I. Policy

The University of Maryland at College Park recognizes the safety-sensitive function of its employees who are required by their job function to hold a commercial driver's license ("CDL"). As an employer, the University has a responsibility to help prevent accidents and injuries resulting from the misuse of alcohol and use of controlled substances by employees who drive commercial motor vehicles.

In order to ensure the safety of employees with CDL licenses ("CDL Employee(s)") and the campus community, and to comply with the Omnibus Transportation Employee Testing Act of 1991 (the "Act"), the University adopts as policy the prohibitions against the misuse of alcohol and use of controlled substances by CDL employees and the controlled substances and alcohol testing procedures as set forth in the federal regulations implementing the Act.1 Copies of these federal regulations may be obtained from the Campus Legal Office or the Department of Personnel.

CDL Employees are encouraged to contact the University's Employee Assistance Program at 314-8170 for confidential assistance and intervention in controlled substances or alcohol abuse problems.

II. University Contact Regarding Policy and Procedures

Questions about these policies and procedures should be addressed to the Director of Personnel.

III. Policy Implementation and Guidelines

The following information is provided regarding prohibitions against the use of controlled substances and alcohol by CDL Employees and the controlled substances and alcohol testing procedures for CDL Employees.

A. Applicability of Controlled Substances and Alcohol Prohibitions and Testing

All University employees who are required by their job function to be in possession of a CDL are subject to the federal prohibitions against controlled substances and alcohol use.

---

1 The prohibitions against controlled substances and alcohol use are set forth in 49 Code of Federal Regulations, Part 382; the testing procedures are set forth in 49 Code of Federal Regulations Part 40.
substances and alcohol use and must submit to controlled substance and alcohol testing.

B. Period of Workday CDL Employee Must be In Compliance; Definition of "Safety-Sensitive" Function

The prohibitions against alcohol misuse and controlled substances use apply whenever a CDL Employee is performing a "safety-sensitive" function.

A CDL Employee is considered to be performing a safety-sensitive function during any time the CDL Employee is actually performing, ready to perform, or is immediately available to perform, any of the following on-duty functions:

1) All time spent at a carrier or shipper plant, terminal, facility, or other property, waiting to be dispatched, unless the CDL Employee has been relieved from duty.

2) All time spent inspecting equipment as required by the Federal Motor Carrier Safety Regulations, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.

3) All time spent at the driving controls of a commercial motor vehicle.

4) All time, other than driving time, spent on or in a commercial motor vehicle.

5) All time 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 the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.

6) All time spent performing the driver requirements associated with an accident.

7) All time spent repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

C. Prohibited Conduct: Controlled Substances Use

CDL Employees are prohibited from the use of any controlled substance, unless it is by a physician's written prescription, and the physician has advised the CDL Employee that the controlled substance does not adversely affect the CDL Employee's ability to safely operate a commercial motor vehicle or to perform any other safety-sensitive function. Drug testing is done for marijuana (THC metabolite); cocaine; amphetamines; opiates (including heroin); phencyclidine (PCP).
D. Prohibited Conduct: Alcohol Use

"Alcohol use" is defined as the consumption of any beverage, mixture, or preparation, including any medication, which contains alcohol.

1) No CDL Employee shall use alcohol while performing safety-sensitive functions.

2) No CDL Employee shall perform safety-sensitive functions within four (4) hours after using alcohol.

3) No CDL Employee required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident, or until he or she undergoes a post-accident alcohol test, whichever occurs first.

4) No CDL Employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration in his or her system of 0.02 or greater.

5) No CDL Employee shall be on duty or operate a commercial motor vehicle while he or she possesses alcohol, unless the alcohol is manifested and transported as part of a shipment.

E. Circumstances Under Which Alcohol and/or Controlled Substances Testing Will Occur

Alcohol and/or controlled substances testing will occur under the following six (6) circumstances:

1) Pre-employment. With certain limited exceptions, all individuals must undergo testing for alcohol and controlled substances prior to employment and/or to the first time he or she performs safety-sensitive functions for the University.

Refusal to submit to testing, an alcohol test with a result greater than or equal to a 0.02 alcohol concentration, or a positive controlled substances test result shall disqualify an applicant from further consideration for employment which requires a CDL.

2) Post-accident. A CDL Employee who was performing a safety-sensitive function and was involved in an accident that either involved the loss of

---

2 See 49 CFR Subpart C, ' 382.301 (b) and (c).
human life or resulted in a moving traffic violation must undergo alcohol and controlled substances testing as soon as practicable after the accident.

If an alcohol test is not administered within two (2) hours after an accident, the University shall prepare and maintain on file a record stating the reasons the test was not administered. If a test is not done within eight (8) hours after an accident, the University shall cease attempts to administer the test, and shall prepare and maintain the same record.

If a controlled substances test is not administered within thirty-two (32) hours following an accident, the University shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not administered.

A CDL Employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed to have refused to submit to testing.

Post-accident tests conducted by Federal, State, or local officials having independent authority for such tests shall be considered to meet the requirements of this policy if the tests conform to the applicable Federal, State, or local requirements, and the results of the tests are obtained by the University.

3) Random Testing. Federal regulations require the University to randomly select 50% of all CDL Employees for controlled substances testing and 25% of all CDL Employees for alcohol testing during each calendar year. The selection shall be made by a scientifically valid method. Under the selection process used, each CDL Employee shall have an equal chance of being tested each time selections are made. The selection times shall be unannounced and reasonably spaced throughout the year.

A CDL Employee shall only be tested for alcohol while he or she is performing safety-sensitive functions, just before performing safety-sensitive functions, or just after ceasing to perform safety-sensitive functions.

A CDL Employee shall be notified both orally and in writing of selection. The selected CDL Employee shall sign a written acknowledgement of the notification. Once notified he or she has been selected, a CDL Employee shall proceed immediately to the collection site; provided, however, that if the CDL employee is performing a safety-sensitive function at the time of notification, the CDL employee shall cease to perform the safety-sensitive function and proceed to the testing site as soon as possible. Any activity which does not directly lead to submitting a specimen should be deferred.
by the CDL Employee until the specimen is collected, unless otherwise notified by the University.

4) Reasonable Suspicion Testing. The federal regulations require a CDL Employee to submit to an alcohol or controlled substance test when there is reasonable suspicion to believe the CDL Employee has violated the alcohol or controlled substances prohibitions stated herein.

"Reasonable suspicion" is defined as the belief the CDL Employee has violated the alcohol or controlled substances prohibitions, based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the CDL Employee.

The required observations shall be made by a supervisor or University official who has received at least sixty (60) minutes of training on alcohol use and at least (60) minutes of training on controlled substances use.

Controlled Substances. A written record shall be made of the observations leading to a controlled substances reasonable suspicion test. This record shall be made within twenty-four (24) hours of the observed behavior, or before the results of the controlled substances test are released, whichever is earlier. The record must be signed by the person making the observations.

Alcohol. Alcohol reasonable suspicion testing is authorized only if the observations are made during, just before, or just after the period of the workday the CDL Employee is required to be in compliance. The person making the observations may not administer the alcohol test. A written record shall be made of the observed behavior and shall be signed by the person making the observations.

If a reasonable suspicion alcohol test is not administered within two (2) hours following the observations, the University shall prepare and maintain on file a record stating the reasons the alcohol test was not administered. In addition, if a reasonable suspicion alcohol test is not administered within eight (8) hours, the University shall cease attempts to administer the test, and shall prepare and maintain the same record.

5) Return-To-Duty Testing.

Alcohol misuse. If a CDL Employee has engaged in prohibited conduct regarding alcohol misuse, and subject to the provisions set forth in Paragraph J, below, before that employee may return to duty which requires performance of a safety-sensitive function, he or she shall undergo a return-to-duty alcohol test indicating a breath alcohol
concentration of less than 0.02.

**Controlled substances use.** If a CDL Employee has engaged in prohibited conduct regarding controlled substances use, and subject to the provisions set forth in Paragraph J below, before that employee may return to duty which requires performance of a safety-sensitive function, he or she shall undergo a return-to-duty controlled substances test with a verified negative result for controlled substances use.

**Refusal to submit to Return-To-Duty Testing.** Refusal to submit to return-to-duty alcohol and/or controlled substances testing shall disqualify a CDL Employee from returning to work.

**Required evaluation.** In the event a return-to-duty test is required, the CDL Employee must also be evaluated by a substance abuse professional ("SAP") designated by the University and participate in any assistance program prescribed by the SAP before being allowed to return to work.

**Refusal to participate in prescribed assistance program.** Refusal to participate in an assistance program prescribed by a University designated SAP shall disqualify a CDL Employee from returning to work.

6) **Follow-Up Testing.** After a CDL Employee who has engaged in prohibited alcohol and/or controlled substances conduct is returned to duty, he or she shall be subject to unannounced follow-up alcohol and/or controlled substances testing as directed by a University designated SAP. At a minimum, the CDL Employee shall be subject to six (6) follow-upcontrolled substance and/or alcohol tests in the first twelve (12) months. Alcohol testing shall be performed only when the CDL Employee is performing safety-sensitive functions, or immediately prior to performing, or immediately after performing safety-sensitive functions.

**F. Procedures Used to Test for the Presence of Alcohol and Controlled Substances.**

Before a CDL Employee is included in the CDL testing program, he or she shall receive educational materials which describe the procedures used: to test for the presence of alcohol and controlled substances; to protect the CDL Employee and the integrity of the testing processes; to safeguard the validity of the test results; and to ensure that those results are attributed to the correct CDL Employee.

1) **Alcohol Testing.** Alcohol testing shall be done using a federally approved evidential breath-testing device (EBTD) administered by a trained breath alcohol technician (BAT). The procedure requires blowing into a tube connected to the EBTD. Any result less than 0.02 alcohol concentration is considered a "negative" test. If the EBTD registers an alcohol
concentration of 0.02 or higher, the CDL Employee will be given a second test to confirm the test results. The EBTD technician shall transmit confidentially all results to a designated University official. Transmission may be in writing, in person, or by telephone or other electronic means. Tests results of 0.02 or higher shall be transmitted immediately to the designated University official to ensure prompt removal of the CDL Employee from safety-sensitive duties. The CDL Employee shall be subject to:

a) the consequences set forth in Paragraph I, below;

b) referral, evaluation, and treatment, as set forth in Paragraph J, below;

c) any other disciplinary action permitted under applicable University policies and procedures; as set forth in Paragraph K, below; and

d) other penalties and consequences, as may be imposed by federal and state laws.

2) Controlled Substances Testing. Controlled substances testing is conducting by analyzing a CDL Employee's urine specimen.

The CDL Employee shall provided a split sample urine specimen. Following completion of a chain-of-custody form, the specimens shall be shipped to a laboratory approved by the U.S. Department of Health and Human Services ("DHSS"). The primary specimen shall be opened and used for initial testing.

The laboratory shall send all test results to a University designated Medical Review Officer ("MRO"), a physician trained in drugs and drug abuse for review and validation. The MRO shall be responsible to interpret and evaluate a CDL Employee's confirmed positive test result, which may include a review of the CDL Employee's medical history and other relevant biomedical information.

MRO contact of CDL Employee with positive test. Prior to reporting a positive result to the University, the MRO shall make every reasonable effort to contact the CDL Employee and afford him or her the opportunity to discuss the test result. If after making all reasonable efforts and documenting them, the MRO is unable to reach the CDL Employee, the MRO shall contact a designated University official, who shall direct the CDL Employee to contact the MRO as soon as possible. The University official shall document the contact with the CDL Employee and notify the MRO of the date and time that notice was given to the CDL employee.
Notification of verified test. The MRO may notify the designated University official of a positive test:

a) after contact is made (subject to the provisions for a test of the split sample, as described below); or

b) without having communicated with the CDL Employee about the test if either the CDL Employee declines to discuss the test or more than five (5) days has passed since the date the University official contacted the CDL Employee.

Initial notification may be made by any means of communication; however, a signed, written notification must be forwarded within three (3) business days of the completion of the MRO's evaluation.

Split Sample Test: The CDL Employee shall have seventy-two (72) hours following notification of a positive result to make a request to the MRO that the split specimen be sent to another DHHS certified laboratory for analysis.

If the CDL employee has not contacted the MRO within seventy-two (72) hours, the CDL Employee may present to the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the CDL Employee from a timely contact with the MRO. If the MRO concludes there is a legitimate explanation for the CDL Employee's failure to contact the MRO within seventy-two (72) hours, and the CDL Employee requests the split sample to be tested, the MRO shall direct that the analysis of the split sample be performed.

Cost of split sample test requested by CDL Employee. The CDL Employee shall be responsible for the cost of the split sample testing. If the split sample tests negative, the University shall reimburse the CDL employee for the cost of the test.

Consequences of a positive result. Upon notification by the MRO of a positive result, the CDL Employee shall be subject to:

a) the consequences set forth in Paragraph I, below;

b) the referral, evaluation and treatment as set forth in Paragraph J, below;

c) any other disciplinary action permitted under applicable University policies and procedures, as set forth in Paragraph K, below; and
d) other penalties and consequences, as may be imposed by federal and state laws.

G. Refusal To Submit To Testing

1) A CDL Employee shall not refuse to submit to post-accident, random, reasonable suspicion, return-to-duty, and follow-up alcohol or controlled substances testing.

2) Refusal to submit to any one of these required types of controlled substances or alcohol testing shall:

i) result in the CDL Employee being removed from all safety-sensitive functions until he or she has complied with the requirements for referral, evaluation, and treatment as set forth below in Paragraph J; and

ii) be subject to disciplinary action, consistent with applicable University policies and procedures, as set forth in Paragraph K, below.

H. What Constitutes a Refusal to Submit to Testing

A CDL Employee or an applicant for a job which requires a CDL shall be deemed to have refused to submit to an alcohol or controlled substance test when he or she:

1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing;

2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing; or

3) Engages in conduct that clearly obstructs the testing process.

I. Consequences of Prohibited Conduct

1) Positive Alcohol Test.

If a CDL Employee test result shows a breath alcohol concentration of greater than 0.02 but less than 0.04, he or she shall be removed from all safety-sensitive functions for a period of not less than twenty-four (24) hours.

If a CDL Employee test result shows a breath alcohol concentration of 0.04 or greater, he or she shall be removed from all safety-sensitive functions.
2) **MRO Verified Positive Controlled Substances Test.**

A CDL Employee whose controlled substances test is verified by the MRO as positive shall be removed from all safety-sensitive functions.

3) **Conduct Prohibited Under This Policy.** In addition to the consequences set forth in parts 1) and 2) of this Paragraph I, CDL Employees who engage in any alcohol use or controlled substances use prohibited in this policy, or who refuse to submit to testing as required under this policy, shall be subject to:

   i) the referral, evaluation, and treatment requirements set forth in Paragraph J, below;

   ii) other disciplinary action as may be allowed by applicable University policy and procedure, as described in Paragraph K, below;

   iii) other penalties and consequences, as may be imposed by federal and state laws.

J. Procedures for Referral, Evaluation and Treatment

Each CDL Employee who has engaged in conduct prohibited by this policy shall:

1) be advised of resources available to evaluate and resolve problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

2) if the CDL Employee has a positive alcohol test of greater than 0.02 but less than 0.04, and if he or she is to continue University employment, the University may require that he or she be evaluated by a University designated SAP. The SAP shall determine if the CDL Employee requires an assistance program. If so prescribed, the CDL employee must participate in the assistance program as a condition of continued employment. The SAP may also require return-to-duty and, as set forth in Paragraph J.5, below, follow-up testing of the CDL Employee.

3) if the CDL Employee has a positive controlled substances test result or an alcohol test result of greater than or equal to 0.04, and if he or she is to continue University employment, he or she shall be required to be evaluated by a University designated SAP. The SAP shall determine if the CDL Employee requires an assistance program. If so prescribed, the CDL employee must participate in the assistance program as a condition of continued employment. As set forth in paragraphs J.4 and J.5 below, the
CDL Employee shall be required to undergo return-to-duty testing, and may be required to undergo follow-up testing, as directed by the SAP.

4) if the CDL Employee has a positive controlled substances test result or an alcohol test result of greater than or equal to 0.04, before being returned to duty requiring the performance of a safety-sensitive function, he or she shall be required to undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substances test with a verified negative result if the conduct involved a controlled substance.

5) if identified by a University designated SAP as needing assistance in resolving problems associated with alcohol misuse or controlled substances use, the CDL Employee:

i) shall be evaluated by a University designated SAP to determine that the CDL Employee has properly followed any rehabilitation programs as prescribed by the SAP and

ii) if the SAP so directs, shall be subject to unannounced follow-up alcohol and controlled substances tests administered by the University following the CDL Employee’s return to duty. The number and frequency of such follow-up testing shall be as directed by the University designated SAP, and consist of at least six (6) tests in the first twelve (12) months following the CDL Employee’s return to duty.

The University may require the CDL Employee to undergo return-to-duty and follow-up testing for both alcohol and controlled substances, if the SAP determines that return-to-duty and follow-up testing for both alcohol and controlled substances is necessary for that particular CDL Employee. Follow-up testing shall not exceed sixty (60) months from the date of the CDL Employee’s return-to-duty. The SAP may terminate the requirement for follow-up testing at any time after the first six (6) tests have been administered, if the SAP determines that such testing is no longer necessary.

5) The requirements of this Paragraph J do not apply to applicants who refuse to submit to a pre-employment alcohol or controlled substances test or who have a pre-employment alcohol test with a result indicating an alcohol concentration of 0.02 or greater or a controlled substances test with a verified positive test result.

K. Other Disciplinary Action Permitted Under Other University Policies and Procedures.

In addition to the penalties set forth herein, violation of this policy shall subject the CDL Employee to disciplinary action as permitted under applicable University
policies and procedures, and applicable penalties contained in Article 64A of the Annotated Code of Maryland. The applicable policies and procedures include, but are not limited to the University's Policy on Employee Alcohol and Other Drug Abuse, found in Section VI-8.00(A) of the University's Policy and Procedures Manual.

Disciplinary action includes sanctions up to and including termination. As a condition of continued employment, the University may require an employee to successfully participate in a controlled substances or alcohol assistance or rehabilitation program.

L. Health and Intervention Information

Prior to participation in the CDL testing program, each CDL Employee shall receive written materials describing the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or controlled substances problem; and available methods of intervening when an alcohol or a control substances problem is suspected.

M. Training for Supervisors

Supervisors of CDL Employees shall receive one hour of training on the signs and symptoms of controlled substances abuse and one hour of training on the signs and symptoms of alcohol abuse. Training shall include education about this policy and the required testing procedures.

N. Administrative Procedure for Identification of CDL Positions

1. Purpose and Applicability

The University recognizes that there are safety-sensitive positions on the campus that require a Commercial Drivers License (“CDL”) as part of the duties of the job, irrespective of the category of employment. The purpose of this Administrative Procedure is to establish a mechanism for identifying which employees and applicants for University of Maryland employment are required to submit to alcohol and controlled substance testing and training as a requirement of possessing a CDL in the performance of the job duties. The Department of University Human Resources (“UHR”) is the Designated Employer Representative.

2. Procedure

A. Each Vice President or designee is responsible for identifying the positions within their Division that require the use of a CDL as a condition of employment, as follows:
i) The divisional representative will be responsible for notifying UHR prior to the point of hire for any position that is subject to CDL licensure requirements.

ii) The divisional representative will also be responsible for submitting an updated list of positions that require CDL licenses to UHR on January 1 and July 1 of each year. If the position is filled, the incumbent’s name will be provided.

B. The Director of University Human Resources, or designee, will prepare and maintain a comprehensive list of all positions that require CDL licenses, with incumbents.

C. Any changes (additions or deletions) in the CDL list of employees will be furnished to UHR as they occur. UHR will send quarterly reports to departments with CDL-designated positions that include an updated listing of employees who are subject to the provisions of the policy.

D. The University Health Center will, on a periodic basis, supply UHR with a random list of employees who are required to be tested for drugs and/or alcohol. The Director of University Human Resources, or designee, will be responsible for notifying departments regarding employees who have been selected for random alcohol and controlled substance testing, pursuant to the provisions of the policy.

E. The University Health Center will administer the alcohol and controlled substance screening on a fee-for-service basis, and shall provide a list of the positive results and “no shows” to UHR as soon as the test results are known, pursuant to the provisions of the policy. The University Health Center must also provide a list to UHR of those employees who were tested on a given day. Fees will be charged to the employing department.

F. In the case of a verified positive result, the University Health Center will advise UHR. UHR will notify the CDL departmental designee to immediately remove the employee involved from performing safety sensitive functions. In the case of a “no show,” UHR will advise the department to take appropriate action.

G. Each Vice President, or designee, is responsible for ensuring that within their Division all CDL employees and their supervisors
receive the training required by the Federal Motor Carrier Safety Act. Training is available from the UHR-Office of Organizational Development and Training. Alternatively, the training is available from the Department of Transportation Services.

H. For reporting purposes, each department will report to UHR, on a quarterly basis, the number of:

i) Pre-employment tests that were administered to UM applicants;

ii) Post-accident tests that were administered to employees;

iii) Reasonable suspicion tests that were administered to employees.

I. Each Vice President, or designee, is responsible for maintaining all divisional records and files related to CDL training and testing. UHR is responsible for maintaining all campus-related records pertaining to CDL training and testing.

For more information or to schedule training, please contact the UHR-Office of Organizational Development and Training at (301) 405-5651.