including any medication containing alcohol.
- E. Aliquot - a portion of a specimen used for testing.
- F. Applicant - an individual offered employment or being promoted, demoted or transferred to any position within UOG.
- G. Appropriate Administrator – means the President for all Faculty and Administrators, the Vice President Administration and Finance for all non-Academic Administration and Finance personnel, and the Senior Vice President Academic and Student Affairs for all non-academic personnel in the Academic and Student Services. These positions are empowered to appoint and exercise discipline and/or discharge of employees pursuant to 4 GCA §4406 including those rights provided in §10112 of 4 GCA and Chapter 8 of 12 GCA and 17 GCA §§16112.
- H. Canceled or Invalid Test - a Drug Test that has been declared invalid by a Medical Review Officer (MRO). A canceled test is neither positive nor negative. In addition, a specimen that has been rejected for testing by the laboratory is treated the same as a canceled test.
- I. Chain-of-Custody - the procedure and subsequent documentation by which laboratories handle specimens from collection to testing.
- J. Collection site - the place (as designated) where specimens are collected for drug testing analysis.
- K. Collection site personnel - the trained laboratory personnel responsible for managing the collection process including Chain-of-Custody documentation and initial testing of the urine specimen provided by the individuals.
- L. Controlled Substance - a material that is classed as a Drug, Narcotic, or immediate Precursor which is specified or referenced in schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812).
- M. Confirmation (Confirmatory) test - a second analytical procedure to identify the presence of a specific drug or metabolite. A confirmation test is independent of the drug test and uses different chemical technique and procedure in order to ensure reliability and accuracy. Gas Chromatography/ Mass Spectrometry (GC / MS), GC/ Fourier transform infrared spectroscopy (GC/ FTIR) and MS/ MS are approved for Cocaine, Marijuana (THC), Opiates, amphetamines, and Phencyclidines.
- N. Confirmed Positive Drug Test - the presence of a specific drug or metabolite at or above the analytical sensitivity or cut off level by two (2) tests on the same specimen by two (2) different test methods; and which was not determined, after evaluation by the Medical Review Officer, to have been caused by an alternate medical explanation.
- O. Critical Incident - a circumstance which occurs while on duty for UOG, on UOG property, or using UOG property that includes:
 - 1. An accident involving UOG vehicle causing substantial damage to property or

- person; or
2. Behavior or activity which could cause damage to property or person; or
 3. Mental or physical impairment to raise doubt that job duties can be safely or effectively performed; or
 4. Possession, sale or use of an illegal drug or drug paraphernalia, open container of alcohol (in a moving vehicle), or driving under the influence of alcohol; and
 5. Reasonable suspicion that an employee's action or behavior was caused by illegal drugs and/or alcohol.
- P. Drug - any substance other than food that can affect the way your mind and body works.
- Q. Drug Metabolite - the specific substance produced when the human body metabolizes a given drug or substance as it passes through the body and is excreted in the urine.
- R. Drug Test - the laboratory analysis of a urine specimen collected and analyzed in accordance with National Committee For Clinical Laboratory Standards (NCCLS), Health Care Financial Administration (HCFA), & Department of Health and Human Services (DHHS) regulations.
- S. Employee - an individual working in a classified, unclassified, Academic, Externally Funded or contractual capacity at or for UOG.
- T. Employee Assistance Program (EAP) - that UOG EAP offers information, short term counseling, and referral services to assist employees in dealing with drug or alcohol dependency and related problems. This program is separate and apart from Safe Harbor provisions.
- U. EAP Coordinator - The CHRO of UOG or his or her designee.
- V. Illegal Drugs - any controlled substance, drug, narcotic or immediate precursor which is specified or referenced in schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812) which may subject an individual to criminal penalties; or a legal drug which has not been legally obtained or is being used by an individual for whom it was not prescribed, or is not being used in a manner, combination or quantity for which it was manufactured, prescribed, or intended.
- W. Impairment in or Reduction in Job Performance - the quality or quantity of an employee's performance on the job is less than should be expected or accepted, or less than usual, standard, or average as judged against the past job performance of the individual employee.
- X. Legal Drug - any "over-the-counter drug" or "prescription drug" which has been legally obtained and is being used in the manner, combination and quantity which it was manufactured, prescribed or intended.
- Y. Limit of Detection (LOD) - the lowest concentration of a drug which a test is capable of detecting. If a drug is present below the LOD, the drug will not be detected.

- Z. Medical Review Officer - a licensed physician (Medical Doctor or Doctor of Osteopathy), assigned by UOG and responsible for receiving laboratory results generated by the Drug Testing Program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any relevant Bio-medical information.
- AA. Need to Know - confidential information may be shared with others only if it is necessary for implementing this policy, is in the employee's chain of command, or the employee has authorized a release of information.
- BB. Negative Drug Test - a drug test that indicates that a substance is absent or at a level below the "cut off" or Limit of Detection (LOD) for the immunoassay screening procedure. A verified negative test that has been reviewed by a Medical Review Officer and determined to have no evidence of prohibited drug use.
- CC. On Duty - the span of time the employee is scheduled to work including such time while the employee is on paid stand-by duty.
- DD. Participate in an Education, Rehabilitation or Treatment Program - to engage in, cooperate in, make satisfactory progress in, and complete an education, rehabilitation or treatment program.
- EE. Plan Administrator - the Chief Human Resources Officer (CHRO) of UOG.
- FF. Prescription Drug - means any drug prescribed for the individual by a licensed medical practitioner.
- GG. Property - includes all UOG owned or leased property, worksites, parking lots, vehicles, including property assigned to or used by employees, such as desks, lockers, storage bins, etc.
- HH. Reasonable Suspicion or Cause - cause or suspicion based on objective facts and reasonable inference drawn from those facts that an employee's action has been caused by drugs and/or alcohol. The Observed Behavior Checklist will be used to determine Reasonable Suspicion or Cause.
- II. Safe Harbor provisions - separate and apart from the EAP, Safe Harbor provisions exist for an employee to be shielded from the employment consequences of illegal drug use if they apply for the provisions prior to an incident leading to discovery of illegal drug use.
- JJ. Supervisor/Management - an employee having authority to direct, assign, and to recommend the following: promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove other employees. The exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgment.

EMPLOYEE DUTIES AND RESPONSIBILITIES

- A. Observe public trust and confidence through personal support and compliance with the intent and provisions of this policy.
- B. Notify an appropriate supervisor before reporting to duty, before using UOG equipment, or before or immediately upon entering UOG property:
 - 1. When taking any medication or drug, either prescription or non-prescription, which might impair the effectiveness or safety of job performance.
 - 2. When having taken alcohol, which might impair the effectiveness or safety of job performance.
- C. Consider volunteering for and completing an education, rehabilitation or treatment program if the employee believes there is an addiction to drugs or alcohol which might impair the effectiveness or safety of job performance.
- D. Consider participating in an education, rehabilitation, or treatment program when recommended by the Health Nurse Supervisor, College/Unit Administrator, CHRO, EAP Coordinator, or Appropriate Administrator.
- E. Encourage other employees, who use a drug or alcohol which might impair the effectiveness or safety of job performance, to apply for the Safe Harbor provisions of this policy.
- F. The employee must acknowledge that he/she has received and read the DFW Policy and understands its purpose, objectives, and employee responsibilities.

SUPERVISOR RESPONSIBILITIES

- A. Attend UOG-sponsored training on drug and alcohol awareness and prevention.
- B. Ensure that each of his/her subordinate employees has received a copy of the DFW Policy.
- C. If a "critical incident" occurs, have the discretion to do any or all of the following:
 - 1. Summon law enforcement;
 - 2. Summon university security;
 - 3. Summon medical assistance.
- D. Immediately notify the Appropriate Administrator or supervisor of all "critical" incidents. Follow-up with a written report to include signatures of all witnesses.
- E. If "reasonable suspicion" exists that an employee's work performance is affected by a drug or alcohol problem, recommend to the College/Unit Administrator or CHRO that the employee undergo a reasonable suspicion drug test.
- F. Cooperate in rehabilitation efforts of the employee in accordance with UOG policy.

G. Maintain strict confidentiality; disclose information on a need-to-know basis only.

VIOLATIONS

- A. Any employee charged with violating a criminal drug statute must inform the President of such conviction (including pleas of guilty and *nolo contendere*) within seventy-two (72) hours of the conviction occurring.
 - 1. Failure to so inform the President subjects the employee to disciplinary action, up to and including termination for the first offense.
 - 2. Conviction of a criminal drug statute will lead to Adverse Action proceedings which will likely result in termination of employment.
- B. Involvement in illegal activity pertaining to the illegal use, sale, purchase, offer, or possession of a controlled substance will be reported to the Guam Police Department (GPD) or other cognizant law enforcement agency.
- C. An employee confirmed to be under the influence of an illegal drug or alcohol while on duty or while on UOG property, or while using UOG equipment will be subject to Adverse Action proceedings, which will likely result in termination of employment.
- D. An employee suspected of violating the DFW Policy may be directed by their Supervisor to complete a drug or alcohol analysis testing process, if warranted by the completion of the Observed Behavior Checklist. In no event shall the employee be required to pay for drug or alcohol analysis testing.
- E. Any employee violating the DFW Policy is subject to disciplinary action, which will likely result in termination of employment.
- F. Once an incident occurs that leads to a positive drug test, Safe Harbor provisions are no longer available.

EMPLOYEE RIGHTS

- A. Legal Rights: Employees have legal rights that must be honored and respected at all times.
- B. Confidentiality Rights: Confidentiality is an essential element of an EAP.
 - 1. Summary of EAP Activity
 - a. All participation shall be held in confidence unless the employee agrees, through specific written release, that any other party be notified.
 - b. The employee's compliance with recommendations or advice from the EAP Coordinator is voluntary.
 - c. The employee's job security and/or promotional opportunities will not be jeopardized by participation.
 - d. In no event shall this program be used to shield the employee from, or replace,

normal procedures for unsatisfactory job performance.

2. Safe Harbor Election:

- a. An employee may make a voluntary election to take advantage of the Safe Harbor provisions of this policy. The Safe Harbor provisions allow the employee to be entered into a drug and alcohol rehabilitation program. By entering into the Safe Harbor provisions, the employee waives the right to refuse follow up testing provisions.
 - b. Notwithstanding any other provision of the DFW Policy, medical information about any employee shall be treated in accordance with prevailing laws and practices protecting the confidentiality of such information.
 - c. If, for protection of public health or public safety, confidential information is required by law or by judicial proceedings, the legal process for obtaining and / or disclosing such information shall be used.
 - d. Reports to the Appropriate Administrator resulting from Safe Harbor treatment shall be strictly limited to statements of compliance or non-compliance.
 - e. Follow up testing will be required for at least two years following completion of the Safe Harbor provisions on a quarterly basis unless and until the Appropriate Administrator agrees to less frequent testing. In no circumstances will testing be less frequent than twice (2x) per year.
 - f. A positive test following completion of the Safe Harbor treatment will result in Adverse Action proceedings and termination of employment.
- C. Appeal of Test Results: If an employee or applicant has reason to believe that the technical standards were not adhered to in deriving an employee's or applicant's confirmed "positive" result , the result may be appealed in writing to the Appropriate Administrator within fourteen (14) calendar days of receiving written notice of result.
- D. Appeals of Adverse Actions are governed by the Civil Service Commission policy and other applicable personnel rules, regulations, and statute.

AWARENESS TRAINING

- A. HRO shall develop and implement an on-going Drug and Alcohol Awareness Training Program for all supervisors to be provided on an annual basis.
- B. The CHRO shall provide access to and explain the DFW Policy at all new employee orientations.
- C. Employees have the right to know the dangers of drug abuse, the UOG DFW Policy, and what help is available to assist with drug and alcohol problems. HRO shall institute an education program for all employees on the dangers of drug and alcohol abuse in the workplace.

ORIENTATION AND NOTIFICATION PROCEDURES

- A. Responsibilities: Conveying complete information about the UOG DFW Policy to applicants and employees is essential.

1. Applicants and employees must be given a copy of this policy.
 2. HRO is responsible for informational material and for training associated with this policy and any drug awareness. It is the responsibility of the CHRO to coordinate with Deans/Directors to orient and familiarize all employees on UOG's DFW Policy and Procedures.
 3. HRO shall advise applicants and employees of the following:
 - a. Methods of drug testing which may be used;
 - b. Substances which may be identified;
 - c. Reasonable effort to maintain the confidentiality of results and any medical information which may be provided;
- B. Current Employees: The Deans and Directors must complete the following steps when a supervisor has identified and documented reasonable suspicion of substance abuse.
1. Complete the Observed Behavior Checklist which form the basis for the reasonable suspicion circumstances.
 2. Contact the CHRO or designee promptly about the circumstances who will in turn consult with UOG's Legal Counsel, if necessary.
 3. Discuss the reasonable suspicion with the employee but make no accusations of drug abuse or addiction.
 4. Inform the employee that as a condition of continued employment, supervisors have the duty and obligation to submit recommendation to require an employee to take a drug test.
 5. Obtain testing time and location from HRO.
 - a. After consultation with HRO, give the employee verbal or written notification of the time and location.
 - b. Inform the employee that he/she will be escorted by UOG Security or other personnel to the collection site.
 6. An employee who is requested to submit to a drug test shall be given time off with pay for the duration of the drug testing.
 7. If the employee poses a continued threat to safety or may cause undue disruption of work activity, the Dean or Director should consult the CHRO as soon as possible. The most reasonable action taken in this situation is to relieve the employee of his duties until UOG receives the drug screen test result.
 8. If the employee refuses or fails to participate in the drug screen process, the CHRO shall notify the employee of the consequences and that the University regards the failure to submit to testing as an admission of guilt. Adverse Action proceedings will be initiated immediately, which will likely result in termination of employment.
 - a. Contact the CHRO immediately.
 - b. Document any such non-participation thoroughly including the name of the

employee, the nature of the refusal or failure, and the reasonable suspicion, circumstances, the date of the incident, names of witnesses, and the employee's position. Forward the documentation to the CHRO.

9. Disposition of "Reasonable Suspicion" drug test:
 - a. If the employee's drug screen is negative, the employee will be notified and restored to active status.
 - b. If an employee's drug screen is confirmed positive, Adverse Action proceedings will be initiated, which will likely result in termination of employment.

DRUG TESTING

A. Reasonable Suspicion Testing:

1. If an employee is suspected of using illegal drugs, the supervisor will complete the Observed Behavior Checklist to determine if the relevant criteria are met.
2. When the unit head concurs with the reasonable suspicion, the supervisor will:
 - a. Promptly prepare and submit a written report detailing the circumstances which warrant the testing. This report should include the dates and times of reported drug related incidents, reliable sources of information, rationale leading to the test, and the action(s) taken.
 - b. Obtain a time and location for testing from HRO and direct the employee to the location.
 - c. Campus Security or other personnel will escort the employee to the testing site.

The Observed Behavior Checklist may be obtained from HRO for assistance in determining reasonable suspicion testing.

B. Accident or Unsafe Practice Testing

1. An appropriate supervisor in the University in the chain-of-command may declare an employee a threat to public safety, health, or welfare. The employee declared a threat is subject to a drug test, will be removed from the work site, and is subject to disciplinary action.
2. Employees involved in on-the-job accidents or who engage in unsafe on-duty job-related activities that pose a danger to others or the overall operation of UOG, may be subject to testing. Based on the circumstances of the accident or unsafe act, the supervisor may initiate testing.
3. When an on-the-job accident occurs, regardless of severity or occurrence, where there is evidence to indicate that the accident or occurrence was in whole or in part the result of the employee's action or inaction and/or the employee exhibited behavior or in other ways demonstrated that the employee may have been using drugs or under the influence of drugs.

- C. Follow up Testing to counseling or rehabilitation. All employees referred through administrative channels who undergo a counseling or rehabilitation program for illegal drugs will be subject to unannounced testing following completion of such a program for a minimum period of two years.

DRUG TEST RESULTS

- A. Drug test results shall be reported in as timely a manner as reasonable.
- B. Drug test results shall be revealed only to the unit head or other persons authorized by the President of the University of Guam as having an established need-to-know for the information.
- C. An employee who receives a confirmed "positive" drug screen result or the equivalent will be subjected to Adverse Action procedures which will likely result in termination.
 - 1. An employee must use annual or sick leave to participate in an approved education or treatment program pursuant to this policy. Leave requests must be substantiated with proof of participation in an education, rehabilitation, or treatment program.
 - 2. The employee must also provide to the CHRO proof of participation in the education, rehabilitation or treatment program.
 - 3. Supervisors or other appropriate officials at UOG in the chain-of-command may declare an employee a threat to safety or health at the work site while undergoing treatment or rehabilitation. In this situation, the Dean or Director may recommend, with the approval of the Appropriate Administrator, to transfer the employee to perform tasks where safety and health are not compromised. The Appropriate Administrator may immediately suspend an employee pursuant to the adverse action procedures.
 - 4. Failure by the employee to successfully complete the recommended education, rehabilitation or treatment program will result in the employee being subjected to the disciplinary process which will likely result in termination.
 - 5. Employees must provide or release clinical verification to the CHRO of a successful completion of an education, rehabilitation or treatment program.
 - a. For the purpose of UOG's drug testing program, successful completion of a recommended education, rehabilitation or treatment program means the employee achieved and maintained a drug-free state.
 - b. The Unit Head retains the right to require an employee to submit to subsequent drug tests. As necessary, these tests may be administered during the authorized education, rehabilitation or treatment program and for a minimum period of not less than two (2) years after the completion of the program.
- D. Confirmed "Positive" drug screen result: An employee who receives a "positive" drug screen result is subject to adverse action procedures under the following conditions:
 - 1. An employee serving in a probationary period may be dismissed by written notice from the Appropriate Administrator.
 - 2. A full-time employee or part-time employee will be subject to adverse action procedures and will likely be terminated.
 - 3. This policy shall not preclude the Deans or Directors from proposing disciplinary or adverse action for other mitigating circumstances that occur in addition to a confirmed "positive."

TAMPERING WITH DRUG SCREEN TESTING PROCESS

- A. Any current employee who intentionally tampers with a sample provided for drug testing, violates chain-of-custody or identification procedures, or falsifies a test result shall be subject to the adverse action procedures of dismissal.

DRUG RETESTING

Only the President, after consultation with the Medical Review Officer, has the discretion to authorize retest on the same or new specimen, if the President determines that the technical standards established for test methods or chain-of-custody procedures were violated in deriving a confirmed "positive" result or has other appropriate cause to warrant a retest.

COLLECTION SITES AND LABORATORIES PROCEDURES

- A. Collection of urine specimens, for the purpose of detecting illegal use of drugs or specified controlled or toxic substances, will comply with HCFA (DHHS), NCCLS and SAMHSA guidelines and meet federal evidentiary requirements.
- B. A drug test may screen for any substance listed in Chapter 67, of Title 9 GCA (Uniformed Controlled Dangerous Substance Act) or any controlled substances listed in schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812) as amended.
 - 1. Samples from employees will be screened in all cases to identify the following classes of substances:
 - a. Marijuana/Cannabinoids (THC);
 - b. Cocaine Metabolites;
 - c. Opiates;
 - d. Phencyclidine (PCP);
 - e. Amphetamines / Methamphetamine; and
 - f. Barbiturates
 - 2. The supervisor may also require an employee to undergo a Breath Alcohol Testing (BAT) or other appropriate test.
- C. Locations of the drug testing and specimen collection sites shall be determined by the CHRO or his designee.

UOG and certified referral laboratories' test methods shall follow the standards found in 49 CFR part 40.

- D. The requirements for specimen collection shall meet federal guidelines and evidentiary requirements and is used for:
 - 1. Employee Testing
 - 2. Patient Testing that would potentially become legal evidence

REPORTING AND MAINTAINING RESULTS AND RECORDS

- A. Reporting Requirements: The importance of confidentiality and accuracy in record keeping throughout the drug testing process cannot be overemphasized. HRO will prepare and maintain records for the drug screen program.

1. Departments: Request applicants and employees to read, sign and date the Affirmation of Policy Form (APF). HRO will assist in this matter. Employees are to complete this form when they receive orientation about the program during the on-boarding process. Give the employee a copy of the signed statement and keep the original.
 - a. Initiate the Consent and Acknowledgment Form (CAF). Ask each employee being requested to take a drug screen to read and sign the CAF. Give a copy to the applicant or employee and forward original copy to HRO. Instruct the applicant or employee to show the signed copy to the collection site personnel.
 - b. Test results will be reported to the President and CHRO and other necessary persons in the chain of command. Only these individuals are to receive results of drug testing. It is the responsibility of these authorities to maintain the confidentiality and security of the information.
 - i. Results for employees will be reported as "positive" or "negative."
 - c. Ask an employee who is required to undergo an assessment and recommended education or treatment program to sign the Release of Information Form (RIF) releasing limited necessary information about the employee's participation. Give a copy of the signed release waiver to the employee and forward original copy of the release to HRO which will transmit to the Behavioral Health and Wellness Center or other qualified treatment center.
 - d. If an employee refuses to take a drug screen, refuses to sign the consent or release forms or fails to report for a drug screen or treatment program, document the refusal. Include the name of the employee, the position or the one for which a conditional offer had been made, the nature of the refusal, names of witnesses and the refusal date. HRO shall retain a copy of the documentation along with a copy of the letter to the supervisor for disciplinary action which will likely be termination.

B. Employee Health

1. The CHRO maintains records for each employee requested to take a drug screen. Make every reasonable effort to maintain the confidentiality of these records whether they are stored electronically or on paper.
 - a. Retain records forwarded from each of the Units including the Affirmation of Policy Form (APF) and the Consent and Acknowledgment Forms (CAF); the Release of Information (RIF) and Access to Records Forms (ARF).
 - b. Retain records forwarded from the laboratory including the results and the monthly statistical summaries. Retain information forwarded from the Medical Review Officer; including the Confirmed Positive Results (CPR) and the monthly statistical summaries.
 - c. Maintain all records regarding any and all drug testing matters in a separate file, distinct and apart from employee personnel files.
 - d. Access to drug testing records is considered restricted and will be controlled. These shall be in a locked cabinet with limited access.

- C. Employees may request access to their records regarding the drug testing process. The request must be in writing to the Appropriate Administrator. Applicants and employees must sign an Access to Records Form (ARF) releasing complete information from the laboratory and Medical Officer to the CHRO and UOG or its officers, and relieving the CHRO, UOG or its officers, laboratory and Medical Review Officer (MRO) from any liability relating to the confidentiality of the individuals' records.

CONFIDENTIALITY AND THE MAINTENANCE AND SECURITY OF RECORDS

- A. DFW records and test results are confidential. Every individual involved in the DFW process is responsible for maintaining strict security and confidentiality. Access to these records is restricted to HRO staff, the supervisory chain of command, Legal Counsel, the President, the Appropriate Administrator, Medical Review Officer, Director of Lab Services, and Board of Regents. No further access to these records can be authorized without the express consent of the employee or applicant.
- B. Need to Know - confidential information may be shared with others only if it is necessary for implementing this policy, is part of the other individual's normal duties, is in the employee's chain of command, or the employee has authorized the release of information.
- C. The nature of an employee's problem and information provided during education/treatment is private information. This information will not be disclosed to anyone outside the treatment or rehabilitation setting without the employee's consent.
- D. DFW records and test results are not subject to the Guam Freedom of Information Act (Title 5 GCA), also known as Guam Sunshine Law.

APPEALS AND ADVERSE ACTION PROCEDURES

- A. Results of a Confirmed Positive Drug Test will lead to an Adverse Action procedure which will likely result in termination of employment.
- B. Adverse Actions and appeals are governed by appropriate UOG Personnel Rules and Regulations and CSC Adverse Action Procedures as appropriate.

REFERRAL FOR EDUCATION, REHABILITATION OR TREATMENT

- A. Goal: UOG will utilize the Guam Behavioral Health and Wellness Center (GBHWC) or other appropriate entity for its referral system for education, rehabilitation or treatment. UOG's plan for addressing the issue of drugs in the workplace includes provisions for counseling and education or treatment. The goal is for the employee to become and remain drug-free. It is UOG's primary objective to retain employee's state of physical and mental capacity as a productive and safe member of the workforce.
- B. The EAP Coordinator will need a statement or verification from the Treatment Center clinician as to:
 - 1. Whether or not the employee is actively participating in the recommended education or treatment program;
 - 2. If the program was successfully completed by the employee. This information is necessary to document whether or not the employee meets the rehabilitation requirements.

- C. All information of DFW programs shall be treated with maximum confidentiality.
- D. The supervisor shall approve an employee's referral for drug education or treatment program.
- E. The Treatment Center will determine the type of rehabilitation program the employee needs. Rehabilitation programs may vary depending on the nature and severity of the employee's substance use or abuse problem.
 - 1. Program Requirements. GBHWC is the only recognized drug assessment, rehabilitation and treatment facility on the island.
 - 2. The treatment, education or rehabilitation plan is determined by a recognized treatment facility on island. This includes the type and length of treatment; whether it is an inpatient or outpatient or both; and whether aftercare treatment or follow-up is required.
- F. Procedures. When the CHRO gives notice of a confirmed positive drug screen, follow these steps:
 - 1. The Unit Head schedules a private meeting with the employee to provide verbal and written notification of the drug screen result and its consequences. The CHRO or his designee shall be present in this meeting.
 - a. Direct the employee to contact the EAP Coordinator for referral to the approved treatment center.
 - b. Have the employee complete and sign a Release of Information Form (RIF).
 - 2. The EAP Coordinator will give the initial consultation to the employee and notice of referral to the treatment facility. Referral to a treatment facility is for a complete drug assessment, education, rehabilitation, and treatment program. It is the responsibility of the employee to schedule an appointment as soon as possible with the treatment facility.
- G. Leave
 - 1. An employee may be granted leave to participate in an appropriate and approved education, rehabilitation or treatment program. All leave requests shall be pursuant to the applicable Personnel Rules and Regulations. The employee must provide proof of participation in the program to receive approval of leave request.
 - 2. The employee may be granted sick and annual leave or leave without pay. Whenever possible, the employee shall request that his/her education, rehabilitation or treatment sessions do not conflict with the employee's work schedule. Leave will be granted in such a manner so as to minimize disruption to the workplace and will be coordinated and verified with the designated treatment facility.
 - 3. If an employee does not report to work at the conclusion of the approved leave period, UOG will initiate disciplinary action in accordance with the appropriate adverse action procedures.

Section III: FORMS

Official forms to be used throughout the entire testing process are described below.

- A. Use of social security account number (SSAN) on a form is voluntary. This information will help ensure proper identification of records.
- B. Mandatory Forms. Employees for whom it has been determined that a drug test is needed are required to sign the Drug Testing Consent and Acknowledgement Form and the Medical Information Form. Both forms are required prior to conducting a drug test.
 - 1. Refusal to sign either or both forms is considered a refusal to submit to a drug test.
 - 2. Refusal by employee is equivalent to receiving a confirmed "positive" result and is grounds for disciplinary or adverse action.
- C. Affirmation of Policy Form (APF). APF's are to be read, signed and dated by employees during program orientation and prior to any drug screens being conducted. The APF is used as a permanent record of prior knowledge by the employees of the drug testing policy. The APF contains a general statement of policy. The form also includes an employee's name, social security number and ID number, signature and the date.
- D. Consent and Acknowledgment Form (CAF). CAF's are to be read, signed and dated by each applicant or employee asked to take a drug screen. If an employee is requested to submit to drug testing more than once, a new consent form must be signed each time. The CAF is a signed statement of consent to collect and analyze a urine specimen taken for the purpose of a drug screen. It is also used to acknowledge that the results of the screen will be made available to the Unit Head to whom the employee reports. The CAF includes a space for the applicant's or employee's name, the social security number, ID Number, and the employing unit. The CAF also includes a space where the applicant and a witness sign and date the form.
- E. Medical Information Form (MIF). The MIF is used by the applicant or employee to list all prescription and non-prescription drugs, if any, taken within 48 hours of the test. The accuracy of test results depends on information provided on the MIF. Collection site personnel will explain this form to each applicant or employee. Collection site personnel will also note any personal behavior, circumstances or findings on this form.
- F. Chain-of-Custody Form (CCF). UOG will utilize the Chain-of-Custody Form (CCF) of the contracted laboratory. Prior to implementation of the contracted laboratory's CCF, UOG will issue an advisory to employees officially notifying employees of such form. The CCF is used to note each action taken and each person involved, from the beginning of the drug testing process through the reporting of test results, for each urine sample. The CCF begins with the collection of the sample and continues with sealing of the sample until it is sent to the laboratory. The laboratory then receives, stores, and goes through each step of the testing process. Each succeeding action in the testing process will require the person completing a specific process to sign and date the CCF.
- G. Access to Records Form (ARF). The purpose of the ARF is to allow an employee access to records concerning his/her drug screen and to release UOG from any liability regarding the confidentiality of these records. The employee requesting access to the records must read, sign and date this form. This form requires the signature of a witness.
- H. Verification of Treatment Form (VTF). The VTF form is used by the treatment facility to report the status of an employee at the end of participation. This form is needed to verify the employee's successful completion in order to return to work. An authorized

representative of the facility, the employee, and a witness must sign the VTF.

- I. Agreement to Participate in Education, Rehabilitation, or Treatment Program. This form is to be read, signed, and dated by an employee. It is an agreement to participate in an education, rehabilitation or training program. Refusal to sign the agreement or failure to honor the agreement shall result in an adverse action. This agreement shall be filed in the Employee Health Record.

- J. Form Supplies. HRO will provide Units with copies of the forms they will require.

**University of Guam
Drug Free Workplace Policy
Acknowledgement Form**

THIS IS A DRUG-FREE WORKPLACE

The University of Guam (UOG) operates and maintains a "drug-free" workplace in compliance with the Drug-Free Workplace Act. UOG has strict rules prohibiting drug and alcohol use by our employees and the campus community.

Our drug-free workplace policy was established because any amount of drugs in your body can put you under its influence to some degree, even if the impairment is not readily apparent to ordinary people. Drug abuse can lead to property damage, serious injury and even death, and it can lead to deterioration of your personal health and work performance.

We respect the fact that you're responsible for making your own life-style choices, but we will not accept even small risks that drug abuse might cause to employees or students.

Compliance with this policy is not just an essential job qualification, it is a condition of employment with UOG.

We absolutely prohibit possession, distribution, manufacture, sale, or use of any controlled substance, drug, or other mind-altering chemical or organism, narcotic or related paraphernalia everywhere on our property and to every work area.

Reporting for work when you are in any way affected by the use of any drug or narcotic, except those lawfully prescribed by a physician, will result in disciplinary action, up to and including dismissal. We will use testing procedures to enforce this policy.

There are a number of educational and drug awareness programs available to you at no cost. Your supervisor will be pleased to help you to learn about the hazards of drug abuse and about the availability of professional counseling and rehabilitation programs available to you from the treatment facility and through our health insurance benefit plan.

Any inconvenience this policy may cause is regrettable but the alternatives to operating "drug-free" are simply unacceptable.

Signature of Employee

Witnessed by HRO Staff

Date

Date

University of Guam (UOG)
MEDICAL INFORMATION FORM (MTF)

**OBSERVED BEHAVIOR/REASONABLE SUSPICION/CAUSE DETERMINATION
CHECKLIST (CONFIDENTIAL)**

Directions: Supervisor or Manager, please document your observation/note of the employee's behavior and indications on this form. You must personally observe the probable indicators of substance and/or alcohol use and note your observations below. This checklist is to be completed whenever an incident or work-related accident has occurred and there is reasonable suspicion/cause that an employee is under the influence of alcohol and/or prohibited drug substance.

Employee Name: _____ Date: _____ Time: _____
 Name of Observer: _____
 Location of Observation: _____

Observation Checklist of objective signs of impairment or addiction in the workplace
Some of these signs (in red or shown with an asterisk ()) require immediate preventive intervention to ensure the health and safety of the individual and the workplace. According to the risks related to the assigned duties or work situation, the presence of one or more of these signs may require the employee's immediate withdrawal from work.*

Part 1. Objective signs of impairment at work
(possibly related to the use of alcohol or other drugs).

<input checked="" type="checkbox"/>	PHYSICAL ASPECTS	<input checked="" type="checkbox"/>	COGNITIVE ASPECTS	<input checked="" type="checkbox"/>	BEHAVIOR
	Dilated pupils (e.g., hallucinogens or stimulants)		Difficulty understanding instructions		Slow movements
	Flushed or pale skin (e.g., amphetamines)		Apathy or lack of motivation		Fast or jerky movements
	<u>Dry, pasty mouth (e.g., cannabis)</u>		Carelessness or hypervigilance		Speaking in exaggerated way (loud voice, gesticulating)
	Tics		Impaired judgment		Slow speech
	Red eyes (e.g. cannabis)		Difficulty concentrating, distracted		Slow, sluggish, nonchalant
	Excessive sweating (e.g., stimulants)		Confused speech or thought		Frequent noisy laughter
	*Nose bleed (e.g., cocaine)				Unusually passive and quiet
	*Convulsions (e.g., cocaine)				*Rambling speech
	*Extreme fatigue,				*Unsteady gait

	sleepiness (e.g., cannabis or tranquilizers)			
	*Tremors (e.g., hallucinogens)			*Unable to remain standing/must lie down
	*Nausea/vomiting (e.g., cocaine)			*Injures themselves or others
	*Drowsiness (e.g., anti-anxiety drugs/sedatives)			*Lack of coordination
	*Very slow or very fast breathing			*Slow reaction time
				*Overexcited, agitated, constantly moving
				*Compulsive need to carry out a task
				*Loss of control of behavior

Part 2. Objective signs in the workplace of possible addiction to alcohol or other drugs

These signs indicate possible dependence, but may also be associated with other problems. For further details, see also Parts 1 and 3.

<input checked="" type="checkbox"/> HEALTH (PHYSICAL AND MENTAL)	<input checked="" type="checkbox"/> ATTENDANCE	<input checked="" type="checkbox"/> WORK RELATIONSHIPS
Frequently complains about physical ailments (headache, stomach ache, etc.)	Frequent unauthorized or unjustified absences	Irritability with colleagues, supervisor
Often sad, depressed	Frequent absences during work hours (often in the washroom, on the sidelines)	Inappropriate verbal or emotional reactions
<u>Suicidal thoughts</u>	Extended breaks	Isolation from colleagues/avoidance of supervisors
Deterioration of appearance or personal hygiene	Late arrivals and early departures	Lies or bizarre explanations to excuse behavior
Great anxiety		Discovery of errors or

			Notable absences, particularly after paydays or days off		situations hidden by colleagues or supervisor
	Trembling	<input checked="" type="checkbox"/>	SAFETY	<input checked="" type="checkbox"/>	PERFORMANCE
	Several illness-related absences		Frequent carelessness causing or almost causing accidents		Productivity/job performance suddenly or gradually increases or decreases
	Nervousness, irritability		Frequent accidents		Quality of work fluctuates
	Loss of short-term memory		Sloppy work		Carelessness
	Diarrhea and vomiting		Charged with impaired driving		Errors of judgment
	Abdominal or muscle cramps				Decreased attention and alertness
	Weight loss				Impaired memory (e.g./cannabis)
	Insomnia				Hides mistakes
	Inappropriate euphoria				Easily tired
					Difficulty meeting deadlines

Part 3. Observable signs directly related to substance use

	Observer witnesses use before entering or in the workplace
	Smell of alcohol
	Smell of cannabis (burnt hay)
	Worker reports using or addicted to one of more psychoactive substances
	One or more colleagues report recent use or use in the workplace
	Alcohol or other drugs seen: <input type="checkbox"/> On their person <input type="checkbox"/> In their locker <input type="checkbox"/> In their office <input type="checkbox"/> On the machinery they drive or operate
	Objects related to the consumption of drugs or alcohol seen: <input type="checkbox"/> On their person <input type="checkbox"/> In their locker <input type="checkbox"/> In their office <input type="checkbox"/> On the machinery they drive or operate
	Report of activities related to the sale or purchase of the substance in the workplace
	Comments by colleagues indicating consumption endangering the workplace
	Other observation directly related to psychotropic substances
	Comments and summary of objective observations:

Part 1. Impairment
Part 2. Possibility of addiction
Part 3. Signs directly related to substance use or addiction
<p>Recommendations and actions:</p> <p><input type="checkbox"/> Relieve employee from duties and removed from worksite</p> <p><input type="checkbox"/> Implement safe transportation plan, if necessary (make sure employee gets home safely)</p> <p><input type="checkbox"/> Inform employee of process for returning to work</p> <p><input type="checkbox"/> Refer employee to EAP</p> <p><input type="checkbox"/> Send employee to be drug tested per Drug-Free Workplace Policy Procedure</p>

Employee signature _____ Date: _____
 (signature & title)

Supervisor making observation: _____ Date: _____
 (signature & title)

This document must be prepared and signed within 24 hours of the observed behaviors. The original must be returned to Human Resources and a copy must be given to the employee.

For HR Use ONLY:

This form received and reviewed by:

Date: _____
