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**POLICY TITLE:**

**Omnibus Transportation Act Alcohol and Controlled Substances Testing**

**APPLIES TO:**

**Faculty**

**Staff**

**Contractors**

**ADMINISTRATIVE AUTHORITY:**

**Office of Human Resources**

**Division of Finance & Administration**

**APPROVED BY:**

**Kentucky State University Board of Regents**

**EFFECTIVE DATE:**

**August 8, 2025**

**NEXT REVIEW DATE:**

**August 8, 2028**

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**POLICY STATEMENT:**

In compliance with the Omnibus Transportation Employee Testing Act of 1991, Kentucky State University (KSU) is committed to preventing accidents and injuries caused by the misuse of alcohol or controlled substances by drivers of commercial vehicles. This policy mandates alcohol and controlled substances testing for all employees whose roles require a CDL and/or involve transporting hazardous materials. Covered employees will receive written notice of the Act's requirements, testing protocols, and a copy of this policy. In accordance with KSU's other policies, violations of this policy may result in disciplinary action up to and including termination.

**DEFINITIONS:****Alcohol**

The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols (e.g., methyl

or isopropyl alcohol).

### **Controlled Substances**

Substances tested under federal regulations, including marijuana, cocaine, opiates, amphetamines, methamphetamines, and phencyclidine.

### **Covered Employee**

An employee or applicant whose job duties include safety-sensitive functions requiring a CDL, such as operating a KSU-owned, leased, or borrowed commercial motor vehicle.

### **Safety-Sensitive Function**

Duties requiring a CDL, such as driving a commercial vehicle or transporting hazardous materials.

### **Medical Review Officer (MRO)**

A licensed physician responsible for interpreting and evaluating test results, knowledgeable in substance abuse disorders.

### **Evidential Breath Testing Device (EBTD)**

A device approved by the National Highway Traffic Safety Administration for alcohol testing.

## **PROCESS:**

### **Testing Requirements**

Covered employees must undergo alcohol and controlled substances testing as follows:

#### **1. Pre-Employment Testing**

- Before performing safety-sensitive functions, employees must pass a controlled substances test, verified as negative by an MRO.
- Exemptions may apply if:
  - The employee participated in a drug testing program within the past 30 days.
  - The employee was tested for controlled substances within the past 6 months or participated in a random testing program for the previous 12 months.
  - KSU verifies that no prior employer has records of violations within the past 6 months.

#### **2. Post-Accident Testing**

- Testing is required if:
  - The employee was performing a safety-sensitive function and the accident resulted in a loss of life.
  - The employee receives a moving traffic violation citation from the accident.

- Alcohol tests must be administered within two (2) hours (or a report to the U.S. Department of Transportation must be sent that explains the delays).
- Controlled substances tests should be conducted promptly.

### **3. Random Testing**

- Employees are randomly selected using a scientifically valid method.
- Minimum testing rates: 10% of covered employees annually for alcohol and 50% of covered employees annual for controlled substances.
- Alcohol tests occur during, immediately before, or after safety-sensitive functions.
- Testing dates and times are unannounced, typically during normal work hours.

### **4. Reasonable Suspicion Testing**

- If a trained supervisor or official suspects alcohol misuse or controlled substance use, testing is required during normal work hours.

### **5. Return-to-Duty Testing**

- After a violation, employees must be evaluated, complete rehabilitation, and test negative before resuming safety-sensitive duties.
- A negative test for alcohol is any reading showing an alcohol concentration of less than 0.02.

### **6. Follow-Up Testing**

- Employees identified by a Substance Abuse Professional (SAP) as needing assistance must undergo at least six (6) unannounced follow-up tests within 12 months of returning to duty. Employees bear the cost of these tests.

## **Testing Administration**

### **1. Testing Facilities**

- Approved testing facilities will be communicated to covered employees, with updates provided as needed.

### **2. Testing Procedures**

- **Alcohol:** Conducted by a trained Breath Alcohol Technician using an EBTD.
- **Controlled Substances:** Employees provide a urine sample, split into two (2) bottles, with a chain of custody form completed and sent to a Department of Health and Human Services-certified laboratory.

### **3. Failure to Report**

- Failure to report for testing within one (1) hour of notification may lead to disciplinary action pending an investigation.
- Employees involved in accidents who fail to submit to post-accident testing are presumed to have refused and are barred from driving until investigated.

#### **4. Absence During Random Testing**

- Employees on approved leave or layoff must undergo testing upon returning to work.

#### **Test Results**

Results are sent from the testing facility to Human Resources (HR), then communicated in writing to the employee by their supervisor or department head.

##### **1. Negative Results**

- Employees may continue safety-sensitive functions. Applicants remain eligible for CDL-required positions.

##### **2. Positive Results**

- Employees are referred to the Employee Assistance Program and may face discipline, up to termination. Applicants are disqualified from CDL-required roles.

##### **3. Confidentiality**

- Results are handled confidentially. The MRO may discuss positive controlled substance results with the employee to assess prescription drug use. Split-sample testing is available as per federal rules.

##### **4. Record Retention**

- Records pertaining to negative results are retained for one (1) year.
- Records pertaining to collection processes and trainings are retained for two (2) years.
- Records pertaining to positive results, refusals, alcohol tests with results greater than or equal to 0.02, evaluations, referrals, and equipment calibration are retained for five (5) years.

#### **Sanctions for Violations**

##### **1. Alcohol Violations (per 49 CFR 383.51)**

- **.02 to < 0.04:** Employee barred from safety-sensitive functions for at least 24 hours or until the next duty period, whichever is greater. If involved in a fatal accident, the employee is barred from driving for one (1) year.
- **≥ 0.04:** Employee barred from driving for 60 consecutive days.

- **Three incidents of  $\geq 0.04$  in a 3-year period:** Employee barred from driving for 120 consecutive days.
- An employee with an alcohol concentration of 0.04 or greater may not perform any safety-sensitive functions until the employee has been evaluated by an SAP, completed any required rehabilitation, and tested at less than 0.02 for the presence of alcohol.

## 2. Controlled Substances Violations

- **Any offense:** Referral to SAP, and a negative test is required to return to duty.
- **Two offenses in a 3-year period:** 60-day driving ban.
- **Three or more offenses in a 3-year period:** 120-day driving ban.
- **Refusal to test:** One-year (1-year) driving ban, and a negative test is required to return to duty.

## 3. Federal Minimum Sanctions

- The aforementioned federal minimum sanctions do not limit KSU's ability to impose stricter penalties, including suspension or termination, in accordance with KSU policies.

### Training

Any KSU official designated to determine whether or not reasonable suspicion exists to conduct an alcohol and/or controlled substance test must receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol or controlled substance abuse.

### Amendments

KSU reserves the right to modify this policy to meet legal requirements or KSU needs. The President or their designee may issue clarifications or coordinate with other KSU policies to ensure compliance.

## REFERENCES AND RELATED MATERIALS:

- Omnibus Transportation Employee Testing Act of 1991
- 49 CFR Parts 382, 383, 605 (U.S. Department of Transportation Regulations)
- Corrective Action Policy

## CONTACTS:

Subject	Office	Telephone	E-mail
Policy questions	Human Resources	(502) 597-6667	Human.Resources@kysu.edu

## HISTORY:

Revision Type	Date of Issuance/Revision	Drafter(s)/Editor(s)
Issued (New Policy)	June 2025	Zach Atwell