



Handbook of Operating Procedures

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TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING

This policy is furnished as a guide to UTPA staff to enable them to comply with the federal regulations required to obtain commercial drivers' licenses.

A. Scope

This policy applies to all persons who are applicants for or who are employed in positions with duties or activities that involve the requirements 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 policy on drugs and alcohol.

B. Applicants for Employment

All applicants who have been conditionally accepted for employment in positions that involve the duties or activities described in Paragraph A will be required to provide a urine sample for testing for the presence of illegal drugs in accordance with Paragraph G. A verified negative test result will be required on this controlled substance test.

1. All published or posted notices of vacancies in positions covered by this policy shall state that all applicants selected for hire will be required to consent to a urinalysis for the purpose of testing for the presence of illegal drugs.
2. Applicants selected for hire who refuse to consent to a urinalysis or who test positive for the presence of illegal drugs 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 (6) months.
3. Prior to signing the consent form for testing, applicants selected for hire will be informed of the testing procedures either orally or in writing.

C. Prohibited Employee Conduct

1. Alcohol Use
 - a. Use or possession of alcohol while on duty requiring the performance of safety-sensitive functions;
 - b. Use of alcohol during four (4) hours before on duty requiring the performance of safety-sensitive function;



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- c. Having prohibited concentrations of alcohol (.04 or greater) in system while on duty requiring the performance of safety-sensitive functions.
 - d. Use of alcohol during the (8) eight hours following an accident requiring a post-accident test (see D1 below) or until the employee undergoes a post-accident alcohol test, whichever occurs first.
2. Drug Use
- a. Use or possession of controlled substances while holding a position requiring the performance of safety-sensitive functions, 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;
 - b. Testing positive for controlled substances while holding a position requiring the performance of a safety-sensitive position.
3. Refusal to submit to required testing.
4. 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 items 1-3 above.

D. Employee Testing

Employees in positions that involve the duties or activities described in Paragraph A may be required to submit to testing to determine the presence of illegal drugs or alcohol under the following circumstances:

1. When performing safety sensitive functions and involved in an on-the-job driving accident that 1) results in the death of a person or that 2) results in a citation to the employee under state or local law for a moving traffic violation arising out of the accident and any vehicle requires towing from the accident scene or any involved person requires treatment away from the accident scene. an employee in such an accident is required to report it as soon as possible to the supervisor.
2. When observed using alcohol or illegal drugs while on duty requiring the performance of a safety-sensitive functions;
3. 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



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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;

4. When selected pursuant to a scientifically valid random process determined by the University;
5. If allowed to return to duty in a position described in Paragraph A, after a violation of drug or alcohol rules;
6. If allowed to return to duty for a position described in Paragraph A, 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 (6) unannounced follow-up drug or alcohol tests over the first 12 months following his or her return to duty at his or her own expense.

E. Refusal to Submit to Test

By continuing employment with the University, employees have consented to the University's adoption of this 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 D 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 policy, failure to provide adequate urine for controlled substance 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 policy, engaging in conduct that clearly obstructs the testing process, and/or leaving the scene of an on-the-job accident.

F. Positive Test

Employees with positive tests will be immediately removed from safety-sensitive functions. The supervisor and the Director of Personnel 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 and the Director shall determine whether:



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1. To proceed to impose appropriate disciplinary action (keeping in mind any minimum penalties as may be required by federal or state law) pursuant to the University's Procedures for Discipline and Dismissal of Employees; and/or
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;
3. To allow the employee who has tested below 0.04 for alcohol, with no concurrently positive drug test, to return to work after at least a 24-hour period.

G. Urinalysis Procedure

In order to assure individual privacy without compromising the integrity of the test result, the University will utilize the Department of Health and Human Services approved labs and the mandatory Guidelines for Federal Workplace Drug Testing Programs and the Procedures for Transportation Workplace Drug Testing for tests pursuant to this policy. Those guidelines are published in 49 CFR 40; 49 CFR 382 (see also Volume 53 of the Federal Register, pages 11979-11989 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 Personnel Office. Any testing requested by an employee will be done at the employee's expense.

H. Alcohol Testing

Alcohol testing will be conducted either on University premises or at a specimen collection site.

The University will utilize 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, pages 7340-7376.)

I. Records



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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 information to unauthorized persons does not occur.

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; evaluations and referrals - 5 years;
- b. Collection and training records - 2 years;
- c. Negative or cancelled tests - 1 year;
- d. Alcohol test results indicating concentration less than 0.02 - 1 year.

J. Reporting

The University will submit reports in accordance with Federal Regulations regarding this alcohol and drug misuse prevention program.

K. Inquiries

Inquiries related to this policy may be directed to The University of Texas-Pan American Personnel Department.

L. Review

This policy shall be reviewed annually by the Vice President for Business Affairs.