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GENERAL STATEMENT OF POLICY

It is the University's intent and obligation to provide a drug-free, healthful, safe and secure work environment.


The unlawful manufacture, distribution, dispensation, possession, or use of alcohol or a controlled substance on University premises or while conducting University business off campus is absolutely prohibited. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences for the violating employee.

The University recognizes drug and alcohol abuse as a potential health, safety and security problem. Drug & alcohol testing procedures will be established as required by law. Faculty and staff needing help in dealing with alcohol or drug problems are encouraged to use the University's Counseling and Disability Services. Conscientious efforts to seek alcohol or drug help will not jeopardize an employee's job, and will not be noted in the official personnel file.

Training: The University shall develop and present training to both supervisors and employees regarding this program.

1. Employees in covered employment and supervisors of such employees are mandated to attend drug and alcohol training annually.
2. Other employees and supervisors are encouraged, but not mandated to attend training.

The Vice President of Finance and Administration shall be responsible for issuing and maintaining operating procedures to implement this policy.

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OPERATING PROCEDURES:

1. **Reporting of Violations**

Faculty and staff must, as a condition of employment, abide by the terms of the above policy. If an employee has been convicted under a criminal drug statute for violations occurring on or off campus while conducting University business, a report of the conviction must be made within five (5) days after the conviction (mandated by the Drug-Free Workplace Act of 1988, Public Law 100-690). Report of such convictions must be made in writing. Faculty should make the report to the Provost and staff should make the report to the Director of Human Resources.

2. **Drug and Alcohol Testing (as required by the Transit Administration/FTA Drug and Alcohol Program)**


These procedures apply to every person, including an applicant or transferee, who performs or will perform a “safety-sensitive function” as defined in The Code of Federal Regulations (CFR) Part 655, section 655.4.

You are a covered employee if you perform any of the following:

- Operating a revenue service vehicle, in or out of revenue service
- Operating a non-revenue vehicle requiring a commercial driver’s license
- Controlling movement or dispatch of a revenue service vehicle
- Maintaining (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

A volunteer is a covered employee if:

- the volunteer is required to have a commercial driver’s license to operate the vehicle; or
- the volunteer performs a safety-sensitive function and receives remuneration in excess of his or her actual expenses incurred

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A. When Testing is Required - Covered individuals are subject to drug and alcohol testing under any of the following circumstances:


1. Pre-Employment Testing

- a) Pre-employment alcohol tests are conducted after making a contingent offer of employment or transfer. All pre-employment alcohol tests will be conducted using the procedures set forth in 49 CFR Part 40.
- b) A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.
- c) If a covered employee has not performed a safety-sensitive function for 90 consecutive calendar days, and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before he or she can return to a safety-sensitive function.
- d) A covered employee or applicant who has previously failed or refused a DOT pre-employment drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

2. Special Post-Accident Provisions

Covered employees shall be subject to post-accident drug and alcohol testing under the following circumstances:

- a) Fatal Accidents - As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by Southeast Missouri State University DPS Transit Supervisor, Public Safety officer, or other qualified Southeast Missouri State University supervisor using the best information available at the time of the decision, will be tested.

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b) Non-fatal Accidents -As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:


- (1) The accident results in injuries requiring immediate medical treatment away from the scene, and the covered employee may have contributed to the accident
- (2) One or more vehicles incurs disabling damage and must be towed away from the scene, and the covered employee may have contributed to the accident
- (3) The vehicle is a rail car, trolley car or bus, or vessel, and is removed from operation, and the covered employee may have contributed to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by Southeast Missouri State University DPS Transit Supervisor, Public Safety officer, or other qualified Southeast Missouri State University supervisor using the best information available at the time of the decision, will be tested.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

3. Reasonable Suspicion Testing

- a) All covered employees shall be subject to a drug and/or alcohol test when the employee's trained supervisor has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained company official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.
- b) Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol


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testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions

- c) Return To Duty Follow-Up Testing - Covered employees who are returning to work from treatment of alcohol or substance abuse are subject to testing and certification requirements and may be subjected to unscheduled follow-up testing.

4. Random Testing


- a) Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.
- b) Testing rates will meet or exceed the minimum annual percentage rate set each year by the FTA administrator. The current year testing rates can be viewed online at <http://www.dot.gov/odapc/random-testing-rates>.
- c) The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.
- d) A covered employee will only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.
- e) Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.
- f) Random testing may occur anytime an employee is on duty so long as the employee is notified prior to the end of the shift. Employees who provide advance, verifiable notice of scheduled medical or child care commitments will be random drug tested no later than three hours before the end of their shift and random alcohol tested no later than 30 minutes before the end of their shift. Verifiable documentation of a

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previously scheduled medical or child care commitment, for the period immediately following an employee's shift, must be provided at least 3 hours before the end of the shift.


B. Consequences of Failing Drug or Alcohol Testing –

1. Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional.
2. Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties for at least eight hours unless a retest results in the employee's alcohol concentration being than 0.02.
3. Per this procedure, any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test will be referred to a Substance Abuse Professional (SAP) and:
 - a) While suspended, the employee may use paid leaves from his or her available sick leave or vacation leave balances to remain in paid status. If the employee has no paid leave available, the period of suspension will be without pay. However, all uses of leave are subject to the policies, procedures and/or bargaining unit resolutions under which they fall.
 - b) The employee must provide a status report regarding his or her continued treatment from his or her substance abuse professional to his or her supervisor, not less frequently than every two calendar weeks.
 - c) Upon being released from treatment and prior to being allowed to return to work, the employee must consent to and successfully pass a Return to Work drug or alcohol test.
 - d) The employee will be subject to unannounced Follow-Up Testing.
 - e) A second instance of failing a drug or alcohol test will result in the employee being involuntarily terminated from his or her employment with the University.


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C. Refusal to test or provide an adequate sample for testing

1. As a covered employee, you have refused to test if you:
 - Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by your Supervisor.
 - Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
 - Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
 - In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
 - Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
 - Fail or decline to take a second test as directed by the collector or your supervisor and/or FTA Policy for drug testing.
 - Fail to undergo a medical evaluation as required by the MRO or a Designated Employer Representative (DER).
 - Fail to cooperate with any part of the testing process.
 - Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
 - Possess or wear a prosthetic or other device used to tamper with the collection process.
 - Admit to the adulteration or substitution of a specimen to the collector or MRO.
 - Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
 - Fail to remain readily available following an accident.
2. As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
3. As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions, and referred to a SAP.

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- a) Failure to provide adequate breath for testing without a valid medical reason, constitutes a refusal to test and shall cause the employee to be considered as having voluntarily resigned from employment.
 - b) An employee who alleges an inability to provide an adequate breath sample will be directed to obtain, as soon as it is practical, a medical evaluation of his or her medical ability to provide an adequate amount of breath. Such an evaluation shall be obtained by the employee at his or her own cost from a licensed physician acceptable to the University. If the physician concludes that there is a reasonable medical justification for not providing the adequate breath sample, the failure to have provided the sample shall not constitute a refusal to test.
 - c) If the physician is unable to conclude that a medical reason prevented the provision of an adequate breath sample, the refusal shall constitute a refusal to test and shall cause the employee to be considered as having voluntarily resigned employment. The employee must provide to the University the physician's written medical conclusions in either case.
4. Essential medical treatment following an accident should never be delayed in order to implement drug or alcohol testing. However, such testing should occur as soon as practical and within eight hours of the accident whenever possible.
 5. Any post-accident test which results in a positive finding of drugs or alcohol shall expose the employee to disciplinary action up to and including termination of employment as follows:
 - a) Any positive finding of drugs or an alcohol concentration of 0.04 or greater on an alcohol breath test, shall constitute the employee's involuntary termination from employment and may subject the employee to possible prosecution.
 - b) An alcohol concentration of 0.02 or greater on an alcohol breath test, if the individual has had a previous positive test, shall constitute the employee's involuntary termination from employment and may subject the employee to possible prosecution.
 - c) An alcohol concentration between 0.02 and 0.04 on an alcohol breath test, if the individual had no previous positive test, shall subject the employee to immediate

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removal without pay from his or her duties for a period of 24 hours and the placement of a final letter of warning in his or her personnel file.

- d) An alcohol concentration below 0.02 on an alcohol breath test is considered a negative test and does not subject the employee to discipline.


D. Tests and Records

1. All drug and alcohol testing performed on individuals will be in accordance with required procedures. These include the use of special testing forms, use of trained personnel, and special processes and handling to insure the integrity and accuracy of the testing process.
2. Information related to testing will be treated as confidential except as required to comply with requirements, to safeguard the safety of personnel and the public, or as otherwise legally required.
3. All testing, record keeping, interpretation, definitions, etc. shall be consistent with and governed by applicable federal and or state laws and regulations. Specifically, the drug and alcohol testing programs are mandated by U.S. Department of Transportation regulations authorized under the Omnibus Transportation Employee Testing Act of 1991 (Public Law 102 - 143) and its amendments and other laws. The University's Policy and Procedures are adopted in accordance with these laws and regulations and any part hereof not in conformity with these laws and regulations shall be amended automatically to conform with those laws and regulations.

3. Testing Procedures

All drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

- A. Return to Duty Testing- Any employee who is allowed to return to safety-sensitive duty after failing or refusing to submit to a DOT drug and/or alcohol test must first be evaluated by a substance abuse professional (SAP), and provide a negative drug and/or alcohol test result. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.
- B. Follow-up Testing - Employees returning to safety-sensitive duty following leave for substance abuse rehabilitation will be required to undergo unannounced follow-up alcohol and/or drug testing for a period of one (1) to five (5) years, as directed by the SAP. The duration of testing will

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be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the SAP. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.


- C. Dilute Urine Specimen - If there is a negative dilute test result, one additional retest will be conducted. The result of the second test will be the test of record. Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).
- D. Split Specimen Test - In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. The split specimen test will be conducted in a timely fashion at the University's expense.

4. A Covered Employee must not –

- A. Use or possess alcohol (including medications, foods, mouth washes, sprays, or any other substance which contains alcohol), even with a doctor's prescription, for 8 hours before duty, while on duty, or 8 hours after an accident (unless alcohol testing has been performed after the accident).
- B. Perform safety sensitive duties if aware of any medical condition or alcohol or drug use that may adversely affect his or her ability to perform such duties.
- C. Use any controlled substance unless specifically authorized by a physician and then the physician tells the individual that use of the controlled substance will not affect the performance of safety sensitive functions. The University must be notified in advance of the use of prescription drugs which may affect performance of covered employment by covered employees.
- D. Be under the influence of alcohol within 8 hours before going on duty or operating, or having physical control of, or being on duty to operate, a covered vehicle or performing other Department of Transportation and/or University covered safety sensitive duties.

5. Voluntary Self-Referral

Any employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer

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her or himself to the Provost for faculty and Human Resources Director for staff, who will refer the individual to a substance abuse counselor for evaluation and treatment.

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function and will not be allowed to perform such function until successful completion of a prescribed rehabilitation program.

6. Prescription Drug Use

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to the Provost for faculty and the Human Resources Director for staff. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties.

7. Contact Person

For questions about Southeast Missouri State University's anti-drug and alcohol misuse program, faculty should contact the Provost and staff should make the report to the Director of Human Resources