



UT System Administration Policy Library – Policy UTS113

Drug and Alcohol Testing Policy for Positions Requiring Commercial Drivers’ Licenses

Responsible Officer: Vice Chancellor for Administration

Sponsoring Office: Office of Employee Services

Effective Date: April 24, 1995

Last Reviewed: February 14, 2008

Next Scheduled Review: February 1, 2010

Errors or changes to: policyoffice@utsystem.edu

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POLICY STATEMENT

The purpose of this policy is to provide a safer, healthier, and more productive working (and hospital) environment and to comply with the Department of Transportation Employee Alcohol and Controlled Substances Testing Program requirements.

RATIONALE

This policy was developed in response to new federal regulations affecting state employees required to obtain commercial drivers' licenses. The draft policy for potential inclusion in each institutional *Handbook of Operating Procedures* was circulated for comments in the spring of 1995. This final policy for use in implementing an institutional policy for review and approval for *Handbook* inclusion is reprinted here.

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 drivers' 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 policies on drugs and alcohol.

SCOPE

All institutions and UT System Administration

WEBSITE ADDRESS FOR THIS POLICY

<http://www.utsystem.edu/policy/policies/uts113.html>

RELATED POLICIES, STATUTES, REQUIREMENTS OR STANDARDS

UT System Administration Policies &	Other Policies & Standards
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Standards	
<u>Board of Regents' Rules and Regulations, Rule 30601: Discipline and Dismissal of Employees</u>	<ul style="list-style-type: none"> • <u>Guidelines for Federal Workplace Drug Testing Programs</u> • <u>Procedures for Transportation Workplace Drug Testing 49CFR40</u> • <u>Regents' Rules and Regulations, Series: 30601: Discipline and Dismissal of Employees</u>

CONTACTS

If you have any questions about UT System Administration policy UTS113, *Drug and Alcohol Testing Policy for Positions Requiring Commercial Drivers' Licenses*, contact the following office:

Subject	Office Name	Telephone Number	Email/URL
	Office of Employee Services	512-499-4587	<u>http://www.utsystem.edu/ohr/ohrstaff.htm</u>

DEFINITIONS

Safety-sensitive functions

Duties or activities that involve the requirement of a commercial drivers' license.

RESPONSIBILITIES

All persons who are applicants for or who are employed in positions with duties or activities that involve the requirement of a commercial drivers' license

- Provide a urine sample for testing for the presence of illegal drugs when conditionally accepted for employment positions.

- Submit to testing to determine the presence of illegal drugs or alcohol under the circumstances outlined in the Employee Testing procedures.

HR and the Designated Testing Site

- Informs applicants selected for hire of the testing procedures, either orally or in writing, prior to signing the consent form.

The University or Health Institution

- Secures a consent form signed by the employee to be tested.
- Utilizes 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 Testing for tests pursuant to this Policy.
- Submits reports in accordance with Federal Regulations regarding this alcohol and drug misuse prevention program.

The Supervisor

- Meets with each employee who tests positive and informs the employee of the test result.
- Determines whether to proceed to impose appropriate disciplinary action; and/or offers the employee the opportunity to participate in and satisfactorily complete an appropriate employee assistance program or rehabilitation program; or 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.

HR and Records Coordinators

- Maintains records in a secure manner, so that disclosure of confidential information to unauthorized persons does not occur.
- Reviews University Record Retention Schedules to ensure that at a minimum, records are maintained in accordance with the retention schedules outlined in the Records procedure.

PROCEDURES

I. 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 Paragraph VII. A verified negative test result will be required on the controlled substance test.

A. All published or posted 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.

B. 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.

C. Prior to signing the consent form, applicants selected for hire will be informed of the testing procedures either orally or in writing.

II. Prohibited Employee Conduct.

A. Alcohol Use

- 1.** use or possession of alcohol while on duty;
- 2.** use of alcohol during four hours before on duty requiring the performance of a safety-sensitive function;
- 3.** having prohibited concentrations of alcohol (0.04 or greater) in system while on duty requiring the performance of safety-sensitive functions; or
- 4.** use during the 8 hours following an accident requiring a post-accident test (see IV.A. below) or until the employee undergoes a post-accident alcohol test, whichever occurs first

B. Drug use

- 1.** use or possession of controlled substances 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; or
- 2.** testing positive for controlled substances while holding a position requiring the performance of a safety-sensitive function.

C. Refusal to submit to required testing

D. 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 A-C above.

III. 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:

A. when performing safety sensitive functions and involved in an on-the-job driving accident that

- 1.** results in the death of a person; or
- 2.** results in a citation to the employee under state or local law for a moving traffic violation arising out of the accident; and
 - a.** any involved vehicle requires towing from the accident scene, or
 - b.** any involved person required treatment away from the accident scene.

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

B. when observed using alcohol or illegal drugs while on duty requiring the performance of safety-sensitive functions;

C. 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;

D. when selected pursuant to a scientifically valid random process determined by the University;

E. if allowed to return to duty in a safety sensitive position after a violation of drug or alcohol rules;

F. 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.

IV. 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 Paragraph IV 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 part, 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 part, engaging in conduct that clearly obstructs the testing process, and/or leaving the scene of an on the job accident (see IV.A.)

V. 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:

A. to proceed to impose appropriate disciplinary action pursuant to the University's Procedures for Discipline and Dismissal of Employees; and/or

B. 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

C. 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.

VI. Urinalysis Procedure. In order to assure individual privacy without compromising the integrity of the test result, the University will utilize 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 Testing for tests pursuant to this Policy. Guidelines are published in 49 CFR 40; 49 CFR 382 (See also Volume 53 of the *Federal Register*, page 11979, Volume 59 of the *Federal Register*, page 7354, Volume 59 *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 Human Resources. Any testing requested by an employee will be done at the employee's expense.

VII. Alcohol Testing. Alcohol testing will be conducted either on U.T. 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 Human Resources. Any testing requested by an employee will be done at the employee's expense.

VIII. Records.

A. 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.

B. Maintenance. University Record Retention Schedules will be reviewed to ensure that at a minimum records are maintained in accordance with the following schedule:

1. 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; evaluations and referrals - 5 years;
2. collection and training records - 2 years;
3. negative or canceled tests - 1 year.
4. alcohol test results indicating concentration less than 0.02 -- 1 year.

IX. 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.

FORMS AND TOOLS/ONLINE PROCESSES

None

APPENDIX

NOTE: PREEMPLOYMENT ALCOHOL TESTING HAS BEEN SUSPENDED BY DOT RULE 5/95.

Keywords: drugs, alcohol, drug testing, drivers' license, alcohol testing, alcohol, alcohol test, drivers' licenses, health
