

# MISSISSIPPI STATE UNIVERSITY

## DEPARTMENT OF HUMAN RESOURCES MANAGEMENT

### CONTROLLED SUBSTANCES AND ALCOHOL USE TESTING OF EMPLOYEES WITH A COMMERCIAL DRIVER'S LICENSE

#### **PURPOSE:**

Mississippi State University will conduct controlled substance and alcohol use testing of all applicants for employment in positions requiring a commercial driver's license and current employees whose University employment requires them to possess a commercial driver's license. This policy is intended to increase safety and to deter and detect the use of controlled substances and alcohol by employees who are employed in these safety-sensitive positions.

#### **POLICY:**

This policy prohibits all use of controlled substances by University employee drivers of commercial motor vehicles who are subject to commercial driver's license requirements. These drivers are also prohibited from possessing alcohol while on duty and from using alcohol for a period beginning four hours before going on duty and ending when they go off duty. The University will conduct drug and alcohol testing as required by the U.S. Department of Transportation (DOT) agency regulations which will be referred to in this policy as the "Federal Regulations." Those who test positive in violation of this policy are subject to disciplinary action, up to and including separation of employment. In addition, those who test positive cannot again drive a commercial motor vehicle for any employer until they have been evaluated by a Substance Abuse Professional for potential treatment needs.

#### Who is Affected

The drug and alcohol testing and other requirements of this policy apply to all University employees who are engaged as drivers of commercial motor vehicles and who are subject to commercial driver's license requirements. This includes the driver of any bus or other vehicle designed to carry 16 or more passengers, including the driver. Also included, is any driver of a vehicle with a gross vehicle weight rating of more than 26,000 pounds or a vehicle/trailer combination with a total vehicle weight of at least 26,001 pounds if the vehicle alone has a gross vehicle rating of 10,000 or more pounds.

#### Prohibited Conduct

Drivers are prohibited from using controlled substances and will be subject to testing for Marijuana, Amphetamines, Opiates, Cocaine, and Phencyclidine (PCP). Drivers are prohibited from possessing

alcohol while on duty. In addition, drivers are prohibited from consuming alcohol while on duty, for a period of four hours before going on duty and for a period of eight hours after being involved in an accident. Drivers are also prohibited from refusing to consent to this policy or to an alcohol or drug test under the terms of this policy.

### Effects of Violations

Any driver found in violation of this policy through a positive drug or alcohol test or otherwise will be subject to disciplinary action, up to and including separation of employment. The Federal Regulations mandate that a violator cannot again drive a commercial motor vehicle until the driver has been evaluated by a Substance Abuse Professional (SAP) and has successfully completed any treatment or rehabilitation recommended by the SAP. However, the referral to a SAP and other follow-up is mandatory for the driver, even if the employee is terminated. Any costs for treatment, other than those covered by the State Employees' Health Insurance Plan, will be incurred by the employee.

### Drug and Alcohol Testing

This testing program is required by the Department of Transportation's agency regulations and drivers must participate in the testing as a condition of employment.

Controlled substances testing will be limited to tests for (1) Amphetamines; (2) Cocaine; (3) Marijuana; (4) Opiates; and (5) Phencyclidine (PCP). No controlled substances test will be ruled as a verified positive until the driver's urine specimen has been tested once by a federally certified laboratory and found positive, has been tested again by the laboratory and confirmed positive and then reviewed by a Medical Review Officer (MRO). The MRO gives the driver an opportunity to explain any circumstances which might indicate the test is invalid or otherwise does not represent a violation of the University's policy, such as use of prescription medications pursuant to a doctor's order.

Alcohol testing will be conducted only at times when the driver is either on duty or is about to come on or off duty, and the testing levels for alcohol are designed to register positive only when a driver has consumed alcohol within four hours of reporting for duty or while on duty.

Records of required test results and annual reports to the U.S. Department of Transportation will be submitted by and maintained in the Department of Human Resources Management. All records of the drug and alcohol testing program are strictly confidential, and access to records will be strictly controlled. All records will be kept in a secure location and will not be part of the individual's personnel file as required by Federal Regulations.

## **PROCEDURE:**

There are six different circumstances under which drivers will be subject to testing. All drug and alcohol tests will be conducted according to strict privacy protections and safety/security procedures that are required by Federal law.

### Pre-employment Testing

The University will conduct pre-employment drug and/or alcohol testing for employee applicants who will be drivers of commercial vehicles and are subject to commercial drivers' license requirements. No person shall be allowed to perform safety-sensitive functions until they have satisfactorily passed an alcohol and drug screen. Additionally, as a condition of applying for a driver position, an applicant must consent in writing to a two year background check by the University of the applicant's previous employers to determine whether the applicant has tested positive for drugs or alcohol or has otherwise violated the drug and alcohol policies of a previous employer. (See "Consent for Release of Alcohol and Drug Testing Data" under forms on the HRM Web site) The University will be required to respond to similar inquiries from other prospective employers in the event a University driver or a former University driver applies for work with another employer. These requirements are designed to prevent drivers who test positive from applying elsewhere for a job without first completing the required follow-up evaluations and treatments specified in the Federal Regulations. Letters of offer to affected new employees will indicate that the offer is contingent upon completion of a drug test which indicates a verified negative drug screen result and a successful background check. Supervisors must contact the designated representative in the Department of Human Resources Management to schedule the required test and initiate the background check. Any employee who tests positive for drugs will not be allowed to begin work and the offer of employment will be withdrawn unless documentation is provided by the employee to the University's Medical Review Officer to convince the Medical Review Officer that the presence of the drugs is justified. The individual will be informed by the Director of Human Resources Management of the positive drug screen. In addition, if the results of the background check verify a previous violation of a Federal Drug and Alcohol regulation, the individual will not be allowed to work and the offer of employment will be withdrawn unless documentation is provided verifying the individual has subsequently complied with the return to duty requirements as defined by the Federal Regulations.

### Post-Accident Testing

Post accident testing for drugs and alcohol is also required if the accident involved the loss of human life or if the driver receives citation for a moving traffic violation arising from the accident. The alcohol test is to be administered within eight hours following the accident. If a test is not administered within two hours, a written statement must be prepared stating the reasons for the delay. If the test is not performed within eight hours of the accident, there shall be no further attempts to administer an alcohol test and the records shall reflect why no test was administered. Drug testing must be conducted within 32 hours following the accident. Drivers must remain readily available for testing after an accident, though necessary medical attention will not be delayed.

### Random Testing

The University will conduct random testing for drug and alcohol. Random tests will be spread reasonably throughout the calendar year. When an employee is notified of selection for random testing, he must proceed immediately to the designated testing site. Selection for random testing will be made by the University's drug testing provider using a random number generator computer program. All drivers are subject to selection each time, even if that driver has earlier been selected for a random test. The random testing rate for alcohol will be 10% of the average number of driver positions. For drug testing, the random testing requirement will be 50% of the average number of driver positions.

### Reasonable Suspicion Testing

A decision to conduct reasonable suspicion testing must be based on specific aspects concerning the performance, appearance, behavior, speech, or body odors of a driver consistent with drug or alcohol use. The decision must be made by a supervisor who has received training in detecting such conduct. Reasonable suspicion testing for alcohol should be conducted within two hours of the determination to test but in no event later than eight hours after that determination. If it takes more than two hours to get the test, documentation must be maintained explaining the delay and no alcohol test shall be conducted more than eight hours after selection. A written record must be made of the observation leading to the reasonable suspicion test and it must be made within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier. Supervisors of employees subject to alcohol/drug testing are required to participate in at least 60 minutes of training on alcohol misuse symptoms and indicators used in making determinations for reasonable suspicion testing and 60 minutes of training on the signs and symptoms of drug use. Training efforts will be coordinated by the Department of Human Resources Management.

### Return to Duty Testing and Follow-up Testing

Return to duty testing is required for any driver who has previously violated this policy or a similar policy mandated by the Federal Regulations, such as by testing positive for drugs or alcohol. If a driver has tested positive for either, the driver must, in addition to other requirements, pass another test before returning to duty as a commercial motor vehicle driver for any employer. Once back on duty, the driver is subject to unannounced follow-up alcohol and/or controlled substances testing for a period of up to 60 months.

### Effect of a Positive Test or Refusal to Be Tested

A positive test result for alcohol or any of the five controlled substances is a violation of this policy. Any refusal to submit to a test when required by this policy is also treated as a positive result.

A driver will be considered to have refused to submit to a test if: (1) the driver fails to appear for a test or fails to remain at the testing site until the process is complete; (2) the driver refuses to co-operate in the testing process; or (3) the driver is unable or unwilling to provide the required minimum breath and/or urine samples and there is no plausible medical explanation for the failure.

Testing positive is a violation of this policy and will result in disciplinary action, up to and including separation of employment.

### SAP Referral and Evaluation

Any driver who tests positive in this program must be referred to a Substance Abuse Professional (SAP). Before a driver can again drive a commercial motor vehicle for any employer, the driver must be evaluated by the SAP to determine if rehabilitation, counseling or other treatment is needed by the driver. If so, the driver must satisfactorily complete the treatment program and must pass a return to duty drug and alcohol test. If the driver returns to a driver position, the employee is subject to periodic and unannounced follow-up drug and alcohol testing in addition to the particular University's normal alcohol and drug testing program. If an employee is required to participate in a counseling/treatment program, the employee may Utilize major medical leave, or leave without pay to reasonably accommodate such participation.

Employees subject to testing required by this policy will be provided detailed information about alcohol misuse/drug use, the University's testing policy, and how and where they can get help for alcohol misuse/drug use.

### Special Alcohol Rule

To be considered a confirmed positive alcohol test, the driver's level must register .04 or greater. A special rule applies to drivers whose alcohol level is less than .04 but greater than .02. This result does not trigger all of the effects noted above. The driver must not drive or perform any safety-sensitive duties until the later of 24 hours or the beginning of his/her next scheduled shift.

### Notification of Test Results to Drivers

If the test is positive, the driver will be informed which substance or substances for which the test is positive. The Director of Human Resources Management will review the individual circumstances with the employee's department/unit head and recommend disciplinary action up to and including separation of employment to the appropriate administrator(s).

**REVIEW:**

This policy and procedure will be reviewed by the [Director of Human Resources Management](#) as needed.

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Recommended by:

/s/ Judy Spencer  
Director of Human Resources Management

06/01/12  
Date

/s/ Jerome A. Gilbert  
Provost and Executive Vice President

06/11/12  
Date

Reviewed by:

/s/ Lesia Bryant  
Director of Internal Audit

07/13/12  
Date

/s/ Joan L. Lucas  
General Counsel

08/23/12  
Date

APPROVED:

/s/ Mark Keenum  
President

10/02/12  
Date