

Policies of the University of North Texas Health Science Center	Chapter 05 Human Resources
05.515 Drug and Alcohol Testing for Positions Requiring A Commercial Driver's License	

Policy Statement.

Purpose: To ensure the health science center's compliance with the Department of Transportation's (DOT) Employee Alcohol and Controlled Substances Testing requirements under the rules of the Omnibus Transportation Employee Testing Act of 1991.

General Policy: The health science center is required to conduct post-accident, random, and reasonable suspicion testing for alcohol and pre-employment/pre-duty, post accident, random, and reasonable suspicion testing for controlled substances of each applicant for employment or employee who is required to obtain a Commercial Driver's License. (A Commercial Driver's License/CDL is required for drivers of vehicles designed to transport 16 or more passengers including the driver, drivers of trucks weighing at least 26,000 pounds, and drivers of trucks of any size carrying hazardous materials.) Covered employees are prohibited from refusing to take a required test. Employees whose test results confirm prohibited alcohol concentration levels or the presence of a controlled substance, or who refuse testing, are subject to disciplinary action up to and including termination of employment.

Application of Policy.

Faculty and Staff

Definitions.

1. **Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
2. **Alcohol concentration** means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an Evidential Breath Test. A prohibited level of alcohol concentration is 0.02 or greater.
3. **Controlled substance** means any drug, substance, or immediate precursor listed in Schedules I-V or Penalty Groups 1 - 4 of the Controlled Substances Act of 1988 as it may be revised from time to time.
4. **Illegal drug** means any drug in any detectable amount which is not legally obtainable; any drug which is legally obtainable but has not been legally obtained; any prescribed drug not legally obtained; any prescribed drug not being used for the prescribed purpose; any over-the-counter drug being used at a dosage level different than recommended by the manufacturer or being used for a purpose other than intended by the manufacturer; and any drug being used for a purpose not in accordance with bona fide medical therapy.

5. **Prohibited conduct** means a covered employee may not:
 - * report for duty, or stay on duty, while using any controlled substance
 - * report for duty, or stay on duty, if the employee has tested positive for a controlled substance
 - * refuse to submit to a drug test
 - * report for duty, or stay on duty, with an alcohol concentration of 0.02 or greater
 - * report for duty, or stay on duty, if in possession of alcohol, if using alcohol, or within 4 hours of using alcohol use alcohol until post-accident testing is completed or for a period of 8 hours, whichever comes first, if the employee is involved in an accident while on the job
 - * refuse to submit to an alcohol test.

6. **Safety-sensitive function** is all time spent either waiting to be dispatched; inspecting equipment or otherwise inspecting, servicing, and/or conditioning any commercial motor vehicle; driving; in or upon a commercial motor vehicle; loading/unloading a vehicle, supervising or assisting in the loading/unloading process, attending a vehicle being loaded/unloaded, remaining in readiness to operate a vehicle, or giving or receiving receipts for shipments loaded/unloaded; performing accident-related duties; or repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle

Procedures and Responsibilities.

Procedure / Duty

Responsible Party

1. **Required Alcohol Testing:**

a.) General: The Act and this policy prohibit alcohol misuse that could affect performance of a safety-related function. This prohibition extends to 1) use of alcohol on the job; 2) use of alcohol during the four hours (in most cases) before performance of a safety-sensitive function; 3) having prohibited concentrations of alcohol in the system (alcohol concentration of 0.02 or greater) while performing safety-sensitive functions; 4) exhibiting behavior and/or appearance characteristic of alcohol misuse or an adverse effect on the employee's ability to perform due to alcohol misuse while performing safety-sensitive functions, and 5) use of alcohol prior to post-accident testing or for up to 8 hours following an accident, whichever comes first. An employee who violates any aspect of this policy is subject to disciplinary action up to and including termination of employment.

b.) Post-Accident Testing: As soon as practicable following an accident, each surviving covered employee must be tested for alcohol if 1) the employee was performing a safety-sensitive function with respect to the vehicle and the accident involved

the loss of human life or 2) the employee receives a citation under state or local law for a moving traffic violation arising out of the accident. A report stating why the test was not promptly administered must be filed with the DOT if a post-accident test is not administered within two hours of the accident. If not administered within eight hours of the accident, attempts to administer the test must cease and the circumstances resulting in the failure to administer the test must be reported to DOT. Post-accident testing conducted by a federal, state, or local official having independent authority to conduct such test satisfies the requirements of the regulations provided 1) such tests conform to applicable requirements and 2) the results of the test are obtained by the health science center.

Post-Accident Testing Information Requirement: Prior to performing a safety-sensitive function, each covered employee must be provided by the employing department with post-accident information, procedures, and instructions.

- c.) **Random Testing:** The health science center must randomly select covered employees at various times for unannounced alcohol testing. Covered employees must have an equal chance of being tested under the random process used. No fewer than 10 percent (effective 1/1/98) of covered employees must be tested annually. Testing must be conducted either while the covered employee is performing, immediately before performing, or immediately after performing a safety-sensitive function.

- d.) **Reasonable Suspicion Testing:** A covered employee must be tested for alcohol misuse when the health science center has reasonable suspicion to believe that the employee has violated the rules regarding use of alcohol. A determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. Reasonable suspicion testing is authorized only if the required observations are made during, just preceding or just after the period of the work day that the covered employee is performing a safety-sensitive function. The observation and determination that a reasonable suspicion exists must be made by a supervisor trained in detecting the symptoms of alcohol misuse; however, the supervisor making

the determination is not to conduct the reasonable suspicion test on that employee.

2. **Required Employee Controlled Substance Testing:**

All Covered
Employees

a.) **General:** A covered employee may not report for duty or remain on duty requiring the performance of a safety-related function when the individual uses any controlled substance/illegal drug. An exception to this rule applies in the case of an employee whose use of a controlled substance is pursuant to the instructions of a physician who has advised the employee that the substance will not adversely affect his or her ability to safely operate a commercial motor vehicle. An employee who violates any aspect of this policy is subject to disciplinary action up to and including termination of employment.

b.) **Pre-Employment/Pre-Duty Testing:** No covered employee may perform a safety-sensitive function unless he or she has received a controlled substances test result from a medical review officer indicating a verified negative test result. The test may be administered at any time prior to the first time the employee performs safety-sensitive functions.

Non-Employee Drivers: If the health science center uses, but does not employ, a driver more than once a year, the health science center must assure itself once every 6 months that the driver participates in an alcohol and controlled substances testing program(s) that satisfies the DOT regulations.

c.) **Post-Accident Testing:** As soon as practicable following an accident, the health science center must test each surviving covered employee for controlled substances if 1) the employee was performing a safety-sensitive function with respect to the vehicle and the accident involved the loss of human life or 2) the employee receives a citation under state or local law for a moving traffic violation arising out of the accident. In the event a required controlled substance test is not administered within 32 hours following the accident, the health science center must cease attempts to administer the test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. The results of a urine test for the use of controlled substances conducted by a federal, state, or local official having independent authority to conduct

the test shall satisfy the requirements of the regulations if 1) such tests conform to applicable federal, state, or local requirements; and 2) the results of the tests are obtained by the employer.

Post-Accident Information Requirement: All covered employees must be provided with necessary post-accident information, procedures and instructions, prior to the employee performing a safety-sensitive function.

Random Testing: Covered employees must be randomly selected at various times for unannounced controlled substance testing. Covered employees must have an equal chance of being tested under the random process used. No fewer than 50 percent of covered employees must be tested annually.

- d.) **Reasonable Suspicion Testing:** A covered employee must be tested for controlled substances when the health science center has reasonable suspicion to believe that the employee has violated the controlled substances prohibition. A determination that reasonable suspicion exists must be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. The observations may include indications of the chronic and withdrawal effects of controlled substances. Reasonable suspicion testing is authorized only if the required observations are made by a trained supervisor or health science center official during, just preceding or just after the period of the work day that the covered employee is performing a safety-sensitive function. The supervisor or official making the determination is not to conduct the reasonable suspicion test on that employee.

Written Record Requirement: A written record of the observations leading to a controlled substance reasonable suspicion test must be made and signed by the supervisor or health science center official who made the observations. This record must be made within 24 hours of the observed behavior or before the results of the controlled substance test are released, whichever is earlier.

3. **Test Administration:** The Department of Human Resource Services is responsible for coordination of random test administration and Human Resource Services

receipt of test results. The employing department is responsible for coordination of pre-employment/pre-duty testing. A covered employee scheduled for pre-employment/pre-duty testing is required to report as scheduled to a testing site designated by the health science center. A covered employee who is to be tested randomly or for reasonable suspicion must be transported to the testing site by a designated departmental supervisor or health science center official.

4. **Information, Training and Referral**

Human
Resources Staff

- a.) **Information:** The health science center must provide specific educational materials, to be prepared and revised as needed under the supervision of the Human Resources Department, that explain the requirements of this policy and procedures. Employing departments must maintain a record that such materials have been provided to each covered employee.
- b.) **Training:** Supervisors who are designated to determine whether reasonable suspicion exists to require an alcohol test must receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. Supervisors who are designated to determine whether reasonable suspicion exists to require a controlled substance test must receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable use of controlled substances. The Human Resources Department is responsible to coordinate and arrange for the training of these supervisors.
- c.) **Referral:** The Act provides that an opportunity for treatment must be made available to covered employees. The health science center is not required to provide or to pay for rehabilitation or to hold a job open for an employee with or without salary. An employee who engages in prohibited conduct under this policy is subject to disciplinary action up to and including termination. However, an employee who has engaged in prohibited conduct must be advised by their supervisor or an appropriate health science center official of the available resources for evaluation and treatment including names, addresses and telephone numbers of substance abuse professionals, counseling centers, and treatment programs.

5. **Record Retention, Confidentiality, and Reporting Requirements:**

Department of
Risk
Management

a.) **Record Retention:** The health science center is required to maintain records of its alcohol misuse prevention and controlled substance programs in a secure location with controlled access and retention as follows (the designated repository for records retention is the Department of Risk Management and Environmental Services):

i. **Five-Year Retention Requirement:** records of any employee alcohol test results indicating an alcohol concentration of 0.02 or greater; records of any employee verified positive controlled substance test results; documentation of refusals to take required alcohol or controlled substance tests; alcohol test equipment calibration documentation; and documentation of employee evaluations and referrals.

ii. **Two-Year Retention Requirement:** all records related to collection processes and training.

iii. **One-Year Retention Requirement:** records of negative alcohol test results; records of negative and canceled controlled substance test results.

b.) **Reporting Requirements:** An annual report must be submitted to the Federal Highway Administration summarizing the results of the alcohol misuse prevention and controlled substance programs for each calendar year. The Department of Risk Management and Environmental Services is responsible for the preparation of required reporting and liaison with the FHA and Department of Transportation.

References and Cross-references.

Compliance and Coordination with Applicable Statutes: The Act does not preempt consistent state laws or any right, benefit, privilege or remedy extended to covered employees under other federal statutes. In particular, efforts to implement and comply with the DOT alcohol and controlled substance testing rules may implicate a covered employee's rights under any one (or all) of the following federal statutes:

- * Drug-Free Workplace Act
- * Fair Labor Standards Act
- * Americans with Disabilities Act
- * Rehabilitation Act of 1973
- * Family and Medical Leave Act
- * Age Discrimination in Employment Act

* Employment Retirement Income Security Act

Omnibus Transportation Employee Testing Act of 1991.

Forms and Tools.

As required in Procedures

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