

DRUG AND ALCOHOL TESTING PROGRAM POLICY

POLICY STATEMENT

The University seeks to provide a safe work environment within which to achieve the University's mission and to maximize the skills and talents of our employees. The University also seeks to fully comply with state and federal requirements concerning substance abuse. This policy statement is to clarify the University's position on employee drug and alcohol use. This policy and its procedures should not be construed as contractual in any nature.

POLICY OBJECTIVES:

1. To create and maintain a safe, drug-free working environment for all employees.
2. To encourage any employee with a dependence on, or addiction to, alcohol or other drugs to seek help in overcoming the problem.
3. To reduce problems of absenteeism, tardiness, carelessness and/or other unsatisfactory matters related to job performance.
4. To reduce the likelihood of incidents of accidental personal injury and/or damage to students, employees, visitors, or property.
5. To meet the requirements of 49 CFR Part 382 of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration.
6. To meet the requirements of 48 CFR Part 223 and 252 of the Department of Defense Federal Acquisition Regulations Supplement: Drug-Free Work Force, as amended.
7. To reduce the likelihood that University property will be used for illicit drug activities.
8. To protect the reputation of the University and its employees within the community.

This policy requires that all employees report to work without being under the influence of alcohol, and without illegal or mind-altering substances in their systems. Specifically, no employee shall report for work or remain on duty requiring the operation of a motor vehicle, other hazardous equipment or performing job duties in a hazardous environment when the employee is using any controlled substance, even one legally prescribed. An employee, however, may report to work when the use has been prescribed by a physician who has advised the employee that the substance does not adversely affect the employee's ability to perform in a safe manner. No employee shall use alcohol or illegal drugs while on duty.

Employees must inform their supervisor when they are taking legally prescribed and/or over the counter medication that may affect their ability to safely carry out their job responsibilities.

The University also prohibits employees from using, possessing, manufacturing, distributing or making arrangements to distribute illegal drugs while at work or on University property.

ENFORCEMENT

In order to enforce this policy, the University will require employees subject to 49 CFR Part 382 of the Federal Motor Carrier Safety Administration to submit to scheduled and random drug and alcohol testing. Further, the University will identify which employees covered by 48 CFR Part 223 and 252 Department of Defense Federal Acquisition Regulations will be subject to random drug testing based on considerations that include the nature of the work being performed, the employee's duties, the risk to the public health, safety, and national security that could result from the failure of an employee to adequately discharge their position. All University employees are subject to reasonable suspicion and on the job accident drug and alcohol testing as well as, in certain situations, return to work testing following treatment after a positive drug or alcohol test.

Pursuant to University Policy and regulations, job applicants for positions subject to 49 CFR Part 582 or 48 CFR Parts 223 and 252 may be required to submit for drug testing post-offer/pre-employment.

Employees are required to report all accidents involving University property or personnel or accidents that occur during University hours or at University-related activities.

Violations of this policy and the [Drug-Free Campus and Workplace Policy](#) will subject the employee to discipline, up to and including possible discharge. Refusal to cooperate with the University in any test investigation will result in discipline, up to and including possible discharge.

Employees who return to work following the successful completion of a Substance Abuse Professional (SAP) approved rehabilitation program will be required to submit to follow-up testing in addition to the general University testing requirements. If an employee who tested positive for drugs does not complete the required rehabilitation program, the employee will be recommended for termination. In the case of faculty, the official dismissal policy will be followed.

All information, interviews, reports, statements, memoranda, and test results, written or otherwise, received by the employer through its drug and alcohol testing program are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings except in accordance with the provisions of the Policy Consent/Release Form as noted at the time of testing.

Any questions should be directed to the Department of Human Resources (334) 844-4145.

ADOPTED: March 22, 2011

REVISED December 15, 2012

DRUG AND ALCOHOL TESTING PROGRAM PROCEDURES

1.0 INTRODUCTION

Auburn University recognizes that our employees are our greatest assets. University employees are the key to the University goal of providing the best possible educational program for our students. To achieve that goal, the University seeks to provide a safe workplace for its employees free of drugs and alcohol. This program and procedures document is offered to clarify the University's position on employee drug and alcohol use.

Drug and/or alcohol use may pose a serious threat to employee health and safety. Therefore, it is the policy of the University to prevent the use of drugs and abuse of alcohol from having an adverse effect on our employees.

The serious impact of drug use and alcohol abuse has been recognized by the federal government. The U.S. Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA) has issued regulations which require the University to implement an alcohol and controlled substances testing program. The purpose of the FMCSA-issued regulations is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles. Similarly, the Department of Defense (DOD) has issued regulations that require the University to implement a drug testing program for certain employees working pursuant to contracts with DOD. The University will comply with these regulations, and, in order to meet its commitment to maintain a safe and drug-free workplace for all, will apply DOT guidelines when practical and consistent with applicable law to all employees.

It is the policy of Auburn University that the use, sale, purchase, transfer, possession, or presence in an employee's system of any controlled substance (as defined herein) or legally prescribed drugs that adversely affect the performance of job duties while on the University premises, engaged in University business, operating University equipment, or while under the authority of the University is strictly prohibited. Disciplinary action up to and including termination will be taken as necessary.

Neither this Program nor any of its terms are intended to create a contract of employment or contain the terms of any contract of employment. The University retains the sole right to change, amend, or modify any term or provision of this Program without notice. This Program is effective March 24, 2011.

Regulatory Requirements

All drivers who operate commercial motor vehicles requiring a commercial driver's license under 49 CFR Part 383 are subject to the FMCSA drug and alcohol regulations, 49 CFR Part 382.

All employees engaged in DOD funded activities are subject to the requirement of 48 CFR Part 223 and 252 of the Department of Defense Federal Acquisition Regulations Supplement: Drug-Free Work Force, as amended.

Non-Regulatory Requirements

The Federal Motor Carrier Safety Regulations (FMCSRs) set the minimum requirements for testing. The University's Policy in certain instances may be more stringent. This Program clearly defines what is mandated by the FMCSR and by what is University procedure.

Responsible Office

It is the University's responsibility to provide testing that is in compliance with all Federal and State laws and regulations, and within the provisions of this Program. The University will retain all records related to testing and the testing process in a secure and confidential manner.

The University's alcohol and drug testing program administrator (Designated Employer Representative) who is designated to monitor, facilitate, and answer questions pertaining to these procedures is Linda Maxwell-Evans, Executive Director of Campus Relations (or a duly appointed designee).

Employees are responsible for complying with the requirements set forth in this program. Employees will not use, have possession of, abuse, or have the presence of alcohol or any controlled substance in excess of regulation or program-established threshold levels while on duty. Regulated employees will not use alcohol:

1. Less than four (4) hours before performing a "safety-sensitive" function;
2. while performing a "safety-sensitive" function; or
3. immediately (but in no event less than one (1) hour) after performing a "safety sensitive" function.

2.1 DEFINITIONS

When implementing and interpreting the drug and alcohol policies and procedures required by the FMCSA and other regulatory agencies, as well as the policies and procedures required by the University, the following definitions apply:

Actual Knowledge means actual knowledge by a supervisor that an employee has used alcohol or controlled substances based on the supervisor's direct observation of the employee. Direct observation as used in this definition means observation of alcohol or controlled substance use. It does not mean observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under 49 CFR § 382.307 of the FMCSA and the University's authority. In the case of drivers only, actual knowledge may also be the result of information provided by the driver's previous employer(s), a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or a controlled substance, or a driver's admission of alcohol or controlled substance use.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol Concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

Alcohol Screening Device is a breath or saliva device, other than an evidential breath testing device, that is approved by the National Highway Traffic Safety Administration and placed on a conforming products list for such devices.

Alcohol Use means the consumption (drinking or swallowing) of any beverage, liquid mixture, or preparation, including any medication, containing alcohol.

Breath Alcohol Technician is an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device.

Collection Site is a place designated by the University, where individuals present themselves for the purpose of providing a urine specimen for a drug test.

Commercial Motor Vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- Has a gross combination weight rating of 26,001 pounds or more inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- Has a gross vehicle weight rating of 26,001 pounds or more;
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act when such transportation requires placarding of the motor vehicle under the Hazardous Materials Regulations.

Confirmation (or confirmatory) Drug Test means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

Confirmation (or confirmatory) Validity Test means a second test performed on a urine specimen to further support a validity test result.

Confirmed Drug Test means a confirmation test result received by a medical review officer from a laboratory.

Consortium/Third-party Administrator (C/TPA) is a service agent that provides or coordinates the provision of a variety of drug and alcohol testing services for the University. C/TPA's typically perform administrative tasks concerning the operation of the University's drug and alcohol testing programs. C/TPA's are not "employers."

Controlled Substances mean those substances identified in 49 CFR §40.85. Drug testing will be conducted to detect the presence of the following substances:

1. Marijuana
2. Cocaine
3. Opiates
4. Amphetamines
5. Phencyclidine (PCP).

Detection levels requiring a determination of a positive result shall be in accordance with the guidelines adopted by the FMCSA.

The University reserves the right to test for other substances, including inhalants, without advance notice as part of a separate test performed by the University for safety purposes. Such tests will be coordinated with the Designated Employer Representative.

Designated Employer Representative is an individual identified by the employer as able to receive communications and test results from service agents and who is authorized to take immediate action to remove employees from safety-sensitive or other duties and to make required decisions in the testing and evaluation processes. The University's Designated Employer Representative is the Executive Director of Campus Relations or a duly appointed designee.

Disabling Damage means damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

Inclusions:

- Damage to motor vehicles that could have been driven but would have been further damaged if so driven.

Exclusions:

- Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
- Tire disablement without other damage even if no spare tire is available.
- Headlight or taillight damage.
- Damage to turn signals, horn, or windshield wipers which make them inoperative.

Driver means any person who operates a commercial motor vehicle and who is subject to 49 CFR Part 382 of the Federal Motor Carrier Safety Administration. This includes, but is not limited to full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer.

Drug means any substance (other than alcohol) that is listed herein as a controlled substance.

Employees (as the term is used herein) include the following:

1. Regulated Employees:
 - a. Drivers subject to 49CFR Part 382 of the FMCSA (“DOT Regulated Employees”).
 - b. Any University employee subject to 48 CFR Parts 223 and 252 of the Department of Defense Federal Acquisition Regulations Supplement: Drug Free Work Force as amended, i.e., “Employee in a sensitive position” under 48 CFR § 252.223-7005 means an employee who has been granted access to classified information, or other employee working pursuant to a DOD contract whose position the University determines involves national security, health or safety, or functions other than the foregoing requiring a high degree of trust and confidence (“DOD Regulated Employees”).
2. Any University employee who shows reasonable suspicion of alcohol and/or drug use in violation of this Policy and the [Drug-Free Campus and Workplace Policy](#).
3. Any employee who causes an on-the-job accident.

Evidential Breath Testing Device is a device approved by the National Highway Traffic Safety Administration for the evidential testing of breath at the 0.02 and 0.04 alcohol concentrations, placed on the National Highway Traffic Safety Administration’s Conforming Products List for “Evidential Breath Measurement Devices” and identified on the Conforming Products List as conforming with the model specifications available from National Highway Traffic Safety Administration's Traffic Safety Program.

FMCSA means Federal Motor Carrier Safety Administration, U.S. Department of Transportation.

Licensed Medical Practitioner means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

Medical Review Officer is a person who is a licensed physician (Doctor of Medicine or Osteopathy) and who is responsible for receiving and reviewing laboratory results generated by the University’s drug testing program and evaluating medical explanations for certain drug test results.

Performing Safety-Sensitive Function means any period in which a driver is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Prescription Medications means medication legally prescribed by a licensed health care professional.

Refuse to Submit (to an alcohol or controlled substance test) is the position taken by an employee when the employee:

1. Fails to appear for any test (except pre-employment) within a reasonable time, as determined by the University, consistent with applicable Department of Transportation regulations, after being directed to do so by the University. This includes the failure of an employee (including an owner-operator) to appear for a test when called by the Designated Employer Representative after notification by the Consortium/Third-party Administrator.
2. Failure to cooperate with any part of the testing process (e.g. refusal to empty pockets when directed by the collector, behaving in a confrontational way that disrupts the collection process, failure to wash hands after being directed to do so by the collector).
3. Fails to undergo a medical examination or evaluation, as directed by the Medical Review Officer (“MRO”) as part of the verification process, or as directed by the Designated Employer Representative.
4. Fails to provide a sufficient amount of urine when directed and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
5. Fails to provide a urine specimen for any required drug test.
6. Fails to remain at the testing site until the testing process is complete.
7. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the employee’s provision of the specimen.
8. For an observed collection, failure to follow the observer’s instructions to raise your clothing above the waist, lower clothing under pants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere in the collection process.
9. Admit to the collector or MRO that you adulterated or substituted the specimen.¹
10. Is reported by the MRO as having a verified adulterated or substituted test result.
11. Possesses or wears a prosthetic device or other device that could be used to interfere with the collection process.
12. Fails or declines to take a second test the University or collector has directed the employee to take.

¹ In either of the last two situations listed the collector must discard the specimen employee previously provided and contact the Designated Employer Representative as soon as possible.

13. Fails to cooperate with any part of the testing process.

An applicant (post-offer/pre-employment) who:

1. Fails to undergo a medical examination or evaluation, as directed by the Medical Review Officer as part of the verification process, or as directed by the Designated Employer Representative;
2. Except, failing to appear for testing does NOT constitute a refusal to submit; and
3. Leaving before the testing process begins does NOT constitute a refusal to submit.

Safety-Sensitive Function means all time from the time an employee begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.

Safety-sensitive functions include but are not limited to:

- All time on University property, or on any public property, waiting to be dispatched, unless the employee has been relieved from duty by the University;
- All time inspecting equipment as required by federal regulations or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at anytime;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle, except time spent resting in a sleeper berth (a berth conforming to the requirements of federal regulations).
- All time 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; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening Test Technician is a person who instructs and assists employees in the alcohol testing process and operates an alcohol screening device.

Stand-down means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the Medical Review Officer of a

confirmed positive drug test for a drug or drug metabolite, an adulterated test, or a substituted test, before the Medical Review Officer has completed verification of the test results.

Substance Abuse Professional is a person who evaluates employees who have violated a FMCSA drug and alcohol regulation and/or the University Drug-Free Campus and Workplace Policy, and makes recommendations concerning education, treatment, follow-up testing, and aftercare. A Substance Abuse Professional must be:

- A licensed physician (Doctor of Medicine or Osteopathy);
- A licensed or certified social worker;
- A licensed or certified psychologist;
- A licensed or certified employee assistance professional; or
- A drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse, or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor.

3.1 ALCOHOL PROHIBITIONS

FMCSA regulations prohibit any alcohol misuse that could affect performance of safety-sensitive functions. This alcohol prohibition includes:

- Use while performing safety-sensitive functions;
- Use during the four (4) hours before performing safety-sensitive functions;
- Reporting for duty or remaining on duty to perform safety-sensitive functions with an alcohol concentration of 0.04 or greater;
- Use of alcohol for up to eight (8) hours following an accident or until the driver/employee undergoes a post-accident test; or refusal to take a required test.

NOTE: Under FMCSA regulation and this program, any driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform, nor be permitted to perform, safety-sensitive functions for at least 24 hours.

University policy forbids the consumption of alcohol on University property (except as provided in other alcohol policies) or reporting to work under the influence of alcohol.

4.1 DRUG PROHIBITIONS

FMCSA regulations and this Program, prohibit any drug use that could affect the performance of safety-sensitive functions. This drug prohibition includes:

- Use of any controlled substance, except when administered to an employee by, or under the instructions of, a licensed medical practitioner who has advised the employee that the substance will not affect the ability to safely operate a commercial motor vehicle or to otherwise perform safety-sensitive functions.
- The use of any Schedule I drug under any state law or proposition, such as “medical marijuana,” that is inconsistent with or banned by Federal law will not be accepted as a legitimate medical explanation. Under Federal law, the use of marijuana--with the exception of a legitimate prescription for the medication Marinol--and/or any other Schedule I drug are not considered a legitimate medical use in the United States:
 - Testing positive for controlled substances; or
 - Refusing to take a required test.

5.1 SUBSTANCE SCREENING

5.2 For Applicants

Substance screening is required for post-offer/pre-employment candidates for Regulated Employee positions. Such testing may be required either alone or as part of a pre-employment physical examination. Applicants are required to sign a consent/release form before submitting to screening. Applicants will be disqualified for hire if they test positive for controlled substances, refuse to submit to a test, or refuse to execute the required consent/release form.

Unless a pre-employment physical examination is required, pre-employment tests will be conducted at East Alabama Medical Center Forensic Toxicology Lab or the Auburn University Medical Clinic. Applicants will provide their own transportation to the collection facility.

5.3 For Current Employees

All current employees, including but not limited to Regulated Employees, will be subject to reasonable suspicion, post-accident, return-to-duty and follow-up testing. Current Regulated Employees are also subject to random testing.

An employee of the University transferring to a Regulated Employee position must pass a pre-employment drug test as a condition of the transfer. An employee transferring to a Regulated Employee position who tests positive for controlled substances will be referred to a substance abuse professional through the Employee Assistance Program and will not be eligible for commercial driving positions within Auburn University.

NOTE: For random, post-accident, reasonable suspicion, return-to-duty and follow-up testing, the employee's immediate supervisor or designee will be responsible for providing transportation to the collection site.

5.4 Reasonable Suspicion Testing

If the employee's supervisor or another University official designated to supervise Regulated Employees or other employees believes an employee is under the influence of alcohol or drugs, the employee will be required to undergo a drug and/or alcohol test. The basis for this decision will be specific, contemporaneous, articulable observations concerning the appearance, performance, behavior, speech, or body odors of the employee. The employee's supervisor or another University official will immediately remove the employee from any and all safety-sensitive functions and take the employee or make arrangements for the employee to be taken to a testing facility.

A written record of the observations leading to an alcohol or controlled substance reasonable suspicion test, signed by the supervisor or University official who made the observation, will be completed within twenty-four (24) hours of the observed behavior or before the results of the alcohol or controlled substances test are released, whichever is first.

The person who makes the determination that reasonable suspicion exists to test may not administer the test.

An employee awaiting the results of a reasonable suspicion drug test will be placed on administrative leave with pay pending receipt of results of the test.

Per FMCSA regulation, if the employee tests 0.02 or greater, but less than 0.04, for alcohol the employee will be removed from his or her job functions for at least twenty-four (24) hours.

If a test indicates that an employee has a breath alcohol concentration of 0.04 or greater, this will be considered an indication that the employee was under the influence of alcohol while on the job. The employee will be subject to disciplinary action up to and including possible termination.

If an alcohol test is not administered within two (2) hours following a reasonable suspicion determination, the program administrator will prepare and maintain a record stating the reasons why the test was not administered within two (2) hours.

If the test was not administered within eight (8) hours after a reasonable suspicion determination, all attempts to administer the test shall cease. A record of why the test was not administered must be prepared and maintained.

5.5 Post-Accident Testing

All employees are to notify their immediate supervisor as soon as possible if they are involved in an accident. The employee will be tested for drugs and alcohol as soon as practicable following the accident if the accident involved:

- A fatality;
- Bodily injury with immediate medical treatment away from the scene *and* the employee received a citation, or
- Disabling damage to any motor vehicle requiring tow away *and* the employee received a citation.

The University may also choose to conduct drug/alcohol testing on employees under its own authority on employee(s) involved in an accident/incident that may not meet the definition noted above, but which resulted in property damage, personal injury, and/or loss of University work time.

The employee must remain readily available for testing. If the employee isn't readily available for alcohol and drug testing, he/she may be deemed as refusing to submit to testing. An employee involved in an accident may not consume alcohol for eight (8) hours following the accident or until testing is completed.

If the alcohol test is not administered within two (2) hours following the accident the employee's immediate supervisor, with assistance from the Designated Employer Representative, if needed, will prepare a report and maintain a record stating why the test was not administered within two (2) hours.

If the alcohol test is not administered within eight (8) hours following the accident, all attempts to administer the test will cease. A report and record of why the test was not administered will be prepared and maintained.

The drug test must be administered within thirty-two (32) hours of the accident. If the test could not be administered within thirty-two (32) hours, all attempts to test the employee will cease.

The employee's immediate supervisor, with assistance from the Designated Employer Representative, if needed, will prepare and maintain a record stating the reasons why the test was not administered within the allotted time frame.

The results of a test for the use of controlled substances conducted by Federal, State or local officials having independent authority for the test shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements and the results of the tests are obtained by the employer.

5.6 Random Testing

The University's Consortium/Third Party Administrator (C/TPA) will conduct random testing for Regulated Employees as defined herein as required by Federal and State law as follows.

- The University's C/TPA will use a selection process based on a scientifically valid method, prescribed by FMCSA regulations.
- The University's C/TPA will be the Program Coordinator and administer the random testing program, maintaining all pertinent records on random tests administered. The C/TPA may provide assistance with random drug test collection processes. According to FMCSA regulations, separate driver random pools will be maintained from all other employees tested by the University.

A percentage of the University's average number of DOT Regulated Employees will be tested for alcohol each year. A percentage of the University's average number of Regulated Employees will be tested for controlled substances each year. The percentages are to be determined annually as prescribed by the DOT.

The random testing will be spread reasonably throughout the calendar year, with testing occurring at least quarterly. All random alcohol and drug tests will be unannounced, with each Regulated Employee having an equal chance of being tested each time selections are made.

A DOT Regulated Employee may only be tested for alcohol while he/she is performing a safety-sensitive function, just before performing a safety-sensitive function, or just after completing a safety-sensitive function.

Once notified that he/she has been randomly selected for testing, the subject employee must proceed immediately to the assigned collection site.

For random tests, the subject employee's immediate supervisor will be responsible for providing transportation to the collection site.

5.7 Return to Duty

The University is not obligated to (and by the inclusion of this provision in this Program does not undertake or commit to any obligation under the Program to) reinstate, retain and/or rehire any Regulated Employee who violates any DOT or University prohibition or requirement concerning drugs or alcohol.

Should the University elect to consider reinstating or rehiring a Regulated Employee who violates any DOT and/or University prohibition concerning drugs or alcohol, before he or she will be permitted to return to duty, that employee will be required to: (1) be evaluated by the University's Substance Abuse Professional (SAP) who will determine what assistance the employee needs in resolving problems associated with alcohol misuse or controlled substances use, (2) sign a permanent final written warning, (3) pass a DOT return-to-duty drug and/or alcohol test.

Such Regulated Employees must also be further evaluated to determine their compliance with any rehabilitation program if prescribed by the SAP. In addition to the penalties imposed by the DOT, any Regulated Employee who refuses to sign a permanent final written warning, who fails to fully cooperate and comply with the SAP rehabilitation program, who refuses to submit to a return to duty test, or who tests positive will be considered unqualified to perform a safety-sensitive function and will be immediately discharged.

After failing an alcohol test, a Regulated Employee must undergo a return-to-duty test prior to performing a safety-sensitive function. The test result must indicate a breath alcohol concentration of less than 0.02.

After testing positive for a controlled substance, a Regulated Employee must undergo a return-to-duty test prior to performing a safety-sensitive function. The test must indicate a verified negative result for drug use.

5.8 Follow-up

Should the University elect to reinstate or rehire a Regulated Employee determined by the Substance Abuse Professional to be in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the employee must remain in full compliance with the provisions above and must meet all other requirements of the position, and will be subject to a minimum of 6 unannounced follow-up tests over the 12 months after returning to duty. At the direction of the SAP, the Regulated Employee may be required to submit to further unannounced testing for up to four additional years.

In addition to any penalties imposed by the DOT, a Regulated Employee who refuses to be tested or fails to successfully continue or complete any rehabilitation program prescribed by the SAP, or who tests positive will be considered unqualified to perform a safety-sensitive function, will be immediately suspended without pay, and will be subject to University discipline, up to and including discharge.

6.0 REFUSAL TO SUBMIT

An employee may not refuse to submit to a post-accident, random, reasonable suspicion, return-to-duty, or follow-up alcohol or controlled substances test required by Federal and State law and this Policy. An employee who refuses to submit to such tests may not perform or continue to perform safety-sensitive functions and must be evaluated by a Substance Abuse Professional as if the employee tested positive for drugs or failed an alcohol test.

Refusal to submit includes failing to provide adequate breath or urine sample for alcohol or drug testing and any conduct that obstructs the testing process. This includes adulteration or substitution of a urine sample.

7.0 ALCOHOL TESTING PROCEDURES

Alcohol testing will be conducted at a collection facility pre-approved by the University by a qualified Breath Alcohol Technician or Screening Test Technician according to 49 CFR Part 40 procedures. Only products on the conforming products list (approved by the National Highway Traffic Safety Administration) and Part 40 requirements will be utilized for testing under this policy.

Only authorized personnel will have access and are the only individuals who can see or hear the test results.

8.1 DRUG TESTING PROCEDURES

Drug testing will be conducted at a collection facility pre-approved by the University. Specimen collection will be conducted in accordance with 49 CFR Part 40 and any applicable state law. The collection procedures have been designed to ensure the security and integrity of the specimen provided by each employee. The procedures will strictly follow federal chain of custody guidelines.

8.2 Laboratory analysis

As required by FMCSA regulations, only a laboratory certified by the Department of Health and Human Services to perform urinalysis for the presence of controlled substances will be retained by the University. The laboratory will be required to maintain strict compliance with federally approved chain-of-custody procedures, quality control, maintenance, and scientific analytical methodologies.

All specimens are required to undergo an initial screen followed by confirmation of all positive screen results.

8.3 Results

According to FMCSA regulation, the laboratory must report all test results directly to the Medical Review Officer. All test results must be transmitted to the Medical Review Officer in a timely manner, preferably the same day that the review by the certifying scientist is completed. All results must be reported.

The Medical Review Officer is responsible for reviewing and interpreting all confirmed positive, adulterated, substituted, or invalid drug test results. The Medical Review Officer must determine whether alternate medical explanations could account for the test results. The Medical Review Officer must also give the employee who has a positive, adulterated, substituted, or invalid drug test an opportunity to discuss the results prior to making a final determination. After the decision is made, the Medical Review Officer must notify the Designated Employer Representative.

If the Medical Review Officer, after making and documenting all reasonable efforts, is unable to contact a tested employee, the Medical Review Officer shall contact the Designated Employer Representative instructing him/her to contact the employee. The Designated Employer Representative will arrange for the employee to contact the Medical Review Officer before going on duty.

The Medical review Officer may verify a positive, adulterated, substituted, or invalid drug test without having communicated with the employee about the test results if:

- The employee expressly declines the opportunity to discuss the results of the test;
- Neither the Medical Review Officer nor Designated Employer Representative has been able to make contact with the employee for 10 days; or
- Within 72 hours after a documented contact by the Designated Employer Representative instructing the employee to contact the Medical Review Officer the employee has not done so.

8.4 Dilute Specimens

If the Medical Review Officer informs the University that a positive drug test was dilute, the University will simply treat the test as a verified positive test. The University will not direct the employee to take another test based on the fact that the specimen was dilute.

If the Medical Review Officer directs the University to conduct a recollection under direct observation (i.e., because the creatinine concentration of the specimen was equal to or greater than 2mg/dL, but less than or equal to 5mg/dL), the University will do so immediately.

Otherwise (i.e., if the creatinine concentration of the dilute specimen is greater than 5 mg/dL), the University may direct the employee to take another test immediately. Such recollections will not be collected under direct observation unless there is another basis for use of direct observation. The following provisions apply to all tests for which the University sends the employee under the directive of the Medical Review Officer:

- The employee is given the minimum possible advance notice that he or she must go to the collection site;
- The result of the retest taken, and not a prior test, is accepted as the test result of record;
- If the result of the retest taken is also negative and dilute, the University will not make the employee take an additional test because the result was dilute. Provided, however, that if the Medical Review Officer directs the University to conduct a recollection under direct observation, the University will do so.
- If the employee declines to take a test as directed in accordance with §40.197(b) the employee has refused the test for purposes of this part and Department of Transportation agency regulations.

8.5 Split Sample

As required by FMCSA regulations, the Medical Review Officer must notify each employee who has a positive, adulterated, substituted, or invalid drug test result that he/she has 72 hours to request the test of the split specimen. If the employee requests the testing of the split, the Medical Review Officer must direct (in writing) the lab to provide the split specimen to another certified laboratory for analysis.

The employee will pay for the testing of the split specimen.

If the analysis of the split specimen fails to reconfirm the results of the primary specimen, or if the split specimen is unavailable, inadequate for testing, or unstable, the Medical Review Officer must cancel the test and report the cancellation and the reasons for it to the Designated Employer Representative and the employee.

8.6 Specimen Retention

Long-term frozen storage will ensure that positive urine specimens will be available for any necessary retest. Auburn University's designated drug testing laboratory will retain all confirmed positive specimens for at least 1 year in the original labeled specimen bottle.

9.1 CONFIDENTIALITY/RECORD KEEPING

All employee alcohol and controlled substance test records are considered confidential. For the purpose of this program/procedure, confidential record keeping is defined as records maintained in a secure manner, under lock and key, accessible only to the program administrator.

If the Designated Employer Representative is unavailable, the Employee Relations Specialist (or other duly designated and authorized personnel) will serve as the alternate Designated Employer Representative and will have access to the alcohol and controlled substance records.

Employee alcohol and controlled substance test records will only be released in the following situations:

- To the employee, upon his/her written request;

- Upon request of a Department of Transportation agency with regulatory authority over the University;

- Upon request of state or local officials with regulatory authority over the University;

- Upon request by the United States Secretary of Transportation;

- Upon request by the National Transportation Safety Board as part of an accident investigation;
- Upon request by subsequent employers upon receipt of written authorization by the employee;
- In a lawsuit, grievance, or other proceeding if it was initiated by or on behalf of the complainant and arising from results of the tests; or
- Upon written consent by the employee authorizing the release to a specified individual.

All records will be retained for the required time periods.

10. EMPLOYEE ASSISTANCE

10.1 Employee Education and Training

All employees will be given a copy of this Policy and the Drug-Free Campus and Workplace Policy, information on the Employee Assistance Program and a publication explaining the effects of alcohol and drugs.

Training will be coordinated by Human Resources, the [Department of Risk Management & Safety](#), and the Consortium/Third-party Administrator. Training will include the following, at a minimum:

- Identification of the Designated Employer Representative, who is authorized to answer employee questions about the policy;
- Categories of employees who are subject to the program;
- Sufficient information about safety-sensitive functions performed by those employees to make clear what period of the workday the employee is required to be in compliance;
- Specific information concerning prohibited employee conduct;
- Circumstances under which employees will be tested, including post-accident testing;
- Procedures used to test for presence of alcohol and drugs, protect the employee and integrity of the testing procedures, safeguard the validity of test results, and ensure results are attributed to the correct employee, including post-accident information, procedures and instructions;

- Requirement that employees submit to alcohol and drug testing;
- Explanation of what constitutes a refusal and attendant consequences;
- Consequences for employees found to have participated in prohibited conduct;
- Consequences for employees found to have alcohol concentration of greater than 0.02 but less than 0.04;
- Consequences for employees found to have alcohol concentration of greater than 0.04; and
- Information concerning effects of alcohol and drug use on an individual's health, work and personal life; signs and symptoms of an alcohol/drug problem (employee's or co-worker's); available methods of intervening when an alcohol or drug problem is suspected, including confrontation, and referral to an employee assistance program and/or referral to management.

10.2 Supervisor Training

All supervisory employees of the University will receive training on this program. The training will include at least 60 minutes on alcohol misuse and 60 minutes on drug use. The training content will include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and drug use. The training allows supervisors to determine reasonable suspicion that an employee is under the influence of alcohol or drugs.

Supervisors will also receive training on this policy and their responsibilities associated with its administration.

10.3 Referral, Evaluation, and Treatment

Employees who fail an alcohol test or test positive for controlled substances will be referred to Substance Abuse Professionals through the [University's Employee Assistance Program \(EAP\)](#). The employee's health insurance may cover part of these costs; however, if the employee is not covered by insurance, the employee may be responsible for the cost of evaluation and required treatment. For more information, contact the [Payroll and Employee Benefits Department](#) at Auburn University.

Prior to returning to duty for the University, an employee must be evaluated by a Substance Abuse Professional and must complete the treatment recommended by the Substance Abuse Professional. Successful completion of a return to duty test and all follow-up tests is mandatory.

An employee who fails to complete an evaluation by the Substance Abuse Professional, treatment recommended by the Substance Abuse Professional, a return to duty test, or a follow-up test will be terminated.

11.1 SELF-IDENTIFICATION PROGRAM

The University will not take disciplinary action against an employee who makes a voluntary admission of alcohol misuse or controlled substance use if:

- The admission is in accordance with the University's voluntary self-identification program;
- The employee does not self-identify in order to avoid Part 382 testing;
- The employee makes the admission of alcohol misuse or controlled substances use prior to performing a safety-sensitive function; and
- The employee does not perform a safety-sensitive function until the University is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

The employee will be allowed to return to safety-sensitive duties upon successful completion of an education or treatment program, as determined by a drug and alcohol abuse evaluation expert. Also, the employee must undergo:

- A return-to-duty test with a result indicating an alcohol concentration of less than 0.02; and/or
- A return-to-duty controlled substances test with a verified negative test result.

12. DISCIPLINE

The University may not stand-down a Regulated Employee before the Medical Review Officer has completed his/her verification process unless the University has applied for and has received an FMCSA issued waiver.

No person who has failed an alcohol or drug test, or who has refused to be tested, will be allowed to perform in safety-sensitive positions until such person has complied with the referral, evaluation, and treatment requirements. The following University disciplinary measures apply to all reasonable suspicion, post-accident, and random tests.

12.1 Controlled Substance Positive Test Result

Upon notification that an employee has a drug test result of positive, adulterated, substituted, or invalid, the employee will be given the option of requesting a test of the split sample within 72 hours. If the employee has requested a test of the split sample, the employee will be placed on administrative leave without pay until the results of a split sample test are obtained.

If the employee does not request a split sample test or the split sample test confirms the initial positive, adulterated, substituted, or invalid drug test result, the employee will be subject to discipline up to and including termination in accordance with the Employee Conduct and Job Rules contained in the AU Personnel Policies and Procedures for Administrative/Professional and University Staff Employees.

If the split sample testing disputed the initial test results or if the initial test results are designated invalid, the employee will be reinstated.

12.2 Refusal to Test

An employee's refusal to test for alcohol or controlled substances will be considered a positive test result. An employee whose conduct is considered a refusal to test will be subject to discipline up to and including termination.

12.3 Failed Alcohol Test Result

Upon notification that an employee has failed an alcohol test (0.04% BrAC or greater), the employee will be subject to discipline up to and including termination. Upon notification that an employee tested 0.02% BrAC or greater, but less than 0.04% BrAC in initial and confirmatory tests for alcohol, the employee will be disciplined in accordance with the Employee Conduct and Job Rules contained in the AU Personnel Policies and Procedures for Administrative/Professional and University Staff Employees.