

3.470 RCUH Drug-Free Workplace

I. Policy

The RCUH is committed to protecting the safety, health, and well-being of all employees and individuals in the workplace; eliminating disruptive or illegal drug-related activity in the workplace; and complying with the requirements of the [Federal Drug-Free Workplace Act of 1988](#).

This policy recognizes that employee involvement with drugs can pose a significant threat to our goals, be very disruptive, adversely affect the quality of work and performance of employees, pose serious health risks to users and others, and have a negative impact on productivity and morale.

All employees are strictly prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace. Violations of this policy may result in appropriate disciplinary action including termination of employment.

II. Responsibilities

A. RCUH Employee

1. Abide by the terms of this policy and other drug-related laws and regulations;
2. Notify Principal Investigator/designee in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) calendar days after such conviction;
3. Report any drug addiction problem to the Principal Investigator/designee and request an appropriate type of leave (e.g., sick leave, vacation leave, leave without pay, or other appropriate leave) to attend a drug abuse assistance or rehabilitation program approved by the employer.

B. Principal Investigator

1. Immediately notify the Director of Human Resources after receiving notice of any employee's drug conviction from the employee, the courts, or any similar, reliable source.

III. Applications

This policy applies to RCUH employees whose positions are funded either directly or indirectly, either wholly or in part, by federal funds received from a federal agency under a federal grant or contract or who would otherwise be covered under the [Drug-Free Workplace Act of 1988](#).

IV. Details of Policy

A. Definitions Relating to Drug-Free Workplace

1. Contract: A legally enforceable agreement between a federal agency and an individual or organization.
2. Contractor: The department, division, or other unit of person(s) responsible for the performance under the contract.
3. Controlled Substance: A list of controlled substances can be found in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in Regulation 21 CFR 1308.11-1308.15. Any drug or substance on any of the schedules of the State of Hawaii's or the federal government's controlled substance laws.
4. Conviction: A finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.
5. Criminal Drug Statute: A federal or non-federal criminal statute prohibiting the manufacture, distribution, dispensing, possession or use of any controlled substance.
6. Drug: For purposes of this policy, the same as "controlled substance."
7. Drug Abuse: The misuse of a controlled substance or the use of a controlled substance to an extent deemed deleterious or detrimental to the user, to others, or to society.
8. Drug-Free Workplace: The site(s) for the performance of work done by the contractor/grantee in connection with a specific contract/grant at which employees of the contractor/grantee are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of any controlled substance.
9. Employee: An individual engaged in the performance of work pursuant to a federal grant or contract or an individual whose work or time is charged to or otherwise covered by the grant or contract, including
 - a. All "direct charge" employees whose services are directly and explicitly paid from grant or contract funds
 - b. All "indirect charge" employees (i.e., those persons who perform support or overhead functions related to the grant or contract and for which the federal agency pays its share of expenses) unless their impact or involvement is insignificant to the performance of the grant or contract
 - c. Temporary personnel and consultants who are directly engaged in the performance of work under the grant or contract and who are on the grantee's or contractor's payroll. Any other person who is on the grantee's or contractor's payroll and who works in any activity under the grant or contract, even if not paid from grant or contract funds, is also considered to be an employee. This definition does not include workers not on the payroll of the grantee or

contractor (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the payroll; or employees of sub-recipients or subcontractors in covered workplaces).

10. Grant: An award of financial assistance—including a cooperative agreement—in the form of money, or property in lieu of money, by a federal agency directly to a grantee. The term grant includes block-grant and entitlement-grant programs. The term does not include any benefits to veterans or their families.
11. Grantee: A person who applies for or receives a grant directly from a federal agency. The place of performance of a grant is wherever activity under the grant occurs.
12. Individual: A grantee/contractor who is a “natural person.” This wording emphasizes that an individual differs both from an organization made up of more than one individual and from corporations, which can be regarded as a single “person” for some legal purposes.
13. Organization: A grantee/contractor other than an individual.

B. Notification of Criminal Drug Statute Convictions

1. Employees Must Notify Principal Investigator of Criminal Drug Convictions: As a condition of continued employment, all employees must notify their Principal Investigator or authorized designee of any criminal drug conviction for a violation occurring in the workplace or while on working time. A criminal drug violation includes the use or possession of controlled substances. This notification must be made in writing to your Principal Investigator within five (5) calendar days of the conviction.
2. Employment Action for Convicted Employees: An employee convicted of a criminal drug violation may be subject to appropriate disciplinary action including immediate discharge, particularly where the circumstances warrant (e.g., in certain health-, safety-, or security-related occupations).

Where immediate discharge is not indicated, an employee convicted of the use or possession of controlled substances and who has a drug-dependency problem may be required to satisfactorily complete a drug-abuse assistance or rehabilitation program approved by the employer.

Failure to Notify Principal Investigator of Criminal Drug Convictions: An employee who fails to meet the notification requirements set forth in Section B above, or who fails to satisfactorily complete a drug treatment program as set forth in Section C below, may be subject to disciplinary action up to, and including, discharge (i.e., termination of employment).

C. Drug Counseling and Rehabilitation Programs

1. Referral to Drug Counseling or Rehabilitation Program May Be Required: Any employee who is drug dependent and/or convicted of a drug violation may be required to enter drug counseling and/or a rehabilitation program approved for such purposes by a federal, State or local health, law enforcement, or other appropriate agency. Information and referral services are available by calling any

substance abuse information center or mental health center operated by the Department of Health.

2. Cost of Program Is the Employee's Responsibility: The cost for such program, if any, will be the employee's responsibility. Private medical insurance plans that may cover such drug treatment programs include HMSA and Kaiser.

D. Possible Consequences for Violations of this Policy

1. Employee May Be Subject to Disciplinary Action Including Discharge: Because violation of the Drug Free Workplace Policy is a very serious matter, the RCUH may discipline or discharge an employee for a first offense. Any disciplinary or discharge action taken by the employer shall be in accordance with applicable policies and procedures.
2. Employee May Be Subject to Other Personnel Actions: Other appropriate personnel actions may include the following:
 - a. If the employee is not able to perform his/her job, he/she may be placed on leave status.
 - b. When the employee is undergoing treatment for drug dependency which will require time off from work, the general rules on leave for illness will apply, including requests for progress reports.
 - c. Where an employee's behavior presents a safety hazard to him- or herself, the public, or co-workers, the employee may be sent home immediately.

E. Relationship to Other Directives and Requirements – If any part of this policy is rendered or declared invalid by reason of any existing administrative rule, or state or federal law, such invalidation of such part or portion of this policy shall not invalidate the remaining portions thereof, and they shall remain in full force and effect.

V. Procedures

A. Notification of Criminal Drug Statute Convictions

1. Employees Must Notify Principal Investigator of Criminal Drug Convictions: Employees must notify their immediate supervisor in writing of any criminal drug convictions occurring in the workplace or while on working time, no later than five (5) calendar days after such conviction.
2. Principal Investigator Must Notify RCUH Human Resources of the Criminal Drug Conviction: The Principal Investigator or authorized designee shall notify the Director of Human Resources after receiving notice of any employee's drug conviction from the employee, the courts, or any similar, reliable source.

Upon receiving this notice, the Executive Director or his designee shall provide written notice to the federal agency issuing the grant or contract, in the manner prescribed by the agency, no later than ten (10) calendar days after such notification is received. Notification to the federal agency shall include the employee's name, position title, and the contract identification number

(regardless of how the information was received, i.e., by the employee, a co-worker, the newspaper, etc.)

VI. Contact

Nelson Sakamoto, Director of Human Resources: (808) 956-6965
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VII. Related Policies/Links

[Federal Drug-Free Workplace Act of 1988, Pub. L. 100-690, Title V, Subtitle D](#)
[Federal Controlled Substances Act, 21 U.S.C. 812](#)
[Title 21, Code of Federal Regulations, 1308.11 through 1308.15](#)
[Hawaii Revised Statutes, Chapter 329, Uniform Controlled Substances Act](#)

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