

Office of Human Resources Administrative Procedure

.(2022-1) Reasonable Suspicion Drug or Alcohol Testing

Responsible Division/Office: Office of Human Resources
Responsible Officer: Chief Human Resources Officer
Revision History: 2022
Effective Date: June 7, 2022
Next Review: 2027

- (A) **Summary.** The need for reasonable suspicion testing is an unusual but serious situation. Employees who are under the influence of non-prescribed controlled substances, impaired by the use of prescription or over-the-counter medication drugs, and/or alcohol in the workplace or while operating University vehicles or equipment can present a threat of personal harm to themselves, others, and the potential for damage to University property.
- (B) **Purpose.** To support a drug-free workplace by providing the process, forms, and guidance for reasonable suspicion drug and/or alcohol testing of employees pursuant to University policy 3356-7-20 Drug-free environment (hereafter referred to as Drug-free policy). Individuals who supervisor student employees are referred to the *Office of Community Standards and Student Conduct/The Code of Student Conduct*.
- (C) **Parameters.**
- (1) The University requires that reasonable suspicion testing be supported by observations of a supervisor/manager and another supervisor/manager who can provide support for the determination of an employee's condition.
 - (2) A manager/supervisor must complete reasonable suspicion training in order to implement or witness reasonable suspicion testing. However, failure of a manager or supervisor to receive training shall not invalidate otherwise proper reasonable suspicion testing.
 - (3) All employee interactions should be handled discretely, and any information obtained should only be shared on a need-to-know basis (only individuals who have a legitimate need-to-know).

- (D) Assessment Procedure. When a manager is notified of or observes behavior that may indicate that an employee may be under the influence of drugs or alcohol, i.e., reasonable suspicion, the manager will (See paragraph I for situations of immediate threat):
- (1) Manager observes the behavior of the employee and if possible, engages the employee in general conversation.
 - (2) Manager completes the *Reasonable Suspicion Testing Checklist* (hereinafter Checklist).
 - (3) If reasonable suspicion testing is not warranted, no other action necessary. However, the manager should inform their supervisor of the situation as soon as possible.
 - (4) If manager believes reasonable suspicion testing may be warranted:
 - (a) Manager informs their supervisor.
 - (b) If possible, supervisor serves as a witness to the employee's condition.
 - (c) If the supervisor is unable to serve as a witness, another supervisor or manager will be contacted to serve as a witness to the employee's condition. The other manager is not required to be from the same department or area but must have undergone reasonable suspicion training.
 - (d) In the rare event that the supervisor or another manager are not available, the manager will contact one of the following Human Resources staff members in order to witness the employee's condition (in order of preference):
 - (i) Director of Labor Relations,
 - (ii) Executive Director of Human Resources,
 - (iii) Manager of Benefits,

- (iv) AVP of Human Resources.
- (5) Manager-witness observes the behavior of the employee, reviews the completed Checklist and either agrees or does not agree with the manager's determination.
- (a) Agrees. The manager and witness escort the employee to an area where a conversation with the employee can be held in private. The employee will not be left unattended.
 - (b) Does not Agree. No testing will be done at that time. However, the employee's manager should periodically check-in or observe the employee to determine if their condition has changed to support completion of another Checklist or the employee should be sent home due to inability to perform duties for other reasons (health, personal, etc.).
- (E) Testing Procedure. When there is agreement on reasonable suspicion testing, the manager will:
- (1) Inform the employee that they may be in violation of the Drug-free policy.
 - (2) Review the observations with the employee. The manager can ask the employee to explain the observed behaviors (i.e., *What explanation do you have for these behaviors?*)
 - (3) If the manager and manager-witness still believe the employee may be in violation of the Drug-free policy:
 - (a) Tell the employee that based on your observations, you believe they may be in violation of the Drug-free policy.
 - (b) Ask employee to submit to a reasonable suspicion drug/alcohol test and to complete the *Reasonable Suspicion Testing Consent Form* (hereinafter Consent Form).
 - (c) Review the Consent Form with the employee and request that they sign the Consent Form indicating their consent or

refusal to the testing. As an example, the following can be said to the employee:

We believe you are in violation of the Drug free workplace policy. We are requesting that you submit to a reasonable suspicion drug/alcohol test. This test will involve screenings to detect the presence of alcohol or drugs in your system.

A positive test could result in corrective action, up to and including termination of your employment.

Please read this consent form and sign in the appropriate area to indicate either your consent to or your refusal to the test.

Failing to submit to testing or complete the testing may lead to corrective action, up to and including termination of employment.

- (4) Union representation. An employee who is covered by a collective bargaining agreement (ACE, APAS, FOP, OEA) may request union representation and/or consult with a union representative. If the employee makes such a request, up to one-half hour will be made available to obtain this representation.
- (F) Employee consents to testing procedures.
- (1) Manager contacts the University's third-party reasonable testing provider and arranges for on-site testing:

On Demand Occupational Medicine
330-270-3660 24/7 On-Site Testing Services.
 - (2) Manager remains with the employee until the testing is completed.
 - (3) Manager informs the employee that after the testing is

complete, they must arrange for transportation and cannot drive themselves. The manager may wait with the employee for transportation to arrive.

- (4) Inform the employee that they cannot return to work and are being placed on paid administrative leave pending the results of testing.
 - (5) At the University's discretion and in lieu of paid administrative leave while testing results are pending, the employee may be assigned duties that will not pose a threat of personal harm to the employee, to others, or the potential for damage to university property.
 - (6) Forward the Checklist and Consent Form and any other relevant information to the ATTENTION of the Chief Human Resources Officer at Benefits@YSU.edu.
- (G) Employee refuses to consent to testing procedures. If the employee completes the Consent Form and refuses testing or indicates non-agreement to testing:
- (1) Inform the employee that they cannot return to work, and they are being placed on paid administrative leave pending University assessment of the situation.
 - (2) Inform the employee that they must arrange for transportation and cannot drive themselves. The supervisor/manager may wait with the employee for transportation to arrive.
 - (3) An employee who refuses testing cannot be assigned other duties in lieu of paid administrative.
 - (4) Forward the Checklist and Consent Form and any other relevant information to the ATTENTION of the Chief Human Resources Officer at Benefits@YSU.edu.
- (H) Employee refuses to arrange for transportation. If an employee refuses to arrange for transportation or signals that they will be driving themselves, call the Youngstown State University Police Department, as soon as

possible, and advise them that the employee, who is believed to be impaired, is leaving the workplace and may be driving. For situations which do not occur on or in the vicinity of the YSU Campus, contact the local/applicable safety forces.

- (I) Immediate threat. Assess the situation for immediate threat of personal harm to the employee, to others, or the potential for damage to university property.
 - (1) Notify the Youngstown State University Police Department (YSU PD, 330-941-3527) if you believe an immediate threat exists.
 - (2) For situations which do not occur on or in the vicinity of the YSU Campus, contact the local/applicable safety forces.
- (J) Follow-Up. After the immediate situation has been managed, the manager will contact the University's CHRO or Director of Labor Relations to discuss next steps including but not limited to any injury/incident reports, disciplinary action, and Employee Assistance Program referral.

FORMS:

Reasonable Suspicion Testing Checklist
Reasonable Suspicion Testing Consent Form

UNIVERSITY POLICY:

3356-7-20 Drug-free environment