



## Controlled Substance and Alcohol Testing Policy

### Policy Statement

#### I. Policy Provisions

In accordance with the Official Code Georgia Annotated (O.C.G.A.) 45-20-90 the University of Georgia is required to perform drug and alcohol testing of its employees in safety-sensitive job functions.

**a. For the purpose of this policy, University employees in safety-sensitive job functions shall be defined as:**

- i. Any employee holding or required to hold a Commercial Driver's License (CDL) as a requirement of his/her job description.
- ii. Any campus police officer or other security personnel vested with the power to make arrests and subject to the mandatory training requirements of the Georgia Peace Officer Standards Act.
- iii. Any employee with access to Tier 1 Biological Select Agents and Toxins (BSAT).

**b. The circumstances requiring controlled substance and alcohol testing include:**

- i. Pre-employment testing (controlled substance only)
- ii. Post-accident testing
- iii. Random testing
- iv. Reasonable Suspicion testing
- v. Return-to-duty testing
- vi. Follow-up testing

#### II. Circumstances for Controlled Substances and Alcohol Testing

**a. Pre-employment:** Applicants for employment in a "safety sensitive" position must pass a pre-employment-controlled substances test.

- i. Pre-employment controlled substance testing shall not be administered if the applicant has participated in a controlled substances testing program meeting the requirements of this policy within the previous thirty days; and while participating in that program, either:

1. was tested for controlled substances within the past six months (from the date of employment) or
  2. participated in a random controlled substances testing program for the previous twelve months (from the date of employment)
  3. The University has confirmed in writing that no prior employer of the employee listed on the applicant's work record has record of a violation of the regulations regarding controlled substance use within the previous six months.
- ii. The following information must be obtained by the University regarding an applicant's previous testing programs(s). If the following information is not received in its entirety, the applicant must be tested regardless of previous testing program participation.
1. Name(s) and address(es) of the program(s)
  2. Verification that the employee participates or participated in the program(s)
  3. Verification that the program(s) conform(s) to previously referenced rules regarding controlled substance testing
  4. Verification that the employee is qualified under the previously referenced rules, including that the driver has not refused to be tested for controlled substances
  5. The date the employee was last tested for controlled substances
  6. The results of any tests taken within the previous six months.

**b. Post-Accident Testing**

An employee in a safety-sensitive position involved in an accident while conducting University business is subject to alcohol and drug testing when:

- i. There is vehicle/equipment damage or bodily injury occurring on public roadways; or
- ii. There is a fatality; or
- iii. Driver is cited with a traffic violation; or
- iv. There is reasonable suspicion to believe that the

employee's behavior or appearance may indicate alcohol or drug use; or

- v. When an employee sustains a work-related injury requiring medical treatment.

If possible, post-accident alcohol testing should be performed within two (2) hours of the accident. If a test cannot be performed within eight (8) hours, attempts to test shall cease and a written record stating the reasons the test was not performed shall be prepared by the Department Manager or a designee and maintained on file.

Post-accident drug testing should be performed within 32 hours or not at all. A written record stating the reasons the test was not performed shall be prepared by the Department Head or a designee and maintained on file.

### **c. Random Testing**

- i. Unless otherwise informed, the minimum annual percentage rate for random alcohol testing shall be 25 percent of the average number of University employees holding designated safety sensitive positions.

The minimum annual percentage rate for controlled substances testing shall be 50 percent of the average number of University employees holding designated safety sensitive positions.

- ii. Testing dates shall be unannounced and shall be scheduled or conducted throughout the calendar year. Sufficient numbers of employees shall be tested each month to allow the University to attain the specified annual percentage rate for each test type at the end of any twelve-month period.
- iii. The selection of employees for random alcohol and controlled substances testing shall be made in a scientifically valid method using a computer-based random number generator that is matched to the employees' social security number or other comparable identifying number. Under the selection process used, each employee subject to testing shall have an equal chance of being tested each time selections are made.
- iv. Employees selected for testing must proceed immediately to the testing site. Refusal to report to the testing site within two (2) hours of notification shall result in disciplinary action including possible dismissal from employment.

### **d. Reasonable Suspicion Testing**

- i. University departments with designated safety sensitive personnel shall maintain at least a minimum of one supervisory employee who will be trained to detect the use of alcohol or controlled substances. This employee's determination that reasonable suspicion exists to require an employee to undergo an alcohol or controlled substance test shall be based upon specific observations concerning appearance, behavior, speech or body odors of the employee.
- ii. Testing shall only be required if the observations are made just prior to, during or just after the period of the work day that the employee is required by the University to perform a safety-sensitive function.
- iii. Testing shall be administered within two hours of the determination that such testing is required. If testing is not conducted within two hours, the department manager or a designee shall prepare and maintain on file a record stating the reasons the test was not promptly administered.

If testing is not conducted within eight hours following the determination that such testing is required, attempts to test shall cease and a written record stating the reasons the test was not performed shall be prepared.

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

#### **e. Follow-up Testing**

- i. Employees returning to work following treatment for drug and/or alcohol abuse shall be subject to unannounced follow-up alcohol and/or controlled substance testing as directed by a substance abuse professional.
- ii. Employees with a follow-up test result indicating an alcohol concentration of 0.02 or greater shall be subject to disciplinary action including probable dismissal from employment.
- iii. Employees with a follow-up test result indicating a positive controlled substance result shall be subject to termination from employment.

### **III. Refusal to Consent**

"Refusal to submit a test" shall include any time an employee (regular, temporary, student or probationary), after being notified of the testing requirements;

- a. fails to provide enough breath for alcohol testing without a valid medical reason, or
- b. fails to provide enough urine for drug testing without a valid medical reason, or
- c. Obstructs the testing process in any other way.

#### **IV. Alcohol Testing**

##### **a. Definition and method for alcohol testing are as follows:**

- i. As used in this policy document, the term "alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.
- ii. Alcohol testing of employees shall be performed by breath analysis administered by a certified breath-alcohol technician. Testing will be performed for the presence of alcohol in concentrations of 0.02 or greater.

##### **b. Penalties for Positive Alcohol Test Results**

- i. Temporary and Student Employees
  - 1. Temporary and student employees who test at an alcohol concentration of 0.02 or greater shall be subject to immediate termination from employment.
- ii. Regular Employees
  - 1. Regular employees who are within the 180-day probationary period who test at an alcohol concentration of 0.02 or greater shall be subject to immediate termination from employment.
  - 2. Regular employees who have successfully completed the 180-day probationary period and who test at an alcohol concentration of 0.02 but less than 0.04 will be subject to disciplinary action, including at a minimum an immediate twenty-four-hour suspension (one work day) without pay.
  - 3. Regular employees returning from a suspension as required in paragraph IV.ii.b.2 must submit to and pass a return-to-duty breath- alcohol test prior to performing a safety-related job function. Any regular employee who tests again at an alcohol concentration of 0.02 but less than 0.04 shall be subject to further disciplinary action, including at a minimum a three-day suspension without pay.
  - 4. Regular employees returning from a three-day suspension as required in paragraph IV.ii.c.2. must submit to and pass a return-to-duty breath- alcohol test prior to performing a safety related job function.

Any such employee that tests at an alcohol concentration of 0.02 but less than 0.04 shall be subject to the provisions of paragraph IV.ii.b.5. below.

5. Regular employees who have successfully completed the 180-day probationary period and who test at an alcohol concentration of 0.04 or greater shall be suspended for not less than two months or dismissed. Such employees shall be required as a condition of re-employment following suspension to complete an alcohol abuse treatment and education program approved by the President of the institution. The employee shall be informed in writing of the reasons for the action taken and granted a reasonable opportunity (not less than five working days) to respond to the next highest authority prior to the effective date of the disciplinary action; provided however, that under emergency circumstances when immediate action is necessary, the employee may be forthwith dismissed, demoted or suspended, with or without pay, by the immediate supervisor, pending a review by the next highest authority.
6. Any such employee shall also be entitled to the procedural protection of a hearing before a Board of Review in accordance with University policy.
7. If, prior to a breath-analysis, an employee notifies his or her supervisor that he or she has an alcohol abuse problem and is receiving or agrees to receive treatment under an alcohol abuse and education program approved by the President, such employee shall be retained by the University for up to one year as long as the employee follows the treatment plan. Retention of such employee shall be conditioned upon satisfactory completion of the program.
8. Employees returning to safety-sensitive work upon completion of treatment for alcohol abuse shall be required to undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 prior to the first instance of safety-sensitive work. Employees with a return-to-duty test result indicating an alcohol concentration of 0.02 or greater shall be subject to termination from employment.

## **V. Controlled Substances Testing**

### **a. Controlled Substances testing will be performed to evaluate the presence of controlled substances.**

- i. Evaluation will include, but not be limited to, the presence of cannabinoids, cocaine, opiates, amphetamines, barbiturates, benzodiazepines, propoxyphene, phencyclidine (PCP) or a

metabolite of any such substances.

- ii. Testing shall be performed by urinalysis administered by a laboratory approved by the National Institute on Drug Abuse or the College of American Pathologists.

**b. Penalties for Positive Controlled Substances Test Results**

- i. Pre-employment  
Persons who test positive for any controlled substance in a pre-employment test shall not be employed by the University.
- ii. Temporary and Student Employees  
Temporary and student employees who test positive for any controlled substance within the term of their employment shall be terminated from employment effective upon notification of a positive test result.
- iii. Regular Employees
  1. Regular employees who are within the probationary period who test positive for a controlled substance shall be terminated from employment effective upon notification of a positive test result.
  2. Regular employees who have successfully completed the 180-day probationary period and who test positive for any controlled substance shall be suspended for not less than two months or dismissed. Suspended employees shall be required as a condition of re-employment following suspension to complete an accredited drug abuse treatment and education program.
  3. Employees returning to safety-sensitive work upon completion of treatment for drug abuse shall be required to undergo a return-to-duty controlled substances test with a verified negative result for controlled substances prior to the first instance of safety-sensitive work. Employees with a return-to-duty test result indicating a positive result shall be subject to termination from employment.
  4. The suspended or dismissed employee shall be informed in writing of the reasons for the action taken and granted a reasonable opportunity (not less than five working days) to respond to the next highest authority prior to the effective date of the action; provided however, that under emergency circumstances when immediate action is necessary, the employee may be forthwith dismissed or

suspended, with or without pay, by the immediate supervisor, pending a review by the next highest authority.

5. The employee shall also be entitled to the procedural protection of a hearing before a Board of Review in accordance with University policy.
6. If, prior to controlled substance testing, a regular, non-probationary employee notifies his or her supervisor that he or she illegally uses a controlled substance and is receiving or agrees to receive treatment under an accredited drug abuse and education program, such employee shall be retained by the University for up to one year as long as the employee follows the treatment plan. Retention of such employee shall be conditioned upon satisfactory completion of the program. No statement made by an employee to a supervisor or other person in order to comply with this policy shall be admissible in any civil, administrative, or criminal proceeding as evidence against the employee. The rights herein granted shall be available to an employee only once during a five-year period.
7. Employees returning to safety-sensitive work upon completion of treatment for drug abuse shall be required to undergo a return-to-duty controlled substances test with a verified negative result for controlled substances prior to the first instance of safety-sensitive work.
8. Employees with a return-to-duty test result indicating a positive result shall be subject to termination from employment.

**c. Prescription Drug Use**

- i. Any employee who is alleged to have violated the Controlled Substance and Alcohol Testing Policy provisions shall have available as an affirmative defense, to be proven by the employee through clear and convincing evidence, that his or her use of a controlled substance (except for methadone) was prescribed by a licensed medical practitioner who is familiar with the employee's medical history and assigned duties. The application of this provision shall be determined by a university appointed Medical Review Officer (MRO) meeting the qualifications of 49 CFR Part 40.
- ii. An employee using prescription medication while on the job shall



do so in strict accordance with medical directions. It is the employee's responsibility to notify the prescribing physician of the duties required by the employee's position and to ensure that the physician approves the use of the prescription medication while the employee is performing his or her duties. The employee shall be responsible for notifying his or her supervisor of any restrictions that may affect or prevent the safe performance of the required duties.

- iii. Employees and job applicants shall, at the time of testing, provide a list of those prescriptions and over-the-counter medications that he or she has recently used. The list of medications shall be kept confidential until there has been a test result. The list of medications shall be disclosed only to the MRO who will determine whether the positive result was due to the lawful use of any of the listed medications.

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## Record Retention

The University is required to maintain records of its alcohol misuse and controlled substance abuse prevention programs. The records shall be maintained in a secure location with controlled access.

- I. Period of Retention The following records shall be maintained for a minimum of five years:
  - a. Records of employee alcohol test results indicating an alcohol concentration of 0.02 or greater,
  - b. Records of employee verified positive controlled substances tests results,
  - c. Documentation of refusals to take required alcohol and/or controlled substances tests.
- II. Records related to the alcohol and controlled substances collection process and training shall be maintained for a minimum of two years.
- III. Records of negative and canceled controlled substances test results and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.
- IV. Types of Records. The following records shall be maintained by the employing department.
- V.
  - a. Records relating to the collection process:
    - i. Documents relating to the random selection process;
    - ii. Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests;

- iii. Documents generated in connection with decisions on post-accident tests;
- b. Records related to an employee's test results:
- i. The employer's copy of the alcohol test form, including the results of the test;
  - ii. The employer's copy of the controlled substances chain of custody and control form;
  - iii. Documents sent by the medical review officer to the University;
  - iv. Documents related to the refusal of any employee to submit to an alcohol or controlled substances test required;
  - v. Documents presented by an employee to dispute the result of an alcohol or controlled substances test administered.
- c. Records related to education and training:
- i. Materials on alcohol misuse and controlled substance use awareness, including a copy of the University of Georgia's policy of alcohol misuse and controlled substance use
  - ii. Documentation of the employee's signed receipt of education materials;
  - iii. Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion; and
  - iv. Certification that any training conducted under this part complies with the requirements for such training.
  - v. Records related to controlled substances testing:
  - vi. Agreements with collection site facilities, laboratories, medical review officers, and consortia;

- vii. Names and positions of University officials and their role in the University's alcohol and controlled substances testing program(s);
- viii. Monthly laboratory statistical summaries of urinalysis
- ix. The University's controlled substances testing policy and procedures.

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#### Related information

Official Code Georgia Annotate (O.C.G.A.) 45-20-90 and 45-20-01 and 45-20-93

49 CFR Part 40 Qualifications of a Medical Review Officer

[USG HR Administration Manual Policy on Drug Testing](#)

[UGA Safe & Secure Policy on Alcohol and Other Drugs](#)

[UGA Alcohol & Other Drugs Policy](#)

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#### Responsibilities

**Responsible University Senior Administrator:** AVP for Human Resources

**Responsible University Administrator:** Senior Director, Workforce Engagement

**Policy Owner:** University Human Resources, Workforce Engagement

**Policy Contact:** Senior Director, Workforce Engagement

**Contact Information:** [HRWeb@uga.edu](mailto:HRWeb@uga.edu) or 706 542 2222

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#### Policy Dates

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