

Policy 705.4 – Drug & Alcohol Testing

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Issuing Office: Administration & Finance

Date Revised:

Approved By:

References: BOR 740; 49 CFR Part 40, 382, and 384; M.C.A. 39-2-205 through 211; HRS Procedures

I. POLICY

The University of Montana Western complies with the Board of Regents Policy 740, Drug and Alcohol Testing.

II. PURPOSE

The purpose of this policy is to comply with federally mandated drug and alcohol testing for certain employee groups.

III. PROCEDURE

A. Definitions

1. Employees are those individuals whose job duties require a commercial drivers license (CDL). Covered employees will be subject to the following types of urine drug and breath alcohol testing: pre-employment (for controlled substances only), post-accident, random, reasonable suspicion, return-to-duty, and follow-up testing, as defined in 49 CFR Part 382.
2. Substance Abuse Professional (SAP) means 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.
3. Safety Sensitive Functions are listed as itemized duties under the definition of on-duty time.
4. On-duty time means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.
5. Accident means an accident that meets the criteria listed below makes you subject to drug or alcohol testing:

The accident occurs on a public road and involves a commercial motor vehicle, and either:

- a. There's a fatality as a result of the accident, or;
- b. The driver receives a moving traffic violation resulting from the accident and the accident caused:
 - 1) Bodily injury for which the injured received immediate medical attention away from the accident site; or
 - 2) One or more of the involved vehicles incurs disabling damage requiring it to be towed away from the scene of the accident.

B. Prohibited Behavior

A driver may not report to work or perform safety sensitive functions, nor may a supervisor allow an employee to perform safety sensitive functions under the following circumstances:

1. Having 0.04 or more concentration of alcohol.
2. Possessing unmanifested alcohol.
3. Using alcohol within 4 hours of working in a safety sensitive function.
4. Using alcohol within 8 hours of an accident, or until tested, whichever comes first.
5. Driver refusal to submit to a drug or alcohol test.
6. Using any controlled substance, except when prescribed by a doctor, **AND** the doctor informs the driver the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.
7. Working in a safety sensitive position with the following drugs in confirmed positive amounts:
 - a. Marijuana metabolites
 - b. Cocaine metabolites
 - c. Opiates (Morphine, Codeine)
 - d. Phencyclidine (PCP)
 - e. Amphetamines (Amphetamine, Methamphetamine)

A driver who engages in any of the prohibited behavior is subject to counseling, disciplinary action, return to duty testing, and in most cases, follow up testing.

C. Types of Tests

The types of tests that will be conducted include:

1. Pre-employment
2. Random
3. Post accident
4. Reasonable suspicion
5. Return to duty
6. Follow up

An employee may be tested for alcohol just prior to, during, or immediately after performing safety sensitive functions. Testing for drugs may take place at any time just before, during, or immediately after on duty time, whether an employee is performing safety sensitive functions or not.

The supervisor will notify, in a confidential manner, the employee when he/she must be tested for random testing. The employee must go directly to the collection site after being notified.

An employee must be tested after an accident within the stated time limits. Failure to test within these times must be documented by a supervisor.

A supervisor may require an employee to be tested if he/she has reasonable suspicion the employee has used alcohol on duty or within 4 hours of duty, or uses drugs.

Follow up tests are required following a positive drug or alcohol test and may be required if an employee engages in any of the other prohibited behaviors. The SAP (Substance Abuse Professional/counselor) will decide if and how many follow up tests are required. However, an employee will be subject to at least six (6) unannounced tests in the year following a positive test, and may be subject to these tests for up to five (5) years.

D. Testing Procedures

To the extent possible, drug and alcohol testing will be conducted in a manner that respects employee privacy, dignity, and confidentiality. The State of Montana, including the Montana University System, contracts with the Montana Chemnet Consortium to conduct drug and alcohol testing.

Tests will be conducted using the following procedures:

1. Alcohol

This is a breath test using an Evidential Breath Test instrument (EBT). The employee will be asked to sign the form consenting to the test and again to certify that the results are accurately recorded on the form.

If an employee shows an alcohol concentration of 0.02 or greater, a confirming test must be done between 15 and 20 minutes after the first test to verify a positive test result. The employee will be asked to sign a separate form for the confirming test. If there is a difference in results between the first (screening) and the second (confirmatory) tests, the result of the second test is the official result.

Inability to provide sufficient breath may be considered a refusal to test, making the employee subject to disciplinary action unless there is a medical reason for insufficient breath.

2. Drugs

This test is done by analyzing urine. The sample must be at least 45 mls (milliliters). The sample will be split; 30 mls in 1 bottle, 15 mls in the other. The employee will be allowed to watch the technician split the sample, label and seal the bottles. The employee will be asked to sign the sample custody forms and initial the labels on each of the bottles.

An insufficient urine sample may be considered a refusal, and therefore, a positive test unless there is a medical reason for an inadequate sample.

The urine sample is sent to the lab, where it is screened. If positive, a quantitative, confirmatory test is done.

An employee who questions the results of a confirmed positive drug test may request an additional test be conducted using a split sample provided at the time of the original sample. The request must be made within 72 hours of initial test results. The employee will pay all costs for a retest on the split sample unless the second test invalidates the original test. If an employee requests an independent test, and there is any amount of the drugs covered by this law in the urine, it is considered positive even if the level is below the positive test amounts.

E. Disciplinary Action

An employee who refuses to submit to a drug and/or alcohol test will be considered to have failed the test.

1. Drugs

The first occurrence of a confirmed positive drug test will typically result in removal of the employee from performing safety sensitive functions, referral to a Substance Abuse Professional (SAP) for evaluation, completion of a return-to-duty test with a verified negative result, and a written warning letter.

Any subsequent confirmed positive drug test will result in more serious disciplinary actions, up to and including discharge. However, following a preventable accident in which an employee's drug test is confirmed positive (even if it is the first occurrence) more serious disciplinary action may result, up to and including discharge.

2. Alcohol

The first occurrence of an alcohol test resulting in a blood alcohol concentration of 0.04 or higher will typically result in immediate removal of the employee from performing safety-sensitive functions for a period of at least 24 hours, referral to an SAP for evaluation, completion of a return-to-duty alcohol test indicating an alcohol concentration of less than 0.02, and a written warning letter.

Any subsequent alcohol test with a blood alcohol concentration of 0.04 or higher may result in more serious disciplinary actions, up to and including discharge. However, following a preventable accident in which an employee's blood alcohol concentration is 0.04 or greater (even if it is the first occurrence) more serious disciplinary action may result, up to and including discharge.

IV. AUTHORITY

MUS 740; 49 CFR Part 40, 382, and 384; M.C.A. 39-2-205 through 211; HRS Procedures

V. RESPONSIBILITY

Vice Chancellor for Administration & Finance/Student Affairs, Supervisors