



PERSONNEL POLICY

SUBJECT: TESTING FOR ALCOHOL MISUSE AND USE OF CONTROLLED SUBSTANCES BY EMPLOYEES OPERATING COMMERCIAL MOTOR VEHICLES

DATE: January 1, 2017

Number: 336-16

I. Statement of the Policy

The Fulton County Board of Commissioners finds that the misuse of alcohol and the use of controlled substances by employees who operate commercial motor vehicles on behalf of Fulton County pose a substantial risk to the health, safety and welfare of employees and members of the general public. Fulton County has a compelling interest in protecting its employees and the public from such risks by ensuring that employees who operate commercial motor vehicles are free from the debilitating physical and mental influences of alcohol and controlled substances which adversely affect an individual's perception of space and time, motor skills, memory and the ability to exercise sound judgment under safety-sensitive conditions. Accordingly, Fulton County has adopted this Policy on Alcohol Misuse and the Use of Controlled Substances for the following purposes:

- A. To protect the health, safety and welfare of county employees and members of the general public;
- B. To implement the requirements of federal regulations set forth at 49 C.F.R. Part 382 relating to operators of commercial motor vehicles; and,
- C. To help prevent accidents and injuries which may result from the misuse of alcohol or use of controlled substances by employees who operate commercial motor vehicles on behalf of Fulton County.

II. Background and Applicability

The misuse of alcohol and the use of controlled substances testing required by this Policy shall apply to all employees of Fulton County and applicants for employment who, necessary to the performance of their job responsibilities, are required to possess and maintain a valid commercial driver's license pursuant to the Uniform Commercial

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Driver's License Act set forth at Section 40-5-140 *et seq.* of the Official Code of Georgia Annotated, as amended.

III. Establishment and Implementation of Procedure

The County Manager, in consultation with the Chief Human Resources Officer and the County Attorney, is authorized to establish and modify, as needed, a procedure for implementing this policy.

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PERSONNEL PROCEDURE

SUBJECT: TESTING FOR ALCOHOL MISUSE AND USE OF CONTROLLED SUBSTANCES BY EMPLOYEES OPERATING COMMERCIAL MOTOR VEHICLES

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I. Definitions

As used in this Policy, the following terms shall refer to:

- A. Alcohol: the intoxicating agent in beverage alcohol, ethyl alcohol and any other low molecular weight alcohols, including methyl and isopropyl alcohol.
- B. Applicant: any person preliminarily approved for hire, promotion, or transfer into a position requiring the operation of a commercial motor vehicle and the possession and maintenance of a license in accordance with the Uniform Commercial Driver's License Act set forth at Section 40-5-140 *et seq.* of the Official Code of Georgia Annotated, as amended.
- C. Commercial motor vehicle: a motor vehicle designed or used to transport passengers or property:
 - (1) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating as determined by federal regulation;
 - (2) If the vehicle is designed to transport 16 or more passengers, including the driver; or
 - (3) If the vehicle is transporting hazardous materials and is required to be placarded in accordance with the Hazardous Materials Regulations prescribed by the United States Department of Transportation, 49 C.F.R. Part 172, subpart F; provided, however, that for the purposes of this Policy, no agricultural vehicle, military vehicle operated by military personnel, recreational vehicle, or fire-fighting or emergency equipment vehicle shall be considered a commercial vehicle

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- D. Controlled substance: cocaine, marijuana, opiates, amphetamines, and phencyclidine (aka PCP).
- E. Driver: any employee of Fulton County who operates a commercial motor vehicle on behalf of Fulton County.
- F. Medical review officer: a licensed physician (i.e., medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the testing requirements of this Policy who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.
- G. Misuse of alcohol: any use of alcohol which results in a condition or test result in violation of the terms of this Policy.
- H. Performing a safety-sensitive function: a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.
- I. Refuse to submit to an alcohol or controlled substances test: that a driver:
 - (1) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this Policy;
 - (2) Fails to provide adequate urine for testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of the Policy; or
 - (3) Engages in conduct that obstructs the testing process.
- J. Safety-sensitive function: operating, driving, standing ready to operate or drive, being in immediate control of, loading, unloading, supervising or assisting in the loading or unloading of a commercial motor vehicle.
- K. Substance abuse professional: a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor, certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission, having knowledge of and clinical experience in the diagnosis and treatment of disorders related to alcohol and controlled substances.

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- L. Use of alcohol: to consume any beverage, mixture, or preparation, including any medication, containing alcohol.
- M. Use of controlled substances means to possess physically or within one's body any controlled substance in violation of the terms of this Policy.

II. Required Testing

A. Pre-employment Testing

- (1) Prior to the first time a driver performs any safety-sensitive function on behalf of Fulton County, the driver shall undergo testing for the misuse of alcohol and for the use of controlled substances, and shall not be allowed to perform any safety-sensitive function unless such testing indicates a blood alcohol concentration of less than 0.04 and, from the medical review officer, a verified negative result for the use of controlled substances.
- (2) There are no exceptions for pre-employment alcohol and controlled substance testing.

B. Random Testing

- (1) All drivers performing safety-sensitive functions on behalf of Fulton County shall be subject to random testing for the misuse of alcohol and the use of controlled substances. The dates of such testing shall be unannounced and shall be spread reasonably throughout the calendar year.
- (2) The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table of a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each driver shall have an equal chance of being tested each time selections are made.
- (3) Upon notification that he or she has been selected for testing, the driver shall proceed immediately to the designated test site, or shall proceed as soon as possible if currently in the process of performing a safety-sensitive function.
- (4) A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to

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perform safety-sensitive functions, or just after the driver has ceased performing safety-sensitive functions.

- (5) There shall be selected during each calendar year a sufficient number of drivers for testing so that the number of tests administered shall be no less than 25% of the total number of drivers for alcohol testing, and no less than 50% of the total number of drivers for controlled substances testing.

C. Reasonable Suspicion Testing

- (1) Fulton County may require a driver to submit to testing when Fulton County has reasonable suspicion to believe that the driver is in violation of the terms of this Policy.
- (2) Fulton County's reasonable suspicion must be based upon specific, contemporaneous and articulable observations by the driver's Appointing Authority, Department Head or other departmental supervisor concerning the appearance, behavior, speech, or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.
- (3) The required observations for reasonable suspicion testing must be made by an Appointing Authority, Department Head or supervisor who is trained in accordance with this Policy. A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test that is signed by the Appointing Authority, Department Head or supervisor who made the observations within 24 hours of the observed behavior, or before the results of the alcohol or controlled substances tests are released, whichever is earlier.
- (4) Testing required under this section shall not be conducted by the same individual who makes the determination that reasonable suspicion testing is warranted.
- (5) Alcohol testing warranted under this section must be conducted within two (2) hours of the determination that testing is warranted.

D. Post-accident Testing

- (1) As soon as practicable following an accident involving a commercial motor vehicle, each surviving driver shall be tested for alcohol and controlled substances, if the accident resulted in the

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loss of human life or the surviving driver received a citation for a moving traffic violation in connection with the accident.

- (2) Alcohol testing required by this section should be conducted within two (2) hours following the accident; provided, however, such testing shall not be conducted more than eight (8) hours following the accident.
- (3) Controlled substance testing required by this section must be conducted within thirty-two (32) hours following the accident.
- (4) A driver who is subject to post-accident testing shall remain readily available for such testing; otherwise, the driver may be deemed to have refused to submit to the testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver 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.

E. Return-to-Duty Testing.

- (1) No driver found in violation of this Policy for the misuse of alcohol shall be allowed to resume the performance of any safety-sensitive function unless and until the driver shall have been tested for alcohol and the results of such testing indicates a blood alcohol concentration of less than 0.02.
- (2) No driver found in violation of this Policy for the use of controlled substances shall be allowed to resume the performance of any safety-sensitive function unless and until the driver has been tested for the use of controlled substances and the results of such testing from the medical review officer indicates a verified negative result.

F. Follow-up Testing.

Following a determination by a substance abuse professional that a driver needs assistance in resolving problems associated with alcohol or controlled substances, the driver shall be subject to unannounced follow-up testing in accordance with this Policy and the substance abuse professional's follow-up testing plan.

G. Testing Procedures.

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The misuse of alcohol and use of controlled substances testing required by this Policy shall be conducted in accordance with the provisions of 49 C.F.R. Part 40.

H. Test Results, Record Retention and Confidentiality.

Records of the misuse of alcohol and use of controlled substances testing required by this Policy shall be maintained in accordance with 49 C.F.R. § 382.401 *et seq.*

III. Prohibited Conduct

The misuse of alcohol as defined by this Policy is prohibited.

The use of controlled substances as defined by this Policy is prohibited.

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having a blood alcohol concentration (BAC) of 0.04 or greater.

No driver shall be on duty or operate a commercial motor vehicle while in the possession of alcohol. No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. Drivers are required to inform both their supervisor and their Appointing Authority or other Department Head of any therapeutic drug use.

No driver shall use alcohol, use any controlled substance, or improperly use any prescribed medication while performing any safety-sensitive function.

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 shall refuse to submit to the testing requirements of this Policy. Fulton County will not permit a driver who refuses to submit to the testing requirements of this Policy to perform or continue to perform safety-sensitive functions.

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IV. Violation of Policy

A. Violations by Applicants

Applicants found in violation of the terms of this Policy will not be employed by Fulton County at the time the violation is discovered and will not be considered for employment until six (6) months following the time the violation is discovered.

B. Violations by Drivers

- (1) Drivers found in violation of the terms of this Policy shall be subject to Fulton County's disciplinary procedures.
- (2) No driver shall perform any safety sensitive function on behalf of Fulton County while in violation of the terms of this Policy.
- (3) No driver who has been removed from the performance of safety-sensitive functions due to a violation of the terms of this Policy shall be permitted to perform safety-sensitive functions on behalf of Fulton County again unless the driver obtains the assistance of a substance abuse professional as provided for herein; provided, however, nothing in this Policy shall create a right to continued employment or employee assistance which is not independently assured by other sources of law, Fulton County's Policies, or Employee Assistance Plan of Fulton County.
- (4) No driver tested under the provisions of this Policy who is found to have a blood alcohol concentration of 0.02 or greater but less than 0.04 shall be required to seek the assistance of a substance abuse professional, nor shall the driver be subject to the follow-up testing requirements of this Policy; provided, however, no such driver shall be allowed to perform or continue to perform any safety-sensitive function on behalf of Fulton county for at least twenty-four (24) hours following administration of the test, and the driver shall be subject to Fulton County's disciplinary procedures.

V. Notice of Policy and Provision of Educational Materials

A. Generally

- (1) Each department having employees subject to this Policy shall provide educational materials that explain this Policy's

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requirements and the procedures to be followed in meeting those requirements.

- (2) A copy of these educational materials shall be distributed to each driver prior to the start of alcohol and controlled substances testing under this Policy and to each driver subsequently hired, promoted, or transferred into a position requiring driving of a commercial motor vehicle.
- (3) Written notice of the availability of these materials shall also be provided to representatives of any applicable employee organization.

B. Content

The educational materials to be made available to drivers shall include, at a minimum, the following:

- (1) The identity of the person designated to answer driver questions about the testing requirements and procedures;
- (2) The categories of drivers who are subject to the testing provisions of this Policy;
- (3) Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance;
- (4) Specific information concerning driver conduct that is prohibited by this Policy;
- (5) The circumstances under which a driver may be tested;
- (6) The procedures that will be used to test for the presence of alcohol and controlled substances, to protect the driver and the integrity of the testing processes, to safeguard the validity of the test results and to ensure that the results are attributed to the correct driver;
- (7) The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this Policy;
- (8) An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences;

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- (9) The consequences for drivers found to have violated this Policy, including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures under this Policy;
- (10) The consequences for drivers found to have a blood alcohol concentration of 0.02 or greater but less than 0.04; and,
- (11) Information concerning the effects of alcohol and controlled substances use on an individual's health, work and personal life; signs and symptoms of an alcohol or a controlled substances problem; and the available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management.

C. Acknowledgement of Receipt

The appropriate department shall ensure that each of its drivers signs and dates a statement certifying that he or she has received a copy of the educational materials described in this section. The department shall maintain the original of the signed receipt and must provide a copy of the receipt to the driver.

VI. Training

All Appointing Authorities, Department Heads and supervisors who supervise drivers shall receive at least 60 minutes of training on alcohol misuse plus at least an additional 60 minutes of training on controlled substances use. This training will be used to determine whether reasonable suspicion exists to require a driver to undergo testing under this Policy. This training shall cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

VII. Referral, Evaluation and Treatment

A. Referral

Each driver who has engaged in conduct prohibited by the terms of this Policy shall be advised by the appropriate Appointing Authority or Department Head of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances, including the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs.

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B. Evaluation and Rehabilitation

(1) Before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by this Policy, the driver must be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substances use, and the driver must successfully comply with the substance abuse professional's evaluation recommendations.

(2) Before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by this Policy, the driver must undergo a return-to-duty alcohol test in accordance with this Policy, if the conduct involved alcohol, with a result indicating an blood alcohol concentration of less than 0.02 and/or a controlled substances test, in accordance with this Policy, with a verified negative result, if the conduct involved the use of controlled substances.

(3) Evaluation and rehabilitation may be provided by Fulton County, by a substance abuse professional under contract with Fulton County, or by a substance abuse professional not affiliated with Fulton County. The choice of substance abuse professional and assignment of costs shall be made in accordance with the Personnel Policies and Employee Assistance Plan of Fulton County.

C. Exception for Applicants

The requirements of this Section V with respect to referral, evaluation and treatment/rehabilitation do not apply to applicants who refuse to submit to a pre-employment alcohol or controlled substances test, have a pre-employment alcohol test with a result indicating a blood alcohol concentration of 0.04 or greater, and/or a controlled substances test with a verified positive test result.