



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER EL PASO

Operating Policy and Procedure

HSCEP OP: 70.41, **Drug and Alcohol Testing for Safety-sensitive Positions Requiring a Commercial Drivers License**

PURPOSE: The purpose of this Texas Tech University Health Sciences Center El Paso Operating Policy and Procedure (HSCEP OP) is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or the use of controlled substances by drivers of commercial motor vehicles (CMV) and to comply with the Federal Highway Administration (FHWA) and the Department of Transportation (DOT) regulations requiring drug and alcohol testing for employees in safety-sensitive functions.

This HSCEP OP applies to all TTUHSCEP applicants and employees in positions with duties or activities that involve the requirement of a commercial driver's license (CDL); otherwise referred to herein as safety-sensitive functions. The provisions of this alcohol and drug testing policy do not relieve an employee from requirements pursuant to other TTUHSCEP policies on alcohol and drugs.

REVIEW: This HSCEP OP will be reviewed on January 1 of each year (EY) by the Executive Director for Human Resources or designee, with recommendations for revision submitted to the Chief Financial Officer or designee by February 1.

POLICY/PROCEDURE:

1. General.

- a. **Safe Work Environment.** It is the policy of TTUHSCEP to be a drug-free workplace and to prevent and eliminate drug abuse in the workplace. TTUHSCEP has an obligation to ensure a safe work environment for all employees; to protect the students and other members of the public against endangerment due to the impairment of our employees' physical and mental capabilities; to protect its property and equipment from unnecessary damage; and to assure that all TTUHSCEP business is conducted with efficiency and quality. TTUHSCEP therefore requires, as a condition of initial and continued employment, that employees be free from the influence of alcohol and controlled substances while performing their duties as a TTUHSCEP employee.
- b. **Safety-sensitive Positions.** Positions that require possession of a CDL as condition of employment are considered safety-sensitive.

2. Prohibited Drugs. Prohibited drugs are defined in this section as:

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

3. **Employees Requesting Assistance.** Any employee who requests assistance in locating a qualified substance abuse professional or counselor should contact the Employee Assistance Program. The Employee Assistance Program provides concerned assessments by professional counselors. As professionals, the counselors are pledged to confidentiality. The counselors will not report individuals who are using the services. There is no charge for an initial assessment. When necessary, the employee or family member is referred to the most appropriate service available. To utilize the Employee Assistance Program, call the Department of Psychiatry at (915) 215-5861 or (915) 215-5865 and identify yourself as a TTUHSC faculty, staff, or family member. The Employee Assistance Program is located in the basement of the El Paso Psychiatric Center.

4. **Responsibilities.**

a. **Departmental.** It is the responsibility of each department requiring safety-sensitive positions to follow the policies and procedures set forth in this HSCEP OP. The department will be responsible for ensuring that the following requirements are met:

- (1) Identify all positions and incumbents requiring possession of a CDL to perform their job duties and provide a list to the Human Resources Department.
- (2) Ensure that all safety-sensitive position job requisitions and/or advertisements include a clear and concise statement specifying the requirement of mandatory drug testing.
- (3) Provide all new employees in a safety-sensitive position with educational materials that explain the TTUHSC policies and procedures with respect to meeting these requirements. These materials must be provided on the first day of employment or before operation of a CMV.
- (4) Each safety-sensitive position employee must receive a copy of the materials listed below and execute an EMPLOYEE CONSENT FORM FOR ALCOHOL/DRUG TESTING (Attachment A) before the start of the alcohol/drug testing. The cost of testing will be borne by the department. Information the employee must receive includes:
 - (a) A copy of this HSCEP OP;
 - (b) The identity of the person designated by the department to answer questions about the educational materials;
 - (c) A notice of which positions are subject to these regulations; and
 - (d) A notice to all safety-sensitive position personnel and applicants that they must submit to an alcohol or drug test.

TTUHSC will not be held liable for negligence by the drug testing company.

b. **Supervisor Training.** At minimum, the department must provide 60 minutes of training on alcohol misuse and 60 minutes of drug abuse training by a qualified substance abuse professional to all supervisors who may be involved in determining if reasonable suspicion exists to require a driver to take an alcohol or drug test. No supervisor shall determine if reasonable suspicion exists without the completion of the required training. Qualified training may be conducted by the Employee Assistance Program.

c. **Recordkeeping Requirements.** All records referring to the notification and execution of the requirements as outlined in this policy, including documentation of test refusals and documentation of positive and negative results, must be kept in a secured location with controlled access maintained according to the following:

- (1) Documents related to verified positive controlled substance test results and alcohol test results indicating an alcohol concentration of 0.02 or greater - five years;
- (2) Documentation related to refusals to take required tests - five years;
- (3) Calibration documentation - five years;
- (4) Records related to driver evaluations and referrals - five years;
- (5) Annual calendar year summaries - five years;
- (6) Records related to collection process - two years;
- (7) Training records - two years;
- (8) Documents related to negative or canceled tests - one year; and
- (9) Alcohol test results less than 0.02 - one year.

d. **Reporting Requirements.** Each department having an employee who falls under these requirements must prepare and maintain an annual calendar year summary documenting the implementation and results of this policy. The report must be completed no later than March 15 for the previous calendar year and must be forwarded through the Human Resources Department to the Federal Highway Administration.

5. Testing.

a. Alcohol and drug testing may be conducted by an approved alcohol and drug testing agency whose services are contracted to TTUHSCEP. Safety-sensitive personnel will be tested under controlled procedures for alcohol by a breath alcohol technician. Drug testing will be conducted under controlled procedures by a qualified collection site individual recommended by and whose services are contracted by TTUHSCEP. The NIDA-5 drug test will screen for the following drugs:

- (1) Amphetamine
- (2) Cocaine
- (3) Marijuana
- (4) Opiates
- (5) Phencyclidine

b. Work missed due to a positive outcome from an alcohol or drug test will be charged to the employee's leave balance if available, or as leave without pay.

c. Alcohol and drug testing is required for all safety-sensitive personnel and will be conducted on the basis of the following conditions:

(1) **Pre-employment Drug Testing.** Testing is conducted before applicants are hired, but after an offer to hire and before actually performing safety-sensitive functions for the first time or when employees transfer to a safety-sensitive position. Applicants selected for hire who refuse to consent to urinalysis or who test positive for the presence of illegal drugs 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 months.

(2) **Post-accident Alcohol or Drug Testing.** Testing is conducted (a) when an accident results in a fatality, (b) when the employee receives a traffic citation as a result of an accident, or (c) when requested by any supervisor. The employee should notify the appropriate supervisor immediately when conditions (a) or (b) above have occurred in order that DOT regulations may be complied with. From the time of the accident, the employee must take a breath alcohol test within two hours, and produce a urine sample for drug testing within 32 hours of the accident unless required by a supervisor to be tested before these time limits. Employees who are required to be post-accident tested for alcohol are to remain readily available for testing or may be deemed to have refused testing.

- (3) **Random Alcohol and Drug Testing.** Random testing is conducted annually and includes at least 25 percent of all safety-sensitive personnel for alcohol testing and 50 percent for drug testing. The random selection of employees and dates must be spread throughout the year. Random alcohol tests are required to be given before, during or immediately after work duty.

Employees shall be notified to report for a random alcohol test before or after their work duty as follows:

- The supervisor will notify the employee one hour plus travel time from home or department to the testing location before the employee is scheduled to report to work.

When work duty has just been completed by an employee, the supervisor will notify the employee prior to leaving TTUHSCEP property. Once the employee leaves TTUHSCEP property and has not been instructed to report for a random alcohol test, the employee shall not be contacted to report for an alcohol test on the employee's time off.

An employee who tests positive is medically unqualified to drive and will be subject to disciplinary action and/or termination.

- (4) **Alcohol and Drug Testing Due to Reasonable Suspicion.** Testing is conducted when a supervisor has cause to believe that an employee is under the influence of alcohol or drugs at any time during which that employee is on duty. The supervisor will visit with the employee to determine if there is any reasonable explanation for the actions of the employee. After this discussion with the employee, if the supervisor determines that a reasonable suspicion alcohol or drug test is required, the supervisor will immediately contact the Human Resources Department for explanation of the process to be used for testing.

The supervisor will remain with the employee and provide transportation from testing site back to the work site. If an employee tests negative and has missed work because of the reasonable suspicion test, the employee will be paid for time missed.

The supervisor shall document all observations of cause for reasonable suspicion and write a summary of the discussion with the employee.

- (5) **Return to Duty and Follow-up Alcohol or Drug Testing.** Testing is conducted when an individual who has violated the prohibited alcohol and drug conduct standards and was reprimanded accordingly, returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least six tests must be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

- d. A driver who refuses to take an alcohol or drug test as required by law or as requested by a supervisor, or who does not report for a test, or fails to comply with any form of alcohol or drug testing, should immediately notify the appropriate supervisor of such refusal and that employee will be deemed medically unqualified to drive. Said employee will be placed off duty and be subject to disciplinary action and/or termination. Forgetting to take an alcohol or drug test will not be considered an acceptable reason for not taking such test. Personal or family emergencies will be evaluated on an individual basis with the decision being the responsibility of the employee's supervisor.

- e. Alcohol and drug test results are confidential. Test results may only be released to the employer and the substance abuse professional. Written requests for copies of test results may be submitted by the employee to the Human Resources Department. Upon receiving a written request from a former employee, the Human Resources Department can provide a summary of test results during their employment at TTUHSCEP. Any other release of this information will strictly follow the Federal Motor Carrier Safety Regulations.
- f. When the applicant or employee reports to a testing facility for alcohol or drug test, that person must have a valid form of photo identification to present to the testing agency unless accompanied by a supervisor.
- g. If an applicant or employee tests positive for alcohol or drugs, arrangements for transportation to the person's residence will be made.

6. Regulations.

- a. An employee may not perform a safety-sensitive function if that employee tests positive for drugs or has a blood alcohol level of or exceeding 0.02. Drug testing is a two-stage process. First, a screening test is performed. If it is positive for one or more tested drugs, then a confirmation test is performed for each identified drug, thereby ensuring that over-the-counter medications or preparations are not reported as positive.

A second breath alcohol confirmation test will be conducted if the test is 0.02 or greater. If the test is 0.02 or greater, but less than 0.04, the employee will be removed from duty for 24 hours or until retesting shows the concentration is less than 0.02. If the test is 0.04 or greater, the employee will be immediately removed from safety-sensitive functions.

The supervisor will meet with each employee who tests positive for alcohol or drugs and will inform the employee of the test result. Based upon the information available after the meeting with the employee, the supervisor shall determine whether to:

- (1) Proceed to impose appropriate disciplinary action pursuant to [HSCEP OP 70.31](#), Employee Conduct, Discipline, and Separation of Employees; and/or
 - (2) 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 abuse as a condition of continued employment. An employee who chooses to participate in such a program must be informed that TTUHSCEP will pursue appropriate disciplinary action if the employee does not satisfactorily complete the prescribed program.
- b. A safety-sensitive function is described as any duty related to the safe operation of any vehicle or equipment that requires the operator to possess a commercial driver's license. Vehicles and/or equipment that require the operator to possess a commercial driver's license are, but may not be limited to, the following:
 - (1) A vehicle with a gross weight rating in excess of 26,000 pounds;
 - (2) Any vehicle designed to transport more than 16 persons including the driver; and
 - (3) Any vehicle required to display hazardous material placards.
 - c. Any employee performing safety-sensitive functions will be required to submit to alcohol and drug testing:
 - (1) Prior to employment (drug testing only);
 - (2) Upon reasonable suspicion of alcohol or drug abuse at any time while on duty or reporting for duty;

- (3) On an unannounced random basis;
 - (4) Following an accident when required by Department of Transportation regulation or at the request of the employee's department; or
 - (5) If allowed to return to duty for a covered position after having been identified by a substance abuse professional as needing assistance in resolving problems with drug or alcohol abuse. Such an employee will be subject to a minimum of six unannounced follow-up drug or alcohol tests at personal expense over the first 12 months following return to duty.
- d. Employee using, manufacturing, selling, or possessing any narcotic, drug, or controlled substance on TTUHSCEP property is prohibited.
 - e. An employee shall not enter TTUHSCEP property or be in a location where normal TTUHSCEP business transactions occur, nor report for duty while under the influence of alcohol, drugs, or other controlled substances.
 - f. Employees who are taking a legal drug or medication (over-the-counter or by prescription) which may possibly adversely affect judgment, coordination, or other senses, or the ability to perform work in a safe and productive manner, must notify their supervisor before starting work. The department administrator, in consultation with the Safety Department and/or the Human Resources Department, will decide whether the employee may remain at work and what work restrictions, if any, will apply. Employees found unable to work under this provision must use their sick leave, vacation leave, or leave without pay to cover the time not worked.

7. Leave of Absence for Alcohol or Drug Treatment Program.

- a. An employee shall be permitted to take a leave of absence for the purpose of undergoing treatment pursuant to an approved program for alcohol and/or drug abuse. The cost of the program will be entirely at the employee's expense. The leave of absence must be requested prior to:
 - (1) The commission of any act subject to disciplinary action;
 - (2) Any alcohol or drug test sample already submitted for testing; or
 - (3) Being notified to submit to testing.

The request must be in writing to the supervisor.

- b. Such leaves may be granted on a one time basis and shall be for a period of up to 90 days unless extended by mutual agreement. While on such leave, the employee will be required to use accrued sick leave, vacation leave, or leave without pay. This provision will not amend or alter any other pending disciplinary action.
- c. Within five days after the expiration of the leave of absence for alcohol or drug treatment, the employee must present to the appropriate department, written certification showing completion of the specific treatment program attended. The employee shall then submit to the TTUHSCEP's alcohol or drug tests and a negative result must be obtained prior to the employee returning to work.

Failure to present certification, failure to submit for testing or to obtain a positive result on the alcohol or drug test is grounds for immediate termination. When the department is notified that the employee tested negative, that person will be allowed to return to work, thus returning from leave of absence. However, this employee shall be required to submit to random alcohol or drug testing whenever there is a departmental request and solely at the discretion of TTUHSCEP and in accordance with the law.

8. **Notice of Conviction.** Any employee who is convicted of violating any federal, state, or local criminal alcohol or drug statute, must notify the appropriate supervisor before the next work day after such conviction. For the purpose of this notice requirement, a conviction includes a finding of guilt, an admission of guilt, a no contest plea, any form of deferred adjudication, any requirement of community service, and/or an imposition of sentence by any judicial body for any violation of a criminal statute involving the unlawful manufacture, distribution, dispensation, possession or use of alcohol or drugs.

9. **Right to change policy.** TTUHSCEP reserves the right to interpret, change, modify, amend, or rescind this policy in whole or in part at any time without the consent of employees.