

ALCOHOL AND DRUG TESTING PROGRAM

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Alcohol and Drug Testing Program

I. Purpose:

To establish an alcohol and controlled substance testing program for University employees whose jobs require the performance of "safety-sensitive functions" or require the holding of a Commercial Drivers License.

II. Administration:

The Office of Risk Management will be responsible for the administration of the University's Alcohol and Controlled Substance Testing Program and questions or requests for information concerning the Program should be to the Director, Risk Management.

III. Definitions:

- (a) Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols that could be used as intoxicants.
- (b) Alcohol Concentration is defined as the alcohol in volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.
- (c) Alcohol Use is defined as the consumption of any beverage, mixture or preparation, including any medication, containing alcohol.
- (d) Controlled Substance is defined as any of the prohibited drugs, which include (1) marijuana, (2) cocaine, (3) opiates, (4) amphetamines, and (5) phencyclidine.
- (e) Controlled Substance Use is defined as the introduction into the human body of a controlled substance.
- (f) Safety-sensitive Functions are defined as the performance of any of the following by an employee as part of his/her job duties:
 - (1) Operating a revenue service vehicle,
 - (2) Operating a non-revenue service vehicle, when required by a holder of a Commercial Drivers License,
 - (3) Controlling dispatch, movement or maintenance of a revenue service vehicle, or non-revenue vehicle when required to be operated by a holder of a Commercial Drivers License, or
 - (4) Carrying a firearm for security purposes.

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- (g) Controlled Substance Concentrations:
 - (1) "Positive" test result is where the test shows evidence of a controlled substance,
 - (2) "Negative" test result is where the test shows no evidence or insufficient evidence of a controlled substance.
- (h) Covered Employee as used in this regulation is defined as those employees who perform safety-sensitive functions in the performance of their respective job duties; all employees who are required to hold a Commercial Drivers License in order to perform their respective job duties; and, all successful applicants for such positions.
- (i) Commercial Drivers License (CDL) is defined as a driver's license issued by a state to anyone who has met the qualifications of that state to drive a commercial motor vehicle; where commercial motor vehicle includes:
 - (1) Any single or combination of vehicles with a gross combination weight rating of twenty-six thousand one (26,001) pounds or more; or
 - (2) Any single vehicle or combination of vehicles that either is designed to transport sixteen (16) or more passengers including the driver or is placarded for transportation of hazardous materials.
- (j) Refusal to Submit to a Test means that a covered employee fails to provide a urine sample as required under the controlled substance testing program without a valid medical explanation or fails to provide adequate breath as required under the alcohol testing program without a valid medical explanation after the employee has received notice of the requirement to be tested in accordance with the provisions of this policy, or engages in conduct that clearly obstructs the testing process.

IV. [General Information:](#)

The University of Wyoming prohibits the use of alcohol and/or controlled substances on the job. This prohibition includes evidence of alcohol or controlled substances use, which may impair the employee's ability to successfully perform job duties. In addition to the general prohibition, covered employees are prohibited from a) the use of alcohol during the four hours before the scheduled work day; b) having concentrations of 0.02 or greater of alcohol in their systems while performing job duties; c) exhibiting behaviors and/or appearance characteristics of alcohol use or controlled substance use; and d) use of alcohol or a controlled substance following (within eight hours or until the covered employee undergoes a post-accident test) an accident which occurred while performing job duties.

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The procedures that will be used to test for the presence of controlled substances and/or alcohol, protect the employee and the integrity of the testing process, safeguard the validity of the test results, and ensure the test results are attributed to the correct covered employee will be in accordance with, at least, the minimum standards established under 49 CFR part 40; and, includes requiring a signed release from each covered employee for the transfer of records and information between the University, substance abuse professional, rehabilitation professional, rehabilitation facility, counselor, and/or treatment facility.

Prior to the first day of performance of required job duties, the University shall provide to the covered employee all necessary training, information, procedures and instructions with respect to the University's Drug and Alcohol Testing Program.

V. [Alcohol Testing](#), Related Evaluations and Penalties Associated with Alcohol Misuse:

A. [Alcohol Testing](#):

Alcohol testing program shall include:

- i. Refusal to submit to a test: Refusal to submit to any required test under these policies shall count as having a prohibited concentration of alcohol in the covered employee's system.
- ii. Post-accident testing: As soon as practicable, but at least within two hours following an accident, the University will administer a post-accident alcohol test for each covered employee surviving the accident, if the accident involved: (a) injury to or loss of human life, b) property damage in excess of \$500, or c) the employee receives a citation under state or local law for a moving traffic violation which contributed to the accident. Failure to remain readily available for such testing shall be deemed as a refusal to submit to testing which shall count as having a prohibited concentration of alcohol in the covered employee's system.
- iii. Random testing: The University will randomly select covered employees at various times for unannounced alcohol testing. The random selection process will utilize a statistically valid method, which assures that all covered employees have an equal chance of being selected for testing. The testing may occur during the scheduled workday, immediately before or immediately after the workday.
- iv. Reasonable suspicion testing: The University will require an alcohol test of any covered employee when the University has reasonable suspicion to believe that the covered employee has violated the University's policies related to alcohol use. A determination that

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reasonable suspicion exists to require an alcohol test will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, physical conduct, speech, or body odors of the covered employee. Reasonable suspicion testing is authorized only if the required observations occur during the scheduled workday for that covered employee, or just preceding or just after the scheduled workday.

- v. Return-to-duty testing: No covered employee administered an alcohol test with results indicating an alcohol concentration of 0.02 or greater will be allowed to complete the current workday. Any covered employee not being allowed to complete the current work day will have an administered alcohol test just prior to the next scheduled work day, the results of which must indicate an alcohol concentration of less than 0.02 in order for the covered employee to be allowed to return to work. If there are two consecutive work days where the test results indicate alcohol concentration levels greater than 0.04 or three consecutive work days of 0.02 or greater concentrations, the employee will be referred to a substance abuse professional, at the employee's expense, for evaluation. The employee will not be allowed to return to work until the employee has completed any rehabilitation, at the employee's expense, required by the substance abuse professional and have alcohol test results indicating an alcohol concentration level of less than 0.02 for two consecutive work days.
- vi. Follow-up testing: Each covered employee identified by a substance abuse professional as needing assistance in resolving problems with alcohol use, and who has successfully returned to work, is subject to a minimum of six (6), frequency and duration to be determined by the substance abuse professional, unannounced alcohol tests over the 12 months following the employee's return to work.

B. [Results and Penalties:](#)

- i. A covered employee who is found through the testing program to have an alcohol concentration of 0.02 or greater will not be allowed to complete the current work day, will be escorted home by the University, and is subject to the criteria listed under 5.A.v., Return-to-duty testing. If the covered employee was involved in an accident which resulted in serious injury or loss of human life and test indicate an alcohol concentration of 0.04 or greater, the employee will not be allowed to drive any University owned, leased or hired vehicle or perform any safety-sensitive function for a period of one year following the accident; and such action may result in disciplinary action (including suspension of pay) or termination of employment.

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- ii. A covered employee who is found through the testing program to have an alcohol concentration of 0.04 or greater will not be allowed to drive a University owned, hired or leased vehicle or perform any safety sensitive function for a period of 60 consecutive days from the date of the test; and such action may result in suspension without pay for that period or termination of employment.
- iii. A covered employee who is found through the testing program to have an alcohol concentration of 0.04 or greater three or more times in any three year period will not be allowed to drive a University owned, hired or leased vehicle or perform any safety sensitive function for 120 consecutive days from the date of the third such test result; and such action may result in suspension without pay for that period or termination of employment.
- iv. A covered employee who is found through the testing program to have an alcohol concentration of 0.04 or greater will be referred to a substance abuse professional at the employee's expense, for evaluation. The employee will not be allowed to return to work until the employee has completed, at the employee's expense, any rehabilitation required by the substance abuse professional and have alcohol test results indicating an alcohol concentration level of less than 0.02 for two consecutive workdays.
- v. The refusal of any covered employee to take any required alcohol test will constitute sufficient grounds for termination of employment since the federal rules prohibit an employee from refusing to take a required test.

C. [Training:](#)

- i. The University will provide each covered employee with copies of the Alcohol Testing Program and Policies and other compliance material related to these policies.
- ii. The University will provide training to covered employee supervisors who may be designated to determine whether reasonable suspicion exists; such training is to include physical, behavioral, speech and performance indicators of probable alcohol use.
- iii. The University will provide each covered employee who is required to see substance abuse professional listings of resources for evaluation and treatment of alcohol problems. Listings to include: names, addresses and telephone numbers of substance abuse professionals, counseling centers, and treatment programs. Any evaluation or treatment program the covered employee utilizes will be at his or her

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own expense.

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VI. [Controlled Substances Testing](#), Related Evaluation and Penalties Associated with Controlled Substance Use.

The University of Wyoming prohibits the use of any controlled substance on the job (with the exception of the prescribed use of a controlled substance pursuant to the instructions of a licensed physician who has advised the employee that the substance will not adversely affect the employee's ability to safely perform the employee's job.) A covered employee must notify the University (immediate supervisor) of any prescription drug use.

A. [Controlled Substance Testing](#):

- i. Refusal to submit to a test: Refusal to submit to any test required under these policies shall count as having received a "positive" test result.
- ii. Pre-employment/Post-offer testing: All successful applicants for positions herein covered shall receive a controlled substance test after a conditional offer of employment has been given and prior to the first day of employment as scheduled by the University. As a condition of employment, the test must indicate a verified "negative" test result.
- iii. Post-accident testing: As soon as practicable, but at least within thirty-two hours following an accident, the University will test each covered employee involved in the accident, who survived, for controlled substances, if a) the accident involved injury to or loss of human life, b) property damage in excess of \$500, or c) the employee receives a citation under state or local law for a moving traffic violation which contributed to the accident. Failure to remain readily available for such testing shall be deemed as a refusal to submit to testing which shall count as a "positive" test result.
- iv. Random testing: Under the random testing requirement of this program, the University will randomly select covered employees at various times for unannounced controlled substance testing. The random selection process will utilize a statistically valid method, which assures that all covered employees have an equal chance of being selected for testing. The testing may occur during the scheduled workday, immediately prior or immediately after the workday.
- v. Reasonable suspicion testing: The University will require a controlled substance test of any covered employee when the University has reasonable suspicion to believe that the covered employee has violated the University's policies related to controlled substance use. A determination that reasonable suspicion exists to require a

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controlled substance test will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. The observations may include indications of the chronic and withdrawal effects of controlled substances on the individual. Reasonable suspicion testing is authorized only if the required observations occur during the scheduled workday for that covered employee, or just preceding or just after that period.

- vi. Return-to-duty testing: No covered employee who has refused to submit to a controlled substance test or has a verified "positive" drug test result will be allowed to complete the work day in which the employee refused to submit to the test or test results are received indicating a "positive" result. The employee will not be allowed to return to work until the employee: (a) has been evaluated by the substance abuse professional, at the employee's expense, and (b) has taken a return-to-duty drug test with a verified "negative" result.
- vii. Follow-up testing. Each covered employee identified by the substance abuse professional as needing assistance in resolving problems with the use of controlled substances, and who has successfully returned to work, is subject to a minimum of six (6), frequency and duration to be determined by the substance abuse professional, unannounced follow-up controlled substance tests over the next 12 months following the employee's return to work.

B. [Results and Penalties:](#)

- i. First offense: The first time a covered employee receives a controlled substance test with results indicating a verified positive test result, the employee will be immediately suspended without pay, referred to a substance abuse professional, at the employee's expense, and not allowed to return to work until a controlled substance test is received with results indicating a verified "negative" test result. If a verified "negative" test result is not received within two weeks of the initial occurrence, the covered employee may be subject to termination of employment.
- ii. Second offense within a three-year period: The second time in a three-year period a covered employee receives a controlled substance test with results indicating a verified "positive" test result, the employee will be immediately suspended without pay, referred to a substance abuse professional at the employee's expense, not allowed to return to work until a controlled substance test is received with results indicating a verified "negative" test result and will not be allowed to drive a University owned, hired or leased vehicle, or

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perform any safety sensitive function for a period of 60 consecutive days starting with the first day of being allowed to return to work which is based on test results indicating a verified "negative" test result. If a verified "negative" test result is not received within two weeks of the date of suspension, the employee may be subject to termination of employment.

- iii. Third offense within a three-year period: The third time in a three-year period a covered employee receives a controlled substance test with results indicating a verified "positive" test result the employee will be immediately suspended without pay, referred to a substance abuse professional at the employee's expense, not allowed to return to work until a controlled substance test is received with results indicating a verified "negative" test result and not allowed to drive a University owned, hired or leased vehicle or perform any safety sensitive function for a period of 120 consecutive days starting with the first day of being allowed to return to work based on test results indicating a verified "negative" test result. The third offense within a three-year period will be sufficient grounds for immediate termination of employment.
- iv. Any covered employee who has been referred to a substance abuse professional and the evaluation by that professional includes a determination that the covered employee "needs assistance," the employee must a) complete any rehabilitation program prescribed by the substance abuse professional at the employee's expense, b) be evaluated again by the substance abuse professional after completion of the rehabilitation program, c) undergo a controlled substance test and have it provide a verified "negative" test result, and d) undergo a minimum of six (6) unannounced, frequency and duration to be determined by the substance abuse professional, follow-up controlled substance tests over the following 12 months and each test must indicate verified "negative" test results. Non-compliance will be sufficient grounds for termination of employment.
- v. The refusal of any covered employee to submit to a controlled substance test will result in a prohibition from driving a University owned, hired or leased vehicle or perform any safety sensitive function for a minimum period of one-year and driving privileges or performance of any safety sensitive function will not be reinstated until a controlled substance test with results indicating a verified "negative" result has been received but the one-year prohibition from the date of refusal applies irrespective of the date of receipt of a verified "negative" result from a controlled substance test; and a verified "negative" result must be received for a test taken two to five days prior to the expiration of the one-year prohibition. If said test, two to

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five days prior to the expiration of the one-year prohibition, does not indicate a verified "negative" test result, the covered employee will be subject to immediate termination of employment. If driving or the performance of a safety sensitive function is a major job function of the covered employee, refusal to take a controlled substance test may result in termination; but in all cases, continued refusal will be sufficient grounds for immediate termination of employment since the federal rules prohibit an employee from refusing to take a required test.

C. [Training:](#)

- i. The University will provide each covered employee with copies of the Controlled Substance Testing Program Policies and other compliance material related to these policies.
- ii. The University will provide training to covered employee supervisors who may be designated to determine whether reasonable suspicion exists: such training to include physical, behavioral, speech and performance indicators of probable use of controlled substances.
- iii. The University will provide to each covered employee who is required to see a substance abuse professional with listings of resources for evaluation and treatment of controlled substance misuse, to include: names, addresses and telephone numbers of substance abuse professionals, counseling centers and treatment programs.

[References:](#)

- (a) Wyoming State Statute(s) 31-7-301 through 31-7-310
- (b) U.S. Department of Transportation Regulations 49 CFR part 40, 653 and 654