

GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures		
Policy Name: Alcohol/Drug Testing Program - Safety Sensitive Positions		
Policy Number: 104.59	Effective Date: 10/30/17	Page Number: 1 of 17
Authority: Commissioner	Originating Division: Administration and Finance Division (Human Resources)	Access Listing: Level I: All Access

I. Introduction and Summary:

The Georgia Department of Corrections [GDC] shall make every effort to ensure the safety of employees and the traveling public by reducing the potential for motor vehicle accidents due to the abuse of controlled substances and the misuse of alcohol by employees who are required to possess a commercial driver's license. GDC intends to accomplish this goal by fully complying with the Omnibus Transportation Employee Testing Act of 1991 and applicable federal regulations. Accordingly, all employees of the GDC who are required to perform safety-sensitive duties are subject to testing for the use of controlled substances and the misuse of alcohol as described in this policy.

II. Authority:

- A. 49 C.F.R. Part 40, 49 C.F.R. § 382.103;
- B. O.C.G.A. §§ 16-13-71, 34-9-415, 45-20-8, 45-20-9, 45-20-111, 45-20-90, 45-20-91, 45-20-92, 45-20-93, and 45-23-2;
- D. State Personnel Board Rule [SPBR]: Ga Comp. R. & Regs. 478-1-.21;
- E. GDC Standard Operating Procedures [SOPs]: 104.01 Delegation of Authority, 104.07 Position Actions, and 104.09 Filling a Vacancy; and
- F. ACA Standards: 2-CO-1C-20, 1-CTA-1C-07, and 4-4063.

III. Definitions:

- A. **Alcohol** - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.
- B. **Alcohol Concentration or Alcohol Content** - The alcohol in a volume of breath expressed in terms of grams of alcohol per two hundred and ten (210) liters of breath as indicated by an alcohol test.
- C. **Alcohol Confirmation Test** - A breath test using an evidential breath testing device [EBT] capable of printing results and approved by the National Highway Traffic Safety Administration [NHTSA] and placed on its Conforming Products List of Evidential Breath Measurement Devices used to determine whether an individual may have a prohibited concentration of

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alcohol in a breath specimen. Such testing must be performed by a certified Breath Alcohol Technician. Such test may be a second test following an alcohol screening test which indicates an alcohol concentration of 0.02 or greater.

- D. **Appointing Authority** - The Commissioner in accordance with SPBR. SPBRs permit the Appointing Authority to delegate certain responsibilities to others within the agency. For the purpose of this SOP, Appointing Authority refers to both the Commissioner and those to whom the Commissioner has delegated certain Appointing Authority responsibilities as outlined in SOP 104.01 - Delegation of Authority.
- E. **Safety Sensitive Employees** - Employees in a safety sensitive position.
- F. **Commercial Motor Vehicle [CMV]** - A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
1. Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater;
 2. Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater;
 3. Is designed to transport 16 or more passengers, including the driver; or
 4. Is of any size and used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act ([49 U.S.C. 5103\(b\)](#)) and which require the motor vehicle to be placed under Hazardous Materials Regulations (49 CFR Part 172, Subpart F).

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- G. **Driver** - Any person who operates a CMV, which includes full time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers and independent owner-operator contractors.
- H. **Drug Test** - The collection and testing of bodily fluids for the presence of illegal drugs administered in a manner consistent with the Mandatory Guidelines for Federal Workplace Drug Testing Programs (49 CFR Parts 40 and 382, 14 CFR Part 121, Appendices I and J, 33 CFR Part 95, and 49 CFR Part 655).
- I. **Employee or Applicant** - An individual who is employed or who has been offered employment in a safety-sensitive position.
- J. **Illegal Drugs** - Includes marijuana, cocaine, amphetamines, opiates or phencyclidine (PCP), or any other controlled substance included in 49 CFR 40.85.
- K. **Medical Review Officer (MRO)** - A properly licensed physician who receives and reviews the results of drug tests and evaluates those results, together with medical history or any other relevant biomedical information, to confirm positive results.
- L. **Off-site Drug Testing** - Utilized when safety sensitive employees have been instructed to submit to testing at an approved designated site other than a GDC facility.
- M. **Safety Sensitive Functions** -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 and includes:
1. All time waiting to be dispatched, unless the Driver has been relieved from duty by the employer;
 2. All time inspecting equipment or otherwise inspecting, servicing, or conditioning any CMV;
 3. All time spent at the driving controls of a CMV in operation;

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4. All time, other than driving time, in or upon any CMV except time spent resting in a sleeper berth;
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

M. **Safety Sensitive Job** - Any position whose incumbent is required to perform Safety Sensitive Functions.

N. **Substance Abuse Professional [SAP]** - A licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional (EAP), addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), or marriage and family counselor. This professional must: be knowledgeable of and experienced in the diagnosis and treatment of alcohol and controlled substances related disorders; be knowledgeable about the SAP function as it relates to employer interests in safety-sensitive duties per 49 CFR 40 for the DOT agency regulations applicable to the employers for whom they evaluate employees; be knowledgeable of the DOT SAP Guidelines; receive qualification training on seven key defined areas by a qualified trainer; satisfactorily complete an examination administered by a nationally-recognized professional or training organization; and satisfactorily complete at least 12 professional development hours of continuing education every three years.

IV. Statement of Policy and Applicable Procedures:

A. Federal regulations require alcohol and drug testing of Safety Sensitive Employees and Applicants.

1. Pre-employment – Employees and applicants must submit to pre-employment drug testing. A negative result must be received prior to

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allowing the performance of Safety Sensitive functions. See Sections D and E for the drug testing process and consequences of refusal to test or a positive result.

2. Random - GDC will randomly select Safety Sensitive Employees each month for drug and alcohol testing. Employees in selected positions are required to report for alcohol or drug testing IMMEDIATELY upon receiving the directive to report.

Random alcohol testing must be conducted on a workday on which the employee is scheduled to perform safety sensitive duties and should not be more than two (2) hours before or after the performance of Safety Sensitive Functions. The employee cannot be notified of the random alcohol test more than four (4) hours before testing.

If the scheduled employee is on an approved leave of absence, the random alcohol/drug test will be conducted upon the first day the employee is scheduled to perform safety sensitive duties.

See Sections B and C for the consequences of a refusal to submit to an alcohol test or a positive alcohol result. See Sections D and F for the drug testing process and consequences of a refusal to drug test or a positive drug result.

3. Post-Accident – Employees must submit to alcohol and drug testing as soon as possible following an on-the-job vehicular accident that occurred while performing Safety Sensitive Functions under the following circumstances (See attachment 1):
 - a. The accident involves the loss of human life (the driver and all other employees riding in the vehicle must be tested);
 - b. The employee receives a citation under state or local law and the accident resulted in the medical treatment of any person away from the scene of the accident (only the driver must be tested); or

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- c. The employee receives a citation under state or local law and the accident resulted in disabling damage to any motor vehicle, which required a tow-away (only the driver must be tested).
 - d. Under no circumstances will an employee who may be subject to post accident testing consume alcohol between the time of the accident and the administration of an alcohol test or until efforts to administer such test have been discontinued.
 - e. An alcohol test should be administered within two hours following an accident. If for any reason the test cannot be administered within eight hours of an accident, the Appointing Authority will cease attempting to administer the test.
 - f. A drug test will be administered as soon as possible following an accident, but not later than 32 hours following an accident.
 - g. In any instance in which an employee is not tested within specified time limits, the Appointing Authority must prepare and maintain on file a record of the reasons the test was not promptly administered.
4. Reasonable Suspicion - Alcohol and/or drug testing may be required when a trained manager makes specific, contemporaneous, articulable observations about an employee's appearance, behavior, speech or body odors that generates a reasonable suspicion that the employee is not free from alcohol and/or illegal drugs.

Per Federal Regulation, reasonable suspicion alcohol testing may only be conducted when the observations were made not more than two (2) hours before or after the performance of CDL-related duties. There are no limits from SPBR, therefore trained CDL managers will need an approval from the Director of the Department of Human Resources prior to directing a CDL employee to Reasonable Suspicion testing (See Attachment 1).

Employees are to be accompanied and transported if the test results from reasonable suspicion.

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See Sections B and C for the consequences of a refusal to submit to an alcohol test or a positive alcohol result. See Sections D thru F for the drug testing process and consequences of a refusal to drug test or a positive drug result.

5. Return-to-Duty - Any employee who has been subject to alcohol testing and whose test results indicate that he/she has misused alcohol must undergo a return-to-duty test. The test must indicate an alcohol concentration of less than 0.02 before the employee can be returned to safety-sensitive duties. See Section E.
6. Follow-up - Following a determination by a SAP that an employee is in need of assistance in resolving problems associated with alcohol misuse, the GDC Director of Human Resources will ensure that the employee is subject to unannounced follow-up alcohol testing. Mandatory follow-up testing will be conducted only when the employee is scheduled to perform Safety-Sensitive Functions. Testing must be conducted at least six times in the first 12 months following return to safety-sensitive duty and may, upon the recommendation of the SAP, be continued for up to 60 months.

Follow-up alcohol testing may only be conducted within two (2) hours of the performance of CDL-related duties.

B. Alcohol Testing Results and Consequences;

1. Because alcohol metabolizes rapidly, it is important that employees ordered to alcohol testing report to the closest testing site as soon as possible.
 - a. A safety-sensitive employee whose test indicates an alcohol concentration of .02 or greater will be given an alcohol confirmation test not less than 15 minutes nor more than 20 minutes after the screening test.
 - b. Any employee whose alcohol confirmation test indicates an alcohol concentration of 0.02 or greater will be immediately removed from

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safety-sensitive duties for a period of not less than 24 hours and will not be returned to Safety Sensitive Functions until a subsequent test indicates an alcohol concentration of less than 0.02 percent.

Any employee removed from duty will be deemed to have voluntarily forfeited pay for any scheduled duty time during the 24-hour period immediately following the removal. The employee will be notified, in writing, of the forfeiture of pay.

- c. Any employee whose alcohol confirmation test indicates an alcohol concentration of 0.04 or greater will not be returned to safety-sensitive duties until the employee has been evaluated by a SAP and is able to provide documentation that the SAP has certified that the employee is fit to return to duty.
 - d. Any disciplinary or adverse action deemed appropriate by the Appointing Authority may also be imposed.
2. If it is determined that an employee will be retained, the employee will be referred to a SAP for evaluation of the problems associated with alcohol misuse.
 3. The employee must complete a return-to-duty alcohol test that indicates an alcohol concentration of less than 0.02 prior to returning to CDL-related duty.
 4. SPBR require GDC to direct the employee to follow-up alcohol testing at least six (6) times during the first year following the driver's return to duty. GDC will direct the employee to additional follow-up testing based on the recommendation of the SAP.
 5. Treatment for alcohol misuse may qualify for Family and Medical Leave.
 6. If a P.O.S.T. certified employee has a verified positive drug test result or a confirmed positive alcohol test, the Appointing Authority will notify the employee, in writing, of immediate termination of employment.

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C. Refused Alcohol Testing and Consequences:

1. Employees are considered to have refused alcohol testing under the following circumstances:
 - a. Expressly refusing to submit to testing;
 - b. Engaging in conduct that clearly obstructs the testing process;
 - c. Failing to immediately report for testing after receiving notification;
 - d. Failing to remain readily available for testing; or
 - e. Failing to provide adequate breath for alcohol testing without a valid medical reason (i.e., a medical statement must be received which indicates that the employee is under treatment for a condition which supports the inability to provide adequate breath).
Federal Regulation (49 CFR § 40.265) includes specific procedures that must be followed if a CDL employee does not provide adequate breath.
2. Employees who refuse alcohol testing are to be immediately separated from employment. The termination will be effective as of the date of the notice. The employee will also be disqualified from holding any position with a state employer for a period of two (2) years from the date of the notice.

D. Drug Testing Process:

1. Once directed to report for drug testing, applicants/employees are to IMMEDIATELY report to an authorized collection site with photo identification and the appropriate drug testing form.
2. Drug testing is conducted by collecting a urine sample. The sample is tested following specific collection and chain of custody procedures to ensure the test is not compromised. Reports are forwarded to a Medical Review Officer for review and final determination of results.

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3. An observed collection may be required under the following circumstances:
 - a. The employee attempts to tamper with his or her specimen at the collection site;
 - b. The specimen temperature is outside the acceptable range;
 - c. The specimen shows signs of tampering, unusual color, odor, or characteristic; or
 - d. The collector finds an item in the employee's pockets or wallet which appears to have been brought into the site to contaminate a specimen, or the collector notes conduct suggesting tampering;
 - e. The Medical Review Officer (MRO) orders the direct observation because:
 - i. The employee has no legitimate medical reason for certain atypical laboratory results; or
 - ii. The employee's positive or refusal (adulterated/substituted) test result had to be cancelled because the split specimen test could not be performed (for example, the split was not collected); or
 - f. The test is a follow-up test or a return-to-duty test.

Employees/Applicants will be given a copy of the completed drug testing form at the collection site. This copy is to be given to the supervisor and HR will retain a copy immediately after the test.

E. Refused Drug Testing and Consequences:

1. Employees/Applicants are considered to have refused drug testing under the following circumstances:

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- a. The Employee or Applicant fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an Employee (including an owner-operator) to appear for a test when called by a C/TPA;
- b. The Employee or Applicant fails to remain at the testing site until the testing process is complete, provided that an Employee or Applicant who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
- c. The Employee or Applicant fails to provide a urine specimen for any drug test required by this policy or DOT agency regulations, provided that an Employee or Applicant who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
- d. In the case of a directly observed or monitored collection in a drug test, the Employee or Applicant fails to permit the observation or monitoring of the provision of a specimen;
- e. The Employee or Applicant fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- f. The Employee or Applicant fails or declines to take an additional drug test the employer or collector has directed the Employee or Applicant to take;
- g. The Employee or Applicant fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the designated employer representative [DER] under 49 CFR §40.193(d). In the case of pre-employment drug testing, the Employee or Applicant is deemed to have refused to test on this basis

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only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, then the MRO will cancel the test;

- h. The Employee or Applicant fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector);
 - i. For an observed collection, the Employee or Applicant fails to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, or to turn around to permit the observer to determine if the Employee or Applicant has any type of prosthetic or other device that could be used to interfere with the collection process;
 - j. The Employee or Applicant possesses or wears a prosthetic or other device that could be used to interfere with the collection process;
 - k. The Employee or Applicant admits to the collector or MRO that the Employee or Applicant adulterated or substituted the specimen;
 - l. If the MRO reports that an Employee or Applicant has a verified adulterated or substituted test result, then the Employee or Applicant shall be deemed to have refused the test.
 - m. If an Employee or Applicant refuses to take a drug test, then the Employee or Applicant shall incur the consequences provided by DOT regulations for violating such DOT regulations.
2. The GDC Director of Human Resources must be informed immediately when an Employee or Applicant refuses drug testing. Upon being informed of such refusal, the GDC Director of Human Resources shall coordinate the following actions:

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- a. Employees who refuse testing shall be immediately separated from employment;
- b. Applicants who refuse testing shall have any offer of employment immediately withdrawn;
- d. Employees or Applicants who refuse testing are not eligible for future state employment for a period of two (2) years; and
- d. DOAS/HRA shall be notified of an Employee or Applicant who has refused or failed to appear for drug testing.

F. Positive Drug Testing and Results

Upon receiving a positive laboratory report, the Medical Review Officer (MRO) will attempt to contact the Employee or Applicant at the phone numbers listed on the drug testing form to privately discuss the results.

The MRO will determine if there is an alternative medical explanation for the positive report.

If an Employee or Applicant advises a supervisor, alcohol/drug testing coordinator, or other authorized official that the MRO will report the test results as positive, the CHRM Compliance Unit should be consulted immediately.

1. The MRO will report the test results as positive if the Employee or Applicant:
 - a. Refuses to discuss the test results with the MRO;
 - b. Declines the opportunity to provide an explanation for the results;
 - c. Admits to the use of an illegal drug(s); or
 - d. Is unable to provide an alternative medical explanation for the presence of an illegal drug(s).

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2. If the MRO is unable to contact the Employee or Applicant within two (2) work days, the appropriate alcohol/drug testing coordinator will be notified.
 - a. The alcohol/drug testing coordinator is to direct the Employee or Applicant to immediately contact the MRO, and advise the Employee or Applicant that the test result will be reported as positive if the MRO is not contacted by the next work day.
 - b. If the alcohol/drug testing coordinator is unable to contact the Employee or Applicant within two (2) work days, the Human Resources Audits and Compliance Manager is to be notified. Human Resources will advise the MRO, and the test result will be reported as positive.
 - c. The MRO will notify the DOAS/HRA of positive test results. HRA will forward positive drug test results to GDC Human Resources.
 - d. Employees who test positive for an illegal drug(s) will be immediately separated from employment.
 - e. Applicants who test positive for an illegal drug(s) will have the offer of employment immediately withdrawn.
 - f. Employees or Applicants who test positive for an illegal drug(s) are not eligible for future state employment for a period of two (2) years.
 - g. It is the policy of GDC to immediately separate current GDC employees who are required to submit to pre-employment drug testing for another job within state government and either refuse testing or test positive for an illegal drug(s). Such employees will also not be eligible for future state employment for a period of two (2) years.

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G. Required Training and Material: When CDL employees are hired, hiring officials or designees are to provide educational material to such employees regarding the following:

1. Alcohol and illegal drugs,
2. Federal requirements for CDL employees, and
3. CDL alcohol and drug testing programs.

Federal regulations require that CDL employees sign for receipt of this material.

H. Employment Inquiries

1. Inquiries from Previous Employers – When Employees or Applicants are selected for positions that require a CDL, hiring officials or designees must request and review specific information from previous employers regarding the alcohol and/or drug testing of the selected Employees or Applicants. Written authorization must be received from Employees or Applicants prior to seeking this information.

Once written authorization is received, the following information must be requested from all previous employers during the two years immediately before the date of application for the GDC position:

- a. Alcohol test results showing an alcohol concentration of 0.04 or greater;
- b. Verified positive drug test results;
- c. Refusals to be tested (including adulterated and substituted specimen);
- d. Other violations of DOT alcohol and drug testing regulations; and

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- e. Documentation of successful completion of return-to-duty requirements for individuals who violated any DOT alcohol or drug testing regulation.
 - f. A copy of the selected Employee's or Applicant's written authorization must be provided to the previous employers from which information is being sought.
 - g. If possible, this information should be requested, received, and reviewed prior to allowing Employees or Applicants to perform safety-sensitive duties. A good faith effort must be made to obtain and review this information no later than 30 calendar days from the first time safety-sensitive duties are performed.
 - h. Requested information may be received in any written form (e.g., fax, e-mail, letter, etc.) that ensures confidentiality. If requested information is not received from a previous employer, a record showing the efforts to obtain the information must be maintained.
2. Violations reported by previous employers – Selected Employees or Applicants must not be permitted to perform safety-sensitive duties if information received from previous employers indicates that they have tested positive for alcohol or illegal drugs, or have refused testing until information is received that shows they have:
 - a. Been evaluated by a SAP,
 - b. Completed any required counseling,
 - c. Passed a return-to-duty test, and
 - d. Been subject to follow-up testing.
 3. Requests received by GDC - A request for CDL information on former GDC employees may be received by GDC officials or designees. Written authorization must be received from former employees prior to releasing any information. Once written authorization is received, the following

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CDL information (and any similar CDL information received by GDC from previous employers) must be given to the requesting organization:

- a. Alcohol test results showing an alcohol concentration of 0.04 or greater;
- b. Verified positive drug test results;
- c. Refusals to be tested (including adulterated and substituted specimen);
- d. Other violations of DOT alcohol and drug testing regulations; and,
- e. Documentation of successful completion of return-to-duty requirements (for individuals who violated any DOT alcohol or drug testing regulation).

V. Attachments:

Attachment 1, Drug Test Awareness Statement/Notification (Pre-employment)

Attachment 2, Alcohol and/or Drug Test Notification (Random)

VI. Record Retention of Forms Relevant to this Policy:

Upon completion, both attachments shall be retained permanently in the central office and local personnel files. If the Employee or Applicant is not hired, the attachments shall be retained in the interview/selection file for two (2) calendar years.