

**ALCOHOL AND CONTROLLED SUBSTANCE POLICY  
FOR  
EMPLOYEES WITH COMMERCIAL DRIVER'S LICENSE**

**I. PURPOSE**

- A. The purpose of this policy is to comply with all applicable federal regulations adopted by the Federal Highway Administration (FHWA) of the U.S. Department of Transportation. The FHWA has enacted 49 CFR Parts 382, 391, 392, and 395 as amended in the Federal Register. These regulations mandate urine drug testing and breath alcohol testing for all employees who are required to obtain a commercial driver's license (CDL). The regulations also prohibit the driving of commercial motor vehicles (CMV) when there is a positive test result.
- B. The public expects services provided by employees of Bowling Green State University to be delivered in the safest and most conscientious manner possible. Involvement with drugs and alcohol can adversely affect job performance and employee safety. The presence of drugs or alcohol on the job and the influence of these substances on employees during working hours are inconsistent with the University's objective to maintain a drug and alcohol-free workplace.

**II. POLICY**

- A. The Assistant Vice President for Human Resources (or designee) is the person assigned by the University to answer questions from employees and supervisors or managers about the policy and the University's implementation of the FHWA regulations. (§382.601(b) (1))
- B. Employees who think they may have an alcohol or controlled substance problem are urged to voluntarily seek assistance from the University's Employee Assistance Program. While the University will be supportive of those who seek help voluntarily, the University will be equally firm in identifying and disciplining those who are, or continue to be, substance or alcohol abusers and do not seek help.
- C. To further our commitment of maintaining a drug and alcohol-free workplace in order to provide a safe work environment for employees and safe service delivery to the public, it is our policy to
  - 1. Ensure that employees who operate commercial motor vehicles are not impaired in their ability to perform their work in a safe and productive manner;
  - 2. Conduct controlled substance and alcohol testing as required by FHWA regulations; and
  - 3. Encourage employees to seek professional assistance any time alcohol or drug use adversely affects their ability to perform their work assignments.

### **III. COVERED EMPLOYEES**

- A. This policy applies to all employees who operate a commercial motor vehicle (defined below) to carry out their job duties for Bowling Green State University or who are required as a condition of employment to possess and maintain a commercial driver's license (CDL). Participation in the University's CDL Alcohol and Controlled Substance Testing Program is required for these employees and is considered to be a condition of employment.
- B. A "commercial motor vehicle" is a vehicle that (§382.107)
  - 1. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
  - 2. Has a gross vehicle weight rating of 26,001 or more pounds; or
  - 3. Is designed to transport sixteen (16) or more passengers, including the driver; or
  - 4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.

### **IV. SAFETY-SENSITIVE FUNCTIONS**

- A. The FHWA alcohol and controlled substance regulations apply to employees when performing safety-sensitive functions.
- B. For this purpose of this policy, the term "safety-sensitive function" shall mean any of the "on-duty" functions described in the 49 CFR and as follows: (§395.2)
  - 1. All time waiting to be dispatched. This includes any "on-call" time.
  - 2. All time inspecting, servicing, or conditioning any commercial motor vehicle.
  - 3. All driving time as defined by the regulations.
  - 4. All other time spent in or on any commercial motor vehicle.
  - 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.
  - 6. All time spent dealing with a commercial motor vehicle accident.
  - 7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
  - 8. All time spent providing a breath or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post-accident, or follow-up testing required by this policy when directed by the University.
  - 9. Performing any other work in the capacity of, or in the employ or service of, a common, contract, or private carrier.

10. Performing any compensated work for any non-motor carrier entity.

## **V. PROHIBITED CONDUCT**

### **A. Prohibited conduct addressed by this policy includes the following:**

1. No employee shall report for duty or remain on duty requiring a performance of safety-sensitive functions while having an alcohol concentration of .04 or greater. (§382.201)
2. No employee shall be on duty or operate a commercial motor vehicle while the employee possesses alcohol, unless the alcohol is displayed and transported as part of a shipment. (§382.204)
3. No employee shall use alcohol while performing safety-sensitive functions. This includes lunch periods, breaks, or when an employee is scheduled to return to work. (§382.205)
4. No employee shall perform safety-sensitive functions within four (4) hours after using alcohol. (§382.207)
5. When involved in an accident that requires a post-accident alcohol test, an employee shall not use alcohol within eight (8) hours of the accident or prior to submitting for the post-accident test, whichever comes first. (§382.209)
6. No employee shall refuse to submit to a post-accident alcohol or controlled substances test required under §382.303, a random alcohol or controlled substances test required under §385.305, a reasonable suspicion alcohol or controlled substances test required under §382.307, or a follow-up alcohol or controlled substances test required under §382.311. The University will not permit an employee who refuses to submit to such tests to perform or continue safety-sensitive functions. (§382.211) The employee who refuses to comply to the testing policy will be subject to termination procedures.
7. No employee shall perform a safety-sensitive function when the employee uses any controlled substances, except when prescribed by a physician who has determined that the substance will not adversely affect the employee's ability to safely operate a commercial motor vehicle. The University may require an employee to inform the University of any therapeutic drug use. (§382.213)
8. No employee shall report for duty, remain on duty, or perform safety-sensitive functions if the employee tests positive for controlled substances. (§382.215)

## **VI. PROHIBITED SUBSTANCES**

- A. Prohibited substances addressed by this policy include the following:
1. Illegally used or controlled substances or drugs
    - These substances include, but are not limited to the following: marijuana, amphetamines, opiates, phencyclidine (PCP) and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.
  2. Legal drugs
    - The appropriate use of legally prescribed drugs or 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 shall be reported to supervisory personnel, and medical advice should be sought, as appropriate, before performing work-related duties. The misuse or abuse of legal drugs while performing University business is prohibited.

## **VII. TESTING FACILITY AND PROCEDURES**

- A. The University will use the services of the Wood County Council on Alcoholism and Drug Abuse, Inc. The Medical Review Officer (MRO) will be obtained according to the University's contract with the Wood County Council on Alcoholism and Drug Abuse, Inc. The MRO will have no official association with the University.
- B. Testing shall be conducted in a manner to assure a high degree of confidentiality, accuracy, and reliability. All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40 as amended.
- C. The controlled substances tested for are marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). (§40.21)

## **VIII. PAYMENT FOR TESTING**

- A. The University shall be responsible for the payment of the following:
- Random selection program costs
  - DOT urine drug screen collection and testing for pre-employment, post-accident, random, and reasonable suspicion tests costs
  - DOT alcohol breathalyzer test for post-accident, random, and reasonable suspicion test costs
  - Mandatory supervisor and employee training
- B. The employee will be responsible for the payment of all other tests and services not specified above.

## **IX. RECORD RETENTION**

- A. The Medical Review Officer (MRO) will serve as the sole custodian of individual test results and will retain the individual test results for a minimum of five years. (§382.401 (b) (1))

- B. The University will retain in its personnel files information that will indicate only the following: (§382.407)
1. Name of the employee;
  2. Date of the test;
  3. Location of the test;
  4. Type of test conducted (random, post-accident, pre-employment, pre-duty, reasonable suspicion, return-to-duty, follow-up, or employee requested);
  5. Identity of the person or entity conducting the test; and
  6. Test findings either as positive or negative, and if positive, the identity of the controlled substances.
- C. The annual calendar year summary of the results of the alcohol and controlled substance testing programs must be completed by March 15 of the following year. This report will be completed by the Human Resources Director or the Wood County Council on Alcoholism and Drug Abuse, Inc. (§382.403)

## **X. ALCOHOL AND CONTROLLED SUBSTANCE TESTING**

- A. An employee is subject to FHWA mandatory testing for alcohol and controlled substances under the following circumstances:
1. **Pre-Employment/Pre-Duty Testing** (§382.301)
    - An applicant for employment must be tested for alcohol and controlled substances before the first time the employee performs any safety-sensitive function for the University.
    - All applicants who have been tendered an offer of employment, shall undergo urine drug testing and breath alcohol testing.
    - Testing will also be required when current employees transfer to safety-sensitive positions.
    - The University will not allow an applicant or employee to perform a safety-sensitive function unless the result of the breath alcohol test indicates a breath alcohol level of less than 0.04, and has received a controlled substance test result from the MRO indicating a verified negative test. If the results of the employee's alcohol test indicated a breath alcohol concentration of 0.02 or greater, but less than 0.04, the employee will not be permitted to perform safety-sensitive functions until the start of the employee's next regularly scheduled duty period, but not less than twenty-four (24) hours following the administration of the test. (§382.505) (§382.301)
    - Any individual who refuses to submit to a controlled substance or alcohol test or who tests positive for a controlled substance shall be deemed medically unqualified and shall not be eligible for employment with the University. (§382.211)
    - Evidence of the absence of drug or alcohol dependency from a substance abuse professional, and negative drug and alcohol tests will be required before further consideration for employment.
    - The University will notify an applicant of the results of pre-employment/pre-duty alcohol and/or controlled substance tests provided that the applicant requests the test results within sixty (60) days of employment notification by the University. (§382.411)

## 2. Post-Accident Testing (§382.303)

- An employee must be tested for alcohol and controlled substances as soon as practicable following an accident involving a commercial motor vehicle, if
  1. The employee was performing a safety-sensitive function with respect to the vehicle, and the accident resulted in the loss of a human life (whether or not the employee caused the accident); or
  2. The employee receives a citation under state or local law for a moving violation arising out of the accident.
- An employee who is involved in an accident or violation must refrain from alcohol use for either eight (8) hours following an accident or until the employee undergoes a post-accident alcohol test.
- Once an employee presents themselves to a supervisor for testing, the employee shall be maintained on the regular payroll. However, if a positive test result occurs, then those hours spent following the accident awaiting the test result shall be charged against the employee's accrued leave time.
- Following an accident or violation
  1. An employee will be tested for alcohol within two (2) hours of an accident or violation. If an alcohol test is not accomplished within two (2) hours of an accident or violation, then a written record shall be prepared and maintained in the personnel file stating the reasons the alcohol test was not promptly administered.
  2. If the alcohol test has not been accomplished within eight (8) hours following notification, the University shall stop its attempt to administer the alcohol test. The University shall prepare and maintain in the personnel file a written record stating the reasons the alcohol test was not promptly administered.
  3. An employee will be tested for a controlled substance within thirty-two (32) hours. If a post-accident controlled substance test is not administered within thirty-two (32) hours following an accident, the University shall prepare and maintain a written record in the personnel file stating the reasons the test was not promptly administered.
- An employee who is subject to post-accident testing shall remain readily available for such testing. If the employee is not readily available, the employee may be deemed by the University to have refused to submit to testing. Nothing in this policy shall be construed to require the delay of necessary medical attention for injured persons following an accident to or prohibit an 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.
- The University can use (by permission from the FHWA) post-accident tests conducted by federal, state, or local officials as meeting the requirements of this section under the following conditions:
  1. The official must have independent authority to conduct the tests.
  2. The test must conform to federal, state, or local requirements.
  3. Alcohol tests require blood or breath samples.

4. Controlled substance tests require a urine sample.

**3. Random Testing (§382.305)**

- All University employees will be subject to random, unannounced alcohol and controlled substance testing. The tests will not be announced in advance and will be spread reasonably throughout the year. The selection process used shall be that which is utilized by the Wood County Council on Alcoholism and Drug Abuse, Inc. Employees will be tested on the day notified. A minimum of 25% of the employees will be tested annually for alcohol, and a minimum of 50% of the employees will be tested annually for controlled substances.
- The FHWA will increase or decrease the minimum annual percentage rate for alcohol testing based on the reported violation rate for the entire industry. Annually, the FHWA will publish in the Federal Register the minimum annual percentage rate for random alcohol testing for employees. The new minimum annual percentage rate for random alcohol testing will be applicable beginning January 1 of the calendar year following the publication.
- Employees will only be tested randomly for alcohol when they are performing safety-sensitive functions, immediately prior to, or after performing safety-sensitive functions.
- After an employee has been randomly selected for a test, the employee must immediately proceed to the testing site upon notification of being selected.
- If an employee who has been randomly selected for a test is on vacation or other pre-approved form of leave, then another employee will be selected as an alternate. The alternate will then be subject to the random test process on that day. It is also the option of the University to keep the original selection confidential until the employee returns to duty.

**4. Reasonable Suspicion Testing (§382.307)**

- When a trained supervisor, manager, or other University official observes behavior, appearance, speech, or body odors of an employee that are characterized of alcohol and/or controlled substances abuse, including indication of chronic and withdrawal effects of controlled substances, the department will notify the Human Resources Department. The Human Resources Department will contact the Wood County Council on Alcoholism and Drug Abuse, Inc. for testing. Testing is done only if the observations are made during, just before, or just after the period of the work day the employee is required to be in compliance.
- Once an employee has been notified that a reasonable suspicion test will be conducted, it must take place within two (2) hours of the notification. If the test is not accomplished within two (2) hours, a written record shall be prepared and maintained in the personnel file stating the reasons the alcohol test was not promptly administered. If the test has not been accomplished within eight (8) hours following notification, the University shall stop its attempt to administer the test and prepare and maintain in the personnel file a written record of the reasons the alcohol test was not promptly administered.
- When it is not feasible or possible to conduct a reasonable suspicion alcohol test in a timely manner, the employee is not permitted to perform safety-sensitive functions for eight (8) hours or until an alcohol test is administered in this time period with results below 0.02.

- An **Observed Behavior--Reasonable Cause Record Form** (Attachment I) shall be made of the observations leading to an alcohol or controlled substance reasonable suspicion test and signed by the supervisor or University official who made the observations. The record shall be made within twenty-four (24) hours of the observed behavior or before the results of the controlled substances test are released, whichever is first.
- Once an employee has been directed to undertake testing, the employee will continue to be maintained on the regular payroll. However, if a positive test result occurs, then those hours spent awaiting the test results shall be charged against the employee's accrued leave time.

**5. Return-To-Duty Testing (§382.309)**

- All employees, who previously tested positive on a controlled substance or alcohol test, must test negative for the controlled substances and have a breath alcohol concentration of less than 0.02.
- Employees must also be evaluated and released to duty by the Substance Abuse Professional (SAP). Once an employee has been returned to duty by the SAP, the employee will be required to undergo frequent and unannounced follow-up testing.
- There will be a minimum of six (6) follow-up controlled substance and/or alcohol tests in the first twelve (12) months following re-entry to the job. Follow-up testing may extend for up to sixty (60) months following an employee's return to duty. Alcohol follow-up tests shall only be administered when the employee is performing a safety-sensitive function, either immediately prior to or after the safety-sensitive function is performed. (§382.605)
- *Follow-up testing shall be at the expense of the employee.*

**6. Employee Requested Testing (§40.33 (f)(g))**

- Any employee, who questions the results of a required drug test under this policy, may request that an additional test be conducted. This test must be conducted at a different testing laboratory which is certified by the Department of Health and Human Services (DHHS). The test must be conducted on the split sample that was provided at the same time as the original sample. The cost of the second test shall be paid by the employee, unless the second test invalidates the original test.
- The employee's request for a split sample test must be made to the MRO within seventy-two (72) hours of notice of the initial test result. Requests after seventy-two (72) hours will only be accepted if the delay was due to documented facts that were beyond the control of the employee.

**7. Follow-Up Testing (§382.311)**

- Following a determination that an employee is in need of assistance in resolving problems associated with alcohol and/or controlled substances abuse, the employee is subject to unannounced follow-up testing as directed by a Substance Abuse Professional.
- Follow-up alcohol testing shall be conducted only when 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 safety-sensitive functions.

## **XI. SUPERVISORY RESPONSIBILITY**

- A. The University is dedicated to assuring fair and equitable application of this alcohol and controlled substance abuse policy. Therefore, supervisors or managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor or manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action up to and including termination.
- B. Supervisors or managers must not permit an employee to perform safety-sensitive functions if they have actual knowledge that the employee
  - 1. Has a blood alcohol concentration of .04 or greater (§382.201); or
  - 2. Has alcohol in their possession (§382.204); or
  - 3. Is using alcohol on the job (§382.205); or
  - 4. Has used alcohol within the past four hours (§382.207); or
  - 5. Refused to submit to an alcohol or drug test required by this policy (§382.211); or
  - 6. Has used a controlled substance (§382.213); or
  - 7. Tested positive for controlled substances. (§382.215)

## **XII. TRAINING**

- A. The University shall ensure that persons designated to determine whether reasonable suspicion exists to require an employee to undergo testing receive at least sixty (60) minutes of training on alcohol misuse and receive at least an additional sixty (60) minutes of training on controlled substances use. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. (§382.603)  

Supervisors will also receive training on the policy and procedures regarding the University's policy and the FHWA regulations.
- B. Employees will receive training that will cover the University policy, testing procedures, and the federal regulations. Employees will also receive a copy of the University's policy at the training session. (§382.601)

## **XIII. REFERRAL, EVALUATION, AND TREATMENT (§382.605)**

- A. Each employee who has engaged in conduct prohibited in this policy shall be evaluated by a Substance Abuse Professional (SAP) who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol and controlled substances misuse.
- B. The SAP is a licensed or certified physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related and controlled substance disorders. (§382.107) The Substance Abuse Professional services will be provided by the Wood County Council on Alcoholism and Drug Abuse, Inc. or by Harbor Employee Assistance. Harbor Employee Assistance also conducts the Employee Assistance Programs for the University.
- C. If the SAP determines that no assistance is necessary, then the employee shall return to work with all time off awaiting the report of the SAP charged to the employee's accrued but unused sick, vacation, compensatory, or personal leave balances. Employees who have insufficient leave balances to cover the period of time that they are awaiting the report of the SAP shall be granted a leave of absence without pay.

- D. If the SAP determines that an employee needs assistance in resolving problems associated with alcohol misuse or controlled substance use, then in order to return to duty, the employee must be further evaluated by the SAP to determine that the employee has properly followed a rehabilitation program. For those employees seeking treatment, the employee benefits that would otherwise be available to the employee shall continue, for example, sick leave, vacation leave, personal business leave, compensatory leave, Family Medical Leave and group health insurance benefits. Employees who have insufficient leave balances to cover their leave shall be granted a leave of absence without pay during their time in rehabilitation or treatment.
- E. Any costs associated with evaluations, treatment, or rehabilitation services may be eligible for payment through the University's health insurance plan, subject to deductible, co-payments, and lifetime caps.
- F. If an employee is allowed to return to duty, the employee must properly follow the rehabilitation program prescribed by the SAP and the Return-to-Duty Section of this policy.
- G. Assessment by the SAP does not shield an employee from disciplinary action or guarantee employment or reinstatement with the University. Any employee who refuses or fails to comply with the University's policy requirements for treatment, after care, or return-to-duty, shall be subject to discipline.
- H. The University shall ensure that the SAP who determines that an employee requires assistance in resolving problems with alcohol misuse or controlled substances use does not refer the employee to
  - 1. The Substance Abuse Professional's private practice; or
  - 2. A person or organization from the Substance Abuse Professional's private practice; or
  - 3. A person or organization from which the Substance Abuse Professional receives remuneration or has a financial interest.
- I. However, this does not prohibit a Substance Abuse Professional from referring an employee for assistance provided through
  - 1. A public agency, such as a state, county, or municipality;
  - 2. The employer or a person under contract to provide treatment for alcohol or controlled substance problems on behalf of the University;
  - 3. The sole source of therapeutically appropriate treatment under the employee's health insurance program; or
  - 4. The sole source of therapeutically appropriate treatment reasonable accessible to the employee.
- J. The requirement of this policy with respect to referral, evaluation and rehabilitation does not apply to applicants who refuse to submit to a pre-employment alcohol or controlled substances test or who have a pre-employment controlled substances test with a verified positive test result.

**XIV. OTHER ALCOHOL-RELATED CONDUCT (§382.505)**

- A. No employee tested under the provisions of the policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions for the University, including driving a commercial motor vehicle.
- B. In addition, the University shall not permit an employee to perform or continue to perform safety-sensitive functions until the start of the employee's next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the test.
- C. During the twenty-four (24) hour period of time that an employee has been removed from the position, the employee will have the option of utilizing accrued leave time (sick leave, vacation leave, compensatory time, or personal business time) in order to remain in a paid status. Employees who have insufficient leave balances to cover the period of time that they are removed from the position shall be granted a leave of absence without pay.
- D. Additionally, before the employee returns to duty the employee shall undergo a return-to-duty alcohol test and obtain a result indicating an alcohol concentration of less than 0.02. If the employee fails to obtain a test result of less than 0.02 after twenty-four (24) hours have elapsed from the time of the initial test, then the employee will be required to be evaluated by the SAP.

**XV. REFUSAL TO SUBMIT TO A REQUIRED ALCOHOL OR CONTROLLED SUBSTANCES TEST (§382.211)**

- A. No employee shall refuse to submit to a post-accident, random, reasonable suspicion, or follow-up alcohol or controlled substances test. The University will not permit an employee who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.
- B. Refusal to submit means that an employee (§382.107)
  - 1. Fails to provide adequate breath for testing without a valid medical explanation after the employee has received notice of the requirement for breath testing in accordance with the policy; or
  - 2. Fails to provide adequate urine for testing without a valid medical explanation after the employee has received notice of the requirement for urine testing in accordance with the policy; or
  - 3. Engages in conduct that clearly obstructs the testing process.
- C. Refusing to submit to a test shall be treated as a positive test result. (§382.211)

**XVI. DISCIPLINE**

**A. First Offense**

An employee who receives a verified alcohol concentration of 0.04 or greater or a verified positive controlled substance test will be required to undergo referral, evaluation, and treatment as explained in Section XIII of this policy. Furthermore, the employee will be suspended without pay for a period of two (2) working days. The period of suspension shall be served upon the completion of the rehabilitation or treatment program.

**B. Second Offense**

An employee who is returned to duty following assessment and/or treatment and who received either a verified alcohol concentration of 0.04 or greater or a verified positive controlled substance test on any subsequent random, follow-up, return-to-duty, reasonable suspicion, or post accident alcohol or controlled substance test within five (5) years of this return-to-duty, shall again be required to undergo referral, evaluation, and treatment as explained in Section XIII of this policy. Furthermore, the employee will be suspended without pay for a period of ten (10) working days. The period of suspension shall be served upon the completion of the rehabilitation or treatment program.

**C. Third Offense:**

An employee who is returned to duty following the second referral for assessment and/or treatment and who receives either a verified alcohol concentration of 0.04 or greater, or a verified positive controlled substance test on any subsequent random, follow-up return-to-duty, reasonable suspicion, or post accident alcohol or controlled substance test within five (5) years of the employee's first return to duty shall be terminated.

D. An employee who fails to comply with University requirement for evaluation, treatment, or return-to-duty testing shall be subject to termination.

E. The discipline prescribed above for second and third offenses may be subject to appeals in accordance with the discipline procedures *established by the University*.

**XVII. REMOVAL FROM SAFETY-SENSITIVE FUNCTION (§382.501)**

A. No employee shall perform safety-sensitive functions, including driving a commercial motor vehicle, if the employee has engaged in conduct prohibited by this policy or an alcohol or controlled substances rule of another Department of Transportation (DOT) agency.

B. The University will not permit any employee to perform safety-sensitive functions, including driving a commercial motor vehicle, if the University has determined that the employee has violated this policy.

**XVI. RELEASE OF TESTING INFORMATION BY PREVIOUS EMPLOYERS (§382.413)**

A. The University may obtain, pursuant to an employee's written consent, any of the information concerning the employee that is maintained pursuant to Subpart D - handling of Test Results, Record Retention and Confidentiality - of the Federal Regulations, by the employee's previous employers. The requested information must be obtained from the official records of the previous employers.

B. The University shall obtain, pursuant to an employee's consent, information on the employee's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the previous two (2) years.

C. The information must be obtained and reviewed by the University no later than fourteen (14) calendar days after the first time an employee performs safety-sensitive

functions. The University will not permit an employee to perform safety-sensitive functions after fourteen (14) calendar days without obtaining the information.

- D. If the employee stops performing safety-sensitive functions for the University before expiration of the fourteen (14) day period or before the University has obtained the information required in the paragraph above, the University must still obtain the information.
- E. The University may obtain from any previous employer the information related to that person's participation in an alcohol and controlled substance testing program. The University will obtain written permission from the individual employee to acquire this information. The University may obtain the information from the previous employer via personal interview, telephone interview, letter, facsimile, or other method as long as measures are taken to ensure confidentiality. The University will maintain a written, confidential record with respect to each of the past employers contacted.
- F. The University will obtain and review the information listed below from any previous employer where the individual performed safety-sensitive functions for in the previous two (2) years. The University must request and review this information within fourteen (14) days after the person first performs a safety-sensitive function. The information will include:
  - 1. The individual's breath alcohol tests that indicated concentration of 0.04 or greater; and
  - 2. Positive controlled substance tests; and
  - 3. Any refusals to submit to a required alcohol or controlled substance test.
- G. The University will not employ any individual to perform safety-sensitive functions if the University obtains information indicating that the person has tested positive for controlled substances, tested at or above 0.04 breath alcohol concentration, or refused to test unless the employer has evidence the person has been evaluated by a SAP, completed any required counseling or rehabilitation, passed a return-to-duty test, and been subjected to follow-up testing.
- H. Any other release of information is only released with the employee's consent. If an employee initiates a grievance, hearing, lawsuit, or other action as a result of a violation of these rules, the employer may release relevant information to the decision maker.

**CERTIFICATE OF RECEIPT**

I hereby certify that I have received and read Bowling Green State University's Alcohol and Controlled Substance Policy for Employees with Commercial Driver's License.

I understand that a copy of this certificate of receipt shall be maintained in my personnel file and that a copy will also be provided to me.

-----  
Signature

-----  
Date

-----  
Print Name

-----  
Department