HRM-049

Drug and Alcohol Testing Requirements for Commercial Driver's License Holders

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Status Final

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Policy Type University

Contact Office UVA Human Resources

Oversight Executive
Vice President and Chief Human Resources Officer

Applies To Academic Division, the Medical Center, and the College at Wise.

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Reason for Policy

The University of Virginia strives to maintain a safe, healthy, efficient workplace free from drug and alcohol abuse. In compliance with state and University policies, the *Omnibus Transportation Employee Testing Act of 1991*, and Department of Transportation, including the Federal Motor Carrier Safety Administration's (FMCSA) Final Rule 81 FR 87686 (FMCSA Drug and Alcohol Clearinghouse), the University has established a program for testing employees who are required to obtain/possess a commercial driver's license (CDL).

The FMCSA's Drug and Alcohol Clearinghouse is designed to help prevent accidents and injuries resulting from the use of controlled substances or misuse of alcohol by drivers of commercial motor vehicles. The University of Virginia has formalized a drug and alcohol testing program to comply with this rule for its employees required to hold a CDL as a condition of their employment.

Definition of Terms

Commercial Driver's License (CDL) Drug and Alcohol Clearinghouse (Clearinghouse)

Description

The Federal Motor Carrier Safety Administration's (FMCSA) secure, online database where (1) the FMCSA, employers, state driver licensing agencies, and law enforcement personnel can access real-time information about CDL driver drug and alcohol program violations; and (2) employers report information about CDL driver compliance with alcohol and drug testing regulations. There are two types of Clearinghouse queries:

Full Query: This pre-employment (or pre-assignment for a new CDL position) review allows employers who employ drivers subject to the FMCSA's licensing and drug and alcohol requirements to query the Clearinghouse for current and prospective employees' drug and alcohol violations before permitting those employees to operate a commercial motor vehicle on public roads. Employers can also report information to the Clearinghouse. A full query allows the employer to see detailed information about any drug and alcohol program violations in a driver's Clearinghouse record. An employer must obtain the driver's electronic consent in the Clearinghouse prior to the release of detailed violation information during the full query.

Limited Query: A limited query allows an employer to determine if an individual driver's Clearinghouse record has any information regarding resolved or unresolved drug and alcohol program violations (a violation is unresolved if the driver has not completed the return-to-duty process) but does not release any specific violation information contained in the driver's Clearinghouse record. Limited queries require only a general driver's consent, which is obtained outside the Clearinghouse. This general consent is not required on an annual basis and may be effective for more than one year. However, the limited consent request must specify the timeframe the driver is providing consent for.

Designated Employer Representative (DER)

Description

The University, Medical Center, or College at Wise employees designated by management and authorized to determine when an individual in a safety-sensitive function may be removed from duty or cause employees to be removed from covered duties and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part. Service agents cannot act as DERs.

- **Service Agent:** Any person or entity, other than an employee of the employer, who provides services specified under 49 CFR Part 40, to employers and/or employees in connection with Department of Transportation drug and alcohol testing requirements. This includes, but is not limited to, collectors, breath alcohol technicians (BATs) and screening test technicians (STTs), laboratories, medical review officers (MROs), substance abuse professionals, and consortium/third-party administrators (C/TPAs). To act as service agents, persons and organizations must meet the qualifications set forth in applicable sections of this part. Service agents are not employers for the purpose of implementing FMCSA drug and alcohol testing regulations.

Drug and Alcohol Screening

Description

Controlled substance use and alcohol screenings conducted (1) at any of the following intervals: pre-employment/pre-duty, reasonable suspicion, random, post-accident, return-to-duty, follow-up alcohol and drug testing; and (2) pre-employment and annual searches of the Federal Motor Carriers Safety Administration Drug and Alcohol Clearinghouse (CDL-holders only) of applicants for employment and current employees.

Federal Motor Carriers Safety Administration (FMCSA)

Description A division within the U.S. Department of Transportation.

Medical Review Officer (MRO)

Description

A licensed physician trained and certified to review the lab results and validate whether a test is positive. MROs receive laboratory confirmed urine drug test results; determine whether there is a legitimate medical explanation for a laboratory confirmed positive, adulterated, or substituted result; and review and report a verified result to the designated employer representative in a timely and confidential manner.

Substance Abuse Professional

Description

The individual who evaluates employees who have violated a Department of Transportation drug and alcohol program regulation and makes recommendations concerning prescribed educations, rehabilitative treatment, follow-up testing, and aftercare.

Policy Statement

In accordance with STU-001: Use of Alcoholic Beverages and Prohibition of Other Drugs, an employee of the University is prohibited from the unlawful or unauthorized manufacture, distribution, dispensation, possession, or use of alcohol or other controlled substance in University workplaces. In addition, an employee whose job requires the possession of a commercial driver's license (CDL) is subject to drug and alcohol testing and annual searches of the Federal Motor Carriers Safety Administration's (FMCSA) Drug and Alcohol Clearinghouse.

Exceptions: An exception to this policy applies if an employee is:

- Using a controlled substance as instructed by a health care provider who has advised the employee the substance will not adversely affect their ability to do their job.
- Prescribed medication pursuant to the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101, et seq. (ADA). An employee who is prescribed medication pursuant to an ADA accommodation may test positive under this policy and such result may need to be further reviewed in consultation with the UVA Human Resources and the ADA coordinator.

A University employee whose job requires the possession of a CDL is required to participate in the University's Drug and Alcohol Screening Program for Federal Motor Carrier Safety Administration Covered Positions.

1. **Covered Positions:**
   The specific employee/position categories covered by this policy and the type(s) and frequency of testing applicable to each category are defined in the following subsections.

2. **Commercial Driver's License:**
   In accordance with the *Omnibus Transportation Employee Testing Act of 1991* (the Act), candidates for employment and employees in positions requiring a commercial driver's license are subject to the following.

- Verification of a Department of Transportation (DOT) approved medical certificate.
- Pre-employment/pre-duty drug testing.
- Random drug and/or alcohol testing.
- Post–accident drug and alcohol testing.
- Reasonable suspicion drug and/or alcohol testing.
- Return-to-work and follow-up testing provisions of this policy.

In accordance with the FMCSA Drug and Alcohol Clearinghouse, candidates for employment and employees in positions requiring a commercial driver's license are subject to pre-employment searches of the FMCSA Drug and Alcohol Clearinghouse and annual searches of the FMCSA Drug and Alcohol Clearinghouse.

The University will comply with all reporting requirements established by the FMCSA.

Employees who do not maintain the required CDL license are subject to termination.

3. **Medical Certification:**
   To further ensure the safety of drivers and the safety of faculty, staff, students, and visitors, anyone required to obtain/possess a commercial driver's license must also obtain/possess a DOT-approved medical certificate. Initial job offer and continuation of employment are contingent upon maintaining a valid license and active medical certificate. The department/unit supervisor is responsible for initial verification and ongoing confirmation of a valid CDL and medical certification.

   If medical conditions arise that prevent an employee from performing their job duties, in accordance with the ADA and associated confidentiality regulations, the employee and supervisor should contact their human resources employee relations consultant and/or the University ADA coordinator to understand the procedures for requesting workplace accommodations. The accommodation process is an interactive process and will require medical information from a healthcare professional.

4. **Drugs and Alcohol:**
   The use of alcoholic beverages is prohibited during the four hours prior to operating a commercial vehicle. An employee whose alcohol concentration is greater than the current DOT threshold may not operate a commercial vehicle.

   No supervisor having actual knowledge that an employee has used alcohol or controlled substances within the four hours prior to reporting to work, knowledge of on-duty possession of alcohol or controlled substances, knowledge of on-duty alcohol or drug use, or knowledge of employee impairment shall permit a driver to operate a University/state-owned/leased vehicle.

5. **Contractors and Occasional Hires:**
   Contractors who operate University/state owned/leased vehicles (where a CDL is required) at the direction of or with the consent from the University are subject to pre-duty drug and alcohol testing as well as the required medical certification.

   Exception: A driver who is hired on an occasional basis, but more than once a year to operate a University/state owned/leased vehicle (e.g., bus drivers for special trips) and who is covered by the testing program of another employer, must provide evidence once every six months they participated in an

alcohol and drug testing program which satisfies the regulations of the Act. (Contractors and occasional hires are not eligible for substance abuse professional services provided by the University.)

Supervisors are responsible for notifying UVA Human Resources of employees hired on an occasional basis. The following information must be obtained from the program in which the driver is a participant:

- Name and address of the testing program.
- Verification that the employee is a participant.
- Verification that the program conforms to the regulations.
- Verification that the driver is qualified under the regulations including documentation that the driver has not refused to be tested.
- Verification of the date the driver was last tested.
- The results of any tests taken and/or violations within the previous six months.

6. **University Drug and Alcohol Screening Program:**
Every individual offered employment in a position covered by this policy is required to receive satisfactory results of a drug test and FMCSA Drug and Alcohol Clearinghouse search (CDL-holders only) as a condition of employment. A candidate for employment and a current employee in a position requiring a CDL is subject to:

   a. ***Pre-Employment/Pre-Duty Drug Testing.*** The University must receive a negative drug test result before permitting a CDL driver to operate a commercial motor vehicle (CMV). Pre-employment applies to a driver who returns to work after a layoff period when the driver has not been subject to random controlled substance testing for more than 30 days or has been employed by another entity.

      An employee promoted, demoted, or transferred from a position not covered by this policy to a position covered by this policy on a temporary or continuing basis is required to receive satisfactory results of a drug test and FMCSA Drug and Alcohol Clearinghouse search (CDL-holders only) prior to assuming the duties of the position.

      Contractors who operate University owned/leased commercial vehicles or aircraft at the direction of or with the consent of the University must certify compliance with a DOT, FMCSA, or FAA testing or screening program. Certification should be made to the University department/unit authorizing use. An employee using a CDL must also possess and provide a valid license and DOT medical certification. The hiring official will review and document verification prior to the employee driving a state owned/leased vehicle.

   b. ***Random Drug and/or Alcohol Testing.*** Those covered by this policy are subject to random testing performed throughout the year for alcohol and controlled substances. Two separate testing pools will be maintained: commercial driver's license (CDL) and contractors and occasional hires. UVA Human Resources will maintain position pools for each group subject to random testing. Pools will be sampled separately at the designated rates. An employee who falls into two or more categories subject to random testing will be placed into multiple appropriate pools based on their positions. Supervisors are responsible for notifying UVA Human Resources when an employee needs to be added or removed from a testing pool.

   c. ***Post–Accident Drug and Alcohol Testing.*** As soon as practical following a work-related accident involving a covered employee in a University/state-owned/leased motor vehicle, the employee will be tested for controlled substances and alcohol if:

1. The employee was performing a job-related function and the accident involved the loss of human life.
2. The employee received a citation under state or local law for a moving traffic violation arising out of the accident.

Post-accident tests for alcohol must be administered as soon as practical and no later than eight hours following the accident. Drug tests must be administered no later than 32 hours following the accident. An employee is prohibited from using alcohol or non-prescribed controlled substances until testing is performed or the above time frames have expired.

An employee involved in an accident while operating a state owned/leased vehicle or involved in a work-related accident must notify their supervisor as soon as practical, not to exceed eight hours. Failure to report an accident will result in disciplinary action under HRM-014: Standards of Conduct for University Staff Employees and other applicable University policies. Further, an employee must notify their supervisor if they receive any traffic violation(s), driving conviction(s), or have a revocation, suspension, or restriction of their license. Failure to notify is cause for disciplinary action up to and including termination of employment.

An employee involved in an accident requiring post-accident testing is typically placed on paid administrative leave pending receipt of the test results.

d. ***Reasonable Suspicion Drug and/or Alcohol Testing.*** A covered employee who displays physical, behavioral, or performance indicators reflecting the appearance of being under the influence of controlled substances or alcohol may be subject to drug and/or alcohol testing. **Reasonable suspicion tests for alcohol** should be administered within two hours and no later than eight hours following the accident.
e. ***Return-to-Duty Testing.*** An employee who has violated the drug or alcohol rules must be re-tested before returning to work. A negative drug test and an alcohol concentration of the current DOT threshold are required. Supervisors should work with the DOT-qualified Substance Abuse Professional to coordinate a re-test and to confirm the test results.
f. ***Follow-up Drug and Alcohol Testing.*** An employee subject to the provisions of this policy who has tested positive for controlled substances or alcohol will also be subject to a minimum of six unannounced follow-up tests over the 12 months following their positive test result. The return-to-duty test does not serve as a follow-up test. A DOT-qualified Substance Abuse Professional will coordinate the dates and times of these follow-up tests with the employee's department/unit.

g. ***Annual FMCSA Drug and Alcohol Clearinghouse Searches.*** In accordance with the Federal Motor Carrier Safety Administration's Final Rule 81 FR 87686, each current employee required to possess a commercial driver's license is subject to an annual search of the FMCSA Drug and Alcohol Clearinghouse. A candidate for employment and an employee in a position requiring a commercial driver's license is subject to:

- Pre-employment or Full Query of the FMCSA Drug and Alcohol Clearinghouse.
- Annual or Limited Query of the FMCSA Drug and Alcohol Clearinghouse.

An employee who does not test when required under this policy is presumed to have a positive test result and subject to disciplinary action under this policy.

h. ***Notification of Results.*** UVA Human Resources will be notified of test results and will relay the results of the testing to the appropriate department/unit supervisor or manager, who will inform the

employee.

i. ***Record Keeping.*** Records will be maintained in a secured file with the testing vendor. All files will be maintained in accordance with federal/state guidelines.

j. ***Disciplinary and Corrective Action.*** Any covered employee who commits a violation of this policy shall be subject to the full range of disciplinary actions up to and including termination of employment. Refusal to submit to required testing (random, reasonable suspicion, post-accident, return-to-duty, or follow-up) is cause for disciplinary action up to and including termination of employment.

   A covered employee is required to notify their supervisor at once if they:

   - Receive any traffic violation, driving conviction, or have a revocation, suspension, or restriction of their license. Failure to notify is cause for disciplinary action up to and including termination of employment.
   - Are taking any medication or have any medical condition that may impact their ability to perform their job duties (drive). Notification is also required at once if an employee experiences any change in their medical certification. Failure to notify is cause for disciplinary action up to and including termination of employment.

k. ***Referrals.*** An employee subject to the provisions of this policy who tests positive for alcohol or controlled substances and is allowed to continue employment with the University must be evaluated by a substance abuse professional within the timeframe established by their supervisor. A first-time offender who tests positive for alcohol or controlled substances may be referred to the Faculty & Employee Assistance Program (FEAP), or other appropriate program, for evaluation by a substance abuse professional and referral to an appropriate counseling center and/or treatment program. An employee who is referred to a counseling or treatment program must be re-evaluated by a substance abuse professional following completion of the program.

   The FMCSA does not require the University to provide an employee assistance program for rehabilitation nor reinstatement. However, the DOT encourages such programs.

l. ***Drug and Alcohol Testing Facility.*** UVA Human Resources works with consortium/third-party administrators and/or local clinics to establish vendors for drug and alcohol testing in compliance with this policy. Anyone with questions about testing facilities should contact the UVA HR Solution Center at (434) 243-3344 or askhr@virginia.edu.

7. **Responsibilities:**

The ***employee*** is responsible for:

- Reporting for drug and alcohol screening tests as directed and within the mandated timeframe as required by law and University policy.
- Providing consent for the pre-employment, pre-duty, and annual Clearinghouse query searches.
- Notifying their supervisor when on medication that includes warnings about, and contraindications related to, operating heavy equipment or machinery.
- Providing written notice to UVA Human Resources of violation(s) of previously imposed prohibitions regarding the use of drugs and alcohol and the failure to comply with return-to-duty requirements including, but not limited to, SAP evaluation(s) and drug/alcohol testing.
- Submitting the required notification within 24 hours following the employee's receipt of a notice of violation of DOT drug and alcohol regulations or prior to performing any safety-sensitive function,

whichever comes first.

For purposes of this policy, a ***safety-sensitive function*** (as defined by FMCSA) includes “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 include all time:

- Waiting to be dispatched while at a University or shipper plant, terminal, facility, or other property, or on any public property, unless the driver has been relieved from duty by the University. This includes employees who are "eligible" at work to drive a CMV at any time.
- Inspecting equipment as required by § 392.7 "Equipment, Inspection, and Use," and § 392.8 "Emergency Equipment and Use" or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
- Sitting at the driving controls of a commercial motor vehicle in operation (includes all driving time).
- Sitting in or upon any commercial motor vehicle, other than driving time, except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 C.F.R. § 393.76).
- 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.
- Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Any time a driver touches any step in the driving and distribution process, they are performing safety-sensitive duties.

UVA Human Resources is responsible for:

- Identifying all positions requiring a CDL as a condition of employment.
- Furnishing written notice of this policy to all covered employees required to obtain and keep a CDL as a condition of employment and providing such employees with educational materials related to FMCSA drug and alcohol testing requirements.
- Taking immediate action to remove or cause an employee to be removed from safety-sensitive duties upon notification of a verified positive, adulterated, or substituted controlled substance drug test.
- Making decisions required in the drug testing and evaluation process.
- Reporting employee CDL driver violations of drug and alcohol regulations to the FMCSA Drug and Alcohol Clearinghouse database.
- Conducting a query (full or limited) of the FMCSA Drug and Alcohol Clearinghouse for current and prospective employees’ drug and alcohol violations before permitting those employees to operate a commercial motor vehicle.

Designated employer representatives are responsible for:

- Serving as main point of contact between the University, donor, and drug testing provider.
- Managing drug and alcohol tests including receipt of notification from MROs and drug/alcohol test collectors of a failed or missed drug test.
- Receiving drug test results and other communications on behalf of the University.
- Having the required knowledge and authority to make decisions about the University’s drug and alcohol testing program and evaluation process while always maintaining program confidentiality.
- Confirming the University’s drug and alcohol testing program complies with applicable U.S DOT regulations.

- Educating employees on the University's drug and alcohol testing program by providing materials that explain the requirements of the University's policy and procedures for the FMCSA controlled substances and alcohol regulations; the effects and consequences of substance abuse on personal health, safety, and the work site; as well as indicators of controlled substances.
- Serving as DOT return-to-duty enforcer.
- Maintaining a list of substance abuse professionals for the return-to-duty process.
- Preserving all records in accordance with federal and state regulations and guidelines.

8. **Compliance with Policy:**
   Failure to submit to a drug and/or alcohol test when asked, maintain a current CDL as specified in the job description, or comply with the requirements of this policy (including but not limited to the notification and reporting specifics set out above) may result in disciplinary action up to and including termination in accordance with relevant University policies.

   Direct questions about this policy to UVA Human Resources.

Procedures

Procedures for Employees with Disabilities to Request Workplace Accommodations | Office For Equal Opportunity and Civil Rights, U.Va. (virginia.edu)

Related Information

The DOT requires employers to provide drivers holding CDLs with educational materials that explain the DOT regulations regarding drug and alcohol abuse. Additional details including program procedures for complying with those regulations along with the educational information concerning the effects of alcohol and controlled substance use may be found at: Drug and Alcohol Reporting Requirements for CDL Drivers.

FMCSA Drug & Alcohol Clearinghouse: https://clearinghouse.fmcsa.dot.gov/.

STU-001: Use of Alcoholic Beverages and Prohibition of Other Drugs
HRM-014: Standards of Conduct for University Staff Employees
Health System Policy: Alcohol and Drug Free Environment

Department of Human Resources Management (DHRM) Policy 1.60 Standards of Conduct

United States Department of Transportation, Omnibus Transportation Employee Testing Act of 1991

Americans with Disabilities Act of 1990, as amended.

ADA Coordinator, Office for Equal Opportunity and Civil Rights, at the University.

Major Category Human Resource Management

Next Scheduled Review Friday, July 13, 2029

Revision History

Minor clarifying edits, revised Section 7 7/13/26.

Policy Summary

An employee working in a position requiring a commercial driver's license (CDL) is subject to the University's drug and alcohol screening program which includes pre-employment/pre-duty, reasonable suspicion, random, post-accident, return-to-duty, follow-up alcohol and drug testing. The University will use the FMCSA Drug and Alcohol Clearinghouse to search for drug or alcohol program violations on record preemployment for any job applicant and annually for current employees.

Requirements for contractors and occasional hires are stipulated in the policy.

Approved By Executive Vice President & Chief Operating Officer

Approved Date Tuesday, February 28, 2023