

Missouri Western State University
**Federal Substance Abuse Testing / Alcohol & Controlled Substance
Testing Policy**
Appendices
Approved: 09/04/2009

FEDERAL SUBSTANCE ABUSE TESTING
MISSOURI WESTERN STATE UNIVERSITY
ALCOHOL & CONTROLLED SUBSTANCE TESTING POLICY

I. INTRODUCTION

Missouri Western State University (MWSU) is required by Federal regulations to implement an alcohol and controlled substance testing program for drivers of commercial motor vehicles. The following policy has been adopted by Missouri Western State University in compliance with said regulations in order to reduce highway accidents resulting from the use of controlled substances and to protect the safety and well-being of the public and our employees. This policy will apply to all employees who maintain the Commercial Drivers License as a part of their employment with Missouri Western State University.

Please note that this policy describes and summarizes the regulations found in the Federal Motor Carrier Safety Regulations (FMCSR) Part(s) 382 and 40. These regulations should be referenced with respect to any questions that may arise from the policy that follows.

II. GENERAL POLICY STATEMENT

An alcohol-free and drug-free work force is critical in the interest of public safety, especially for those employees who operate motor vehicles. The driver who uses alcohol and/or drugs is a hazard to himself, to other workers and to the general public. It is the policy of Missouri Western State University that alcohol use on the job and drug users be quickly identified and removed from the work environment.

III. APPLICABILITY

This policy and the regulations that require it applies to all persons who operate commercial motor vehicles in interstate and intrastate commerce and who are subject to the commercial drivers license requirements found in part 383 of the regulations.

IV. DEFINITIONS

- A. "Alcohol" - refers to the intoxicating content in beverage alcohol, ethyl alcohol or other alcohols including methyl and isopropyl alcohol.
- B. "Alcohol Concentration"- is the alcohol in a volume of breath in terms of grams of alcohol in 210 liters of breath as indicated by an evidential breath test as described in this policy.
- C. "Alcohol Use"- refers to the consumption of any beverage, mixture or preparation, including medication, which contains alcohol.
- D. "Breath Alcohol Technician (BAT)"- an individual who instructs and assists persons in the alcohol testing process and operates an EBT (Evidential Breath Testing device).
- E. "Confirmation Test"
 - 1. For alcohol, means of a second test, following a screening test with a result of 0.02 or greater quantitative results of alcohol concentration.
 - 2. For controlled substances, this means a second analytical procedure to verify the presence of a specific drug. NOTE: the GC/MS (Gas Chromatography mass spectrometry) is the only authorized method for the drugs covered in this policy and defined under the heading "Controlled Substances" below.
- F. "Collection Site Person" - a person who instructs and assists individuals at a collection site and who receives and renders and initial examination of urine specimens.
- G. "Company" - see Employer.

- H. “Controlled Substances”- marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP).
- I. “Drivers Subject to Testing”- all employee drivers who maintain the Commercial Drivers License as a part of their employment.
- J. “Drug”- includes controlled substances as defined above, as well as any other illegal substance drug.
- K. “Employer”- Missouri Western State University.
- L. “Medical Review Officer”- a licensed doctor of medicine or osteopathy with knowledge of drug abuse disorders who is employed or used by Missouri Western State University to conduct drug testing in accordance with Federal law; is responsible for receiving laboratory results generated by the Missouri Western State University drug testing program who has been medically trained to interpret and evaluate any individual’s positive test result, together with his or her medical history and any other relevant information.
- M. “Performing a Safety- Sensitive Function” - means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function as listed below in the definition. “Safety Sensitive Function.”
- N. “Reasonable Suspicion” - is the belief that the driver has violated the alcohol or controlled substance prohibitions, based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.
- O. “Refusal to Submit”- (to an alcohol or controlled substance test) means that a driver:
 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.
 3. Engages in conduct that clearly obstructs the testing process.
- P. “Safety Sensitive Function” - means or otherwise, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier.
 1. All time at any facility, owned or otherwise, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier.
 2. All time inspecting equipment as required by the regulations.
 3. All driving time as defined by the regulations.
 4. All time, other than driving, in any commercial motor vehicle, except time spent resting in a sleeper berth.
 5. All time loading or unloading a vehicle, supervising or assisting in this process.
 6. All times spent performing the requirements specified in Section 392.40 and 392.41 relating to accidents.
- Q. “Substance Abuse Professional (SAP)”- is a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

V. ALCOHOL AND CONTROLLED SUBSTANCE TESTING

- A. Pre-Employment Requirements.
 1. All persons who Missouri Western State University intend to employ or enter into a contract with and who will be required to maintain the Commercial Drivers License as a part of their employment will be tested for the use of alcohol and controlled substances prior to the first time a driver performs a safety sensitive function for MWSU.

2. Such drivers will be notified that a breath and urine sample will be tested for the presence of alcohol and controlled substances.
3. Missouri Western State University will not allow a driver to perform a safety-sensitive function unless the results of the breath alcohol test indicates a breath alcohol of less than 0.02 and the results of the controlled substance testing received from the MRO indicate a verified negative test.
4. Any individual who refused to submit to a controlled substance test or who tests positive for a controlled substance or whose alcohol test indicates a breath alcohol concentration of 0.02 or greater shall not be offered employment or a contract to driver for Missouri Western State University.

B. Reasonable Suspicion Testing

1. MWSU will require drivers to be tested for the used of alcohol and controlled substance upon reasonable suspicion. (Reasonable suspicion testing carries different procedures for alcohol and controlled substances. Please refer to part 382 and part 40 of the regulations for more detail regarding this portion of the policy and the regulations).
2. Conduct by drivers constituting reasonable suspicion must be witnessed by the supervisor. This observation for alcohol must be based upon the specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observation for controlled substances may include the indications of the chronic and withdrawal effects of controlled substances.
 - a. Missouri Western State University must ensure that persons designated to determine whether reasonable suspicion exists to require a driver to be tested for alcohol and/or controlled substance testing receive a minimum of sixty (60) minutes of training on alcohol misuse and a minimum of sixty (60) minutes of training on controlled substance use.
3. Alcohol reasonable suspicion testing is authorized only if the observation as described in (2) above is made during, just before or just after the driver has been, will be or was performing a safety-sensitive function.
4. Once the driver has been notified that a reasonable suspicion test will be conducted, it must take place within two (2) hours of this notice. If the test is not accomplished within tow hours by Missouri Western State University, a written record shall be made stating the reasons the alcohol test was not promptly administered.
5. A written record shall be made documenting the driver's conduct with respect to an alcohol and/or controlled substance reasonable suspicion and must be signed by the supervisor or company official who observed the behavior.
6. Please not that the possession of alcohol does not constitute a need for a reasonable suspicion test. As stated in this policy and in the definition section of this policy, the reasonable suspicion must be based on observations concerning the driver's appearance, behavior, speech or body odors.

C. Random Testing

1. Missouri Western State University will utilize a random selection process to select and request drivers to be tested for the used of alcohol and controlled substances.
2. The random tests conducted annually for controlled substances shall equal or exceed fifty percent (50%) of the driving positions available, and random alcohol tests conducted annually shall equal or exceed twenty-five percent (25%) of the driving positions available.
3. A driver shall only be tested randomly for alcohol when the driver is on duty with MWSU.
4. Drivers must submit to these tests when selected by a random selection process utilized by MWSU. These tests will not be announced in advance and will be spread reasonably throughout the year.
5. After a driver is randomly selected for a test, the driver must immediately proceed to the testing site upon notification of being selected.
6. Once a driver is notified of the requirement to take a random alcohol and/or controlled substance test, provided that the driver was on duty and performing duties specific to employment at the time of the notification, MWSU will ensure that the driver ceases to perform those work duties and proceeds to the

testing site as soon as possible.

- 7. If a driver who has been randomly selected for a test is on vacation or an extended medical absence, MWSU may either select another driver as an alternate for testing or keep the original selection confidential until the driver returns.

D. Post-Accident Testing

Important Note: Nothing in this policy (or the regulations) should be constructed as to require the delay of necessary medical attention for injured persons following an accident or to prohibit a driver from obtaining assistance as needed to respond to an accident or to obtain necessary emergency medical care.

- 1. Drivers shall provide a breath and urine sample to be tested for the use of alcohol and controlled substances as soon as possible following an accident involving a fatality or a recordable accident in which the driver receives a citation for a moving traffic violation.
- 2. As soon as practical, a post-accident test must take place within two (2) hours of the accident. If the alcohol test is not accomplished within two hours by MWSU, a written record shall be made stating the reasons the alcohol test was not promptly administered. If the test has not been accomplished within eight (8) hours following the accident, MWSU shall stop its attempt to administer the alcohol test and make and retain in file a record of the reasons the alcohol test was not properly administered.
- 3. If a driver has not submitted to a controlled substance test within 32 hours of the accident, MWSU shall stop its attempt to administer the controlled substance test and make and retain in file a record of the reasons the test was not properly administered.
- 4. Drivers who are seriously injured and cannot provide a specimen at the time of the accident shall provide the necessary authorization for obtaining medical reports and other documents which would indicate whether there were any alcohol and/or controlled substances in his or her system at the time of the accident.
- 5. MWSU can use, by permission from the Federal Highway Administration, post-accident tests conducted by Federal, State and local officials as meeting the requirements of this section under the following conditions:

- \$ The official must have independent authority to conduct the test;
- \$ The test must conform to Federal, State or local requirements;
- \$ Alcohol tests require blood or breath samples; and
- \$ Controlled substances tests require urine sample.

- 6. A driver who is subject to post-accident testing must remain available, or MWSU will consider the driver to have refused to submit to testing.
- 7. The driver subject to post-accident testing must refrain from consuming alcohol for eight hours following the accident, or until he or she submits to an alcohol test, whichever comes first.

VI ALCOHOL AND CONTROLLED SUBSTANCE PROHIBITIONS

- A. No employee shall perform a safety-sensitive function while having a breath alcohol concentration of 0.02 or greater.
- B. No employee shall perform safety-sensitive functions within four (4) hours after using alcohol. No employer having actual knowledge that an employee has used alcohol within four hours shall permit an employee to perform or continue to perform safety-sensitive functions.
- C. No employee shall possess any quantity of alcohol while on duty. This includes any medications, both prescription and over-the-counter, that contain alcohol, unless the packaging seal is unbroken.
- D. No employee shall use alcohol while performing a safety-sensitive function.
- E. When involved in an accident that requires a post-accident alcohol test, the driver shall not use alcohol within eight (8) hours of the accident or prior to submitting for the post-accident test, whichever comes first.
- F. No employee shall refuse to submit to an alcohol or controlled substance test as required by this program. Any refusal will be treated in the same manner as a positive alcohol or substance abuse screen.

- G. No employee shall perform a safety-sensitive function when the employee uses controlled substances; except when prescribed by a physician who has determined that the substance will not adversely affect the employee's ability to safely drive a vehicle.
- H. No employee shall perform a safety-sensitive function if that employee has tested positive for controlled substances.

VII. CONSEQUENCES OF ALCOHOL MISUSE AND DRUG USE

- A. Employees who are known to have engaged in behavior prohibited by this program shall not be permitted to perform safety-sensitive functions.
- B. Employees will be informed by Missouri Western State University of resources available to them to resolve their problem of alcohol misuse or drug use.
- C. Employees shall be evaluated by a Substance Abuse Professional (SAP) to determine what course of action is needed to assist the employee in resolving their problem with alcohol misuse and drug use. The SAP will monitor the employee's rehabilitation to determine if the employee has followed the prescribed program. This portion of the policy is provided as information only; it does not indicate that the company is required to rehabilitate an employee who has tested positive with respect to alcohol or controlled substance. Missouri Western State University will consider employees who test positive to be medically unqualified and disqualified from driving for MWSU.

VII SUPERVISOR TRAINING

- A. MWSU will designate and provide training to supervisors in the recognition of observable behavior that is indicative of misuse of alcohol and controlled substance use. Sixty (60) minutes of training shall be provided for both alcohol misuse and controlled substance use for a total of 120 minutes (two hours).
- B. The prescribed training shall include a review of physical, behavior, speech and performance indicators consistent with alcohol misuse and controlled substance use.

IX. PROCEDURES

A. Drug Testing Requirements

MWSU is required by federal regulations to test for alcohol, marijuana, cocaine, opiates, amphetamines and phenylclidine. MWSU may however, upon reasonable cause, require employees to be tested for other illegal drugs. In such event, a second urine sample will be provided by the employee.

B. Preparation for Testing

Controlled Substances

1. A urine sample will be used for a controlled substance tests provided for herein.
2. "Split samples" procedures will be used as outline in part 40 of the FMCSR for all controlled substance tests conducted on or after August 15, 1994. Under this provision, an employee whose urine sample has tested positive for a controlled substance has the option (within 72 hours after being notified by the MRO) of having the remaining portion of the split sample tested at another laboratory at the employee's own cost. If the second test produces negative results, the test is considered negative and no further sanctions are imposed.
3. A standard urine custody and control form will be used.
4. A tamper-proof system for sealing specimen bottles will be used.
5. A special shipping container designed to prevent undetected tampering will be used.
6. Procedures, instructions and training for the Collection Site will be provided by MWSU or by the third party vendor selected by MWSU to provide this service.

Alcohol

1. A breath sample or any device this is recommended or accepted by CFR-49, Part 382 or Part 40 (initial screening devices) will be used for all alcohol tests required and provided for herein.
2. All Breath Alcohol Technicians (BATs) will be trained in proficient operations of the EBT and in the alcohol testing procedures contained in part 40 of the regulations either by MWSU or the third party vendor providing this service for MWSU.
3. MWSU or its third party vendor will conduct alcohol testing in location that allows visual and actual privacy to the individual being tested sufficient to prevent unauthorized persons from seeing or hearing test results.
4. No unauthorized persons will be permitted access to the testing location when the EBT remains unsecured or in order to prevent such persons from seeing or hearing a test result at any time when testing is being conducted.
5. MWSU will use the breath alcohol testing form as prescribed in part 40 of the regulations. A log book shall be used for any EBT used for screening tests that does not meet the requirements of part 40.53 (b) 1-3.

C. Specimen Collection

1. A collection site will be designated by MWSU.
2. Security measures will be taken to prevent unauthorized access which could compromise the integrity of the collection process or of the specimen.
3. The chain of custody of the urine specimen will be carefully documented.
4. Special precautions will be taken to assure that access to urine specimens is restricted to authorized personnel.
5. Procedures for collection urine samples will allow individual privacy, except under circumstances indication that particular individual may alter or substitute the specimen as defined by Federal regulations.
6. Rules designed to preserve the integrity and identity of urine specimens will be carefully followed.
7. Controlled collections and transportation of collections to the laboratory will be handled by MWSU or its third party vendor pursuant to all applicable sections of the Federal regulations.

X. REPORTING AND REVIEW OF RESULTS

- A. A Medical Review Officer (MRO) will review the controlled substance testing results prior to transmission of the results to MWSU.
- B. Prior to final verification of positive test results, the Medical Review Office will give the employee an opportunity to discuss the test results.
- C. MWSU's contract with laboratories will require the laboratory to maintain all employee's test records in confidence as required by Department of Transportation agency regulations.
- D. Any employee who is the subject of a drug test shall, upon written request, have access to any records relating to his or her drug test and any records relating to testing results as described below.
- E. MWSU will only use laboratories certified under the Department of Health and Human Services Mandatory Guidelines for Federal Workplace Drug Testing and Program.

XI. NOTIFICATION OF TEST RESULTS AND RECORD KEEPING

- A. MWSU will notify a driver of the results of a pre-employment alcohol and/or controlled substances test, provided the employee requests said test results within sixty (60) days of being notified of the company's decision as to whether or not it will enter into employment with him/her.
- B. MWSU will notify incumbent employees of the results of random, reasonable suspicion and post-accident alcohol and/or controlled substance tests, provided that the results were positive, and will also advise the driver of what controlled substance was detected or the alcohol level that was discovered.

- C. All records relating to the administration and results of the alcohol and drug testing program will be maintained for a minimum period of five (5) years, except that individual negative, cancelled or alcohol tests of less than 0.02 results need only be maintained for a minimum of twelve (12) months.
- D. All records related to the collection process and required training shall be retained for a minimum period of two (2) years.
- E. A Medical Review Officer (MRO) will serve as the sole custodian of individual test results and will retain the reports of individual test results for minimum of five (5) years .
- F. MWSU will retain in its files information which will indicate only the following:
 - 1. That the employee submitted to a controlled substance test;
 - 2. The date of the test;
 - 3. The location of the test;
 - 4. The identity of the person or entity conducting the test; and
 - 5. Whether the test finding was a positive or a negative.

XII. RELEASE OF TESTING INFORMATION BY PREVIOUS EMPLOYERS

- A. MWSU may obtain from any previous employer the employee information related to the employee’s participation in an alcohol and drug testing program. MWSU will obtain written permission from the employee to acquire this information.
- B. MWSU will obtain and review the information listed below from any previous employer the employee performed safety-sensitive functions for in the previous two (2) years. MWSU must request and review this information within fourteen (14) days after the employee first performs a safety-sensitive function. The information will include:
 - 1. Employee’s breath alcohol tests that indicated concentrations of 0.04 or greater;
 - 2. Positive controlled substance tests; and
 - 3. Any refusals to submit to a required alcohol or controlled substance test.
- C. MWSU will provide the previous employers of the past two (2) years with the employee’s written consent to release the information upon request. MWSU may obtain the information via personal interview, telephone interview, letter or other method as long as measures are taken to ensure confidentiality. MWSU will maintain a written, confidential record with respect to each of the past employers contacted.
- D. MWSU will not use an employee to perform safety-sensitive functions if MWSU obtains information indicating the employee has tested positive for controlled substances, tested above 0.04 breath alcohol concentration, or refused to test unless the employer has evidence the employee has been evaluated by a SAP, completed any required counseling, passed a return-to-duty test and been subject to follow-up testing.
- E. MWSU may not continue to allow an employee to drive who has not provided the information required by CFR 49 Part 382 Subpart D 382.413 (a)(b)(c)(d)(e)(f)(9) within fourteen (14) days.
- F. MWSU must obtain and review the required information in CFR 49, Part 382, Subpart 382.413 even if the driver is terminated or resigns within 14 days.

RECORD OF SUBSTANCE ABUSE EDUCATION AND TRAINING

This document certifies that on the date identified below , I

_____ (employee’s name- please print)

did receive alcohol misuse and controlled substance abuse education, training and other information detailing the alcohol and drug testing program of Missouri Western State University.

Date of Training

Signature of Employee

Signature of Trainer

Employee Social Security Number

Location of Training

This education and training material fulfills the requirements for training and education as set forth by Department of Transportation (USDOT) mandatory alcohol and drug testing regulations found in FMCSR parts 382 and 40.

RELEASE AND CONSENT STATEMENT

I hereby certify that I have read the above alcohol and controlled substance testing policy and I fully understand the terms thereof. I also allow, by way of my signature on this document, for Missouri Western State University to investigate my background and history with respect to alcohol and controlled substance testing as directed by part 382 of the Federal Motor Carrier Safety Regulations.

I further agree to comply with the procedures and requirements set forth in this policy and acknowledge that should I fail or refuse to comply with said procedures, policies and regulations, I shall be considered medically unqualified to drive, and my contractual lease agreement or employment with Missouri Western State University may be terminated.

Signature: _____

Date: _____