



Policy Chapter: Chapter 15 Risk Management

Policy Number and Title: 15.004 DOT Alcohol and Controlled Substances Testing of Commercial Drivers

I. Policy Statement

The University of North Texas (UNT) is committed to 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.

II. Application of Policy

Covered Employees

III. Policy Definitions

A. Alcohol

“Alcohol,” in this policy, means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

B. Alcohol Concentration

“Alcohol Concentration,” in this policy, 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.

C. Controlled Substance

“Controlled Substance,” in this policy, means any drug, substance, or immediate precursor listed in Schedules I - V of the Controlled Substances Act of 1988 as it may be revised from time to time. The five classes of controlled substances in a DOT drug test are as follows:

- a. marijuana metabolites,
- b. cocaine metabolites,
- c. amphetamines,
- d. opioids, and
- e. phencyclidine (PCP).

D. Commercial Driver’s License (CDL)

“Commercial Driver’s License (CDL)” means a state- issued license required for drivers operating a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

- a. has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), inclusive of a towed unit with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds);

- b. has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds);
- c. is designed to transport 16 or more passengers, including the driver; or
- d. is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)), which requires the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

E. Covered Employee

“Covered Employee” means an employee who is required to obtain or maintain a Commercial Driver’s License.

F. Illegal Drug

“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.

G. Prohibited Conduct

“Prohibited Conduct” means a covered employee may not:

- a. report for duty, or stay on duty, while using any controlled substance;
- b. report for duty, or stay on duty, if the employee has tested positive for a controlled substance;
- c. refuse to submit to a drug test;
- d. report for duty, or stay on duty, with an alcohol concentration of 0.02 or greater;
- e. report for duty, or stay on duty, if in possession of alcohol, if using alcohol, or within four (4) hours of using alcohol;
- f. 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; and/or
- g. refuse to submit to an alcohol test.

H. Refuse to Submit

“Refuse to Submit” to testing means:

- a. failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, after being directed to do so;
- b. failure to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences a pre-employment test is not deemed to have refused to test;
- c. failure to provide a urine specimen for any drug test required by this rule. Provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
- d. in the case of a directly observed or monitored collection in a drug test, failure to permit the observation or monitoring of the driver's provision of a specimen;
- e. failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- f. failure to provide adequate breath for alcohol testing, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- g. failure or declination to take a second test the employer or collector has directed the driver to take;
- h. failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process); or
- i. Is reported by the medical review officer as having a verified adulterated or substituted test result.

I. Safety-Sensitive Function

“Safety-Sensitive Function” means all time from the time a driver begins to work or is required to be in readiness to work, until the time they are relieved from work and all responsibility for performing work. Safety sensitive functions shall include:

- a. all time waiting to be dispatched, unless the driver has been relieved from duty by the employer;

- b. all time spent inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- c. all time spent at the driving controls of a commercial motor vehicle in operation;
- d. all time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
- e. all time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- f. all time repairing, obtaining assistance, or remaining in attendance upon a disable vehicle.

IV. Policy Responsibilities

A. Generally

The University is required to conduct drug and alcohol testing of each applicant for employment or for an employee who is required to obtain or maintain a Commercial Driver's License (CDL) in the following instances: 1) post-accident, random, and reasonable suspicion testing for alcohol, and 2) pre-employment/pre-duty, post-accident, random, and reasonable suspicion testing for controlled substances. 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. An employee who violates any aspect of this policy is subject to disciplinary action up to and including termination of employment.

B. Required Alcohol and Controlled Substance Testing

1. Generally

The following is prohibited:

- a. Use of alcohol on the job,
- b. Use of alcohol during the four hours before performance of a safety-sensitive function,
- c. Having prohibited concentrations of alcohol in the system (alcohol concentration of 0.02 or greater) while performing safety-sensitive functions,

- d. Use of alcohol prior to post-accident testing or for up to 8 hours following an accident, whichever occurs first,
- e. Use of controlled substances on the job, except when the use is pursuant to the instructions of a licensed medical practitioner who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

2. Pre-Employment/Pre-Duty Testing

No covered employee shall perform a safety-sensitive function unless they have received a controlled substance test result from a medical review officer indicating a verified negative test result. The test may be administered after making a contingent offer of employment, subject to the employee passing the pre-employment test.

3. Casual/Occasional Drivers

If the University uses, but does not employ a driver more than once a year to operate commercial motor vehicles, the University must obtain information, at least once every six months, that the driver participates in a controlled substances testing program that satisfies the DOT regulations. If the University cannot verify that the driver participates in a controlled substances testing program in accordance with this section, the University must conduct a pre-employment controlled substances test.

4. Post-Accident Testing

As soon as practicable following an accident, each surviving covered employee must be tested for alcohol and 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. If an alcohol test required by this section is not administered within two hours of the accident, a report stating why the test was not promptly administered must be kept in a file. If an alcohol test required by this section is 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 also be kept in a file. If a controlled substances test required by this section is not administered within 32 hours following the accident, attempts to administer the test must cease and the circumstances resulting in the failure to administer the test must also be kept in a file. The filed reports shall be submitted to the DOT upon request. 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 if 1) such tests conform to applicable requirements, and 2) the results of the test are obtained by the University.

5. 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.

6. Random Testing

The University must randomly select covered employees at various times for unannounced alcohol and controlled substance testing. The selection of covered employees for random alcohol and controlled substance testing must be made by a scientifically valid method and covered employees must have an equal chance of being tested each time selections are made. Each covered employee selected for testing must be tested during the selection period. No fewer than 10 percent of the average number of driver positions must be randomly tested annually for alcohol misuse, and no fewer than 25 percent of the average number of driver positions must be randomly tested annually for controlled substance use. However, required minimum annual testing percentages are subject to change each year; refer to the Federal Register to determine how many covered employees must be tested.

Testing must be conducted either while the covered employee is performing, immediately before performing, or immediately after performing a safety-sensitive function.

7. Reasonable Suspicion Testing

A covered employee must be tested for alcohol misuse or controlled substance use when the University has reasonable suspicion to believe that the employee has violated the rules concerning alcohol or controlled substances. 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. 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 during, just preceding, or just after the period of the workday 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 or University official trained in detecting the symptoms of alcohol misuse or controlled substance use; however, the supervisor or University official making the determination is not to conduct the reasonable suspicion test on that employee.

8. Return to Duty Testing

a. Concerning alcohol

Before a covered employee can return to performing safety-sensitive functions, after having engaged in prohibited conduct concerning alcohol, the covered employee shall successfully complete evaluation, treatment in accordance with rules and regulations, and testing with the result indicating an alcohol concentration of less than .02.

b. Concerning controlled substances

Before a covered employee can return to performing safety-sensitive functions, after having engaged in prohibited conduct concerning controlled substances, the covered employee shall successfully complete evaluation, treatment in accordance with rules and regulations, and testing with the result indicating a verified negative result for controlled substance use.

9. Written Record Requirement

A written record of the observations leading to a reasonable suspicion alcohol test or a reasonable suspicion-controlled substance test must be made and signed by the supervisor or University official who made the observations. This record must be made within 24 hours of the observed behavior or before the results of the alcohol or controlled substances test are released, whichever is earlier.

C. Test Administration

Risk Management Services is responsible for coordination of random test administration and 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 University. A covered employee who is to be tested for reasonable suspicion must be transported to the testing site by a designated departmental supervisor or University official. Post-accident testing is administered by law enforcement.

D. Information, Training and Referral

1. Information

The University must provide specific educational materials that explain the requirements of this policy and procedures and be prepared to revise as needed under the supervision of Risk Management Services. Employing departments must maintain a record that such materials have been provided to each covered employee.

2. 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. Information on post-accident testing procedures will be given to supervisors for distribution to covered employees.

3. Referral

An opportunity for treatment must be made available to covered employees. The University 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, a covered employee who has engaged in prohibited conduct must be advised by their supervisor or an appropriate University official of the available resources for evaluation and treatment including names, addresses, and telephone numbers of substance abuse professionals, counseling centers, and treatment programs.

E. Record Retention and Confidentiality Requirements

The University 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 Risk Management Services):

1. 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; documentation of alcohol test equipment inspection, maintenance, and calibration; documentation of employee evaluations and referrals (including SAP reports); records related to the administration of the alcohol and controlled substances testing programs (including follow-up tests and schedules for follow-up tests); and a copy of each annual calendar year summary.

2. Three-Year Retention Requirement

Records obtained from previous employers concerning drug and alcohol test results of employees.

3. Two-Year Retention Requirement

Records related to the alcohol and controlled substances collection processes.

4. One-Year Retention Requirement

Records of negative and canceled controlled substance test results; records of alcohol test results with a concentration of less than 0.02.

5. Indefinite period

Records related to the education and training of supervisors and drivers shall be maintained by the University while the individual performs the functions which require the training and for two years after ceasing to perform those functions.

F. Compliance and Coordination with Applicable Statutes

Requirements contained in this policy are not intended to 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 other federal statutes such as the:

1. Drug-Free Workplace Act
2. Fair Labor Standards Act
3. Americans with Disabilities Act
4. Rehabilitation Act of 1973
5. Family and Medical Leave Act
6. Age Discrimination in Employment Act
7. Employment Retirement Income Security Act

V. References and Cross-References

Omnibus Transportation Employee Testing Act of 1991

[49 C.F.R., Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs](#)

[49 C.F.R., Part 382, Controlled Substances and Alcohol Use and Testing](#)

[UNT Policy 05.004, Illegal Drugs and Alcohol](#)

VI. Revision History

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