

1. STATEMENT OF GUIDELINE

It is the Company's belief that the use of illegal drugs and the abuse of drugs or other controlled substances, on or off the job, is not consistent with the law of the land. When Partners use illegal drugs, or abuse drugs or other controlled substances or alcohol, on or off duty, they jeopardize the reputation of the Company, the quality of its products, and the safe efficient operation of the business.

A primary concern of the Company is Partner and customer safety. H-E-B recognizes all Partners and customers have the basic right to work and shop in an environment that is free of drugs and alcohol, and to be able to rely on the fact that Partners are not impaired by substance abuse.

It is the Company's desire and intent to encourage any Partner with an alcohol or drug dependency to voluntarily seek help from the Company's Partner Guidance Program. Partners who voluntarily seek help through this or other programs can do so without reprisal or disciplinary action. However, where a violation of the Company's Drug Free Workplace policy has already occurred, a Partner's subsequent request to seek drug or alcohol rehabilitation will not waive the administration of disciplinary action, up to and including termination of employment.

In the interest of maintaining a safe, healthful, and efficient working environment and to protect Company property, equipment, and operations, the Company is committed to strict enforcement of its Drug Free Workplace guideline.

With these basic objectives in mind, the Company has established the following procedures with regard to the use, possession, or sale of alcohol or drugs.

2. PRACTICE

Consistent with the law, the Company will maintain screening practices designed to prevent hiring and retention of persons who use illegal drugs or persons whose use of legal drugs or alcohol indicates a misuse or potential for impaired or unsafe job performance. These practices include, but are not limited to, pre-employment drug screening, post-accident drug screening, random drug screening, and drug screening for cause based on reasonable suspicion.

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A. Pre-employment Drug Screening and Promotion to Safety Sensitive Positions

All candidates for employment to safety sensitive positions must successfully complete a drug screen in accordance with this guideline. A safety sensitive position will be reviewed on a case by case basis and is defined as a driver or any position within Transportation, Manufacturing, Warehouse or Pharmacy areas. In addition, persons offered promotional advancement or transfer into safety sensitive positions will also be required to complete a drug screen. All drug testing under this section must be completed **within 48 hours** in accordance with this guideline. The Company will not accept for employment any applicant who refuses to execute a consent form or who refuses to allow consent to testing.

B. Post-Accident Drug Screening

Subject to applicable law and a case-by-case determination, a substance abuse screen will be required for any Partner involved in or contributing to an on-the-job accident that results in damage to company property, lost work time, or which requires medical attention by a medical provider to themselves or another person. If the Partner is **able** and has been provided the customized ePassport and/or chain of custody form (drug testing form) by management, the Partner may drive himself/herself to the medical facility for treatment and for the required drug screening. Unless extenuating circumstances as determined by H-E-B, this test must be taken **within 2 hours** of the time the Partner was presented with the eScreen chain of custody form.

C. Random Drug Screening

Partners may be selected randomly or by computer for random drug screenings. A Partner may be selected one or more times in any given period for a random drug screen. Partners must take this test **as soon as they are notified and given the eScreen ePassport and/or chain of custody form**. If a Partner refuses to take the test, discloses they will not pass a test, are under the influence of drugs or alcohol or makes comments to that effect, or terminates employment upon notification of their selection for a random drug test (without taking the drug test), it will be treated as a positive result and reason for termination shall be coded as "Standards of Conduct" in the Partner's employment record.

D. Reasonable Cause

If there is sufficient reason to believe a Partner or group of Partners are under the influence of drugs or alcohol or drugs or alcohol are suspected or located on the premises, the observer must attempt to contact a member of the leadership team (UD/Store Director/ASD; for MWT, Facility Leader or Operations leader in absence of Facility Leader). They should jointly review the facts and determine whether a reasonable cause test should be conducted. If a member of top store/facility leadership team cannot be contacted, the leader on duty (observer) should use his/her discretion based on the Reasonable Cause Guidance form (available on PartnerNet – My Pay & Benefits – Benefits – I Need to Know About – Drug Free Workplace), if applicable, to determine if reasonable cause exists, and if so, send the Partner(s) for testing. eScreen's Client Service Center should be contacted for all reasonable cause testing. **Regular business hours:**

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800/881-0722 x5 After hours: 800/881-0722 Advise the client service representative that you need to conduct a reasonable cause test for H-E-B and they will walk you through the process. Partner(s) should be advised that they will be placed on **administrative leave without pay** pending the results of the test.

E. DOT Drug Screening

Partners covered under the Department of Transportation (DOT) regulations will be subject to all federally mandated drug testing procedures. In addition, Company drug testing guidelines for pre-employment, post-accident, and for cause, based on reasonable suspicion, will apply. Random and post-accident drug testing will be conducted in accordance with DOT regulations.

F. Voluntary Self-Identification and Continued Employment

It is the Company's desire and intent to encourage any Partner with an alcohol or drug dependency to voluntarily seek help from the Company's Partner Guidance Program and the Partner can do so without reprisal or disciplinary action resulting from the self-identification. Partners who voluntarily seek help before being chosen for a random or reasonable suspicion will be placed under a Continued Employment agreement and must comply with the program requirements. Program requirements will include compliance with treatment plan recommended by Partner Guidance or similar program as well as compliance with the follow-up testing requirement. The frequency and number of required follow-up testing will be determined following evaluation of clinical need by the appropriate case manager. However, at minimum, four (4) follow-up tests will occur over a one (1) year period of time. If a violation of the Company's Drug Free Workplace Guideline has already occurred prior to self-identification, a Partner's subsequent request to seek drug or alcohol rehabilitation will not waive the administration of disciplinary action, up to and including

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termination of employment. Once identified and approved for the Continued Employment program, Partners not complying with the program requirements or receiving a positive result from a random testing will be subject to immediate termination of employment.

3. **ON-THE-JOB USE, POSSESSION, OR SALE OF DRUGS OR ALCOHOL**

A. **Alcohol**

Being under the influence¹ while in the course of company business, in a company facility, or on company premises by any Partner while performing Company business or while in a Company facility is prohibited.

- B. **Legally Obtained Drugs**² The use or being under the influence of any legally obtained drug by any Partner while performing Company business or while on Company owned or leased property is prohibited if such use or influence adversely affects the safety of the Partner or co-workers, the Partner's job performance, or the safe and efficient operation of the business. Partners who are under the influence of a legally obtained drug, may continue to work provided management has determined, after seeking appropriate medical counsel if necessary, that the use of the legally obtained drug does not pose a direct threat to the Partner's safety or the safety of their co-workers and the job performance is not affected by the legally obtained drug. Otherwise, subject to applicable law, Partners may be required to take a leave of absence or comply with other appropriate action as determined by management.

- C. **Illegal and Non-Prescribed Drugs**³ The use, sale, purchase, transfer, or possession of an illegal or non-prescribed drug, including inhalants, by any Partner while on Company owned or leased property or while performing Company business is prohibited.

4. **DRUG AND ALCOHOL SCREENING**

The Company may require a blood, breath, hair, saliva, urinalysis, and/or other drug and alcohol screen of those persons selected for pre-employment, random, reasonable cause, or post-accident testing, and persons who acknowledge using or are suspected of using or being under the influence of a drug

¹ "Under the influence" means, for the purpose of this policy, that a drug or alcohol or the combination of a drug and alcohol is present in any detectable amount as determined by applicable testing levels. The symptoms of influence are not confined to those consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance.

² "Legally obtained drugs" include prescribed drugs, with a current prescription (within 6 months for a controlled substance and 1 year for all other prescriptions), and over-the-counter drugs which have been legally obtained and are being used for the purpose which they are prescribed or manufactured. This term includes prescribed drugs being used only for the prescribed purpose and being used only by the individual for which they were prescribed.

³ "Illegal drugs" means any drug which is not legally obtainable or which is legally obtainable, but has not been legally obtained, including

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inhalants and synthetic drugs. The term includes prescribed drugs not being used for the prescribed purpose or not as directed by a physician, or not being used by the individual for which they were prescribed. Partners testing positive for certain prescribed drugs belonging to another person in the same household will be handled on a case-by-case basis on appeal and subject to MRO and HR review. "Illegal drugs" for purposes of this guideline also includes a Partner testing positive for drugs based on the use of a drug legal in another state but not legal in Texas or the state in which the testing is conducted.

to submit to such a test is required as a condition of employment. Consistent with section 8 below, Partners who disclose they will not pass a test, are under the influence of drugs or alcohol, or words to that effect, may be subject to immediate termination of employment without the necessity of taking a drug or alcohol screen test. A Partner's refusal to consent to a drug screen or failure to cooperate at the medical clinic may result in disciplinary action, up to and including termination, even for a first refusal. Failure to cooperate at the medical clinic includes failure to provide a subsequent sample if requested by the clinic during the same appointment. Partners should be prepared to stay up to 3 hours at the clinic to provide a valid sample. The collector will allow the donor to drink up to 40 fluid ounces of water during this time. Leaving the premises, including exiting the building and returning, prior to providing a sample without a valid medical reason as determined by the Medical Review Officer (MRO) is considered refusal to test and grounds for termination. **Partners will be compensated for time spent providing a substance abuse screen, including travel time, as hours worked (excluding DOT testing).** Applicants will not be compensated for time spent completing pre-employment drug screens.

5. INSPECTIONS

The Company may conduct unannounced inspections for illegal drugs or alcohol in Company facilities. Partners are expected to cooperate with the inspections. Inspection of Partners and their personal property may be conducted when there is reasonable suspicion to believe that Partners are in violation of this guideline.

6. PARTNER REPORTING REQUIREMENTS - LEGAL DRUGS

Subject to applicable law, when Partners are using a medically prescribed drug that can alter behavior, physical ability, or mental function, concurrent with business necessity, they must report the use of this drug to management, who will determine whether temporary job reassignment, medical leave of absence, or other action is warranted until treatment is finished. Partners who are taking medically prescribed drugs on Company premises must either keep all medications in the original container, which identifies the drug, dosage, date of prescription, and prescribing physician, or be able to phone the pharmacy that has issued the prescriptions and request verification of the prescriptions they are taking, upon Company request.

7. CONTRACT AND TEMPORARY PERSONNEL

Policy provisions regarding the use, possession, transfer or sale of drugs and alcohol, and searches for such substances are applicable to contract and temporary personnel. Violations of these provisions, or refusal to cooperate with the implementation of this policy, can result in the Company's barring contract personnel from Company facilities or participating in Company operations.

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8. DISCIPLINARY ACTION

Partners required to submit to a drug or alcohol screen based on reasonable cause, will be placed on **administrative leave without pay** pending the results of the test. If the results are negative, the Partner will be compensated for scheduled hours lost while on administrative leave. Partners testing positive will be subject to immediate termination and not reimbursed for hours lost while on leave. Partners required to submit to a drug or alcohol screen, based on random, continued employment, or post-accident program, will continue to work while the test results are being processed. Partners testing positive will be subject to immediate termination.

Additionally, subject to applicable law, including the American with Disabilities Act (ADA), a Partner who, is notified that he/she must take a drug or alcohol test and: 1) discloses that he/she is under or may be under the influence; 2) makes a comment or remark regarding his/her current drug or alcohol use; or 3) discloses information indicating that he/she may not pass the drug or alcohol test, may be subject to discipline, up to and including termination from employment, without the necessity of taking the drug or alcohol test.

9. POSITIVE RESULTS AND MEDICAL REVIEW OFFICER (MRO)

In the event of a 'Positive Unable to Contact Donor' (PUCD), the work location or management should notify the Partner immediately and advise the Partner that he/she has **24 hours from time of notification** to contact the MRO to discuss his/her drug test result. Failure to contact the MRO within the 24 hour window will be considered non-compliance and may result in immediate termination. The 24 hour window should be adjusted to account for weekends and certain holidays when the MRO's office is closed. Once the Partner has contacted the MRO, he/she has **24 hours** from the time of notification by MRO to provide prescription information to overturn the positive result. On rare occasions, the Partner may be unable to comply with this 24 hour requirement to provide prescription information due to circumstances beyond his/her control. It is the Partner's responsibility to contact the MRO **daily** to provide a status update as well as notify his work location/management. Failure to provide **daily** updates may be considered grounds for termination. Exceptions to this policy will be addressed on a case-by-case basis.

10. RIGHT OF APPEAL

If drug test results are positive and the Partner disputes the accuracy of the results, the Partner may, at his or her own expense, request to have another qualified SAMHSA certified testing laboratory (referee lab) confirm the test results on the same specimen, if the request is made within 72 hours from the time the Partner is notified of his or her positive test results - this alternative will be discussed with the Partner by the Medical Review Officer (MRO). Further, a Partner who has been notified of a failed drug test may submit a medical report to the MRO for review indicating that the drug was obtained legally, taken as prescribed, and has a current prescription. The Company will consider, but is not bound by, the MRO's report in reviewing the decision.

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11. CONDITION OF EMPLOYMENT

Compliance with this guideline is a condition of employment. The failure or refusal of a Partner to cooperate fully, sign any required document, or submit to any inspection or drug screen will be grounds for immediate termination – Standards of Conduct.

12. AMERICANS WITH DISABILITIES ACT (ADA)

The ADA requires employers to reasonably accommodate persons with alcohol and/or drug addiction. This does not afford protection to such persons when reporting for work under the influence of alcohol or drugs. Persons suspected of reporting to work under the influence of alcohol or drugs will be subject to reasonable cause testing. Partners testing positive will be subject to immediate termination of employment under this guideline.

13. SPECIAL SITUATIONS

Nothing in this policy precludes management of any particular Company facility from establishing more stringent work rules that apply to that facility. **This Drug Free Workplace guideline is not to be construed as a contract. Violation of this guideline may result in disciplinary action, up to and including termination of employment.**

14. ACKNOWLEDGMENT

As a condition of employment, all employees must execute an Acknowledgement Form, a copy of which is attached to this Policy. Failure to execute this form upon employment or upon request, if employment has already begun, any refusal to submit to a requested drug or alcohol test, a confirmed positive test or submission of an altered, false or fraudulent sample is grounds for immediate termination.

H-E-B DRUG FREE WORKPLACE GUIDELINE ACKNOWLEDGEMENT

My signature below acknowledges that I have read and understand H-E-B's Drug Free Workplace Guideline. I have also received a copy of the Drug Free Workplace Guideline. Furthermore, I understand that Partner testing is a condition of continued employment, and I agree to comply with the rules and regulations as described in the guideline, and that failure to do so may lead to disciplinary action, up to and including termination of employment for "Standards of Conduct". I further acknowledge:

- ☐ I understand that taking a prescription drug that is not legally prescribed to me, can produce a positive result on my drug test and as such I would be subject to discipline up to and including termination of employment. (i.e., taking a family member's prescription for pain, etc.) ;
- ☐ I understand that H-E-B has the right to inspect my personal property or vehicle when there is suspicion that there is a violation of this guideline, and I hereby agree to and authorize H-E-B to conduct such inspection and waive any claim or right to privacy in connection with such inspection.
- ☐ I understand that per the Drug Free Workplace guideline, I can be required to take a drug test for the following: Random selection, Post Accident, Hire/Promotion into a previously defined sensitive position, or Reasonable Suspicion. I am aware that refusal to take such a test, or a confirmed positive result of drug or alcohol testing or of possession, use, or being under the influence of an illegal drug, or the improper use of a legal drug or submission of an altered, false, or fraudulent sample can result in immediate dismissal from my employment with the Company.

PARTNER NAME (PLEASE PRINT)

PARTNER ID #

PARTNER SIGNATURE

DATE

WORK LOCATION

Please return signature page to your supervisor.