

ORAL ROBERTS UNIVERSITY AMENDED
DRUG AND ALCOHOL TESTING PLAN

Effective November 1, 2011

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ORAL ROBERTS UNIVERSITY'S DRUG AND ALCOHOL TESTING PLAN

I. INTRODUCTION

A. Statement of Policy

A strong commitment to the health, safety and welfare of our employees, students, and guests underlies Oral Roberts University's (hereinafter also referred to as "Company" or "ORU") compelling interest in eliminating drug and alcohol use and their effects from the workplace. Employees of ORU may not use, possess, distribute or be under the influence of alcohol or illegal drugs. ORU's commitment to maintain a safe, secure and drug free educational environment and workplace and to practice the policy and supportive programs relating to the detection, treatment and prevention of substance abuse by employees provides the basis for the implementation of the ORU Drug and Alcohol Testing Plan (or the "Plan").

B. Nature and Type of Drug and Alcohol Testing

ORU's Plan includes the following types of drug and alcohol testing: (1) applicant testing of certain employees in positions affecting health, safety and welfare; (2) for-cause testing; (3) post accident testing; and (4) testing as part of or as a follow-up to counseling or rehabilitation. ORU reserves the right to increase or decrease testing based on its mission, availability of resources, and experience in the Plan, consistent with its policy to maintain achieve a drug and alcohol-free workplace.

C. Drugs for Which Individuals are Tested

The alcohol and drugs for which Employees will be tested include:

1. Alcohol
2. Amphetamines: Speed, Meth, Crank, Crystal
3. Opiates: Morphine, Heroine, Codeine
4. Cannabinoids: Marijuana, Pot, THC, Hashish
5. Cocaine: Crack, Coke
6. Phencyclidine: PCP
7. Barbiturates
8. Benzodiazepines: Valium, Xanax
9. Methadone
10. Propoxyphene: Darvon, Darvocet
11. Methaqualone: Quaaludes

II. DEFINITIONS

- A. Alcohol means any ethyl alcohol or ethanol;
- B. Applicant means any individual who has applied for a position with ORU.
- C. Drug and Alcohol Testing Committee is comprised of the Human Resource Director, ORU's Director of Public Safety & Security, and ORU's Chief Operations Officer. The Committee is responsible for receiving complaints and appeals from Employees regarding the Plan.
- D. Confirmation Test means a drug or alcohol test on a sample to substantiate the results of a prior drug or alcohol test on the same sample and which uses different chemical principals and is of equal or greater accuracy than the prior drug or alcohol test;
- E. For-cause testing means at any time ORU reasonably believes that the employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:
1. drugs or alcohol on or about the employee's person or in the employee's vicinity;
 2. conduct on the employee's part that suggests impairment or influence of drugs or alcohol;
 3. a report of drug or alcohol use, possession, sale, solicitation or transfer of drugs while at work or on duty;
 4. information that an employee has tampered with drug or alcohol testing at any time;
 5. negative performance patterns; or
 6. excessive or unexplained absenteeism or tardiness.
- E. Employee Assistant Program ("EAP") means the ORU program that offers drug and alcohol dependency evaluation and assessment, and referral services to employees for a wide range of drug and alcohol counseling, treatment and rehabilitation, and monitors the progress of employees while in treatment;
- F. Drug or alcohol test means a chemical test administered for the purpose of determining the presence or absence of a drug or its metabolites or alcohol in a person's bodily tissue, fluids or products. Adulteration of a specimen or of a drug or alcohol test shall be considered as a refusal to test;
- G. Employee means any person who supplies labor for remuneration to ORU;

I. Review Officer means a person qualified by the State Board of Health who is responsible for receiving results from the Testing Facility which has been generated by ORU's Drug and Alcohol Testing Plan and who has knowledge and training to interpret and evaluate an individual's test results, together with the individual's medical history and any other relevant information;

J. Sample means tissue, fluid or product of the human body chemically capable of revealing the presence of drugs or alcohol in the human body, including urine, saliva or hair.

K. Testing Facility means any person a facility which provides laboratory services to test samples for the presence of drugs or alcohol.

III. EMPLOYEE ASSISTANCE PROGRAM

A. Function

ORU's Employee Assistance Program ("EAP") plays an important role in identities, preventing and resolving drug and alcohol use by:

1. Providing drug and alcohol referral services to appropriate treatment and rehabilitative facilities to discontinue drug and alcohol use;
2. Providing drug and alcohol educational materials to supervisors and employees on drug and alcohol use issues;
3. Assisting supervisors in addressing employees who have performance and/or conduct problems that may involve drug and/or alcohol issue; and
4. Providing follow-up with individuals during the rehabilitation period to track their progress and encourage successful completion of the program.

ORU's Employee Assistance Program is a non-monetary program and ORU will not pay costs associated with counseling, rehabilitation or treatment. Employees are encouraged to determine what, if any, expenses are eligible for coverage under ORU's applicable Health Insurance Plan.

B. Referral and Availability

Any Employee found to be using drugs or alcohol shall be referred to the EAP. The EAP shall be administered separately from the testing program, and shall be available to all employees without regard to a finding of drug or alcohol use. The EAP shall provide dependency evaluation and referral services for substance abuse counseling, treatment or rehabilitation. It is the sole

responsibility of the employee to avail himself or herself of the EAP and to successfully complete any counseling, rehabilitation or treatment program.

C. Leave Allowance

Employees shall be allowed up to one (1) hour (or more as necessitated by travel time) of excused absence for each counseling session, up to a maximum of ten (10) sessions, during the assessment/referral phase of rehabilitation. Employees must receive written authorization from the Drug and Alcohol Testing Committee for any additional leave. Absences during duty hours for rehabilitation or treatment must be charged to the appropriate category for either paid or unpaid in accordance with the applicable law, regulations and ORU policy.

D. Records and Confidentiality

ORU shall not, unless authorized and released in writing by the Employee, disclose any information to the EAP regarding an employee's drug or alcohol test. However, once a written request is made, it is the responsibility of the employee, in conjunction with the EAP, to assure that records and information disclosed remain confidential.

IV. DUTIES AND RESPONSIBILITIES

A. Human Resource Director

The Human Resource Director shall be responsible for implementing, directing, administering, and managing the Plan, shall serve as the principal contact with the Testing Facility and Review Officer and be responsible for assuring the effective operation of the testing portion of the Plan. In the event of the absence of the Human Resource Director, the Associate Director of Employee Relations will assume all the responsibilities and duties of the Human Resource Director under this Plan. In carrying out these responsibilities, the Human Resource Director shall, among other duties:

1. Arrange for all testing authorized under this Plan;
2. Ensure that all employees receive individual notice of this Plan prior to implementation of the Plan, and that such employee's return a signed acknowledgment of receipt form;
3. Receive verified test results from the Review Officer;
4. Receive, maintain and secure all documents relating to employee drug and alcohol tests and records;

5. Conduct all other activities reasonable and necessary to carry out and implement this Plan.

B. Testing Facility

The Testing Facility shall be responsible for obtaining and maintaining licensing with the Board of Health and compliance with all rules, regulations, procedures and testing standards, including, but not limited to, maintaining:

1. Qualifications and licensing with the Oklahoma State Board of Health;
2. Qualified Testing Facility personnel;
3. Body component samples that are appropriate for drug and alcohol testing;
4. Methods of analysis and internal quality control procedures to ensure reliable test results;
5. Internal review and certification process for test results;
6. Security measures to preclude adulteration;
7. Chain-of-custody procedures;
8. Retention and storage procedures and durations to ensure availability of samples for retesting;
9. Procedures for ensuring confidentiality of test results;
10. Proficiency testing;
11. Training and qualifications of Review Officers;
12. Training and qualifications of collection site personnel;
13. Sample collection procedures that ensure the privacy of the individual and prevent and detect tampering with the sample;
14. Sample documentation, storage and transportation to the Testing Facility; and
15. Compliance with any and all federal, state and local laws, ordinances and regulations relating to drug and alcohol testing.

The Testing Facility shall be responsible for assuring that all sample collection and testing for drugs and alcohol pursuant to the provisions of this Plan shall be conducted in accordance with the law and Board rules and regulations, including those set forth in the Plan.

C. Review Officer

The Review Officer shall, among other duties:

1. Receive all results of drug and alcohol tests from the Testing Facility;
2. Assure that an individual who has tested positive has been afforded an opportunity to discuss the test result;
3. Consistent with confidentiality requirements, refer written determinations regarding all verified positive test results to the Human Resource Director, including a positive drug test result form indicating that the positive result has been verified, together with all relevant documentation and a summary of findings;
4. Confirm with the appropriate personnel official whether an individual who has been tentatively selected for employment has obtained a verified positive test result;
5. Coordinate with and report to the Director of Human Resources on all activities and findings on a regular basis.

V. NOTICE

A. General Notice

A general Notice from ORU announcing the testing program has been provided to all Employees no later than thirty (30) days prior to the implementation date of the Plan. The Notice shall explain:

1. The purpose of the Plan;
2. The availability and procedures to obtain referral services for counseling and rehabilitation through the EAP;
3. The circumstances under which testing may occur;
4. That opportunity will be afforded to submit medical documentation of lawful use of a prescribed drug;

5. That positive test results may only be disclosed to the employee, the Testing Facility, the Review Officer, the appropriate officials of ORU, a court of law or administrative tribunal, or as required by law; and
6. That all medical and rehabilitation records are confidential records of ORU and may only be disclosed with the employee's prior written authorization and release, by an authorizing court order or as otherwise permitted by law.

Ten (10) days advance notice to employees will be provided for any changes or amendments to the plan.

B. Signed Acknowledgment

Each employee may be asked to acknowledge in writing that the employee has received and read the Notice which states that the Employee may be subject to drug and alcohol testing, and that refusal to submit to testing will result in disciplinary action, up to and including dismissal. If the employee refuses to sign the acknowledgment, the employee's supervisor shall note on the acknowledgment form that the employee received the Notice and refused to sign the acknowledgment.

VI. FOR-CAUSE TESTING

A. Testing Considerations

ORU may request or require an employee to undergo drug or alcohol testing at any time it reasonably believes that the employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:

1. Drugs or alcohol on or about the employee's person or in the employee's vicinity;
2. Conduct on the employee's part that suggests impairment or influence of drugs or alcohol;
3. A report of drug or alcohol the use, possession, sale, solicitation or transfer of drugs while at work or on duty;
4. Information that an employee has tampered with drug or alcohol testing at any time;
5. Negative performance patterns; or
6. Excessive or unexplained absenteeism or tardiness.

B. Procedure

If an employee is suspected of using drugs or alcohol in violation of this Plan, the employee's supervisor will gather all information, facts, and circumstances leading to and supporting this suspicion, including, without limitation, the appropriate dates and times of reported drug related incidents, reliable / credible sources of information, rationale leading to the test, and the action taken. Determination of for cause testing will be made by the Human Resource Director in conjunction with the employee's supervisor and any other individual deemed necessary by ORU. The determination of whether for-cause testing is necessary is within the sole discretion of ORU.

VII. APPLICANT TESTING

A. Testing Considerations

ORU will conduct drug and alcohol testing of applicants for certain positions that directly and immediately relate to health, safety, welfare of students, employees, guests and invitees. The listing of these positions, which may be amended from time to time by ORU, is set forth on Exhibit "A" attached hereto.

B. Procedures

Applicants will be directed to the Testing Facility. The drug and alcohol test must be undertaken as soon after notification as possible, as and no later than 48 hours after notice to the applicant. Where appropriate, applicants may be reimbursed for reasonable travel expenses.

Applicants have the opportunity to submit medical documentation that may support a legitimate use of a specific drug and that such information will be reviewed to determine whether the individual is licitly using an otherwise illegal drug.

C. Consequences

Any conditional offer of employment to any applicant with a verified positive test result or who refuses to timely undergo testing shall automatically become null and void. Such an applicant may reapply to ORU after a period of six (6) months or upon submission of written verification of successful completion of alcohol and/or drug rehabilitation program.

VIII. POST ACCIDENT TESTING

A. Testing Considerations

ORU may request or require an employee to undergo drug or alcohol testing at any time it reasonably believes that the employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:

1. drugs or alcohol on or about the employee's person or in the employee's vicinity;
2. conduct on the employee's part that suggests impairment or influence of drugs or alcohol;
3. a report of drug or alcohol use while at work or on duty;
4. information that an employee has tampered with drug or alcohol testing at any time;
5. negative performance patterns; or
6. excessive or unexplained absenteeism or tardiness

B. Procedure

If an employee is suspected of using drugs or alcohol in violation of this Plan, the employee's supervisor will gather all information, facts, and circumstances leading to and supporting this suspicion, including, without limitation, the appropriate dates and times of reported drug related incidents, reliable/credible sources of information, rationale leading to the test, and the action taken. Determination of for-cause testing will be made by the Human Resource Director in conjunction with the employee's supervisor and any other agent of ORU. Determination of whether testing is necessary is within the sole discretion of ORU.

A written record of the chain of custody of the sample shall be maintained from the time of the collection of the sample until the sample is no longer required.

IX. FOLLOW-UP TESTING

A. Testing Considerations

All employees who have a confirmed positive drug or alcohol test result or undergo a counseling or rehabilitation program for illegal drug or alcohol use or will be subject to unannounced testing following completion of such a program for a period of two (2) years.

B. Procedure

An employee selected for follow-up testing shall be notified the same day the test is scheduled, preferably within two hours of the scheduled testing. The supervisor shall explain to the

employee that the employee is under no suspicion of violating the drug and alcohol policy and that the employee was selected for follow-up testing.

X. FINDING OF DRUG AND ALCOHOL USE AND DISCIPLINARY CONSEQUENCES

A. Determination

An employee may be found to have violated the prohibition against drug and alcohol use on the basis of any appropriate evidence including, but not limited to:

1. Direct observation;
2. Evidence obtained from criminal conviction;
3. A confirmed positive test result; or
4. An employee's voluntary admission.

Determination of whether an employee is reasonably believed to have violated this Plan is within the sole discretion of ORU.

B. Range of Consequences

ORU shall refer an employee found to have used alcohol or drugs to the EAP. Disciplinary action taken against an employee who has violated the policy against drug and alcohol use or refuses to timely submit to testing may include the full range of disciplinary actions. The severity of the action chosen will depend on the circumstances of each case. ORU may initiate disciplinary action against any employee who has violated the Policy after receiving a confirmed positive test result. Such disciplinary action may include, without limitation, any of the following measures:

1. Reprimanding the employee in writing;
2. Removing the employee from the work environment pending further decision by ORU;
3. Suspending the employee until the employee successfully completes the EAP or until ORU determines that action other than suspension is more appropriate;
4. Terminating the employee's employment; or
5. An employee's refusal to undergo a post-accident drug and alcohol test will bar the employee's right to workers' compensation benefits. An employee who test positive

or refuses to take a drug test is not entitled to show the drug or alcohol use was not the proximate cause of the injury or accident claiming workers' compensation benefits.

Applications for employment are conditioned on submission to and passage of drug and alcohol testing. Attempts to alter or substitute the specimen provided will be deemed a refusal to take the drug and alcohol test as required.

XI. TEST PROCEDURES IN GENERAL

A. Guidelines for Workplace Drug and Alcohol Testing

ORU's Plan shall be implemented in accordance with the Oklahoma Standards for Workplace Drug and Alcohol Testing Act, Okla. Stat. tit. 40 ' 551 et seq. as amended and any other controlling law or regulation.

B. Privacy Assured

Any individual subject to testing under this Plan shall be permitted to provide urine specimens in private and in a rest room stall or similar enclosure so that the individual is not observed while providing the sample. However, testing will be conducted in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples.

ORU will allow for testing for drugs or alcohol by other methods which is reasonably calculated to detect the presence of drugs or alcohol, including, but not limited to, breathalyzer testing, testing by use of a single-use test device, known as an on-site or quick testing device, to collect, handle, store and ship a sample collected for testing. Provided, the breathalyzer test shall not be grounds for immediate termination absent a confirmation test.

C. Time of Testing

Drug and alcohol testing will occur during or immediately after the regular work period of Employees and shall be deemed work time for purposes of compensation and benefits. ORU shall pay for costs of drug and alcohol testing. If an employee or applicant requests a confirmation test of a sample within twenty-four (24) hours of receiving notice of a positive test in order to challenge the results of a positive test, the employee or applicant shall pay all costs of the confirmation test. If the confirmation test reverses the findings of the challenged positive test, the employer shall reimburse the individual for the costs of the confirmation test.

D. Collection

Collection of drug and alcohol samples shall be in accordance with the following guidelines:

1. Samples are to be collected and tested only by individuals deemed qualified by the State Board of Health;
2. Samples may be collected on the premises of ORU;
3. Only samples deemed appropriate by the State Board of Health for drug and alcohol testing shall be collected, which may include urine, oral swab and hair;
4. The collection of samples shall be performed under reasonable and sanitary conditions;
5. A sample shall be collected in sufficient quantity for splitting into two separate specimens, pursuant to rules of the State Board of Health, to provide for any subsequent independent analysis in the event of a challenge of the test results of the main specimen;
6. Samples shall be collected and tested with due regard to the privacy of the individual being tested. In the instances of urinalysis, neither ORU nor its representative, agent or designee shall directly observe an applicant or employee in the process of producing a urine sample. However, collection of urinalysis samples shall be in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples;
7. Sample collection shall be documented, and the documentation procedures shall include, but not be limited to, the following:
 - a. Labeling of samples so as reasonably to preclude the probability of erroneous identification of test results, and
 - b. An opportunity for the applicant or employee to provide notification of any information which the applicant or employee considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs, or other relevant information.
8. Sample collection, storage and transportation to the Testing Facility shall be performed so as to reasonably preclude the probability of sample contamination or adulteration;
9. Sample testing shall conform to scientifically accepted analytical methods and procedures. Testing shall include confirmation of any positive test result by gas chromatography, gas chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as approved by Board rule, at the cutoff levels as determined by Board rule.

The Testing Facility or the Review Officer shall not disclose to ORU, based on the analysis of a sample collected from an applicant or Employee for the purpose of testing for presence of drugs or alcohol, any information relating to:

1. The general health, pregnancy or other physical or mental condition of the applicant or employee; or
2. The presence of any drug other than the drug or its metabolites that ORU requested be identified and for which a medically acceptable explanation of the positive result, other than the use of drugs, has not been forthcoming from the applicant or employee. However, the Testing Facility shall release the results of the drug or alcohol test, and any analysis and information related thereto, to the individual tested upon his or her request.

E. Failure to Appear for Testing

Failure to appear for testing without a deferral will be considered refusal to participate in testing, and will subject an Employee to the range of disciplinary actions, including dismissal, and render a conditional offer of employment to an applicant automatically null and void.

F. Opportunity to Justify a Positive Test Result/Appeal Procedure

When a confirmed positive result has been returned by the Testing Facility, the Human Resource Director shall notify the employee or applicant of the positive test result. The individual may justify the result by evidence which may include, but is not limited to:

1. A valid prescription; or
2. A verification from the individual's physician verifying a valid prescription.

Evidence or verification of a positive test result may be presented to the Drug and Alcohol Testing Committee. An employee or applicant may also appeal decisions regarding drug or alcohol testing, disciplinary matters, or any action taken under this policy to the Drug and Alcohol Testing Committee.

Individuals are not entitled, however, to present evidence in a trial-type administrative proceeding. The Committee has the discretion to accept evidence in any manner deemed most efficient or necessary. If the Committee determines that there is no justification for the positive result, the result will then be considered a verified positive test.

G. Employee Counseling and Assistance

Upon request, while participating in a counseling or rehabilitation program, an Employee may be exempted from random testing for a period not to exceed sixty (60) days. Upon completion of the program, the employee shall be subject to follow-up testing.

H. Savings Clause

To the extent that any of the procedures specified in this Plan are inconsistent with any of those specified in the Oklahoma Standards for Drug and Alcohol Testing Act, any subsequent amendment thereto or other controlling law, such procedures and/or amendment shall supersede the procedures specified in this Plan, but only to the extent of the inconsistency.

XII. RECORDS AND REPORTS

A. Confidentiality Records

ORU shall maintain all drug and alcohol test results and related information, including, but not limited to, interviews, reports, statements and memoranda, as confidential records, separate from other personnel records. These records shall be the property of ORU and, upon the request of the applicant or employee tested, shall be made available for inspection and copying. ORU will not release such records to any person other than the applicant, employee or the Review Officer, unless the applicant or employee provides written authorization and release for disclosure of the records or unless otherwise required by law.

The Testing Facility may disclose laboratory test results to the Human Resource Director, Drug and Alcohol Testing Committee or Review Officer. The results of a drug and alcohol test of an Employee may not be disclosed without the prior written consent of such employee or applicant, unless the disclosure would be--

1. To the Human Resource Director or Drug and Alcohol Testing Committee;
2. To any supervisory management official with ORU having authority to take adverse personnel action; or
3. Pursuant to the order of a court or other valid legal requests.

B. Confidentiality of Records in General

All drug and alcohol testing information specifically relating to individuals is confidential and should be treated as such by anyone authorized to review or compile Plan records. In order to efficiently implement this Plan and to make information readily retrievable, the Human Resource Director shall maintain all records relating to this Plan and testing conducted pursuant to the Plan, separate and apart from the employee's personnel records.

All records and information of the personnel actions taken on employees with verified positive test results should be forwarded to the Human Resource Director. Such shall remain confidential, with only authorized individuals who have a "need-to-know" having access to them.

XIII. VIOLATIONS OF PLAN AND LAW

Any person aggrieved by a willful violation of the Standards for Workplace Drug and Alcohol Testing Act may institute a civil action in a court of competent jurisdiction within one (1) year of the person's discovery of the alleged willful violation or of the exhaustion of any internal administrative remedies available to the person, or be barred from obtaining the relief.

Any person who willfully and knowingly violates the provisions of the Standards for Workplace Drug and Alcohol Testing Act shall be guilty of a misdemeanor and, upon conviction, punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or imprisonment in the county jail for not more than one (1) year or by both such fine and imprisonment.

EXHIBIT “A”

Positions determined by ORU to directly involve health, safety and welfare issues for which applicant testing shall be conducted include:

1. Engineer and Maintenance personnel (including Chief Electrician, Chief Engineer, Utility Technicians, Maintenance Mechanics, Locksmith, Groundskeeper, First Class Engineers, Operations Manager, the Chief Mechanic and Safety/Compliance Coordinator and the Summer Grounds/Maintenance Help).
2. Security Personnel (Security Officers, Security Supervisors, Security Technicians and Fire Marshal), and Security Management.

Updated 11/-2011

(Continued)

**ORAL ROBERTS UNIVERSITY ACKNOWLEDGEMENT OF RECEIPT
OF DRUG AND ALCOHOL TESTING PLAN**

Name: _____ Employee # _____
Print Clearly

I acknowledge that I have received a copy of the Oral Roberts University Drug and Alcohol Testing Plan (“Plan”) upon its adoption or my receipt of a conditional offer of employment. As part of my employment with ORU, I understand that I may be required to submit to the drug and alcohol tests as outlined in the Plan or any subsequent changes to the Plan, including:

1. Pre-employment testing (for certain positions);
2. For-cause testing;
3. Post Accident; and
4. Follow-up Testing

Signature _____ Date _____