



**BUTLER UNIVERSITY  
POLICY & PROCEDURE**

<b>POLICY NAME:</b> Substance Abuse	<b>POLICY NUMBER:</b>
<b>SCOPE:</b> Faculty, Staff and Administrators	<b>DEPARTMENT:</b> Human Resources Management & Development
<b>EFFECTIVE DATE:</b> August 12, 2010	<b>REV. DATE:</b>
<b>APPROVED BY:</b>	

**PURPOSE:**

As a part of its commitment to safeguard the health of its employees, to provide a safe place for its employees to work, and to promote a drug-free community, Butler University establishes this policy in regard to the use or abuse of alcohol and illegal drugs by its employees and applicants for employment. **This policy complies with the federal "Drug Free Workplace Act of 1988."**

Substance abuse while at work seriously endangers the safety of employees, members of the Butler community and the general public, and contributes to a variety of workplace problems. These include increased on-the-job injuries and accidents, increased absenteeism, increased health care and benefit costs, and a decline in the quality of services that we provide. The University has established this policy to ensure that employees do not abuse alcohol or use illegal drugs while engaged in University-related activities or business. The purpose of the policy is to communicate the University's position on alcohol and drug abuse in the workplace and to advise employees of testing and other procedures that will be used if abuse is observed or suspected.

**SCOPE:**

All University employees, including full-time, part-time, and temporary employees, are covered by this policy. Employment applicants also are covered as indicated below. As a condition of employment, employees are required to abide by the terms of this policy. This policy primarily governs actions in the areas of alcohol and drugs. Other University policies may be applicable in these areas to the extent that they do not conflict with this policy. Certain employees may be subject to additional requirements under state or federal law.

**DEFINITIONS:**

**"Illegal drugs"** are drugs or controlled substances which are: (1) not legally obtainable; or (2) legally obtainable, but not obtained or used in a lawful manner or in accordance with a valid prescription. Examples of illegal drugs include, but are not limited to, marijuana, cocaine, and hallucinogens. The term "illegal drugs" also refers to mind-altering and/or addictive substances, which are not sold as drugs or medicines, but are used for mind or behavior-altering effect.

**"Legal drugs"** are prescribed or over-the-counter drugs which are legally obtained and used for the purpose for which they were prescribed and/or sold.

**"Drug paraphernalia"** includes raw materials, instruments, devices or other objects intended for introducing an illegal drug into the body.

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**DRUG USE PROHIBITIONS:**

- A. The use, sale, purchase, possession, manufacture, distribution, or dispensing of illegal drugs or drug paraphernalia on University property is against University policy and may result in immediate termination.
- B. All employees are prohibited from reporting to work or working if there are illegal drugs present in the employee's body. The presence of illegal drugs may be determined by an applicable test, as outlined in section E, "Testing of Applicants & Employees." Employees who violate this policy are subject to disciplinary action, up to and including termination.
- C. Legal drugs may also affect the safety of the employee or fellow employees, members of the University community, or members of the public. Therefore, any employee who is taking any legal drugs which might impair his/her own safety or the safety of others, or the performance of his/her responsibilities, shall advise his/her supervisor before reporting to work so that an interactive dialogue can be held to determine whether any accommodation or modification of responsibilities is appropriate.
- D. Refusal to promptly submit to, cooperate with, efforts to tamper with, or failure to pass a required drug test under this policy will result in disciplinary action, up to and including termination.

**ALCOHOL USE ON CAMPUS:**

Possession or consumption of alcohol on campus is permitted only by those of legal drinking age and on the following three conditions:

- In the privacy of one's residence,
- In the privacy of one's office, or
- If the University authorizes the service of alcohol at a University-sponsored function or event.

It is expected that individuals will monitor their personal consumption of alcohol and that they will use common sense and good judgment in regard to the same.

- A. In the State of Indiana, the legal age for the consumption of alcoholic beverages is 21 years. Those under 21 years of age are considered minors and therefore cannot be given, sold or consume alcohol.
- B. It is against University policy to report to work or to work under the influence of alcohol.
- C. An employee will be considered under the influence of alcohol when, in the judgment of his/her supervisor or other representative of the administration, the employee's ability to perform a job safely and effectively is affected by the use of alcohol. An alcohol test by breathalyzer, blood test, or other scientifically-acceptable method may be performed if deemed appropriate by the University. See "Testing of Applicants and Employees", Part B, Section 3 for the procedure.
- D. Refusal to promptly submit to, cooperate with, efforts to tamper with, or failure to pass an alcohol test required under this policy will result in disciplinary action, up to and including termination.

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## **TESTING OF APPLICANTS AND EMPLOYEES:**

### **A. Testing of Applicants**

1. Applicants considered final candidates for a position may be tested for the presence of illegal drugs as a part of the application process. Testing is required for certain positions, such as (but not limited to) ones requiring the operation of heavy equipment or University vehicles, the operation of firearms, or work performed in potentially hazardous locations.
2. Applicants will be advised of the University's pre-employment testing requirements in writing prior to an offer of hire. Applicants will be asked to sign a release form (Attachment A). If an applicant refuses, he/she will not be considered for employment, and the employment application process will be terminated.
3. Any applicant who refuses promptly to submit to, cooperate with, tampers with, or fails to pass the pre-employment drug test shall be ineligible for hire.
4. In the case of a positive drug test, the University has the prerogative to deem the individual ineligible for hire. The University may, at its discretion, provide an applicant with an opportunity to take a second drug screening. If the applicant declines the option to take the second screening or the second screening is positive, the applicant shall be ineligible for hire.

### **B. Reasonable Suspicion Testing of Employees**

1. Testing based on "reasonable suspicion" should be based on specific objective facts and reasonable inferences drawn from these facts in the light of experience. Factors which could establish reasonable suspicion for testing include, but are not limited to, the following:
  - a. Direct observation of an individual engaged in the use of illegal drugs or the abuse of alcohol.
  - b. A pattern of abnormal conduct.
  - c. Unusual, irrational or erratic behavior.
  - d. Unexplained, increased or excessive absenteeism or tardiness.
  - e. Sudden changes in work performance.
  - f. Repeated failure to follow instructions or operating procedures.
  - g. Violations of university safety policies or failure to follow safe work practices.
  - h. Unexplained or excessive negligence or carelessness.
  - i. Discovery or presence of drugs at his/her workplace.
  - j. Evidence of alcohol abuse while at work.
  - k. Odor or residual odor peculiar to alcohol or some drugs.
  - l. Conviction for an illegal drug-related crime
  - m. Conviction for an alcohol related crime.
  - n. Information provided either by reliable and credible sources or independently corroborated.
  - o. Evidence that an employee has tampered with or not promptly and/or fully cooperated with a prior drug or alcohol test.
2. Employees may be required to submit to a drug or alcohol test if reasonable suspicion exists that indicates that they have violated this policy or that their ability to perform work safely and effectively may be impaired.

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3. If a supervisor believes reasonable suspicion exists, the supervisor should report his/her findings and observations to the Executive Director of Human Resources Management and Development (HRM&D) or another representative of HRM&D. The supervisor shall not direct the employee to take a test. HRM&D will meet with the employee to determine reasonable suspicion and, if appropriate, authorize testing. Tests will be administered by a third (non-University) party.

C. Post-Accident Testing of Employees

1. Employees may be tested for the presence of drugs following a work-related accident or injury, or any other occurrence that involves any of these events: a fatality, an injury to an employee or other individual, significant vehicle damage, and/or significant damage to other property.
2. Post-accident alcohol testing shall not be done unless alcohol use by the employee is suspected or indicated.

D. Additional Testing

Additional testing may be conducted as required by applicable state or federal laws, rules, or regulations.

E. Testing Procedures

1. The employee (or applicant) to be tested will be asked to sign a release form (Attachment A).
2. The University shall transmit the request for a drug test to a testing facility that administers such tests in accordance with guidelines established by the Substance Abuse and Mental Health Services Administration of the U.S. Department of Health & Human Services. Generally, the testing facility will test for the presence of cocaine, cannabis (THC), methadone, opiates, amphetamine/methamphetamine, PCP and MDMA.
3. If an employee refuses to consent to testing, fails to promptly cooperate with a test request, fails to appear for testing, or fails to cooperate with the testing procedures, he/she may be disciplined, up to and including termination. As stated above, if an applicant refuses or engages in any of the foregoing actions, the hiring process will be terminated. An employee who refuses to consent to testing will be asked to sign a refusal-to-submit form (Attachment B).

Employees who are tested will receive the results of the test. In the case of a positive drug test, the University may, at its discretion, provide the employee with an opportunity to take a second drug test for confirmation of results.

4. Any employee who adulterates a specimen or who otherwise attempts to affect a test result or invalidate a test shall be terminated.
5. Urine collection procedures shall allow individual privacy unless there is a reason to believe that a particular individual may adulterate or substitute the specimen to be provided, based upon knowledge of prior substance use (e.g., a previous positive test), or based upon the circumstances.

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**DISCIPLINARY ACTION:**

- A. In the case of a violation of this policy the employee will be disciplined, up to and including termination.
- B. The University may also require any employee who tests positive for drugs or alcohol to attend an appropriate drug or alcohol counseling program. Failure to abide by attendance and any other requirements established by the University will result in discipline, up to and including termination.
- C. The University may suspend employees, with pay, pending the results of a drug or alcohol test or investigation.
- D. Any employee having a second positive drug test during his/her employment with the University generally will be terminated.

**INVESTIGATION:**

- A. To ensure that illegal drugs do not enter or affect the workplace, the University may exercise its right to search all vehicles, containers, lockers, or other items on University property in furtherance of this policy. However, searches will be used only as a last resort and will be limited in scope to actions and articles only related to the suspected policy violations. Individuals may be requested to display personal property for visual inspection upon the University's request.
- B. Searches will be conducted under this policy only where the University has reasonable suspicion that the individual has violated this policy.
- C. Failure to consent to a search, promptly cooperate with a search request or failure to display personal property for visual inspection may result in disciplinary action (up to and including termination) or denial of access to University premises.
- D. In the event of a suspected or actual violation of this policy, the University may also contact appropriate law enforcement authorities. Individuals violating this policy may be prosecuted if any crime was committed. Confiscated illegal drugs will be turned over to the authorities.

**CONVICTION FOR DRUG OR ALCOHOL RELATED CRIME:**

- A. A conviction for a drug or alcohol related crime may result in disciplinary action, up to and including termination. In determining the appropriate action to take, the University will consider the nature of the charges, the employee's present job assignment, his/her record with the University, and other factors related to the impact of the employee's conviction upon the University. These decisions generally will be made jointly by the supervisor, dean, division vice president, a representative of HRM&D, and, if necessary, the University's President.
- B. Federal law requires that any University employee who is convicted of a drug statute violation arising out of conduct occurring in the workplace must notify the University of such conviction within five (5) days after the conviction. Such notification should be given in writing to the University's HRM&D Executive Director.

**CONFIDENTIALITY:**

Results of an applicant's or employee's test for the use of illegal drugs or alcohol shall be provided to HRM&D. In order to effectively address a drug or alcohol problem that an employee may have, it will be necessary for HRM&D representatives to consult with other persons in the process. However, such results will be maintained in a confidential manner and shall be disseminated only on a need-to-know basis.

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**DRUG-FREE AWARENESS PROGRAM:**

- A. The University will make information available to employees regarding a drug-free workplace. This information will inform employees about the following:
  - 1. The dangers of drug and alcohol abuse in the workplace.
  - 2. The University's policy of maintaining a drug-and-alcohol-free workplace.
  - 3. Available drug and alcohol counseling and/or employee assistance programs.
  - 4. The sanctions that may be imposed for alcohol and/or drug abuse violations.
- B. If an employee has any question about this policy, he/she is encouraged to direct such question to Human Resources Management & Development.

**EDUCATION AND DISTRIBUTION OF POLICY:**

A copy of this policy is provided to all faculty and staff new hires during orientation. A copy of this policy is available in print in the HRM&D office and online at the HRM&D website [www.butler.edu/hr](http://www.butler.edu/hr). A summary of this policy shall be provided in University faculty and staff handbooks and may appear in other publications prepared by HRM&D. Questions regarding this policy may be directed to your department head, vice president, college dean, or a representative of HRM&D.

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**ATTACHMENT A**

**BUTLER UNIVERSITY**  
**DRUG AND ALCOHOL TEST**  
**EMPLOYEE AND APPLICANT CONSENT AND RELEASE FORM**

I, \_\_\_\_\_ (print name), consent to the drug and/or alcohol test requested by Butler University ("University") and I give my permission to any doctor, nurse, technician, laboratory, or health facility which administers drug or alcohol tests or screens to release the results of any tests of examinations to the University.

Butler University complies with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Office for Civil Rights enforces the HIPAA Privacy Rule, which protects the privacy of individually identifiable health information; the HIPAA Security Rule, specifies national standards for the security of electronic protected health information; and the confidentiality provisions of the Patient Safety Rule, which protect identifiable information being used to analyze patient safety events and improve patient safety. [www.hhs.gov](http://www.hhs.gov)

I further agree to release and hold harmless the University from any and all liability and damages resulting or arising from any medical test or physical examination or the University's reliance on same, or in connection with any action taken by the University in reliance upon the test or examination results, or from the release of the results of any such test or examination.

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_

Date: \_\_\_\_\_

Witness: \_\_\_\_\_

Date: \_\_\_\_\_

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**ATTACHMENT B**

**EMPLOYEE REFUSAL**  
**TO SUBMIT TO DRUG AND/OR ALCOHOL TEST**

I hereby refuse to authorize testing for alcohol or drugs. I understand that my refusal means that the University will review the facts and that disciplinary action may result, up to and including immediate termination of employment.

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_

Date: \_\_\_\_\_

Witness: \_\_\_\_\_

Date: \_\_\_\_\_

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