

# **University Policy 2219:**

## **Employee Drug and Alcohol Policy Procedures**

### **I. RESPONSIBILITIES**

A. The Director of Employee Relations, Human Resources is responsible for 1) management of the Employee Drug and Alcohol Policy, 2) making sure this policy or a summary is provided to all new employees for signature, and 3) assisting supervisors regarding appropriate discipline and personnel action.

B. HR is responsible for 1) providing supervisory training in dealing with suspected substance abuse issues, and 2) providing for medically appropriate testing sites and reviews by a certified Medical Review Officer.

### **II. COMMENCEMENT OF EMPLOYMENT**

A. All full time and part-time classified employees and full time faculty, instructional, administrative and research, must sign the Summary of the Commonwealth of Virginia's Policy on Alcohol and Drugs affirming that they have been informed of the Commonwealth's Policy on Drugs and Alcohol upon commencement of employment. The signed statement will be forwarded to the Human Resources and Payroll Department to be placed in their personnel files.

B. All part-time wage and student wage employees must sign the Commonwealth's Drug and Alcohol statement affirming that they have been informed of the Commonwealth's Policy on Drugs and Alcohol upon commencement of employment. The signed statement is to be placed in the department's employee wage file.

### **III. GENERAL**

A. The federal Drug-Free Workplace Act and Virginia State law requires that all employees be informed that the manufacture, distribution, possession, or use of alcohol or other drugs is prohibited in and unlawful in the workplace. The University's Administrative Drug and Alcohol Policy prohibits the impairment of an employee in the workplace from the use of alcohol or other drugs.

B. The workplace consists of any state-owned, controlled, or leased property, or the site where state work is performed. Any employee who violates this prohibition or violates any alcoholic beverage control law, or law which governs driving while intoxicated based on actions occurring in the workplace will be subject to disciplinary action up to and including discharge and/or will be required to satisfactorily participate in a drug abuse assistance or rehabilitation program at the discretion of management. As a condition of employment, employees must abide by the terms of

this prohibition and notify their supervisor of any criminal drug statute conviction occurring in the workplace no later than five days after such conviction.

C. The Employee Assistance Program (EAP) is a confidential assessment, referral, and short-term problem-solving service available to eligible employees and family members. Enrollment in the EAP is automatic as part of the health plan coverage. Employees who are not covered by the state's insurance can contact Employee Relations for resources. The EAP helps participants deal with problems affecting personal and work life, including alcohol and substance abuse.

#### **IV. REGULATIONS FOR UNIVERSITY OFFICES**

A. University regulations prohibit the possession or consumption of any alcoholic beverage on University grounds unless the University has specifically sanctioned the location and/or conditions for possession or consumption.

B. State funds (including University and student fees) may not be used to purchase alcohol.

#### **V. MANDATORY DRUG TESTING OF CERTAIN CDL HOLDERS**

In accordance with the Omnibus Transportation Employee Testing Act of 1991 and 49 CFR Parts 40 and 382, George Mason University will conduct mandatory alcohol and drug testing of all University personnel who are required to possess a commercial driver's license (CDL): (1) To operate a vehicle that is rated to transport 16 or more passengers including the driver, (2) To drive a vehicle with a gross weight rating of 26,001 or more pounds, or (3) To drive a motor vehicle of any size that is carrying hazardous material that requires placarding. These individuals are "covered personnel". New covered personnel must provide HR written consent to request information from prior DOT-regulated employers within the preceding 2 years regarding alcohol or controlled substances test results. Any violation of DPT Policy 1.05 'Alcohol and Drugs' is subject to the full range of discipline, including termination.

Persons testing verified positive, refusing to test, or who provide an adulterated sample will be immediately removed from driving duties and charged with a Group III violation of the State's Standards of Conduct, which alone may warrant termination. Departments will send an advisory memorandum (Attachment A) to all persons employed in, and being considered for, assignment to covered positions.

#### **A. RESPONSIBLE DEPARTMENTS**

a. Human Resources. The Human Resources Department (HRD) is responsible for managing and funding this program. HRD will advise employees and applicants for covered positions of the University's alcohol and drug testing policies, and keep the signed statements of receipt of

this procedure on file. HRD will also request employees' and applicants' records from previous DOT-regulated employers in the past 2 years with employee consent and keep consent and records on file. Periodically, HRD will randomly select covered personnel for testing at a federally-approved facility. HRD will also be responsible for supervisor and employee training. In the event a covered employee tests verified positive, HRD will assist supervisors regarding discipline and personnel action. HRD will provide or ensure the service agent provides all covered personnel who violate this procedure with a list of Substance Abuse Professionals in the area.

b. Department Heads. Department Heads will maintain a list of all covered personnel and will inform Risk Management of changes. Departments will make covered personnel available for testing and will take corrective action in the event an employee tests verified positive.

## B. GENERAL

### a. Employees.

(1) Alcohol. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No driver shall perform safety-sensitive functions within four hours after using alcohol. No driver required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first. No driver tested under this procedure who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform safety-sensitive functions less than 24 hours following administration of the test.

(2) Drugs. No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any drug or substance identified in 21 CFR 1308.11 Schedule I, or any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle. Mason may require a driver to inform the employer of any therapeutic drug use.

b. Testing. Covered personnel will be designated for alcohol and drug testing in the following circumstances. A refusal to take the tests or the adulteration of the sample will be considered a Group III violation of the Standards of Conduct and may result in the termination of employment:

(1). Pre-Employment. An individual applying for a covered position will be tested for alcohol and controlled substances as a condition of employment. HRD will advise applicants of the requirement and the testing procedure. Applicants who test verified positive for controlled substances at any concentration will not be offered a covered position or assigned these duties.

Applicants must not begin performing safety-sensitive functions unless the result of the employee's alcohol test indicates a concentration of less than 0.04.

(2) Reasonable Suspicion. Covered personnel will be tested if a supervisor has reasonable suspicion to believe that the driver has violated the prohibitions concerning alcohol or controlled substances. The reasonable suspicion must be based on specific, articulated observations of the driver's appearance, behavior, speech or body odors. The observations may include indications of the chronic and withdrawal effects of controlled substances. The supervisor should identify the employee, confirm the behavior/appearance/odor/speech, and document the incident by completing Attachment B, the "Behavior/ Incident Documentation" form. If possible, the supervisor should meet with the employee in person with a witness to the event. Alcohol testing is authorized only if the observations are made during, just preceding, or just after the work day.

(3). Random. Covered personnel will be tested for alcohol and controlled substances whenever the random selection process designates the employee for testing or at least once a year. Employees being randomly tested will not routinely be relieved of CDL duties while the results are analyzed and verified.

(4). Vehicle Accidents or Citations. Covered employees will be tested any time they are involved in any on-the-job vehicle accident or citation for a moving vehicle violation. The alcohol breathalyzer test should be administered within two hours of the incident; if a test is not administered within two hours, the Department shall prepare and maintain on file a record stating the reasons the test was not promptly administered. The drug test must be conducted within 32 hours of the accident to be valid; if a test is not promptly administered, the Department shall prepare and maintain a similar record. Testing by Federal, State, or local officials having independent authority for the test may satisfy this section if Mason obtains the results of the tests.

Employees must remain readily available for testing after an incident, as soon as they have received emergency medical treatment, or they may be considered to have refused to submit to testing. Further, the failure to report a vehicle accident is a violation of the Standards of Conduct. If the employee dies as a result of the accident, blood/urine samples will be tested for the presence of drugs/alcohol.

(5). Return to Duty and Follow-up Testing. Covered personnel will be tested before being allowed to return to work and perform CDL duties following a positive test, adulterated sample, or refusal to be tested. Covered personnel may only return to work upon completion of a drug and alcohol rehabilitation program. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties. After returning to work, these covered personnel will be tested randomly at least six times during the next 12 months. A refusal to be re-tested may result in termination

of employment. Further, personnel in this re-testing group will continue to also be part of the pool that is subject to random testing.

c. Pre-Employment Record Investigation.

(1) HR must, after obtaining an employee's written consent, request DOT-regulated employers who have employed the employee during the two years before the date of the employee's application or transfer to provide HR with:

Alcohol tests with a result of 0.04 or higher alcohol concentration; verified positive drug tests; refusals to be tested (including verified adulterated or substituted drug test results); other violations of DOT agency drug and alcohol testing regulations; and with respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), HR must seek to obtain this information from the employee.

(2) If the employee refuses to provide this written consent, the employee may not perform safety-sensitive functions. HR must obtain and review this information before the employee first performs safety-sensitive functions. If this is not feasible, HR must obtain and review the information as soon as possible.

(3) HR must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or she had a positive test or a refusal to test, the employee must not perform safety-sensitive functions, until and unless the employee documents successful completion of the return-to-duty process.

d. Supervisor Responsibilities. In the event supervisors have reasonable suspicion that covered personnel are unable to perform their CDL functions safely, they must relieve these personnel of their duties, document the circumstances (See Attachment B), and notify HRD so that the individual may be tested. In the event HRD is not available to arrange the tests, supervisors are authorized to work directly with the contract medical facility.

e. Contractors and Vendors. Faculty and staff executing contracts with vendors and contractors for services that require CDL licensing will make sure that these organizations demonstrate that they are in compliance with 40 CFR Parts 40 and 382.

### C. CONTRACT TESTING FACILITY

A contract medical facility, hereafter referred to as the Contractor, will conduct the tests, analyze the results, and counsel covered personnel regarding the outcome of the test(s). The Contractor

and its laboratory must be certified by the U.S. Department of Health and Human Services (HHS) under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs. Only personnel trained in the use of equipment and taking specimens will conduct testing. Further, the Contractor's Medical Review Officer (MRO) must also be certified as a substance abuse professional. The Contractor/MRO will provide Mason with appropriate documented data and testimony in the event the test results in an adverse personnel action or a grievance.

#### D. DRUG AND ALCOHOL TESTING PROCESS

a. Random Selection. Every covered employee will be tested a minimum of at least once a year. HRD will conduct a 100% random selection each month, on a yearly basis. In the event an employee has not been selected during the previous eleven months, HRD will randomly designate a test date during the twelfth month.

Some persons may be selected more than once. Testing dates shall be unannounced. After selection, HRD will notify the Department Head who shall require each selected employee to proceed to the test site immediately after he or she is notified. If an employee is not readily available, he/she will be notified upon returning to the work site. Waivers are not permitted.

b. Selective Testing. Selective testing occurs whenever: (1) there has been an accident or moving vehicle citation, (2) for reasonable cause, or (3) during the selection process. In cases where covered personnel are designated for selective testing, the supervisor will request HRD to make the appointment. The supervisor will then transport the individual to the Contractor as soon as feasible. Pending results of a verified test, VDOT prohibits Mason from standing employees down, except consistent with a waiver granted by a DOT agency.

c. Alcohol Test. The Contractor will test the breath for the presence of alcohol. In the event alcohol level does not exceed .02, the results will be recorded as negative and the employee will return to his/her normal duties. If the test results indicate the alcohol level to be between .02 and .04, covered personnel will be placed on LWOP for the remainder of the day and will be re-tested the next day or prior to performing CDL duties. If the alcohol level exceeds .04, covered personnel will be suspended from work indefinitely and applicants will not be further considered for the position unless the MRO so recommends (See paragraph 5.e below). Under VDOT regulations, if an employee receives an alcohol test result of 0.04 or higher, MASON must immediately remove the employee involved from performing safety-sensitive functions before the test is verified. If the employee's alcohol test result is from 0.02—0.039, the employee must temporarily be removed from safety-sensitive functions. Do not wait to receive the written report of the result of the test. The HRD and the Department Head will be notified of the results of the test.

d. Drug Test. A split urine sample will be taken from covered personnel and analyzed for the presence of marijuana, cocaine, opiates, phencyclidine, and amphetamines. Pending results of a verified test, VDOT prohibits Mason from standing employees down, except consistent with a waiver granted by a DOT agency. Any trace of an illegal substance will be considered a positive result. The MRO will determine whether or not the results indicate further testing or counseling (verification). When a covered employee has been referred to the Contractor for reasonable cause, the MRO will also consider the supervisor's observations (Attachment B). The Contractor is responsible for safeguarding the split sample for a possible second analysis.

e. Verified Test. A drug test result or validity testing result that has undergone review and final determination by the MRO.

f. MRO Procedures for Positive Test Results. The MRO will have a confidential discussion (in person or by telephone) with covered personnel as soon as feasible whenever there are positive results to the tests. In the case of alcohol, a positive result is anything above the .02 level. The MRO will determine if there is a legitimate explanation for any deviation from the normal. Covered personnel will have 72 hours to decide if he/she would like the split urine specimen sent to another laboratory (It also must be certified for alcohol and drug testing by the HHS), to have the split examined in the same laboratory, or take no action in the matter. HRD will pay for the second analysis. At the conclusion of the counseling, the MRO will telephone HRD and send a confidential report to the Employee Health Manager.

## E. NOTIFICATIONS

Mason shall notify covered personnel of the results of a pre-employment controlled substances test conducted under this part if the driver requests such results within 60 calendar days of being notified of the disposition of the employment application. Mason shall notify a driver of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this part if the test results are verified positive. Mason shall also inform the driver which controlled substance or substances were verified as positive.

## F. TRAINING

HRD will ensure that covered personnel and their supervisors will receive at least 60 minutes of training on alcohol misuse and at least an additional 60 minutes of training on controlled substances use. The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. See Attachment C and Attachment D for training points.

## G. DISCIPLINE AND CORRECTIVE ACTION

a. Corrective Action. Covered persons testing verified positive for drugs or above the .04 alcohol level will be immediately removed from driving duties and will be charged with a Group III violation of the State's Standards of Conduct, which alone may warrant termination. As a minimum corrective action, the aforementioned personnel will be suspended without pay for 30 days and referred to a substance abuse professional. The employee will be expected to satisfactorily complete the prescribed treatment as a condition of his/her return to work. Payment for the treatment is the responsibility of the employee. Pending results of a verified test, VDOT prohibits Mason from standing employees down, except consistent with a waiver granted by a DOT agency.

b. Other. (1) Employees who commit a first offense under this policy, and who already have any other active written notice, will normally be terminated. (2) After being returned to work from rehabilitation treatment, any subsequent written notice will also normally result in termination. (3) The above guidelines notwithstanding, University management reserves the right to apply the full range of disciplinary actions, taking into account mitigating and aggravating circumstances.

c. Return-to-Duty Re-Evaluation. Prior to being reassigned to a CDL position, covered personnel must undergo substance abuse testing and counseling by the Contractor/MRO. If returned to duty, the employee will be subject to a minimum of six unannounced follow-up tests over the next twelve months.

## H. RECORD KEEPING

Mason shall maintain records of its alcohol misuse and controlled substances use prevention programs in a secure location with controlled access. All records and correspondence for covered personnel must be maintained and available by HRD during the length of employment plus five years. The records will consist of notification memoranda, documentation of training periods, and all documents related to tests conducted for any reason. In addition, HRD will maintain a CONFIDENTIAL file concerning any positive alcohol and drug tests, moving vehicle accidents, communications with the MRO, related corrective actions, and reports of drug/alcohol tests for cause.

### Release of Information:

(a) Except as required by law or expressly authorized or required in this section, no employer shall release driver information that is contained in records required to be maintained under this procedure.

(b) A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests.

(c) Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.

(d) Mason may disclose information required to be maintained under this part pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the individual, and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results); (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the driver). Additionally, Mason may disclose information in criminal or civil actions.

(e) Mason shall release information regarding a driver's records as directed by the specific written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's specific written consent.

## **VI. MANDATORY DRUG TESTING OF BRL EMPLOYEES**

Drug and alcohol screening is required for all personnel with access to select agents and toxins at the George Mason University BRL, including contractors. All personnel enrolled or who wish to enroll in the select agent program must comply with mandatory drug testing as outlined in BRL Document 6.016 Personnel Suitability Program for the Possession, Use, and Transfer of Select Agents and Toxins at George Mason University. These measures are necessary to protect the public safety due to the hazardous nature of materials on the select agents and toxins list, which are defined by federal law as biological agents and toxins that have the potential to pose a severe threat to public health and safety.

### **A. RESPONSIBLE DEPARTMENTS**

- a. Human Resources. The Department of Human Resources is responsible for managing this program. Human resources will ensure that position descriptions include information regarding the requirement for drug and alcohol testing and will advise employees and applicants for covered positions regarding the

University's alcohol and drug testing policies. Human resources will also be responsible for supervisor and employee training. In the event a covered employee tests positive, Human Resources will assist supervisors regarding appropriate discipline and personnel action.

- b. Department Heads. Department heads will take appropriate corrective action as set forth in this procedure in the event an employee tests positive.
- c. Environmental Health and Safety Office. Environmental Health and Safety will maintain a list of all covered personnel and will make available covered personnel who are selected for testing. The Responsible Official for the select agent program (RO) will coordinate evaluation of drug and alcohol test results with respect to enrollment in the select agent program.

## B. POLICY

- a. All personnel enrolled in the select agent program at George Mason University have an obligation to ensure that their duties are not impaired by the use of alcohol or drugs, legal or illegal, nor may they have such substances in their system.
- b. Personnel enrolled in the select agent program must keep their supervisors informed as to any prescription medications they are using which may affect their work.
- c. Personnel testing positive will have their access to the BRL and the containment suite removed and the violation may warrant termination.
- d. The case may be forwarded to the Personnel Suitability Committee for review which will make a recommendation about the ability of the individual to remain in the select agent program.
- e. Testing Conditions. Covered personnel will be designated for alcohol and drug testing under the following conditions. Refusal to take the test or the adulteration of the sample will be considered violation of this policy and may result in the termination of employment.

(1) Pre-access. As a condition of access to the containment suite of the Biomedical Research Laboratory, an individual applying for enrollment in the select agent program will be tested.

(2) For Cause. Covered personnel will be tested whenever the individual's behavior or appearance causes the supervisor to question the employee's ability to perform his or her duties safely or when an incident or action suggests that the individual may be impaired due to the use

of alcohol or drugs. The supervisor should document the circumstances of the incident and keep a record on file.

(3) Other Testing. Covered personnel will be tested when any of the following events have occurred: (i) After completing a drug and alcohol rehabilitation program, (ii) Before being allowed to return to work following a positive test (iii) After having refused to be tested. After returning to work, covered personnel may be tested randomly during the next twelve months. A refusal to be re-tested may result in termination of employment.

- f. Supervisor Responsibilities. Supervisors are responsible for the fitness of their covered personnel to perform their duties. In the event covered personnel do not appear able to perform their duties safely, supervisors must relieve these personnel of their duties, document the circumstances, and contact human resources so that the individual may be tested. In the event that human resources is not available to arrange the tests, supervisors are authorized to work directly with the contract medical facility. Supervisors must also notify the RO who will temporarily suspend the individual's access until an evaluation of the individual's suitability is made.

#### C. CONTRACT TESTING FACILITY

A contract medical facility, hereafter referred to as the Contractor, will conduct the tests, analyze the results, and counsel covered personnel regarding the outcome of the test(s). Only personnel trained in the use of equipment and taking specimens will conduct testing. The Contractor will provide Mason with appropriate documented data and testimony in the event the test results in an adverse personnel action or a grievance.

#### D. DRUG AND ALCOHOL TESTING PROCESS

- a. If the employee is tested for cause, the supervisor will request HRD to make the appointment. The supervisor will then transport the individual to the Contractor as soon as feasible.
- b. For random tests, testing dates shall be unannounced. HRD will notify the Department Head on the date, who shall require each selected employee to proceed to the test site immediately after he or she is notified. If an employee is not readily available, he/she will be notified upon returning. Waivers are not permitted.

- c. Alcohol Test: The Contractor will test the breath for the presence of alcohol. In the event alcohol level does not exceed .02, the results will be recorded as negative and the employee will return to his/her normal duties. If the test results indicate the alcohol level to be between .02 and .04, covered personnel will be placed on LWOP for the remainder of the day and will be re-tested the next day or prior to performing CDL duties. If the alcohol level exceeds .04, covered personnel will be suspended from work indefinitely and applicants will not be further considered for the position.
- d. Drug Test: A split urine sample will be taken from covered personnel and analyzed for the presence of marijuana, cocaine, opiates, phencyclidine, and amphetamines. Any trace of an illegal substance will be considered a positive result. The Contractor is responsible for safeguarding the split sample for a possible second analysis.

#### E. NOTIFICATIONS

Mason shall notify covered personnel of the results of a pre-employment controlled substances test conducted under this part if the applicant requests such results within 60 calendar days of being notified of the disposition of the employment application. Mason shall notify an employee of the results of tests under this part if the test results are positive. Mason shall also inform the employee which controlled substance or substances were positive.

#### F. TRAINING

HRD will ensure that covered personnel and their supervisors will receive at least 60 minutes of training on alcohol misuse and controlled substances use. The training will be used by the supervisors to determine whether reasonable suspicion exists to require an employee to undergo testing. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

#### G. DISCIPLINE AND CORRECTIVE ACTION

- a. Corrective Action. Covered persons testing positive for drugs or above the legal limit for alcohol will be immediately removed from duties. Access to the BRL will be removed and the violation may warrant termination.
- b. As a minimum corrective action, the aforementioned personnel will be suspended without pay for 30 days and referred to a substance abuse professional. The

employee will be expected to satisfactorily complete the prescribed treatment as a condition of his or her return to work. Payment for the treatment is the responsibility of the employee.

- c. The employee's case will be forwarded to the Personnel Suitability Committee for a determination of suitability for continued involvement in the select agent program.
- d. The above guidelines notwithstanding, University management reserves the right to apply the full range of disciplinary actions, taking into account mitigating and aggravating circumstances.
- e. Return to Duty Re-evaluation. Prior to being reassigned to the position, covered personnel must undergo substance abuse training and counseling.

#### H. RECORDKEEPING

HRD shall maintain confidential records of its alcohol misuse and controlled substances use prevention programs. All records and correspondence for covered personnel must be maintained and available by HRD during the length of employment plus five years. The records will consist of notification memoranda, documentation of training, and all documents related to tests conducted for any reason. In addition, HRD will maintain a confidential file concerning any positive alcohol and drug tests, related corrective actions, and reports of drug/alcohol tests for cause.

## **ATTACHMENT A**

### **Memorandum**

TO: [Employee/Applicant] FROM: [Name], Director of Human Resources SUBJ: Mandatory Alcohol and Drug Testing DATE: [Date]

The purpose of this memorandum is to advise you that your position description requires that you possess a valid commercial driver's license (CDL). Persons in these covered positions are subject to the mandatory alcohol and drug testing provisions of the Omnibus Transportation Employee Testing Act of 1991 and U.S. DOT Rule 49 CFR Parts 40 and 382. This is because operators of these heavy, hazardous, and multi-passenger vehicles put the public at a higher degree of risk than the ordinary driver. Accordingly, George Mason University requires that you participate in its mandatory alcohol and drug testing program.

The Procedure for University Policy 2219, "Employee Alcohol and Drug Policy Procedure" is attached for your information. In general, it requires that covered employees be tested under the following circumstances: (1) prior to being first assigned to a covered position, (2) whenever an employee's appearance or behavior gives a supervisor reasonable suspicion to believe that the employee has violated policy concerning alcohol or controlled substances, (3) whenever selected randomly, (4) when the employee has been in a job-related accident or citation for a moving vehicle violation, and (5) before an employee is allowed to return to a covered position after having tested positive for either alcohol or drug abuse. Refusal to participate in the test(s) or testing positive for alcohol or the use of illegal drugs is a Group III violation of the State's Standards of Conduct and may be cause for termination of employment.

Please sign below to indicate that you have been advised as to the above conditions of your employment and return to me. If you have any questions, please do not hesitate to inquire of me, your supervisor, or the Director of Risk Management. Also, we will be having periodic training sessions regarding the program. Thank you for your assistance.

Received by:

Date:

copy to: HRD , RM , Dept , Employee

**ATTACHMENT B**

**Policy 2219 Behavior/Incident Documentation Form**

The purpose of this form is to facilitate the observation and documentation of an employee's appearance, speech, behavior, and odor in cases where it is suspected that an employee's work performance is being adversely affected by alcohol or drugs, either legal or illegal. This form should be completed by a supervisor trained in this procedure. It is preferable that this form be completed at the time of the observation and in the presence of a witness. However, if this is not feasible, the form should be completed immediately after observing the affected employee. Preserve any physical evidence of the incident (i.e., photos, empty bottle, damaged items, etc). Please send copies of this form to the Director of Human Resources (3C3) and the Medical Review Officer.

Employee's name:

Date:

Department:

Location of the incident:

Time/date and length of period observed:

Distance from employee:

Witnesses, addresses, and work phone numbers:

Employee's appearance:

Employee's speech and movements:

Employee's odor:

Employee's comments when confronted:

Prescription medications?

Did employee leave the work site on their own?

Were police/others notified?

Vehicle make and license #:

Additional comments (use the back or attach sheets if needed):

Preparer's name, phone number, and address

Preparer's Signature: \_\_\_\_\_

Witness's name, phone number, and address

Witness's Signature: \_\_\_\_\_

## **ATTACHMENT C**

### **Training Points for Covered Employees**

The purpose of this sheet is to explain the importance of the Mandatory Alcohol and Drug Testing Program and to solicit voluntary compliance by covered personnel. UNIVERSITY Policy Number 2219 Procedure describes the testing program in detail. Persons testing positive for alcohol or the presence of illegal drugs will be charged with a Group III violation of the State's Standards of conduct and may be subject for immediate termination.

Annually, about three-quarters of employee on-the-job deaths are caused by vehicle accidents, many of which involve drug and alcohol use. These substances impair decision-making, coordination, and general alertness. Coupled with the size and number of commercial vehicles on the road, this poses a substantial threat to public safety. Accordingly, the U.S. Department of Transportation requires all drivers who are required to have a commercial driver's license (CDL) to be tested for alcohol and drug abuse. This test is more stringent than the sobriety test normally administered to motorists by police officers.

The individual rights of personal privacy must be balanced with a concern for public safety. The U.S. Supreme Court has issued several rulings regarding this matter. The Court has ruled that if government agents take breath and body fluid samples without a warrant, they violate the 4th, 5th, and 14th Amendments to the Constitution because the government has seized personal property and compelled self-incrimination without due process. However, the Court has made exceptions "where compelling legitimate governmental purposes make intrusions reasonable".

Airline pilots, train engineers, truck drivers and automotive mechanics, emergency personnel, and like occupations put the public at risk and are thus subject to a higher degree of regulation than the ordinary citizen. This has led to the DOT requirement to test all persons in CDL positions. Covered personnel are expected to perform their duties without any impairment due to alcohol or drugs, either legal or illegal. Further, covered personnel may be tested for a possible violation of this provision for the following circumstances: When being assigned to a position in which a CDL is required; on a random basis along with other covered employees; following an accident or when cited for a moving vehicle violation; for reasonable cause based on observed behavior, appearance, speech, or odor; and before being allowed to return to a covered position after having tested positive for alcohol or drug abuse.

## **ATTACHMENT D**

### **Training Points for Supervisors**

The purpose of this sheet is to describe supervisory responsibilities in the University's Mandatory Alcohol and Drug Testing Program. Persons testing positive for alcohol or the presence of illegal drugs will be charged with a Group III violation of the State's Standards of conduct and may be subject for immediate termination. The basic administrative procedure sets forth the requirements and policies. In addition, supervisors will have a 1-hour training session regarding alcohol and an additional 1-hour training session regarding drugs.

**Pre-Employment Testing.** Applicants for positions requiring the possession of a CDL should be advised that it is a condition of employment that they pass the University's alcohol and drug test. It must be passed prior to being offered the position. There is no waiver of this requirement.

**Random Selection.** When notified that one of their personnel was selected, supervisors must immediately relieve the individual of his/her duties and make them available for transport to the testing facility. Once the employee returns, he/she may resume their normal duties.

**Post-Accident.** Covered employees must notify his/her supervisor of any job-related moving vehicle accident or traffic citation. In this case, the employee must be immediately taken to the testing facility for the drug and alcohol tests. Prior to testing, the employee must not consume any alcohol or drugs, either legal or illegal. Also, the employee must not resume any driving duties until the test results are known.

**Reasonable Suspicion.** If an employee's behavior appears erratic or unsteady, the employee must not be allowed to operate a vehicle until the circumstances are evaluated. Supervisors, because of their proximity to the employee and their workplace experience, are in the best position to observe the situation and make this determination. It's far better to relieve a person unnecessarily than to later (after the accident) relate how you thought something was wrong. Supervisors must follow these three elements:

1. **Education:** Supervisors must learn to recognize the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.
2. **Identification:** Supervisors must observe their employees for signals of substance abuse and changes in work pattern which are in violation of University policy, may affect safety, or detract from job performance.
3. **Documentation:** Supervisors must record their observations. Attachment B is the preferable format to use. Use a witness to verify the behavior. The mandatory alcohol and drug tests are also part of this documentation process.

**Return to Duty.** When it appears that the employee's behavior is no longer impaired, the supervisor should make arrangements for another alcohol and drug test. If the results are negative, the employee may return to driving duties.