

**Florida A & M University
Office of Human Resources**

HR OPERATING POLICY- PROCEDURE

Procedure No. HR-7000

Subject: Alcohol and Drug Testing Policy	
Authority: Florida Statutes 1001.74; Chapter 112.0455, Florida Statutes; Federal Regulations, 49 CFR, Parts 40 and 382; Omnibus Transportation Employee Testing Act of 1991 (OTETA).	Effective Adopted Date: 07/01/1999
Revision(s)	6/27/1996; 3/2017
Related References	
Purpose	

1.0 General Information

- A. All employees and designated employees who will hold Commercial Driver Licenses (CDL) and/or perform duties in safety-sensitive positions.

2.0 Definitions

- A. Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
- B. Alcohol Concentration - The content of alcohol expressed as the number of grams of alcohol per 210 liters of breath.
- C. Alcohol Use - The consumption of any beverage, mixture, or preparation, including any medication containing alcohol.
- D. Breath Alcohol Technician (BAT) - A person who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBTD).
- E. Commercial Driver's License (CDL) - The class of driver's license required by law to operate a commercial motor vehicle (CMV).
- F. Commercial Motor Vehicle (CMV) - A motor vehicle or combination of motor vehicles used to transport passengers or property if: the vehicle has a gross combination weight of 26,001 or more pounds including a towed unit of more than 10,000 pounds; or the vehicle has a gross weight rating of 26,001 or more pounds; or is designed to transport 16 or more passengers including the driver; or is of any size and is used to transport hazardous materials requiring placards.
- G. Confirmation Test - A second alcohol or drug test which is administered after an initial positive result in order to verify the test results. For alcohol testing, a confirmation test will be administered if the initial test results indicate the presence of 0.02 grams or greater of alcohol per 210 liters of breath. For drug controlled substance testing, a confirmation test will entail a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy.
- H. Controlled Substances - Those substances identified in Part 40.21 (a) of this title. Employers are required to test for marijuana, cocaine, opiates, amphetamines and phencyclidine.

- I. Covered Employee - Any applicant for a safety-sensitive position as well as any employee who operates a commercial motor vehicle for the University and/or performs in a safety-sensitive position while employed by the University.
- J. Disabling Damage - Damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.
- K. Driver - any person who operates a commercial motor vehicle (CMV).
- L. Performing Safety-Sensitive Functions - Any period during which an employee is performing safety-sensitive functions.
- M. Safety-Sensitive Function - Any of the following on-duty functions are considered to be safety-sensitive:
 - 1. All time at a carrier or shipper plant, terminal, facility, or other property, waiting to be dispatched, unless the employee has been relieved from duty by the employer.
 - 2. All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSRs), or otherwise inspecting, servicing, or conditioning any commercial motor vehicle.
 - 3. All time spent driving a commercial motor vehicle.
 - 4. All time, other than driving time, spent on or in a commercial motor vehicle.
 - 5. All time spent loading or unloading a commercial motor vehicle; supervising or assisting in the loading or unloading; attending a vehicle being loaded or unloaded; remaining in readiness to operate a vehicle; or in giving or receiving receipts for shipments loaded or unloaded.
 - 6. All time spent performing the employee requirements associated with an accident.
 - 7. All time spent repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- N. Substance Abuse Professional (SAP) - This term refers to an individual who is trained in the diagnosis and treatment of substance problems.

3.0 Responsibilities

4.0 Procedures – Tests Required

- A. Pre-Employment Testing
 - 1. Testing Requirements
 - a. Prior to hiring an employee in a safety-sensitive position at the University, the individual should undergo testing for controlled substances.
 - b. Employee is defined for purposes of this policy as:
 - 1) Applicants who are appointed, as new hires, to positions that require the performance of safety-sensitive functions.
 - 2) Employees who are promoted, demoted or reassigned to a position requiring the performance of safety sensitive functions.
 - 2. Supervisory Responsibility
 - a. The supervisor should provide to the employee who is to be tested, the following information and documentation:
 - 1) A completed Testing Site Notification
 - 2) Directions to the Testing Site
 - 3) Instructions to take a University photo identification card or a Florida Driver's License and Testing Site Notification Form to the Testing Site.

B. Post Accident Testing

1. Testing Requirements

- a. As soon as practical, following an accident involving a commercial motor vehicle, each surviving driver should be tested by the agency retained by the University for controlled substances and alcohol if:
 - 1) The accident resulted in a loss of life.
 - 2) The CDL driver is issued a citation arising from an accident.
- b. Post accident alcohol testing should be administered by the agency retained by the University within two (2) hours following the accident. If a post accident alcohol test is not administered within two hours, the supervisor should complete and forward the Accident Report Form to the University Personnel Office, detailing the reasons a post accident test was not conducted. If a post accident test for alcohol is not administered within eight (8) hours following the accident, all attempts to administer a test should cease, and the Supervisor should complete and forward to the University Personnel Office the Accident Report Form, detailing the reasons a post accident test was not conducted.
- c. Post accident testing for use of controlled substances should be administered by the agency retained by the University within 32 hours following the accident. If the post accident test is not administered within 32 hours, the supervisor should cease attempts to administer a controlled substances test and should complete and forward to the University Personnel Office, an Accident Report Form, detailing the reasons a post accident controlled substances test could not be conducted.
- d. Any employee subject to post accident testing should remain readily available for such testing or may be deemed by the University to have refused to submit to testing. See Section VIII A and B, Consequences for Engaging in Prohibited Conduct, to determine the appropriate course of action to take when an employee has a verified positive controlled substance test or has an alcohol test result of 0.04 or greater.
- e. Under no circumstances should an alcohol or controlled substances test be conducted on a deceased Commercial Motor Vehicle driver.
- f. In lieu of requiring a post-accident test, the University may substitute a breath or blood test for use of alcohol, and a urine test for the use of drugs which is administered by on-site law enforcement officials under separate authority.

2. Supervisory Responsibility

- a. The supervisor should provide to the employee who is to be tested the following information and documentation:
 - 1) Directions to the Testing Site
 - 2) Instructions to take a University photo identification card or a Florida Driver's License and the Testing Site Notification Form to the Testing Site.

C. Random Testing

1. Testing Requirements

- a. The University should, on an annual basis, randomly select and test for alcohol and controlled substances a minimum of 25% and 50% respectively, its CDL driver positions.
- b. The selection of CDL drivers for random alcohol and controlled substances testing should be made by a scientifically valid method, such as a computer-generated random number table. Each CDL driver must have an equal chance of being tested each time selections are made.
- c. Random alcohol and controlled substances testing should be unannounced and the dates for administering such tests should be spread reasonably throughout the year. Because of the randomness of the testing, some employees may be tested more than once during the year, while others may not be tested at all.
- d. Each employee who is notified of selection for random alcohol or controlled substances testing should proceed to the test site immediately. In the event the employee is performing a safety-sensitive function when notified, the supervisor must ensure that the employee ceases the function consistent with proper and acceptable safety measures.
- e. An employee may only be tested for alcohol just before, while performing, or just after performing the safety-sensitive function.

f. An employee may be tested for controlled substances at anytime while the employee is at work for the University.

2. Supervisory Responsibility

- a. The supervisor should provide to the employee who is to be tested, the following information and documentation
 - 1) The Testing Site Notification form (see Attachment 3)
 - 2) Directions to the testing site
 - 3) Instructions to the employee to immediately cease their duties and to immediately proceed to the testing site.
 - 4) Instructions to the employee to take a University photo identification card or a Florida Driver's License and the Testing Site Notification form to the Testing Site.

D. Reasonable Suspicion Testing

1. Testing Requirements

- a. An employee should be required to submit to an alcohol or controlled substances test when a reasonable suspicion exists that an employee has violated the provisions of this policy.
- b. Reasonable suspicion determination must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

2. Record Keeping Requirement

- a. If an alcohol test that is required by this section is not administered within two (2) hours following the reasonable suspicion determination, the Supervisor should complete and forward to the University Personnel Office, a completed Incident Report Form (see Attachment 4) detailing the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight (8) hours following the determination of reasonable suspicion, the Supervisor should cease attempts to administer an alcohol test and should state on the Incident Report Form the reasons for not administering the test, and should forward the original form to the University Personnel Office.
- b. A written record should be made on the Incident Report Form describing the observations leading to a controlled substance reasonable suspicion test, within 24 hours of the observed behavior, or before the results of the controlled substances test are released, whichever is earlier.

3. Supervisory Responsibility

- a. The supervisor should complete the Incident Report form and forward it to the University Personnel Office within 24 hours of the observation.
- b. The supervisor should provide the employee who is to be tested with the following:
 - 1) A completed Testing Site Notification Form (see Attachment 3)
 - 2) Directions to the Testing Site
 - 3) Instructions to immediately proceed to the Testing Site
 - 4) Instructions to take a University photo identification card or Florida Driver's License and the Testing Site Notification Form to the Testing Site.

4. Training for Supervisors

- a. The University should ensure that each supervisor or person designated to make a reasonable suspicion determination, receives at least 60 minutes of training on alcohol misuse and on controlled substances use. The training should cover the physical, behavior, speech and performance indicators of alcohol misuse and use of controlled substances.
- b. Supervisors should be trained in the detection of symptoms associated with alcohol and controlled substances misuse.

E. Return-To-Duty-Testing

1. Test Requirements

- a. Before a covered employee may return to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by the provisions of this policy concerning alcohol and controlled

substances, the covered employee should undergo a return-to-duty test with a result indicating the following:

- 1) An alcohol concentration of less than 0.02
- 2) A verified negative test result for controlled substances
- 3) Follow-Up Testing
- 4) Testing Requirements

- b. The University should ensure that a covered employee, who is in need of assistance in resolving problems associated with alcohol misuse or use of controlled substances, is subject to unannounced follow-up alcohol or controlled substances testing as directed by a Substance Abuse Professional.
- c. A covered employee should be subject to a minimum of six unannounced follow-up alcohol and controlled substances tests in the first 12 months following a covered employee's return to duty. The Substance Abuse Professional can direct additional tests during the months from the covered employee's return to duty.

4.1 Prohibited Conduct Related to Alcohol and Substance Abuse

A. Alcohol Use

1. Pre-Duty Use

- a. Supervisor - A supervisor, who has actual knowledge that an employee has used alcohol within four hours preceding the performance of a safety-sensitive function, should not allow the employee to perform or continue to perform safety-sensitive functions.

2. Reporting for Duty

- a. Supervisor - A supervisor, who has actual knowledge that an employee has an alcohol concentration of 0.04 or greater, should not allow an employee to perform or to continue to perform a safety-sensitive function.

3. On Duty Use

- a. Supervisor - A supervisor who has actual knowledge of an employee's use of alcohol, is prohibited from allowing the employee to perform or continue to perform a safety-sensitive function.

5.0 Records

A. Record Maintenance

1. The records custodian of the University should maintain records in a secure manner, so that disclosure of information to unauthorized persons does not occur.
2. Except as required by law or expressly authorized or required in this section, the University should not release covered employee information that is contained in the records required to be maintained.
3. All records that are generated by an employer or its agents in the administration of the testing program are required to be maintained for a minimum of five years.

B. Disclosure of Alcohol and Controlled Substances Testing Results

1. A covered employee subject to alcohol and controlled substances testing is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or use of controlled substances, including any records pertaining to the employee's alcohol tests.
 - a. Access to an employee's records should not be contingent upon payment for records other than those specifically requested.
 - b. An employee's records should be available to a Federal Highway Administration Representative upon two days notice.
2. When requested by the Secretary of Transportation, any Department of Transportation Agency or State agency with regulatory authority over the University, the University shall make available copies of all results for alcohol and controlled substances testing conducted under these requirements, and any other information pertaining to the University's policy on alcohol misuse and the use of controlled substances. The following information should be included:

- a. Name; specific alcohol test results
 - b. Records
 - c. Reports
3. The University shall make records available to a subsequent employer, upon receipt of a written request from a covered employee. Disclosure by the University is permitted only as expressly authorized by the terms of the employee's written request. (see attachment 2).

C. Information Dissemination

1. The University should provide covered employees, selected supervisors and employee representatives with specific educational materials to explain the requirements of the University Alcohol and Drug Testing Policy and the procedures related to meeting those requirements.
2. All covered employees should sign an Acknowledgment form indicating receipt of specific information on the University Alcohol and Drug Testing Policy. This Acknowledgment form shall be maintained in the covered employee's personnel file.

D. Report Requirements

1. The University should submit to the appropriate office within the Department of Transportation, an annual report summarizing the results of the University's alcohol and controlled substance testing program, for each calendar year.
2. In accordance with Federal, State and local laws, any covered employee who violates the University Alcohol and Drug Testing Policy may be reported to the appropriate law enforcement agencies.

6.0 Consequences of Violation of Policy

A. Use of Alcohol

1. Following a determination that an employee has violated the alcohol prohibitions, including having a test result of 0.04 breath alcohol concentration or greater, an employee must be removed from and cannot perform a safety-sensitive function until at a minimum:
 - a. The employee undergoes evaluation, and where necessary rehabilitation,
 - b. A Substance Abuse Professional determines that the employee has successfully complied with any required rehabilitation,
 - c. The employee takes a return-to-duty test with a verified negative test result.
 - d. An employee with an alcohol concentration of 0.02 or greater but less than 0.04 is not permitted to perform safety-sensitive functions for a minimum of 24 hours.

B. Use of Controlled Substances

1. Following a determination that an employee has violated the controlled substances prohibitions, including testing positive for controlled substances, an employee should be removed from and cannot perform a safety-sensitive function until at a minimum:
 - a. The employee undergoes evaluation, and where necessary, rehabilitation;
 - b. A Substance Abuse Professional determines that the employee has successfully complied with any required rehabilitation;
 - c. The employee takes a return-to-duty test with a verified negative test result.

6.1 Disciplinary Guidelines

- A. Following a determination that a covered employee has engaged in prohibited use of alcohol and controlled substances, the University should remove the employee from any duty which involves the performance of safety-sensitive functions, mandate evaluation by a Substance Abuse Professional, and take disciplinary action pursuant to FAMU Rule 6C3-10.337, F.A.C.

- B. Following a determination that any employee has engaged in the possession, sale or distribution of alcohol or a controlled substance on State property or on the job, the employee can be subject to disciplinary action pursuant to FAMU Rule 6C3-10.337, F.A.C.

6.2 Referral for Alcohol Misuse and Use of Controlled Substances

- A. The University should advise a covered employee who has engaged in conduct prohibited by this policy, of the available resources for evaluation and treatment of alcohol and drug problems.
- B. A Substance Abuse Professional is required to evaluate each covered employee who violates the University policy, to determine whether the employee requires assistance.
 - 1. Prior to returning to duty in a safety-sensitive position, the covered employee should be evaluated by a Substance Abuse Professional to determine whether the employee has successfully complied with the prescribed rehabilitation program following the initial evaluation.
 - 2. The final determination whether to return an employee to his or her position rests with the President or President's designee.
 - 3. The required evaluation and rehabilitation may be provided by the University, a Substance Abuse Professional under contract with the University, or by a Substance Abuse Professional not affiliated with the University.
 - 4. The choice of a Substance Abuse Professional and assignment of costs will be made in accordance with any existing agreements between the University and its' employees and municipal policies.