

Title: Alcohol and Controlled Substances Testing for Commercial Transportation Students and Employees

Mandate: Omnibus Transportation Employee Testing Act of 1991 and U.S. Department of Transportation, Federal Highway Administration, Federal Motor Carrier Safety Regulations

- Initial Action: 12/14/95
 - Board Agenda: 95-122, 20-002
 - Last Revised:
 - Policy: 11/6/19
 - Procedure: 11/6/19
 - Last Reviewed: 11/6/19
 - Effective: 1/30/2020
 - Next Review: 11/6/2022
 - Responsibility: Director of Transportation Training
-

Policy:

In compliance with the Omnibus Transportation Employee Testing Act of 1991, alcohol and controlled substance testing of all students and employees of the Cecil College commercial transportation training program is required. This, in accordance to the Federal Motor Carrier Safety Regulations, issued by the Federal Highway Administration of the U.S. Department of Transportation, is effective January 1, 1996.

Procedure:

I. Introduction

Cecil College (the "College") follows U.S. Department of Transportation Controlled Substances and Alcohol Use Policy and Testing Program to ensure the learning environment is free from the effects of alcohol and drugs, to prevent accidents and injuries resulting from the misuse of alcohol or the use of controlled substances by drivers of commercial motor vehicles, and to comply with the controlled substances and alcohol use and testing provisions of the Federal Motor Carrier Safety Regulations issued by the Federal Highway Administration ("FHWA") of the U.S. Department of Transportation ("DOT").

Cecil College is committed to providing a safe and healthful learning and working environment for students and employees performing safety-sensitive positions relating to commercial motor vehicles. Therefore, in addition to compliance with the Cecil College

Drug and Alcohol Abuse Prevention Policy issued pursuant to the Drug-Free Schools and Communities Act Amendments of 1989, all drivers (as defined in Part 2 below) are subject to testing for alcohol and controlled substances pursuant to the FHWA's Federal Motor Carrier Safety Regulations.

II. APPLICABILITY

This policy shall be applicable to all persons employed by the College or enrolled as a student in a transportation related program offered by the College, who, at the College's direction or with the College's consent, operate a commercial motor vehicle (a motor vehicle or combination of motor vehicles used in commerce to transport property if the motor vehicle has a gross combination weight rating of 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; a vehicle having a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds; is designed to transport 16 or more passengers including the driver; or the vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary of Transportation under the Hazardous Materials Transportation Act) which is owned, leased, rented, or donated to the College, including full-time, casual, intermittent and occasional drivers, and who perform safety-sensitive functions (as defined in Part IV hereof), and who are subject to the commercial driver's license requirements.

III. PROHIBITIONS

A. ALCOHOL

The College prohibits any driver from reporting to work or school, which will require the performance of safety-sensitive functions, while having an alcohol concentration of 0.02 or greater. Drivers having an alcohol concentration of 0.02 but less than 0.04 may not perform or continue to perform safety-sensitive functions until the start of the driver's next regularly scheduled work period or class but not less than twenty four (24) hours following administration of the test.

The College prohibits any driver from being on duty at work or school or operating a commercial motor vehicle while the driver possesses alcohol. Drivers possessing alcohol may not drive or continue to drive a commercial motor vehicle.

The College prohibits any driver from using alcohol while performing safety-sensitive functions. Drivers may not perform or continue to perform any safety-sensitive functions while using alcohol.

The College prohibits any driver from performing safety-sensitive functions within four (4) hours after using alcohol.

The College prohibits any driver required to take a post-accident alcohol test pursuant to Part V.D. from using alcohol for eight (8) hours following an accident, or until after he/she undergoes such post- accident alcohol test, whichever occurs first.

The College prohibits a driver from performing or continuing to perform safety-sensitive functions if such individual refuses to submit to an alcohol test as required by Part V hereof.

B. CONTROLLED SUBSTANCES

The College prohibits any drivers from reporting to work or school while under the influence of controlled substances (defined below) except when the use is pursuant to the instructions of a physician who has advised the driver that such substance use will not adversely affect the individual's ability to operate a commercial motor vehicle.

Drivers may not perform or continue to perform safety-sensitive functions while using controlled substances (other than as permitted by the preceding sentence). All drivers must inform the Director of Transportation Training of any therapeutic drug use. The College prohibits drivers from reporting to work or school, remaining on duty (as defined in Part IV below), or performing a safety-sensitive function if the driver tests positive for controlled substances. The controlled substances referred to are marijuana, cocaine, opiates, amphetamines, and phencyclidine ("PCP").

The College prohibits a driver from performing or continuing to perform safety-sensitive functions if such individual refuses to submit to a controlled substances test (as required by Part V hereof).

IV. SAFETY-SENSITIVE FUNCTIONS OF DRIVERS

Student drivers and employees must comply with the terms of this policy while performing safety-sensitive functions on duty. "On duty" refers to beginning of the workday or class. Drivers are required to be ready to work or attend classes until he/she is relieved from all work related responsibilities, including driving a commercial motor vehicle. Safety-sensitive functions for drivers include:

- A. All time spent waiting to drive a College owned, leased, rented or donated commercial motor vehicle.

- B. All time spent at the driving controls of a College owned, leased, rented or donated commercial motor vehicle that is in operation.
- C. All time spent inspecting or working on equipment including service brakes and trailer brake connections, parking (hand) brakes, steering mechanism, lighting devices and reflectors, tires, horn, windshield wipers, rear-vision mirrors, coupling devices and emergency equipment.
- D. All time, other than driving, in or with a College owned, leased, rented, or donated commercial vehicle.
- E. Any time loading or unloading commercial motor vehicles; supervising, or assisting in such loading or unloading; attending a commercial motor vehicle being loaded or unloaded; remaining in readiness to operate the commercial motor vehicle, or in giving or receiving receipts for any shipments loaded or unloaded.
- F. All time spent in activities relating to an accident including securing the scene, rendering assistance, exchanging information and completing reports.
- G. All time spent repairing, obtaining assistance, or remaining in attendance with a disabled commercial motor vehicle.
- H. All time spent providing a breath sample or urine specimen, including travel time to and from the collection site in order to comply with the testing required by this Policy when directed by the College.
- I. All time spent performing any other work in the capacity of, or in the employ or service of the College;
- J. All time spent performing any compensated work for any non-motor carrier entity.

An individual is performing a safety- sensitive function from the time he/she is ready to perform, or is required to perform, through the time he/she and is actually performing, and until the time he/she is relieved from performing any safety- sensitive function.

V. ALCOHOL AND CONTROLLED SUBSTANCES TESTING

To comply with FHWA regulations, the College is required to and will, pursuant to this Program, test drivers for alcohol and/or controlled substances under the following circumstances:

A. Pre-employment/admission testing

Drug and alcohol testing is required for all transportation department staff applicants and students of transportation programs requiring a commercial driver's license. The College tests for controlled substances before individuals are hired, admitted, or permitted to perform safety sensitive functions for transportation related programs. Prior to the collection of a urine sample, a driver-applicant or student candidate or other driver will be notified the sample will be tested for the presence of controlled substances.

Any driver applicant, candidate, or other driver who refuses to submit to controlled substances testing will not be eligible for driver employment or admission to an applicable program by the College and if so employed or admitted by the College, will be terminated or rejected from such employment or program.

DOT regulations require the College to investigate an applicant's related driving employment history ensure that such driver did not violate any alcohol or drug testing rules. Effective January 6, 2020 all employment history queries must be submitted through the Drug and Alcohol Clearinghouse. Results not covered by the clearinghouse must be confirmed. Therefore, the College will obtain, pursuant to a driver's authorization, information concerning (1) a driver's alcohol tests with a concentration result of 0.04 or greater; (2) positive controlled substances test results; and (3) any refusals to be tested during the preceding two years, all of which are maintained by the driver's previous employers under FHWA regulations, If it is not feasible to obtain the information prior to the driver's performing safety-sensitive functions, the information will be obtained and reviewed by the College no later than fourteen (14) calendar days after the driver performs safety-sensitive functions for the College. The College will not permit a driver to perform safety-sensitive functions after such fourteen (14) calendar day period without obtaining and reviewing such information. The College will obtain such information even if the driver stops performing safety-sensitive functions before the expiration of the fourteen (14) day period or before the information is obtained. Any driver who refuses to provide the College with a specific written authorization will not be hired or admitted to a transportation-related program or, if so hired or admitted, will be terminated or rejected from such employment or program. The Company will maintain a written, confidential record with respect to each past employer contacted.

The College will not use a driver to perform safety-sensitive functions if it obtains information that a driver had an alcohol test result indicating a concentration of 0.04 or greater, a verified positive controlled substances test result or a refusal to be tested, without obtaining information that there was a determination by a substance abuse professional that the driver complied with the recommendations of the substance abuse professional, and that the driver has undergone a return-to-duty alcohol test indicating an alcohol concentration of less than 0.02 and/or a return-to-duty controlled substances test with a verified negative result for

controlled substances use.

B. Random testing

During each calendar year, the College will randomly test at least ten (10) percent of all drivers covered by this Program for alcohol and at least twenty-five (25) percent of all drivers covered by this Program for controlled substances unless the FHWA Administrator alters the above percentages. Drivers will be tested for alcohol and controlled substances on an unannounced basis and the date of such testing will be spread reasonably throughout the calendar year.

Drivers to be tested will be selected randomly by a scientifically valid method resulting in each driver having an equal chance of being tested each time selections are made. Random controlled substances testing will be performed any time during work or driver program operating hours.

Each driver who is notified of selection for random alcohol and/or controlled substances testing must proceed to the test site immediately. If the driver is performing a safety-sensitive function at the time of notification, the driver will cease to perform the safety-sensitive function and proceed to the test site as soon as possible.

C. Reasonable suspicion testing

Drivers about whom there is reasonable suspicion to believe that he/she has violated the prohibitions contained in this policy will be tested for alcohol and/or controlled substances. The College's determination that reasonable suspicion exists to require a driver to submit to an alcohol and/or controlled substances test will be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. Observations relating to controlled substances will include indications of the chronic and withdrawal effects of controlled substances. A properly trained College official will make such observations. The person making the reasonable suspicion determination concerning the presence of alcohol will not conduct the alcohol test. Alcohol tests will be conducted only if the observations are made during, just preceding, or just after the period of the day that the driver is required to comply with this policy.

If reasonable suspicion alcohol testing is not performed within two (2) hours of reasonable suspicion determination, a record stating the reasons the test was not promptly administered will be prepared and maintained. If the alcohol test is not administered within eight (8) hours of the reasonable suspicion observation, the College will cease attempts to administer the test and will state the reasons the test was not administered in a record maintained by the College.

If reasonable suspicion exists that a driver is under the influence of or impaired by alcohol, the driver will be restricted from performing or continuing to perform safety sensitive functions. The restriction may be lifted when:

- (1) an alcohol test is administered with a result registering an alcohol concentration of 0.02 or less; or

- (2) Twenty-four (24) hours have passed following the reasonable suspicion determination that the driver has violated the prohibition of this Program concerning the use of alcohol.

The College will not take any action under this policy against a driver based solely on his/her behavior and appearance with respect to alcohol use, in the absence of an alcohol test.

The reasonable suspicion determination concerning controlled substances will be maintained in a written record and will be signed by the supervisor or college official who made the observations within twenty-four (24) hours of the observations or before the results of the controlled substances test are released, whichever is earlier.

D. Post-accident testing

As soon as practicable following an accident involving a commercial motor vehicle, each surviving driver will be tested for alcohol and controlled substances if the accident involved the loss of human life or the surviving driver received a citation for a moving traffic violation resulting from the accident.

If post-accident testing is not performed within two (2) hours after a covered accident, the reason the test was not promptly administered must be recorded and a record of such reasons must be maintained. If an alcohol test is not administered within eight (8) hours after a covered accident, the College will cease attempts to administer the test and will prepare and maintain a record of the reasons the test was not administered.

If post-accident controlled substances testing cannot be performed within thirty-two (32) hours after a covered accident, the College will cease attempts to administer the test and will prepare and maintain on file a record stating the reasons the test was not promptly administered.

A driver subject to post-accident testing must remain available for such testing or he/she will be deemed to have refused to submit to a test and will be terminated from employment or further participation in the applicable program. Nothing in this policy will be construed to require the delay of necessary medical attention following an accident or to prohibit a driver from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

The College will provide drivers with necessary post-accident information, procedures, and instructions prior to driving a commercial motor vehicle so the drivers will be able to comply with the post-accident testing requirements. Blood, urine and breath tests designed to determine the presence of alcohol and controlled substances in an individual may be administered by federal, state, or local officials having independent authority to conduct such tests will be considered to satisfy the post-accident requirements under this policy provided such tests conform to applicable federal, state, or local requirements and that the results of the tests are obtained by the College.

E. Return to duty testing

Drivers who have engaged in conduct prohibited by this policy will be required to submit to an alcohol and/or controlled substances test with an alcohol test result indicating an alcohol concentration of less than 0.02 and/or a controlled substances test result indicating a verified negative test before returning to any safety sensitive function.

F. Follow-up testing

Any individual who has been identified by a substance abuse professional as needing assistance in resolving problems associated with alcohol misuse and/or use of controlled substances and who has returned to performing safety-sensitive functions will be subject to unannounced follow-up testing for alcohol and/or controlled substances at least six (6) times during the first twelve (12) months following the driver's return to such functions. The number and frequency of such follow-up tests will be determined by a substance abuse professional. The substance abuse professional will also determine whether the driver will be tested for both alcohol and controlled substances. Follow-up testing will not extend beyond sixty (60) months from the date of the driver's return. At any time after the first six (6) tests have been administered, the substance abuse professional may determine that follow-up tests are not necessary and may terminate the follow-up testing.

Follow-up testing will be performed during, just before, or just after safety-sensitive functions are performed.

VI. REFUSAL TO SUBMIT TO ALCOHOL OR CONTROLLED SUBSTANCES TEST

Refusal to submit to testing occurs when an individual fails to provide adequate breath for alcohol testing without a valid medical explanation after he/she has received notice of the requirement for breath testing, fails to provide an adequate urine sample for controlled substances testing without a genuine inability to provide a specimen after he/she has received notice of the requirement for urine testing, or the individual engages in conduct that clearly obstructs the testing process.

Drivers who refuse to submit to any type of alcohol or controlled substances testing as required by this policy may not perform or continue to perform safety-sensitive functions.

Any driver who refuses to submit to post-accident, random, reasonable suspicion, or follow-up alcohol or controlled substances tests required by this policy will be subject to disciplinary action up to and including discharge from employment or the College program.

VII. THE CONSEQUENCES FOR DRIVERS VIOLATING THE PROHIBITIONS CONTAINED IN THIS PROGRAM

Drivers found to have engaged in conduct in violation of the prohibitions set forth in this policy or any applicable alcohol or controlled substances rule of the FHWA or any other DOT agency will be immediately removed from performing safety-sensitive functions until:

1. the driver is evaluated by a substance abuse professional and the professional determines what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and/or controlled substances use; and
2. The driver undergoes a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, and/or a controlled substances test with a verified negative result if the conduct involved a controlled substance.

Additionally, if the driver has been identified by a substance abuse professional as needing assistance in resolving problems associated with alcohol misuse or controlled substances use, the driver:

1. will be evaluated by a substance abuse professional to determine whether the driver has properly followed any rehabilitation program required by a substance abuse professional; and
2. Such individual shall be subject to unannounced follow-up testing for alcohol and/or controlled substances following his/her return to work or participation in an applicable transportation-related program. The substance abuse professional will determine the number and frequency of the tests but there will be at least six (6) tests during the first twelve (12) months following the driver's return. If the substance abuse professional determines that both alcohol and controlled substances testing is necessary for the driver, the driver may be required to submit to return-to-duty and follow-up testing for both alcohol and controlled substances. Follow-up testing will not exceed sixty (60) months from the driver's return and if the substance abuse professional determines that such testing is no longer necessary after the first six (6) tests, the testing may be terminated.

Drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04 will not perform or continue to perform safety-sensitive functions, until the start of the driver's next regularly scheduled work period or class but not less than twenty (24) hours following administration of the test. Any driver who refuses to submit to a post-accident, random, reasonable suspicion or follow-up alcohol or controlled substances test required by this Program will be terminated from employment or from a transportation-related program.

An employee engaging in conduct in violation of the prohibitions contained in this policy will be referred to Cecil College's Employee Assistance Program. The case also will be

referred to the College's Department of Human Resources for appropriate disciplinary action up to and including discharge.

Drivers found to have engaged in conduct in violation of the prohibitions contained in this Program will be advised by the **Director of Transportation Training** of the resources available to him/her for evaluation and resolution of problems associated with the misuse of alcohol and/or the use of controlled substances including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

The driver shall pay the costs of evaluation and rehabilitation. The referral, evaluation, and treatment provisions of this policy outlined above are inapplicable to applicants/candidates refusing to submit to a pre-employment/admission controlled substances test or to applicants/candidates who have a pre-employment/admission controlled substances test with a verified positive test result. Such applicants/candidates will not be hired or admitted.

VIII. ADDITIONAL PENALTIES

Any driver who violates the prohibitions of this Program will be subject to the penalty provisions of 49 U.S.C. Section 521(b).

IX. ACCESS TO RECORDS

The College will not release any driver information contained in any records required to be maintained under this Program unless required by law, expressly authorized, or required by FHWA regulations. Information required to be maintained under this policy may be disclosed to the driver; the decision maker in a lawsuit, grievance or other proceeding by or on behalf of the driver in proceedings including but not limited to worker's compensation proceedings, unemployment compensation proceedings, or other proceedings relating to a benefit sought by the driver. Information regarding a driver's records will only be released if the driver provides specific written consent to the release of the information to an identified person.

A driver is entitled, upon written request, to obtain copies of any records pertaining to his/her use of alcohol or controlled substances, including test records. The Company will promptly provide such records to the drivers upon receipt of his/her written request and upon payment for those records specifically requested.

Upon written request from a driver, such records will be made available to a subsequent employer.

X. NOTIFICATION OF TEST RESULTS

A Medical Review Officer who will report to the College will receive all alcohol and controlled substances tests:

1. The name of the driver for whom the test results are being reported;
- 2.the type of test conducted (i.e., random, post-accident, etc.);
3. the date and location of the test collection;
4. the identities of all persons or entities performing the collection, analysis of the specimens, and serving as the Medical Review Officer for the specific test;
5. The verified results of the test, either positive or negative, and if positive, the identity of the substance found, i.e., whether alcohol or a controlled substance, and if a controlled substance the identity of the controlled substances for which the test was verified positive; and
6. The fact that the Medical Review Officer has made all reasonable efforts to contact the driver as provided by FHWA regulations. If the Medical Review Officer is unable to contact the driver, the College will request that the driver contact the Medical Review Officer prior to dispatching the driver or within twenty-four (24) hours, whichever is earlier.

In the case of driver-applicants/candidates, the College will notify a driver-applicant/candidate of the results of a pre-employment/admission controlled substances test if the driver requests such results within sixty (60) days of being notified of the disposition of his/her application for employment/admission. In the case of current drivers, the College will notify a driver of the results of a random, reasonable suspicion, or post-accident test if the test results have been verified positive. If the Medical Review Officer is unable to contact the driver, a designated management official of the College will make reasonable efforts to contact and request each driver who submits specimens under this policy to contact and discuss the results of a controlled substances test with the Medical Review Officer, and will immediately notify the Medical Review Officer that the driver has been notified to contact the Medical Review Officer within twenty- four (24) hours.

XI. PROGRAM ADMINISTRATION

The Director of Transportation Training is the designated program administrator for coordinating the policy with the outside agency selected for testing and ensuring that procedures are followed. If you have any questions about Cecil College's U.S. Department of Transportation Controlled Substances and Alcohol Use Policy and Testing Program, please see the **Director of Transportation Training**. **The Director of Transportation Training** will provide all drivers subject to this policy with educational materials that explain the requirements of this policy, the FHWA rules and regulations on alcohol and controlled substances testing, and the College's

policies concerning meeting such requirements, rules and regulations. These educational materials will be furnished to each driver prior to the start of alcohol and controlled substances testing under this Program and to each driver transferred into a position or into a transportation-related program requiring driving of a commercial motor vehicle. The educational materials supplied to the drivers will include:

1. the identity of the employer representative to answer questions about the materials;
2. the category of drivers subject to this policy;
3. an explanation of the safety-sensitive functions performed by drivers subject to this policy to make clear what period of the day the driver is required to be in compliance with this policy;
4. information concerning the specific driver conduct prohibited by this policy;
5. the circumstances under which the driver will be tested for alcohol and/or controlled substances under this policy;
6. the procedures that will be used to test for the presence of alcohol and/or controlled substances, to protect the driver and integrity of the testing processes, safeguard the validity of the test result, and ensure that those results are attributed to the correct driver;
7. the requirement that a driver submit to alcohol and/or controlled substances test administered under this policy;
8. an explanation of what constitutes a refusal to submit to an alcohol and/or controlled substances test and the consequences of such a refusal;
9. the consequences for drivers found to have violated the prohibition of this policy, including the requirement that the driver be removed immediately from safety-sensitive functions and the referral, evaluation, and treatment procedures under this policy;
10. the consequences for driver found to have an alcohol concentration of 0.02 or greater but less than 0.04;
11. information concerning the effects of alcohol and controlled substances on an individual's health, work, and personal life; signs and symptoms of an alcohol

or a controlled substances problem; and available methods of intervening when an alcohol or controlled substances problem is suspected including confrontation, referral to any employee assistance program and/or referral to management.

Materials supplied to student drivers may include information on additional school policies with respect to the use or possession of alcohol or controlled substances. Each driver is required to sign statements certifying that he/she has received a copy of the educational materials outlined above and a copy of this policy.