

**PPP-71 Reasonable Suspicion Drug Testing for Child Care Workers**

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East Tennessee State University is committed to providing a safe work environment and fostering the well-being and health of its employees. East Tennessee State University has a Drug-Free Workplace policy in place which prohibits the unlawful manufacture, distribution, dispensation, possession or use of controlled substances or alcohol in the workplace.

Additionally, Tennessee Code Annotated Sec. 71-3-514 requires child care agencies regulated by the Department of Human Services to establish a drug testing policy for employees, directors, licensees, independent contractors and operators, and any other persons providing services under contract or for remuneration for the child care agency that have direct contact with the children (hereinafter referred to as “employee”).

**Applicability**

This policy applies to individuals who have direct contract with children in a child care center regulated by the Tennessee Department of Human Services. “Direct contact” shall mean that the person is engaged in care, supervision, instruction or transportation of the child as part of the person’s employment, contract or other paid duties for or on behalf of the child care agency, or has frequent, periodic access to the child in the performance of employment, contract or other paid duties or services for or on behalf of the child care agency.

**Notice**

This policy shall be provided to employees of the child care center currently employed or engaged for contract or remunerative services, and to all such persons upon initial employment or initial engagement in contract or remunerative services for the institution’s child care center.

Each employee shall be required to sign a statement certifying that he/she has received a copy of the policy. This certificate should be filed in the employee’s personnel file maintained by the Office of Human Resources during the term of his/her employment and retained pursuant to the institution’s records retention policy.

**Reasonable Suspicion Testing**

This policy requires reasonable suspicion drug testing when there is reasonable cause to believe the employee is using or is under the influence of illegal drugs.

Events that may give rise to reasonable suspicion for purposes of requiring a drug test include, but are not limited to:

1. Deterioration in job performance or changes in personal traits or characteristics;
2. Appearance in a specific incident or observation which indicates that an individual is under the present influence of drugs;
3. Changes in personal behavior not attributable to other factors;
4. Involvement in or contribution to an accident where the use of drugs is reasonably suspected, regardless of whether the accident involves actual injury; or,
5. Alleged violation of or conviction of criminal drug law statutes involving the use of illegal drugs or prescription drugs.

Any employee to whom this policy applies who reports to work visibly impaired or who, while at work becomes visibly impaired, will be deemed unable to perform required duties and will not be allowed to

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work or continue working. A supervisor's determination that reasonable suspicion exists to require a drug test must be based on specific, contemporaneous, articulable observations. If possible, the employee's supervisor will first seek another supervisor's opinion to confirm the employee's status. Next, the supervisor will consult privately with the employee to determine the cause of the observation including whether substance abuse has occurred. If, in the opinion of the supervisor, the employee is impaired due to conduct prohibited under this policy, the employee will be sent to a facility utilized for drug testing. The employee should not drive him/herself and should be accompanied by the supervisor. The supervisor must document the bases for requiring the testing.

### **Consequences**

An employee who tests positive for illegal drug use pursuant to this policy shall be subject to immediate disciplinary action up to and including termination of employment.

An employee who refuses to submit to testing or who fails to provide adequate urine for testing without a valid medical explanation is subject to immediate disciplinary action up to and including termination.

### **Specimen Collection**

Specimen collection for urine drug testing will be conducted in accordance with protocols established by The College of American Pathologists; and/or, The National Laboratory Certification Program of the U.S. Department of Health and Human Services ("DOT Labs") in order to assure the integrity of the specimen.

### **Laboratory Testing**

All drug testing will be performed by a laboratory certified by The College of American Pathologists; and/or, The National Laboratory Certification Program of the U.S. Department of Health and Human Services ("DOT Labs"). Initial screening will be by immunoassay testing. All specimens which screen positive will be confirmed positive by Gas Chromatography / Mass Spectrometry (GC/MS). The laboratory shall report tests to the Medical Review Officer (MRO). The laboratory performing drug testing shall be designated by the Third Party Administrator, the entity that, on behalf of East Tennessee State University provides independent substance abuse program administrative services in accordance with the Institution's policy and procedures, and applicable state and federal requirements.

### **Medical Review**

The medical review of drug test results will be performed by a physician trained and experienced in substance abuse and designated by the Third Party Administrator. All test results will be reported directly from the testing laboratory to a MRO. The MRO will interpret, evaluate, and monitor the drug testing program. The MRO will review and interpret each laboratory-confirmed positive and interview the donor by telephone to determine if there is an alternative medical explanation for the positive results. The MRO will make final verification of the test result and report the verified test result to the designated institutional official. The MRO will, upon request from the donor, arrange for a re-test of a verified positive specimen.

The MRO shall notify the institution of the drug test results.

The MRO shall maintain all records related to drug test information and shall not release any results to any party, other than East Tennessee State University, unless authorized solely pursuant to a written consent form signed voluntarily by the person tested, unless such release is compelled by a hearing officer

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or a court of competent jurisdiction pursuant to an appeal taken, relevant to a legal claim asserted by the employee or is deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding.

**Confidentiality**

All test results information maintained by East Tennessee State University will remain strictly confidential. East Tennessee State University will keep drug test result information in a secure location separate from personnel files to minimize the exposure and possible breach of confidentiality. Only institutional personnel who have a legitimate need to know will be allowed access to test result information.

**Record Retention**

The drug testing results of tests required under this policy shall be retained for a period of five (5) years and immediately made available to the Department of Human Services upon request.

**Legally Prescribed Medications**

Use of legally obtained drugs (including alcohol or other chemicals) which may adversely affect job performance or safety is prohibited. An employee with a current and valid prescription from a qualified health care provider for the use of a drug must notify his/her supervisor of such use and the possible side effects of any such drug or medication where the employee may be impaired by the use of such drug. An opinion may be required from the health care provider prescribing the medication that such will not impair the employee's performance of his/her normal duties. East Tennessee State University may, at its discretion, require an employee to refrain from working while impaired by any drug or medication.

Employees have the right to consult with the MRO for technical information regarding prescription and nonprescription medicine.

**Cost of Testing**

It shall be the responsibility of the employee who is to be tested to pay the appropriate fees necessary to obtain a drug test pursuant to this policy, or to obtain a re-test of the specimen collected.

**East Tennessee State University | Office of Human Resources**  
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ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING REASONABLE SUSPICION  
DRUG TESTING FOR CHILD CARE WORKERS

I, \_\_\_\_\_, certify that I have received a copy of and have read East Tennessee State University’s policy on Reasonable Suspicion Drug Testing for Child Care Workers. I have had the policy explained to me and I have had the opportunity to ask questions about it. I understand that, as identified by my supervisor, if my performance indicates that there is reasonable suspicion to believe that I am using or am under the influence of illegal drugs, I must submit to a urine drug test. I also understand that refusal to submit to a drug test, failure to provide adequate urine for testing without a valid medical explanation, or a positive result following a drug test subjects me to immediate disciplinary action up to and including termination.

\_\_\_\_\_  
Employee (please print)

\_\_\_\_\_  
Employee’s signature

\_\_\_\_\_  
Date