

1. Title

Drug and Alcohol Testing for Positions Requiring Commercial Driver's Licenses

2. Policy

Sec. 1 Purpose. The purpose of this policy is to provide a safer, healthier, and more productive working environment and to comply with the regulations issued by the U.S. Department of Transportation, specifically the Employee Alcohol and Controlled Substance Testing Program requirements.

Sec. 2 Institutional Policy. The draft policy for potential inclusion in each institutional *Handbook of Operating Procedures* was circulated for comments in the Spring of 1995. The final policy for use in implementing an institutional policy for review and approval for *Handbook* inclusion is reprinted here.

Sec. 3 Who is Impacted by this Policy. This policy applies to all persons who are applicants for or who are employed in positions with duties or activities that involve the requirement of a commercial driver's license, otherwise referred to herein as safety-sensitive functions. The provisions of this drug and alcohol testing policy do not relieve an employee from requirements pursuant to other University of Texas System policies on drugs and alcohol.

Sec. 4 Applicants for Employment. All applicants who have been conditionally accepted for employment in safety-sensitive positions will be required to provide a urine sample for testing for the presence of illegal drugs in accordance with Section 10. A verified negative test result will be required on the controlled substance test.

4.1 Published Notices. All published notices of vacancies in positions covered by this policy shall state that the applicant selected for hire will be required to consent to a urinalysis for the purpose of testing for the presence of illegal drugs.

4.2 Refusal to Test or Failure of Test. Applicants selected for hire who refuse to consent to a urinalysis or who test positive for the presence of illegal drugs or alcohol in prohibited concentrations will not be considered for employment in a position covered by this Policy and may not reapply for such employment for a period of six months.

- 4.3 Notice of Testing Procedures. Prior to signing the consent form, applicants selected for hire will be informed of the testing procedures either orally or in writing.

Sec. 5 Prohibited Employee Conduct.

- 5.1 Alcohol. Alcohol use or possession is prohibited
 - (a) while on duty;
 - (b) four hours before on duty requiring the performance of a safety-sensitive function; or
 - (c) during the eight hours following an accident requiring a post accident test (see Section 6.1) or until the employee undergoes a post accident alcohol test, whichever occurs first.
- 5.2 Alcohol Blood Levels. Employees are prohibited from having concentrations of alcohol (0.04 or greater) in system while on duty requiring the performance of safety-sensitive functions.
- 5.3 Drugs. Drug use or possession of controlled substances is prohibited while on duty, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial vehicle.
- 5.4 Testing positive for controlled substances while holding a position requiring the performance of a safety-sensitive function is prohibited.
- 5.5 Testing. Refusal to submit to required testing.
- 5.6 Permitting a subordinate employee to perform or continue to perform safety-sensitive functions when the supervising employee has actual knowledge that a driver has engaged in conduct prohibited by Sections 5.1 - 5.5.

Sec. 6 Employee Testing. Employees in safety-sensitive positions may be required to submit to testing to determine the presence of illegal drugs or alcohol under the following circumstances:

- 6.1 Accidents. When performing safety-sensitive functions and involved in an on-the-job driving accident that

- (a) results in the death of a person; or
- (b) results in a citation to the employee under State or local law for a moving traffic violation arising out of the accident; and
 - (i) any involved vehicle requires towing from the accident scene, or
 - (ii) any involved person requires treatment away from the accident scene.

Employees involved in such accidents are required to report them as soon as possible to their supervisor.

- 6.2 Use While on Duty. When observed using alcohol or illegal drugs while on duty requiring the performance of safety-sensitive functions.
- 6.3 Observed Behavior. When a supervisor who has participated in a program that provides training in the recognition of the physical appearance and behavior of persons under the influence of alcohol or illegal drugs observes an employee exhibiting such appearance and behavior during, just preceding, or just after the period of the work day that the employee is performing in the safety-sensitive function.
- 6.4 Random Testing. When selected pursuant to a scientifically valid random process determined by the University.
- 6.5 Prior Use. If allowed to return to duty in a safety-sensitive position after a violation of drug or alcohol rules.
- 6.6 As Identified by Substance Abuse Professional. If allowed to return to duty for a safety-sensitive position, and has been identified by a substance abuse professional as needing assistance in resolving problems with drug or alcohol abuse. Such employees will be subject to a minimum of six unannounced follow-up drug or alcohol tests over the first 12 months following his or her return to duty at the expense of the employee.

- Sec. 7 Refusal to Submit to Test. By continuing employment with the University, employees have consented to the University's adoption of a Drug and Alcohol Testing Program.

The University will secure a consent form signed by the employee to be tested. An employee who refuses to consent and submit to a test when requested under any of the circumstances provided for in Section 6 will be subject to disciplinary action including termination pursuant to the University's Procedures for Discipline and Dismissal of Employees.

Refusal to submit includes failure to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this Section, failure to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this Section, engaging in conduct that clearly obstructs the testing process, and/or leaving the scene of an on-the-job accident (see Section 6.1)

- Sec. 8 Positive Test. Employees with positive tests will be immediately removed from safety-sensitive functions. The supervisor (or his/her designated representative) will meet with each employee who tests positive and inform the employee of the test result. Based upon the information available after the meeting with the employee, the supervisor (or his/her designated representative) shall determine whether
- 8.1 to proceed to impose appropriate disciplinary action pursuant to the University's Procedures for Discipline and Dismissal of Employees; and/or
 - 8.2 to offer the employee the opportunity to participate in and satisfactorily complete at the employee's expense an appropriate employee assistance program or rehabilitation program for alcohol and/or drug abusers as a condition of continued employment. An employee who chooses to participate in such a program must be informed that the University will pursue appropriate disciplinary action if the employee does not satisfactorily complete the prescribed program; or
 - 8.3 to allow the employee who has tested below 0.04 for alcohol, with no concurrently positive drug test, to return to work after a 24-hour period.
- Sec. 9 Urinalysis Procedure. In order to assure individual privacy without compromising the integrity of the test result, the University will utilize U.S. Department of Health and Human Services approved laboratories

and utilize the Mandatory Guidelines for Federal Workplace Drug Testing Programs and the Procedures for Transportation Workplace Drug and Alcohol Testing Programs for tests pursuant to this policy. Guidelines are published in 49 CFR 40 and 49 CFR 382 (see also Volume 53 of the *Federal Register*, page 11979; Volume 59 of the *Federal Register*, page 7354; and Volume 59 of the *Federal Register*, page 7505). The Guidelines generally provide for specimen collection procedures, chain-of-custody procedures, testing procedures, and documentation procedures. Copies of the Guidelines may be obtained from the Office of Employee Services. Any testing requested by an employee will be done at the employee's expense.

Sec. 10 Alcohol Testing. Alcohol testing will be conducted either on U. T. System premises or at a specimen collection site. The University will in most cases utilize an evidential breath testing device approved by the National Highway Traffic Safety Administration and the Procedures for Transportation Workplace Drug and Alcohol Testing Programs for alcohol tests pursuant to this policy. Those procedures are published in 49 CFR 40 (see also Volume 59 of the *Federal Register*, page 7340). The Guidelines generally provide for specimen collection procedures, chain-of-custody procedures, testing procedures, and documentation procedures. Copies of the Guidelines may be obtained from the Office of Employee Services. Any testing requested by an employee will be done at the employee's expense.

Sec. 11 Records.

11.1 Confidentiality. All information from an applicant's or an employee's drug and alcohol tests will be confidential to the extent required by law. Records will be maintained in a secure manner, so that disclosure of confidential information to unauthorized persons does not occur.

11.2 Maintenance. University record retention schedules will be reviewed to ensure that at a minimum, records are maintained in accordance with the following schedule:

(a) verified positive controlled substance test results and alcohol test results indicating an alcohol concentration of 0.02 or greater, documentation of refusals to take required tests, calibration documentation, and evaluations and referrals - 5 years;

(b) collection and training records - 2 years;

(c) negative or canceled tests - 1 year; and

(d) alcohol test results indicating concentration less than 0.02 -
1 year.

Sec. 12 Reporting. The University will submit reports in accordance with federal regulations regarding this alcohol and drug misuse prevention program. Regulations currently require an annual calendar year summary of the results of alcohol and controlled substances testing programs performed under this policy.

3. Definitions

Safety-Sensitive Functions - duties or activities that involve the requirement of a commercial driver's license.

4. Relevant Federal and State Statutes

[Guidelines for Federal Workplace Drug Testing Programs](#)

[Procedures for Transportation Workplace Drug and Alcohol Testing Programs
49 CFR 40](#)

5. Relevant System Policies, Procedures, and Forms

Board of Regents' *Rules and Regulations*, [Rule 30601: Discipline and Dismissal of Classified Employees](#)

6. Who Should Know

Persons Who are Applicants for or Who are Employed in Positions Defined as Safety-Sensitive by this Policy

Human Resources Officials and Department Officials Responsible for these Positions

7. System Administration Office(s) Responsible for Policy

Office of Employee Services

8. Dates Approved or Amended

April 24, 1995
March 31, 2010
March 10, 2011

9. Contact Information

Questions or comments about this policy should be directed to:

- bor@utsystem.edu