

Sam Houston State University
A Member of The Texas State University System

Finance & Operations Human Resources Policy HR-24
Drug and Alcohol Testing for Positions Requiring Commercial Driver's License (CDL)

- SUBJECT:** Drug and Alcohol Testing for Positions Requiring Commercial Driver's License (CDL)
- PURPOSE:** To provide a safe, healthy, and productive working environment and to comply with the U.S. Department of Transportation (DOT) drug and alcohol testing requirements under the rules of the Omnibus Transportation Employees Testing Act of 1991.
- POLICY:** This policy applies to all applicants for or employees 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 policies on drugs and alcohol. Sam Houston State University (University) will not use drug/alcohol screen information to discriminate on any basis prohibited by law. Personnel actions are reviewed to ensure Equal Employment Opportunity (EEO) compliance.

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1. General

- a. To legally operate some heavy-duty university vehicles, state law requires the driver to possess a valid commercial driver's license (CDL). Vehicle operators, when driving heavy-duty vehicles, are subject to the provisions of the federally mandated program of Drug and Alcohol Testing for Safety-Sensitive Positions Requiring a Commercial Driver's License. Failure to comply with the provisions of this program may result in the loss of authorized driver status and disciplinary action, up to and including separation of employment.
- b. Positions require a CDL if the employee operates a motor vehicle under one or more of the following conditions:
 1. With a gross vehicle weight rating (GVWR) of more than 26,000 pounds,
 2. A trailer in combination with a vehicle if the total GVWR is more than 26,000 pounds,
 3. Which transports quantities of hazardous materials that requires warning placards (signs), or
 4. Designed to transport 16 or more passengers including the driver.

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- c. It is the policy of the University to be a drug-free workplace and to prevent and eliminate drug abuse from the workplace. The University has an obligation to:
 - 1. Ensure a safe work environment for all employees;
 - 2. Protect the students and other members of the public against endangerment resulting from the impairment of employee's physical or mental capabilities;
 - 3. Protect its property and equipment from unnecessary damage; and
 - 4. Assure that all University business is conducted with efficiency and quality.

2. Conditions of Employment

- a. All applicants and employees for positions requiring a CDL will be required to show proof of CDL and must satisfy all requirements to maintain the CDL while employed in the position.
- b. All applicants who have been conditionally accepted for employment for a position requiring a CDL driver's license, will be required to provide a urine and/or oral fluid specimen for testing for the presence of illegal drugs in accordance with DOT drug and alcohol testing regulations. DOT alcohol screening tests are conducted using either breath or saliva. DOT alcohol confirmation tests are conducted using Evidential Breath Testing Devices (EBTs) that only analyze breath. This requirement also applies when a current employee is transferring from a non-safety sensitive position to a safety-sensitive position.
- c. All applicants who have been conditionally accepted for employment for a position requiring a CDL driver's license, will be required to provide consent to verify prior drug and alcohol testing history with any DOT-regulated company or agency that employed the person during the past three years. This requirement also applies when a current employee is transferring from a non-safety sensitive position to a safety-sensitive position, if employed by another DOT-regulated company or agency within the past three years. Prior drug and alcohol testing history will be obtained and reviewed according to DOT regulations using the Federal Motor Carrier Safety Administration (FMCSA) Commercial Driver's License Drug and Alcohol Clearinghouse.
 - i. All applicants for and employees in security-sensitive positions must provide consent to perform limited queries. Every employee must be queried at least once every year.
 - ii. If the limited query returns that there are records, the applicant/employee will be asked to provide electronic consent for a full query to be conducted.
- d. The University requires, as a condition of initial and continued employment, that employees in safety-sensitive positions be free from the influence of alcohol and controlled substances while performing their duties.
- e. Employees in safety-sensitive positions are required to report the following to their supervisor and Risk Management within 24 hours:
 - i. Any traffic violation conviction (except parking violations), no matter what vehicle they were driving at the time of the violation.
 - ii. If their license is suspended, revoked, canceled, or they are otherwise disqualified from driving for any reason.

3. Employee and Supervisor Education and Training

- a. Employees who perform DOT safety-sensitive functions must acknowledge receipt of the Drug and Alcohol Testing for Positions Requiring Commercial Driver's License (CDL) policy.

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- b. Supervisors of employees who perform DOT safety-sensitive functions must complete DOT required training regarding the indicators of probable alcohol and/or drug use.

4. Prohibited Employee Behavior

- a. Alcohol Use
 - i. Use or possession of alcohol while on duty.
 - ii. Report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater.
 - iii. Perform safety-sensitive functions within four hours after using alcohol.
 - iv. Use alcohol for 32 hours following an accident, if post-accident testing is required, or until they undergo a post-accident alcohol test, whichever occurs first.
- b. Drug use
 - i. Use or possession of a controlled substance while on duty, except when the use is pursuant to the instruction 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
 - ii. Testing positive for a controlled substance while holding a position requiring the performance of a safety-sensitive function.
 - iii. Refusing to submit to required testing.
 - iv. 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 as listed above.

5. Definition of Prohibited Drugs

- a. Any drug prohibited by federal law or university policy;
- b. Alcohol;
- c. Prescribed drugs consumed by a person but not prescribed to that person;
- d. Any drug that is obtained illegally;
- e. Any drug that is obtained legally but is not being used for the prescribed purpose or is not being taken according to the prescribed dosages; and
- f. Any drug that would have a medical effect of reducing an individual's ability to safely operate a motor vehicle or perform a CDL safety-sensitive function.

6. Effects of Drugs and Alcohol

Information about the associated health risks and effects of alcohol and drugs is available through the:

- a. [U.S. Department of Transportation Federal Motor Carrier Safety Administration, \(FMCSA\) Implementation Guidelines for Alcohol and Drug Regulations, Chapter 4: Education and Training](#), and

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- b. [SHSU Annual Security and Fire Safety Report](#)

7. Employee Testing is Required:

- a. Prior to employment drug and alcohol testing;
- b. Upon reasonable suspicion of alcohol or drug abuse during, just preceding, or just after the period of the workday that the employee is performing safety-sensitive functions.
- c. On an unannounced random basis;
- d. Following an accident when required by DOT regulation or at the request of the employee's supervisor or department administrator;
- e. If allowed to return to duty for a covered position after having been identified by a substance abuse professional (SAP) as needing assistance in resolving problems with drug or alcohol abuse, the employee must have a return-to-duty test and the test result must be negative. Such an employee will be subject to a minimum of six unannounced follow-up drug or alcohol tests over the first 12 months following return to duty.
- f. Oral Fluid Standing Order:
 - 1. Eligible for Pre-Employment, Random, Follow-up, and Return to Duty testing
 - Initial testing should be attempted using Urine as the specimen.
 - An immediate Oral Fluid second collection should follow shy bladder, insufficient specimen, and cold/hot specimen initial attempts.
 - 2. Post-Accident and Reasonable Suspicion testing
 - Initial testing should be attempted using Oral Fluid as the specimen.
 - Any dry-mouth incidences should be followed up with a Urine collection
 - 3. Urine Specimens showing signs of tampering
 - Any urine specimens collected for the above reasons that the collector suspects signs of tampering, should be immediately followed by an oral fluid collection.
 - 4. Required Oral Fluid Collection
 - For direct observation collections involving transgender or nonbinary individuals, an oral fluid collection must be conducted.
 - Any circumstance where a qualified urine collector is not available, and a qualified oral fluid collector is available.

8. Reasonable Suspicion

- a. An employee in a safety-sensitive position will be required to submit to a controlled substances test when the supervisor or department administrator has reasonable suspicion to believe that the employee has violated the policy concerning drugs or alcohol. The supervisor's or department administrator's determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the employee's appearance, behavior, speech, body odors, or performance indicators of probable alcohol or drug use. The observations may include indications of the chronic and withdrawal effects of controlled substances.
- b. Reasonable suspicion testing will occur when the required observations for drugs or alcohol are made by a trained supervisor or department administrator during, just preceding, or just after the period of the workday that the employee is performing safety-sensitive functions.

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- c. Each supervisor must participate in a minimum of sixty (60) minutes of training on drug and alcohol abuse, on a one-time basis, provided by a qualified substance abuse program approved by Human Resources. This training will help supervisors determine if reasonable suspicion testing may be warranted.

9. Refusal to Submit to Testing

- a. A driver will be considered as refusing to test if they:
 - i. Fail to provide sufficient quantities of breath, saliva, or urine to be tested without a valid medical explanation;
 - ii. Tamper with or attempt to adulterate the specimen;
 - iii. Interfere with the collection procedure;
 - iv. Do not immediately report to the collection site;
 - v. Fail to remain at the collection site until the collection process is complete;
 - vi. Have a test result reported by an MRO as adulterated or substituted; or
 - vii. Leave the scene of an accident without a valid reason before the tests have been conducted.
- b. A driver who refuses to take an alcohol or drug test as required by law or as requested by a supervisor shall immediately notify the appropriate supervisor of such refusal and will be deemed medically unqualified to drive. Such an employee will be placed off duty and be subject to disciplinary action up to and including separation of employment.
- c. Forgetting to take an alcohol or drug test will not be considered acceptable reason for not taking such test. Personal or family emergencies will be evaluated on an individual basis.
- d. The decision regarding continuing employment will be the responsibility of the employee's supervisor and department administrator, with concurrence of the AVP of People & Procurement Operations.

10. Collection Procedure

- a. All alcohol and drug testing shall be conducted by an approved drug and alcohol testing vendor licensed by the state of Texas and for whose services Sam Houston State University contracts. Safety-sensitive position applicants and employees will be tested under controlled procedures.
- b. The alcohol test is generally a two-part process; a screening test and a confirmation test. If the screening test results in a negative reading, no further tests are required. However, a positive result on a screening test will require a confirmation test. No adverse action will be taken against an employee without a positive confirmation test.
- c. The DOT Safety-Sensitive drug test will screen for the following drugs:
 - i. Marijuana metabolites / THC
 - ii. Cocaine metabolites

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- iii. Phencyclidine (PCP)
 - iv. Amphetamines, Methamphetamine, and Methylene dioxymethamphetamine (MDMA)
 - v. Opiate metabolites (Codeine, Morphine, and Heroin)
- d. Security and Chain of Custody: Testing is through vendors that affirm their laboratories are secure. Vendors are required to take sufficient security measures to control access to the premises and to ensure that only authorized personnel handle specimens or are allowed access to records storage. Vendor laboratories shall use chain of custody procedures to maintain control and accountability of specimens from receipt through completion of testing, reporting during storage, and continuing until final disposition.

11. Positive Test

- a. Employees with positive alcohol or drug tests will be removed immediately from safety-sensitive functions. The supervisor or department administrator will meet with each employee who tests positive, informing the employee of the test result, and providing the employee with information about the Employee Assistance Program. Based on the information available after the meeting with the employee, the supervisor or department administrator shall determine whether:
 - i. To proceed to impose appropriate disciplinary action; and/or
 - ii. To offer the employee the opportunity to participate in and satisfactorily complete an appropriate employee assistance program or rehabilitation program for alcohol and/or drug abuse 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
 - iii. 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.
- b. Split specimen testing is used for the drug test. With a split specimen, only one portion of the specimen is initially tested. If the test result is positive and the employee or applicant requests in writing that the remaining portion of the specimen be tested at another lab, the additional testing will be at the employee's or applicant's expense.

12. Recordkeeping

All records of the drug and alcohol abuse prevention and testing program must be kept in a secure location with controlled access. All records must be maintained according to the following schedule:

- a. Education and Training records – indefinite period / plus two years after ceasing to perform related functions.
- b. Documents related to verified positive controlled substance test results and alcohol test results indicating an alcohol concentration of 0.02 or greater – five years;
- c. Documentation related to refusals to take required tests – five years;
- d. EBT calibration documentation – five years;

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- e. Records related to driver evaluations and referrals to SAPs – five years;
- f. Follow-up tests and follow-up schedules – five years;
- g. Management Information System drug and alcohol statistical testing data – five years;
- h. Previous employer records – three years;
- i. Records related to alcohol and drug collection process – two years;
- j. Training records – two years;
- k. Documents related to negative or canceled tests – one year; and
- l. Alcohol test results indicating an alcohol concentration of less than 0.02 – one year.

13. Reporting

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

14. Employee Assistance Program

All University faculty, staff and family members have access to the Employee Assistance Program (EAP) . One of the services an EAP provides is referral to Substance Abuse Professionals for assistance to help resolve issues related to alcohol and drug problems. Employees who need to schedule an appointment may call (800) 346-3549.

Reviewed by: Rhonda Beassie, Associate Vice President for People & Procurement Operations, November 2023