GENERAL

Virginia Commonwealth University Police Department (VCUPD) is committed to ensuring the public’s safety, preserving public trust and maintaining the integrity of the department and its confidential records, and promoting a workplace that is alcohol and drug free. To this end, this policy establishes procedures for pre-placement drug testing of all applicants offered employment with VCUPD, probable cause testing of all employees for alcohol and/or drug use related to the workplace, and random testing for sworn staff in accordance with law.

Any employee being tested for alcohol and/or drug use or other potential violation of this policy shall be treated with respect and dignity. All employee information of this nature shall be maintained in a confidential manner and shall be shared only with those persons having a work related need to know and/or as required by law.

ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this written directive. Failure to comply will result in appropriate corrective action. Responsibility rests with the division commander to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated.

DEFINITIONS

A. ALCOHOL – For purposes of this policy, alcoholic beverages as defined in “The Alcoholic Beverage Control Act,” Section 4.1-100 of the Code of Virginia, as amended

B. APPLICANT – An individual who seeks employment by completing an application form for vacancy with the VCU Police Department

C. CONTROLLED SUBSTANCE – For purposes of this policy, any prescription drug or substance as classified in Schedules I- VI of the Virginia Drug Control Act, as defined in sections 54.1-3446 through 54.1-3456 of the Code of Virginia (1950), as amended. Examples include, but are not limited to, opiates, amphetamines, cannabinoids, barbiturates, cocaine,
benzodiazepines, phencyclidine, propoxyphene, methadone, and/or “recreational or street” drugs.

D. DRUG

1. Any controlled substance taken other than as prescribed,
2. Over-the-counter medications which may be abused, or
3. Substances not intended for human consumption which, when taken into the body, may impair mental faculties and/or physical performance or alter the mood, perception, or judgment of the individual consuming it.

E. DRUG TEST – A laboratory test administered for the purpose of determining the presence or absence of a Drug or its metabolites. All tests covered by this policy are the federal five drug panel tests unless otherwise specified.

F. EMPLOYEE – For the pre-placement and probable cause testing portions of this policy, employees are defined as sworn and non-sworn personnel of the VCU Police Department. For the random testing portion of this policy, employees are defined as sworn personnel only (police officers, sergeants, lieutenants, captains, Chief).

G. MEDICAL REVIEW OFFICER (MRO) – For purposes of this policy, the Medical Review Officer is designated by the third party vendor providing testing or the Medical Director of Employee Health Services (EHS) for probable cause and consultation on any other testing.

H. PRE-PLACEMENT DRUG TEST – A drug test conducted following an offer of employment.

I. PROBABLE CAUSE – Considering the facts and circumstances known at the time, the belief that an employee is under the influence of or impaired by the use of drugs or alcohol. To determine probable cause, the following factors are possible but not exclusive indicators to consider in conjunction with other relevant information, including the employee’s explanation:

1. The physical symptoms or manifestations of drugs or alcohol use such as altered or slurred speech or repeated incoherent statements; dilated or constricted pupils, flushed skin, excessive sweating; excessive drowsiness or loss of consciousness without reasonable explanation.
2. Unexplained, abrupt or radical changes in behavior such as violent outbursts, hyperactivity, extreme suspiciousness, frequent and/or extreme fluctuations of mood swings without reasonable explanation.
3. Inability to walk steadily or in a straight line, or perform normal manual functions essential to an employee’s position without reasonable explanation.
4. Unexplained, prolonged or frequent disappearances from the work area.
5. Accidents or near-accidents on the job that appear related to unexplained sensory or motor skill malfunctions.
6. Smell of alcoholic beverage on the employee when employee is expected to be performing job duties.

7. The direct observation of drug or alcohol use or unauthorized possession while at work or on duty.

8. A report of Probable Cause provided by a reliable and credible source with personal knowledge.

J. RANDOM DRUG TEST – A drug test conducted randomly while employed.

K. RETURN TO WORK AGREEMENT (RTW) – A written agreement, including a fitness for duty confirmation, between VCU and an employee who has been in treatment or counseling for an alcohol and/or drug related problem and who will be returning to work at VCU.

L. TESTING - A test administered for the purpose of determining the presence or absence of a drug, its metabolites or alcohol.

M. WORKPLACE - Any VCU property, whether owned or leased, or any site where official duties are being performed by a VCUPD Employee.

PROHIBITIONS AND REQUIREMENTS

A. Pursuant to the VCU Drug and Alcohol Policy employees are prohibited from engaging in the following acts:

1. The unlawful or unauthorized manufacture, distribution, dispensation, possession or use of alcohol or illicit drugs in the workplace, on University property or as part of any University activity, or

2. Reporting to or remaining at work impaired by or under the influence of alcohol or illicit drugs.

B. Employees are required to notify their supervisors immediately if they have been charged with any crime.

C. Employees also are required to report to their supervisors in writing within five calendar days after conviction that they have been convicted of either of the following actions:

1. Violation of any criminal drug law, based upon conduct occurring either in or outside the workplace, or

2. Violation of any alcoholic beverage control law or law which governs driving while intoxicated based upon conduct occurring in the workplace.

PRE-PALCEMENT TESTING PROCEDURES

A. All applicants offered employment with VCUPD will be required to have a pre-placement drug test following an offer of employment. A verified positive test result will be grounds
for withdrawal of the offer. Note: candidates for sworn positions may use their pre-employment drug screen to comply with this pre-placement testing provision.

B. Notification – Job ads and offer letters will inform all applicants that any employment offer is contingent upon taking and passing a pre-placement drug test.

C. Process

1. The **Administrative Coordinator** will schedule the new employee for a pre-placement drug testing, if required, with the testing vendor, or will provide authorization and instructions for alternate testing sites (i.e., testing done by authorized lab in another state).

2. Testing shall occur within 90 days prior to the employee’s first day of work. (In limited circumstances, the new employee may begin limited work prior to the results of drug testing being available. In such cases, if the test results are verified as positive by the MRO, separation from employment will occur.

3. Staff whose drug test results have not been obtained may not be assigned to provide police or security services independently until test results are verified and continued employment is authorized.)

4. New employees will be asked to sign a consent form allowing the drug test and the release of test results to VCU.

5. New employees will be given two opportunities to visit the testing site for pre-placement assessment and testing.

6. Any new employee who fails to report twice for their appointment or who chooses not to participate in the drug testing process will be informed that the employment offer is being withdrawn.

D. Outcome

1. The MRO will make the final determination regarding test validity, and may request re-analysis of the original sample or the collection of a new sample.

2. The MRO will notify the **Administrative Coordinator** if an employee is clear to work or, as described below, will inform the **Administrative Coordinator** that the employee is ineligible to work.

3. New employees whose test results are positive will be contacted by the MRO to discuss test results and will be informed that they have the option of having the same sample retested. New samples may not be submitted. The cost of initial pre-placement drug testing will be paid by VCUPD. If an applicant requests a retest following a positive test result, the cost of the retest will be the responsibility of the applicant.

4. If, following discussion with a new employee about a positive test result, the MRO determines that a legitimate explanation exists for the result, the MRO will report a
verified negative result to the **Administrative Coordinator**. New employees who pass the drug test will continue with employment.

5. If the MRO determines that the applicant has a verified positive drug test, the MRO will report that to **Administrative Coordinator**. The **Administrative Coordinator** will instruct the **hiring manager** to withdraw the offer of employment or to terminate the new employee. The **Administrative Coordinator** also will notify the Human Resources **Consultant** and will modify the application status in the eJobs system.

6. Any new employee who fails pre-placement drug testing will not be considered for employment with VCUPD for a period of 24 months from the date of the test and may be required to provide proof of successful completion of a substance abuse rehabilitation program prior to being considered for employment.

**PROBABLE CAUSE TESTING**

A. Employees shall not report to or remain at work under the influence of alcohol or drugs; use alcohol or drugs in the workplace; or have their job performance impaired as a result of the use of alcohol or drugs.

B. It is the responsibility of each employee to know whether prescription medications being taken by the employee are likely to impair his/her job performance. If the employee knows that a prescription or over-the-counter medication may impair his/her job performance, he/she is must report this circumstance to his/her manager.

C. Reporting of Probable Cause

1. Recognizing the need to protect students, faculty, staff, patients, and citizens and to provide a safe and productive work environment, it is the responsibility of all VCUPD employees to report concerns of probable use of drugs and/or alcohol to the Shift Commander.

2. The Shift Commander will document in writing details of the report, for example, what was seen or heard, how it was encountered, other witnesses, and any other pertinent information related to the event.

3. When a Shift Commander has probable cause to suspect that an employee is in violation of this policy or has received a report of such, he/she shall immediately notify the Chief of Police through internal protocols. The Chief will direct the Commander to immediately contact Human Resources Employee Relations to discuss the appropriate course of action. On a case by case basis, discussion may be required with others in the organization in the decision making process or Employee Assistance Program (EAP) professionals for assistance in identifying behaviors and the best approach to confronting the individual.

D. Notification
1. The Shift Commander will inform the employee that he/she suspects the employee of being in violation of this policy and will give the employee the opportunity to respond.

2. After considering the employee’s response, the Shift Commander will determine if testing is warranted and will notify the employee that testing is required.

E. Testing of an employee for alcohol and/or drug use will be required if probable cause of alcohol or drug use exists. In the event an employee refuses to submit to testing and/or to the release of test results, the employee will be subject to disciplinary action up to and including termination of employment.

F. Process

1. The Shift Commander will contact Employee Health Services (EHS) to arrange for appropriate testing.

2. The employee will be accompanied to EHS by the Shift Commander.

3. Prior to testing, the employee will be asked to sign a consent form for testing and release of information and will be informed that refusal to consent to testing or release of results is grounds for disciplinary action, up to and including termination of employment.

4. EHS will collect the sample or arrange for testing according to EHS procedure. This test will also be for the federal five drug panel unless there is cause to expand the testing to include other possible drugs (e.g., possible drug diversion).

5. The Shift Commander will place the employee on pre-disciplinary leave pending administrative investigation and receipt of test results. An employee who is on leave due to probable cause of alcohol or drug use should be assisted in making arrangements for transportation to leave the workplace.

6. When EHS is closed and a probable cause incident occurs, the procedure described above will be modified as follows:

   a. The Shift Commander will contact the Emergency Department Clinical Coordinator to make arrangements for testing according to Emergency Department (ED) procedure.

   b. The Shift Commander will furnish the ED Clinical Coordinator with information necessary to facilitate the testing process.

   c. The employee will be informed by the Shift Commander that testing has been arranged in the ED and the Shift Commander will accompany the employee to the appropriate location.

7. If the employee’s physical condition requires immediate medical attention, medical treatment will be the priority. However, consent for alcohol or drug testing and release
of test results separate from the medical assessment will be requested when the employee’s condition permits.

G. Outcome

1. Test results will be reported directly to the MRO.
2. A test result that reports the presence of drugs or alcohol does not automatically identify an employee as having used drugs or alcohol at work in violation of this policy.
3. When test results are positive, an investigation is conducted by the MRO and will include but is not limited to a discussion between the MRO and the employee to determine the reason for the positive test. If the MRO validates there is a legitimate explanation for the positive test result, the MRO reports that there has not been a violation of this policy.
4. Requests for re-analysis of the original sample by the employee must be made to the MRO within three working days of the employee receiving the test results. The cost of initial probable cause testing will be paid by VCUPD. When an employee requests a retest following a positive test result, the cost of the retest will be the responsibility of the employee.
5. During the testing process, an employee is considered to be at work and will be compensated for the time involved according to compensation policies for his/her position.

H. Eligibility to return to work will be based on the MRO’s overall assessment. The MRO or designee will consult with the manager regarding the results of testing and return to work status.

I. Should an employee request a work accommodation in the course of a probable cause investigation, management will assess the request based on the provisions of the American’s With Disabilities Act.

J. Disciplinary action for a violation of this policy will occur according to 1.60 Employee Standards of Conduct and Performance in consultation with Human Resources. Prior to making a final determination regarding discipline supervisor will take into consideration the employee’s work record, job responsibilities and willingness to participate in an evaluation and/or referral for treatment after the evaluation. Employees in violation of this policy may be referred to the State Employee Assistance Provider on a case by case basis.

RANDOM TESTING

A. Random drug testing will be conducted quarterly by an outside vendor in accordance with federal testing and chain of custody rules. A selection of 10% of employees will be randomly made from the eligible VCUPD population.

B. Notification
1. Quarterly, VCUPD will provide a list of eligible employees to the vendor.

2. The vendor will notify the Chief of Police of those employees eligible for random testing. The **Administrative Coordinator** will notify individual employees that they were randomly chosen for testing.

3. Employees who are notified to provide a specimen of their urine for a drug screening analysis will report by 4:30 p.m. that day to the collection site designated by the VCUPD.

4. Notification may be made without prior announcement.

C. Process

1. The vendor will positively identify the employee who is to provide the urine specimen. The employee’s identification card or other photo identification should be used for this identification.

2. The employee will then be directed to a secure collection area and will be required to comply with testing protocols (i.e., providing a specimen of sufficient quantity, proper chain of custody, observation of process by employee).

3. Should the lab identify the presence of drugs on the initial analysis, they will immediately perform a confirmation test on the same specimen at the same laboratory site in accordance with testing protocols.

4. The vendor will report any discrepancies to the MRO who will contact the employee if there is a question concerning the specimen or there is a positive result. If the employee does not respond to the MRO within 24 hours of the initial calls, the MRO will request the Chief’s assistance in making contact with the employee.

5. Procedures that protect the confidentiality of the MRO’s request will be used when contacting the employee.

6. The Chief will issue a due process memo and place the employee on pre-disciplinary leave when making contact. The pre-disciplinary leave will continue until the MRO notifies the agency that the situation is resolved or a positive specimen has been confirmed.

D. Outcome

1. Once contacted, if the employee declines to contact the MRO or fails to do so within 72 hours, the MRO may verify the test as a positive or a refusal, whichever the circumstances dictate.

2. When test results are positive, an investigation is conducted by the MRO and will include but is not limited to a discussion between the MRO and the employee to determine the reason for the positive test.

3. If the MRO validates there is a legitimate explanation for the positive test result, the MRO reports that there has not been a violation of this policy.
E. The cost of initial random drug testing will be paid by VCUPD. When an employee requests a retest following a positive test result, the cost of the retest will be the responsibility of the employee.

F. Disciplinary action for positive test results will occur according to 1.60 Employee Standards of Conduct in consultation with Human Resources. Prior to making a final determination regarding discipline, managers will take into consideration the employee’s work record, job responsibilities and willingness to participate in an evaluation and/or referral for treatment after the evaluation. Employees in violation of this policy may be referred to the State Employee Assistance Provider on a case by case basis.

RETURN TO WORK

A. In the event an employee successfully completes a substance abuse evaluation or rehabilitation program, the employee may be considered for return to work or rehire subject to the employee’s work record and any restrictions on activities designated as part of rehabilitation.

B. Should the employee be eligible to return to work, the employee must sign a written return-to-work (RTW) agreement made between the employee and VCU.

C. The RTW agreement will specify the terms and conditions of returning to work to include job performance expectations and alcohol/drug testing requirements.

D. Non-compliance with this agreement or refusal to sign the RTW agreement will be grounds for termination or ineligibility for rehire.