Drug and Alcohol Testing of Transportation Employees

References/Resources

Federal Laws and Regulations:
Omnibus Transportation Employee Testing Act of 1991 (Public Law 102-143, title V)
Code of Federal Regulations Title 49 Transportation (Parts 40, 382, 391, 392, 395)
http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=200549
The Drug-Free Workplace Act of 1988 (Public Law 100-600, Title V, subtitle D)

University of California:
University Policy on Substance Abuse in the Workplace, November 1, 1990
http://atyourservice.ucop.edu/employees/policies_employee_labor_relations/personnel_policies/pol02.html

State of California:
State of California, Department of California Highway Patrol, Controlled Substances and Alcohol Testing Compliance Checklist (CHP 800F [Rev 12-02] OPI 062)
http://www.chp.ca.gov/pdf/chp800f.pdf

I. Purpose and Scope

Federal law protects the public by requiring that transportation employees be tested for the use of alcohol and drugs. This section summarizes the law and how it is applied at UCSD. More information can be found in the sections of the Code of Federal Regulations Title 49 (CFR 49) cited in brackets.

The State of California, Department of California Highway Patrol, enforces the regulations found in CFR 49, Part 382.

II. Definitions

A. Transportation employee – an employee who in the course of University employment, regardless of job title, operates a vehicle that:

1. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

2. Has a gross vehicle weight rating of 26,001 or more pounds; or

3. Is designed to transport 16 or more passengers, including the driver.

Candidates selected for hire who will operate vehicles described above and occasional drivers are included. UCSD fire and hazardous materials vehicles are excluded. [382.103, 382.107]

B. Safety-sensitive function – all on-duty time that a transportation employee spends driving, available or waiting to drive, or working in or near a vehicle described in II.A above [382.107]. All of a transportation employee’s hours of
work are considered a safety-sensitive function unless the employee has been restricted to non-safety-sensitive duties.

III. Guidelines

A. A transportation employee shall not:

1. Report for or remain on duty with an alcohol level of 0.04 or more. [382.201]

2. Use or be in possession of alcohol while on duty. [382.205]

3. Use alcohol within four (4) hours prior to coming on duty. [382.207]

4. Use alcohol within eight hours after a fatal accident or an accident for which the employee receives a citation for a moving violation or before undergoing a post-accident test, whichever occurs first. [382.209]

5. Report for duty or remain on duty when the driver uses or tests positive for any controlled substance, except when the employee has provided his or her supervisor with a letter from a physician that the use is pursuant to the physician’s instructions and that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. [382.213, 382.215]

6. Refuse to take any test required by this policy or related implementation plans. [382.211]

B. A transportation employee, other than an applicant, who violates the above policy:

1. Shall be subject to discipline up to and including dismissal, as described in the applicable personnel policy or collective bargaining agreement.

2. Shall not return to duty until a test indicates an alcohol level of less than 0.02 for an alcohol violation, or a negative result on a drug test for a drug violation. [382.501, 40.305]

3. Shall be evaluated by a Department of Transportation qualified substance-abuse professional selected by the University. If the employee is identified as needing assistance in resolving drug or alcohol problems, the substance-abuse professional may prescribe a rehabilitation program, with the associated costs borne by the employee. The employee, if returned to active duty shall not operate a vehicle until the substance-abuse professional determines that the rehabilitation program has been successfully completed. [40.285, 40.289, 382.503]

4. Shall take follow-up tests as described in III.E.6 below.
C. A transportation employee whose alcohol test results are at least 0.02 but less than 0.04 shall not return to duty until his or her next shift, nor less than 24 hours after the test. [382.505]

D. No employee shall begin to perform safety-sensitive duties at UCSD until:

1. The supervisor has given the employee the training materials required by law. [382.601]
2. The employee has successfully completed the pre-employment drug test.
3. The employee has been placed in the random testing pool.
4. The department has requested the records of prior transportation employers for the past two (2) years. The employee may work for up to 30 days while awaiting a response. [40.25]

E. A transportation employee shall be tested for drugs and alcohol as follows.

1. Pre-Employment: Each newly hired employee or employee transferring to a transportation position (as defined in II.A.1 and 2 above) must be tested for drugs before the first time a safety-sensitive function is performed [382.301]. The testing can be done before the employee is hired. The employment offer shall be made contingent on a negative test result.

2. Post-accident: An employee who is involved in an accident while driving a commercial motor vehicle shall be tested for alcohol and drugs as soon as possible but in all cases within two (2) hours for alcohol and within thirty-two (32) hours for drugs, if the accident involved the loss of life or the driver received a citation within eight (8) hours of the accident. The driver must remain available for testing or be deemed to have refused testing. Tests by the police meet this requirement if the University can obtain the results. [382.303]

3. Random testing: The law requires UCSD to select 25% (alcohol testing) and 50% (drug testing) of transportation employees for alcohol and drugs. An employee may be selected more than once per year. An employee who is notified of selection must report immediately to the test site. [382.305]

4. Reasonable suspicion: A supervisor who has reasonable suspicion that an employee has violated the provisions of III.A above shall immediately remove the employee from duty, contact the Department of Transportation and Parking Services to arrange a test, and have the employee escorted to the testing site [382.307]. No supervisor having actual knowledge of a violation shall allow an employee he or she supervises to perform a safety-sensitive function.

5. Return to duty: See III.B.2 above.

6. Follow-up testing: An employee who has tested positive for drugs or alcohol must submit to at least six (6) unannounced tests for drugs and alcohol in the
year following return to duty. Testing may continue for an additional 48 months. The employee shall pay the cost of the tests. [40.307]

F. If a driver who is not employed by UCSD is used more than once a year for safety-sensitive functions, UCSD must either test the driver under this program or verify every six (6) months that the driver is being tested elsewhere. [382.301]

G. Information about employees participating in this program shall only be released when required by law or this policy. All program records shall be kept in secure locations. Test results shall be verified by Human Resources before they are given to anyone else. [382.401, 382.405, 40.123]

H. The costs of testing are recharged to departments except as described in III.E.6 above.

I. Federal law requires that most records be kept for five (5) years. [382.401]

J. Alcohol tests shall only be conducted just before, just after, or while the employee is performing a safety-sensitive function. [382.305, 382.307]

K. Supervisors of transportation employees must have at least 60 minutes of training on alcohol misuse plus 60 minutes of training on drug abuse [382.603]. The training legally qualifies a supervisor to determine if reasonable suspicion exists to require the testing described in III.E.4 above.

IV. Procedure

A. Position announcement procedure

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<tr>
<th>Responsibility</th>
<th>Action</th>
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<tbody>
<tr>
<td>Supervisor and/or Department Human Resources Contact</td>
<td>1. Submit job requisition indicting the position will require a background check, pre-employment drug/alcohol testing and random drug testing.</td>
</tr>
<tr>
<td>Human Resources Department Employment &amp; Staffing</td>
<td>2. Post position indicating the above.</td>
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</tbody>
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### B. Testing procedure

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<tbody>
<tr>
<td>Supervisor</td>
<td>1. Call Department of Transportation and Parking Services (Donna Gonzalez x46282) for pre-employment, reasonable suspicion, or post-accident testing (if cited or fatality).</td>
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<td></td>
<td>OR</td>
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</table>
| Department of Transportation and Parking Services    | 2. Notify the employee that he/she is selected for random testing.  
|                                                     | 3. Send the employee (candidate) to the test site. For reasonable suspicion or post-accident tests, escorts the employee to the test site. |
| Employee (Candidate)                                 | 4. Tested by Substance Abuse Evaluation Resources (SAER).                                                                                     |

### C. Handling of test results

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<tr>
<td>Substance Abuse Evaluation Resources (SAER)</td>
<td>1. Contact Department of Transportation and Parking Services “only if the results are positive” for drugs and/or alcohol. (See IV.D)</td>
</tr>
<tr>
<td>Department of Transportation and Parking Services</td>
<td>2. Report negative test results to the supervisor or Employment &amp; Staffing (pre-employment).</td>
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<tr>
<td>Human Resources Department Employment &amp; Staffing (pre-employment)</td>
<td>3. Notify the department the candidate is eligible for hire.</td>
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<tr>
<td>Supervisor</td>
<td>4. Notify the employee (candidate) of negative test results.</td>
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D. Verified positive results

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<tr>
<td>Department of Transportation and Parking Services</td>
<td>1. Report verified positive tests to the supervisor, Employee Relations and Employment &amp; Staffing (pre-employment).</td>
</tr>
<tr>
<td>Human Resources Department Employment &amp; Staffing</td>
<td>2. Notify the department the candidate is ineligible for hire Or 3. Immediately remove the employee from all safety-sensitive functions. Or 4. After consulting with Employee Relations, determine appropriate corrective action, up to and including dismissal, under the applicable personnel policy or collective bargaining agreement. Or 5. For dismissal, provide information on resources or treatment and recovery programs to employee. If there is no dismissal, continue to step 6.</td>
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<tr>
<td>Supervisor, Employee Relations</td>
<td>6. Refer the employee to Faculty Staff Assistance Program. 7. Perform an initial evaluation to determine the level of treatment. 8. Confer with supervisor on recommended treatment and possible reasonable accommodations. 9. Monitor the treatment program. 10. Complete the treatment program. 11. Provide the employee with a certificate of completion and a return to work notification when the treatment is successfully completed. 12. Provide the certificate of completion and a return to work notification to the Department of Transportation and Parking Services. 13. Inform Employee Relations the employee has completed their program and is eligible to return to work. 14. Schedule a return to work test. 15. Initiate follow-up tests.</td>
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V. Further Information

For information contact:

Department of Transportation and Parking Services ........................................858-534-6282
Employee Relations and Policy Development ............................................858-534-4115
Employment & Staffing .............................................................................858-822-2583

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