

Procedure: 4.8.1p2. [III.O.2.]

Drug and Alcohol Testing for Federally-Regulated Positions

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I. PURPOSE:

- A. The Technical College System of Georgia (TCSG) is committed to providing an environment that ensures the safety and well-being of TCSG's employees, students, and campus visitors; protects TCSG employee and student property; and prohibits influences that may have a detrimental effect upon the orderly, safe, and efficient operation of the System Office and all associated technical colleges.
- B. Based on these goals, the TCSG has established drug and alcohol testing protocols to prevent the hiring and/or continued employment of employees who may cause harm to themselves or others, who may cause damage to System Office or technical college property, or (for current employees) whose job performance is negatively impacted due to the use/misuse of a controlled substance, an illegal drug, or alcohol.
- C. In conjunction with the provisions of the State Board Policy governing a Drug-Free Workplace and the provisions of State Personnel Board Rule 21 and its associated sub-rules, those technical colleges which operate a commercial truck driving program must follow U.S. Department of Transportation (DOT) regulations which govern all facets of the alcohol and drug testing processes and returning employees to safety-sensitive duties after a DOT violation, and accompanying Federal Motor Carrier Safety Administration (FMCSA) regulations that determine who is subject to alcohol and substance abuse testing, when to test, and in what situations.
- D. FMCSA regulations pertain to holders of a Commercial Driver's License (CDL) who drive commercial motor vehicles and perform attendant safety-sensitive functions.
- E. This procedure also highlights the requirements pertaining to the collection, retention, release, and oversight of drug and alcohol testing records/information as well as associated documents/materials. Additionally, the noted federal regulations require covered technical colleges to train and educate drivers (i.e., employees and students) as well as commercial truck driving program supervisors and managers (i.e., those that supervise "drivers") regarding the provisions of the DOT Workplace Drug and Alcohol Testing Program and accompanying FMSCA guidelines regarding the effects of controlled substances and the misuse of alcohol on driver performance as well as general health, safety, and work environment concerns.
- F. DOT and FMSCA regulations also specify the involvement of other professional and technical personnel in the administration of the TCSG controlled substances and alcohol testing processes to include a Medical Review Officer (MRO), Substance Abuse Professional (SAP), and Breath Alcohol Technician (BAT).

II. RELATED AUTHORITY:

49 CFR Parts 40 and 382, et.al.
HHS Regulations 53 FR 11979
State Board Policy 4.8.1 Drug-Free Workplace
State Personnel Board Rule 21

III. APPLICABILITY:

Technical colleges associated with the Technical College System of Georgia which operate a Commercial Truck Driving Program and who employ individuals who meet the definition of a “driver” as the term is defined in this procedure.

IV. DEFINITIONS:

- A. **Adulterated Sample:** a specimen that has been altered and contains a substance that is not expected to be present in human urine or a substance that is expected to be present but is at an abnormal concentration
- B. **Alcohol:** the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl and isopropyl alcohol.
- C. **Alcohol Concentration or Alcohol Content:** is the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an alcohol test.
- D. **Alcohol Confirmation Test:** a subsequent 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 alcohol in a breath specimen. Such testing must be performed by a certified Breath Alcohol Technician (BAT).
- E. **Alcohol Screening Test:** the initial analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in his/her breath or saliva.
- F. **Alcohol Testing Site:** a medical facility, mobile facility (e.g., a van), a dedicated collection facility, or any other location meeting the operational and security requirements of 49 CFR 40.221.
- G. **Alcohol Use:** the drinking or swallowing of any beverage, liquid mixture, or preparation, including medication containing alcohol.
- H. **Applicant:** For purposes of this procedure, an individual who has been conditionally offered initial state employment in a DOT-regulated, safety-sensitive position subject to pre-employment drug testing; a current TCSG employee who is an incumbent of a position not subject to pre-employment drug testing and who is subsequently offered employment in a DOT-regulated, safety-sensitive position subject to drug testing; or, a current TCSG employee who has been offered employment in a different state agency in a position subject to pre-employment drug testing.
- I. **Breath Alcohol Technician (BAT):** conducts alcohol screening and confirmation tests by collecting and analyzing breath specimens using an approved evidential breath-testing (EBT) device.
- J. **Business Day:** Monday through Friday of each work week excluding a day proclaimed by the Governor as a State holiday or a day a State holiday is to be observed.

- K. **Collection Site:** a location where individuals present themselves for the purpose of providing a urine specimen to be analyzed for the presence of controlled substances, e.g., a physician's office, a commercial collection site or, a local hospital or clinic.
- L. **Commercial Driver's License:** a license issued by a State or other jurisdiction in accordance with the standards contained in 49 CFR Part 383, authorizing an individual to operate a class of commercial motor vehicle (CMV). Individuals who operate a commercial motor vehicle as defined in accompanying regulations and required to possess a CDL are subject to controlled substances and alcohol testing. NOTE: a Commercial Learner's Permit (CLP) is considered a valid CDL for purposes of behind-the-wheel training on public roads or highways; therefore, students in a technical college Commercial Truck Driving Program who possess a CLP are subject to the same alcohol and drug testing requirements as an employee holding a CDL.
- M. **Commercial Motor Vehicle (CMV):** a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle: has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight or more than 10,000 pounds; has a gross vehicle weight rating of 26,001 or more pounds; is designed to transport 16 or more passengers including the driver; or, is of any size and is used in the transportation of hazardous materials.
- N. **Controlled Substances:** pursuant to DOT and FMCSA regulations, the terms "controlled substances" and "drugs" are interchangeable and have the same meaning. Testing under these regulations is limited to the following controlled substances or their metabolites: marijuana/cannabinoids (THC), cocaine, opiates/opioids, phencyclidine (PCP), and amphetamines/methamphetamines.
- O. **Dangerous Drugs:** any drug, other than a controlled substance, declared by state or federal law to be illegal for sale or use, unless used with a valid prescription from a health care practitioner.
- P. **Designated Employer Representative:** a technical college's drug and alcohol testing coordinator; the employees authorized to take immediate action to remove employees from safety-sensitive duties or cause employees to be removed from these covered duties and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer.
- Q. **Driver:** for purposes of this procedure the terms "driver" and "employee" are interchangeable and have the same meaning. A driver is a person (whether paid or unpaid) who operates a commercial motor vehicle and who is required to possess a commercial driver's license for service in a full- or part-time, casual, intermittent, occasional or, a volunteer capacity. With respect to the Technical College System of Georgia, the term includes, but is not limited to, all commercial vehicle drivers including faculty associated with a commercial truck driving (CTD) program and bus drivers. NOTE: all designated "drivers" encumber a safety-sensitive position and are, therefore, subject to alcohol and drug testing as provided in this procedure and accompanying DOT and FMCSA regulations.
- R. **Drug and Alcohol Clearinghouse (the Clearinghouse):** a secure online database maintained by the U.S. Department of Transportation that provides real-time information about commercial driver's license (CDL) and commercial learner's permit (CLP) holders' drug and alcohol program violations.
- S. **Drug and Alcohol Testing Coordinator:** the technical college employee who functions as the "Designated Employer Representative" (DER). In this capacity, the employee receives communication from the Medical Review Officer, the Georgia Department of Administrative Services, and/or the contract service agent regarding test administration and test results.
- T. **Drug Test or Drug Testing:** for purposes of this procedure, the collection and testing of urine administered in a manner equivalent to that required by U.S. DOT Procedures for

Transportation Workplace Drug and Alcohol Testing Programs (49 CFR part 40), HHS Regulations 53 FR 11979 and, accompanying FMCSA regulations (49 CFR Part 382).

- U. **Drugs:** pursuant to DOT and FMCSA regulations, the terms “drugs” and “controlled substances” are interchangeable and have the same meaning. Testing under these regulations is limited to the following controlled substances or their metabolites: marijuana/cannabinoids (THC), cocaine, opiates/opioids, phencyclidine (PCP), and amphetamines/methamphetamines. NOTE: the term does not include any drug used pursuant to and in accordance with a valid prescription dispensed by a health care provider or the ingestion of substances that produce the same metabolites as an illegal substance, e.g., codeine prescriptions for coughing and/or pain or narcotic analgesics prescribed for pain.
- V. **Employee (Covered Employee):** any person who is designated in DOT and FMCSA regulations as (being) subject to drug and/or alcohol testing including individuals currently performing safety-sensitive designated functions and applicants provided a conditional offer of employment for a safety-sensitive position.
- W. **Employer (Covered Employer):** for purposes of this procedure, a technical college employing one or more employees subject to DOT and FMCSA regulated drug and/or alcohol testing.
- X. **Invalid Drug Test:** the result reported by a Department of Health and Human Services (HHS)-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.
- Y. **Laboratory:** for purposes of controlled substances testing under FMCSA regulations, an HHS-certified laboratory which uses an immunoassay technique to screen urine specimens for the specific controlled substances and only uses gas chromatography/mass spectrometry (GC/MS) screening to confirm all positive results/screens. NOTE: A HHS-certified laboratory must also retain all confirmed positive results for a minimum of one (1) year and provide adequate secure storage for a split specimen sample.
- Z. **Medical Review Officer (MRO):** a licensed physician who: receives and reviews laboratory-confirmed drug test results; affords the driver an opportunity to discuss the test results; evaluates the results and information received in conjunction with an employee’s relevant medical history information/records or any other biomedical information; and, determines whether there is a legitimate medical explanation for a laboratory-confirmed positive, adulterated, substituted, or invalid test result.
- AA. **Negative Result:** the result reported by a HHS-certified laboratory to a Medical Review Officer when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.
- BB. **Performing a safety-sensitive function:** a driver is considered to be performing a safety sensitive function during any period which he/she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.
- CC. **Positive Result:** the result reported by a HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the established cutoff concentrations.
- DD. **Query:** an electronic check in the Clearinghouse to determine if current or prospective employees are prohibited from performing safety-sensitive functions, such as operating a commercial motor vehicle (CMV), due to unresolved drug and alcohol program violations. A full query discloses to employers detailed information about any resolved or unresolved violations in a driver’s Clearinghouse record while a limited query checks for the presence of information in the queried driver’s Clearinghouse record. Driver consent is required prior to conducting any query. Drivers must login to the Clearinghouse to consent to a full query, while driver consent is obtained outside the Clearinghouse for a limited query.

- EE. **Reasonable Suspicion:** a determination that there is a reasonable suspicion that a safety sensitive employee may have violated a substance abuse or alcohol prohibition. The decision to test must be based on specific, timely and describable observations which include appearance, behavior, speech, and/or body order. In conjunction with this Procedure and accompanying federal regulations, one or more of the referring supervisor(s)/manager(s) must have been trained in the detection of the misuse of alcohol and the use of controlled substances before making this determination.
- FF. **Rejected Result:** a decision by the laboratory to reject a urine specimen in response to an insufficient amount of urine, a temperature out of the normal range, etc.
- GG. **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. Safety sensitive functions include: all time waiting to be dispatched to include employees who are eligible to drive a commercial motor vehicle at any time unless the driver has been relieved from duty; all time inspecting, servicing, or conditioning a commercial motor vehicle; all driving time which includes any time spent at the driving controls of a commercial motor vehicle in operation; all time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth; all time loading or unloading a vehicle and remaining ready to operate the vehicle; all time spent performing the driver requirements associated with an vehicle accident; all time spent providing a breath sample or urine specimen, including travel time to and from the collection/testing site to comply with the random, reasonable suspicion, post-accident, or follow-up alcohol or controlled substances testing, whichever is applicable; all time repairing, obtaining assistance for, or remaining with a "disabled vehicle" (as this term is defined in accompanying U.S. DOT and FMSCA regulations; performing any other work in the capacity of, or in the employ or service of, a common, contract or private motor carrier; or, performing any compensated work for any non-motor carrier entity.
- HH. **Safety Sensitive Position:** a position encumbered by an employee or sought by an applicant provided a conditional offer of employment which is subject to alcohol and drug testing as required by the U.S. DOT and FMSCA regulations and defined in this procedure.
- II. **Screening:** the collection and testing of bodily substances administered in conjunction with professionally valid procedures and acceptable medical and legal standards.
- JJ. **Service Agent:** any person or entity, other than an employee of the employer, that provides services to employers and/or employees in conjunction with drug and/or alcohol testing requirements promulgated under state or federal law or accompanying rules and regulations.
- KK. **Split Specimen Collection:** a drug testing collection in which urine is divided into two (2) separate specimen bottles: a primary specimen that is tested and a split specimen that remains unopened and available for retesting
- LL. **Stand-down:** the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or a drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.
- MM. **Substance Abuse Professional (SAP):** a licensed physician or (for purposes of this procedure) a licensed or certified provider associated with the Technical College System of Georgia Employee Assistance Program contract provider to include a psychologist, social worker, employee assistance professional, addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), or marriage and family counselor. The SAP evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare. The SAP must meet all US DOT qualification requirements.

- NN. **Substituted Sample:** a urine specimen with creatinine and specific gravity values that are so diminished or so divergent that it is not consistent with human urine.
- OO. **Technical College System of Georgia (“TCSG”):** a state agency established pursuant to O.C.G.A. §20-4-14 and authorized to exercise state level leadership, management, and operational control over technical colleges, programs, and services. The agency consists, in part, of the Commissioner’s Office, various statewide programmatic and support divisions in the System Office, technical colleges, and the office of Economic Development/Quick Start.
- PP. **Verified Test:** a drug test result or validity resting result form an HHS-certified laboratory that has undergone review and a final determination by a Medical Review Officer.

V. ATTACHMENTS:

- Attachment 4.8.1p2.a1. Pre-Employment Drug Testing Acknowledgement
- Attachment 4.8.1p2.a2. Pre-Employment Drug Testing Notification
- Attachment 4.8.1p2.a3. Screening Log
- Attachment 4.8.1p2.a4. Previous Pre-Employment Employee Substances Test Statement
- Attachment 4.8.1p2.a5. Release of Information Form - Previous Testing Records
- Attachment 4.8.1p2.a6. Sample Memo - Random Drug Test Selection
- Attachment 4.8.1p2.a7. Sample Memo – Random Alcohol Testing
- Attachment 4.8.1p2.a8. Reasonable Suspicion Behavior Incident Form
- Attachment 4.8.1p2.a9. Sample Letter SWOP – Positive Alcohol Test
- Attachment 4.8.1p2.a10. Sample Letter - Refusal - Termination
- Attachment 4.8.1p2.a11. Sample Letter - Withdrawal of Employment Offer
- Attachment 4.8.1p2.a12. Sample Letter - Positive Drug Test - Termination
- Attachment 4.8.1p2.a13. DOT Driver Handbook
- Attachment 4.8.1p2.a14. DOT Driver Brochure
- Attachment 4.8.1p2.a15. MIS Form and Instructions

VI. PROCEDURE:

A. General Provisions

1. As provided in applicable U.S. Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) regulations, an applicant provided a conditional offer of employment for a safety-sensitive position in a TCSG technical college is subject to pre-employment controlled substances testing and all current employees encumbering a safety-sensitive position are subject to random alcohol and controlled substances/drug testing.
2. The incumbent of a safety-sensitive position is also subject to reasonable suspicion, post-traffic accident, return-to-duty, and follow-up testing for the presence of alcohol and/or controlled substances in the manner provided in this procedure.
3. Each technical college offering a commercial truck driving program among its academic programs of study shall identify those positions (by job title) which perform safety-sensitive functions (as defined in 49 CFR Part 382 and the provisions of this procedure) and are subject to alcohol and/or controlled substances testing. All identified positions must be submitted in a memorandum or letter from the technical college president to the Commissioner for his/her approval.
4. The System Office Director of Human Resources, in consultation with the System Office General Counsel, will review the submission and make a recommendation to the Commissioner as to whether the referenced position(s) should be subject to alcohol and controlled substances testing.

5. The technical college president will be notified, in writing, of those positions approved by the Commissioner. Upon receipt of this notification, the technical college may change the drug test indicator of each designated position to reflect that an applicant provided a conditional offer of employment for and a current employee encumbering a safety-sensitive position will be subject to pre-employment drug testing and random alcohol and drug testing.
6. Any change in a safety-sensitive position's assigned duties and responsibilities that could possibly impact the testing designation should be reported to the System Office Director of Human Resources within fifteen (15) calendar days of any such change(s).
7. FMCSA regulations require covered employers to conduct laboratory testing of urine specimens for the following five (5) controlled substances or their metabolites: marijuana/THC; cocaine; opiate metabolites (codeine, morphine, and heroin); phencyclidine (PCP); and, amphetamines/methamphetamines/methylenedioxymethamphetamine (MDMA). NOTE: A technical college is authorized by the provisions of this procedure to test for additional controlled substances provided that: a separate act of urination is used to collect the specimen; the specimen is not poured off from the DOT/FMCSA mandated specimen; drivers are informed that testing for additional controlled substances is not required under DOT regulations; and, the non-DOT specimen is collected after the DOT specimen.
8. All controlled substances and alcohol testing required by 49 CFR part 40 and 49 CFR Part 382 for employees/drivers required to hold a CDL will be conducted pursuant to these regulations and accompanying State Personnel Board Rules.
9. Only a HHS-certified laboratory (selected by the Georgia Department of Administrative Services and/or in conjunction with its contract service agent) will be retained to perform urinalysis for the detection of the presence of controlled substance(s). The laboratory will be required to maintain strict compliance with federally approved chain-of-custody procedures, quality control, and maintenance and scientific analytical methodologies. The collection of urine samples must always be documented and sealed with a tamperproof sealing system in the presence of the donor who provided the sample to ensure that all tests can be correctly traced to the donor/employee. An MRO shall be designated to receive all laboratory results from every type of controlled substances test and will ensure that an individual with a laboratory-confirmed positive test result has been afforded an opportunity to justify the test result.
10. Each technical college will ensure that medical information related to controlled substances and alcohol testing and all test results are maintained confidentially with restricted access. With the exception of certain legal proceedings noted in this paragraph, technical colleges are prohibited from releasing individual test results or accompanying medical information to any third party without an employee's written consent. Included are a lawsuit (e.g., wrongful discharge); an administrative hearing (e.g., an unemployment insurance hearing); or, a criminal or civil action in which a judge determines that drug and/or alcohol test information is relevant. NOTE: all discussions between an employee and a MRO concerning a positive controlled substances test result are confidential unless the MRO considers the employee to be a safety risk. In these instances, the MRO will contact the technical college's drug and alcohol testing coordinator to communicate his/her concerns.
11. As provided in applicable FMCSA regulations no driver may: consume alcohol while performing safety-sensitive functions; perform safety-sensitive functions within four (4) hours after using alcohol; or, consume alcohol up to eight (8) hours following a traffic accident or until he/she undergoes a post-traffic accident alcohol test, whichever occurs first.
12. As provided in applicable FMCSA regulations no driver: shall report for duty or remain on duty to perform safety-sensitive functions if he/she is using/has used any controlled substance (unless his/her licensed medical practitioner has advised the driver that the

- substance does not adversely affect his/her ability to safely operate a commercial motor vehicle); or, report for duty or perform a safety-sensitive function if the driver tests positive or has adulterated or substituted a test specimen.
13. As provided in applicable State Personnel Board Rules and FMCSA regulations, no driver shall refuse to submit to a post-traffic, random, reasonable suspicion or, a follow-up alcohol or controlled substances test.
 14. As provided in applicable FMCSA regulations, no covered employer having actual knowledge that a driver has used/consumed alcohol or a controlled substance shall permit the driver to perform or continue to perform safety-sensitive functions.
 15. As provided in applicable State Personnel Board Rules, employees who are legally using a drug (or other substance) with a warning about a side effect that could substantially impair the safe performance of assigned duties must notify Human Resources prior to performing safety-sensitive work. The Human Resources office will take steps to ensure the use of the drug or substance will not negatively impact the employee's ability to safely perform his/her assigned duties.
 16. At least once annually, each technical college must conduct a full or limited query of the Clearinghouse for all current employees in safety-sensitive positions. Employee consent is required prior to conducting a query. If a limited query is conducted, and it indicates the presence of information in the Clearinghouse, a full query must be conducted within 24 hours. If the query is not completed within 24 hours, the employee may not perform safety-sensitive functions until the query has been conducted and shows no violations.
 17. At the end of each calendar year, all technical colleges operating a Commercial Truck Driving Program, or otherwise employing drivers as defined in this procedure, must complete Attachment 4.8.1p2.15. (U.S. DOT Drug and Alcohol Testing MIS Data Collection Form). To ensure that these records are available for inspection by the U.S. Department of Transportation, the drug and alcohol testing coordinator in each technical college should submit the report to the System Office Director of Human Resources no later than January 31 of the following calendar year.

B. Controlled Substances (Drug) & Alcohol Testing Categories and Provisions

1. Pre-Employment Testing & Procedures

- a. All job announcements for safety-sensitive positions will include a statement that informs all potential applicants that if a conditional offer of employment is made at the conclusion of the selection process, the applicant is subject to undergo pre-employment controlled substances testing. Additionally, all announcements should contain a statement that the position is subject to random drug and alcohol testing.
- b. At the time an interview is scheduled, the applicant should be notified verbally and/or through an e-mail that employment in this capacity is subject to and conditioned upon the successful completion of a controlled substances test.
- c. The applicant must be provided copy of this procedure, the DOT Driver Handbook, and the DOT Driver Brochure (Attachments 4.8.1p2.a13 and 4.8.1p2.a14). A TCSG Pre-Employment Drug Testing Acknowledgement Statement (Attachment 4.8.1p2.a1.) must be completed by an applicant offered employment in a safety-sensitive position. If an applicant refuses to sign the Acknowledgement Statement, he/she will not be considered further for the position.
- d. Formal written notification of the pre-employment controlled substances testing requirement should be provided to an individual that has been given a conditional offer of employment for a safety-sensitive position using Attachment 4.8.1p2.a2. (Pre-

- Employment Testing Notification Letter). The applicant/prospective employee must also be notified of the consequences of a positive test result or his/her failure to appear for testing and other circumstances/conditions that would be considered a refusal to test.
- e. Testing may only be accomplished after a conditional offer of employment has been accepted but before employment begins.
 - f. An applicant for a safety-sensitive position may not commence employment until his/her employing technical college has been notified of a negative controlled substances test result.
 - g. In conjunction with the testing requirement, the technical college drug and alcohol testing coordinator shall complete Attachment 4.8.1p2.a3. (Drug/Alcohol Testing Log for Safety-Sensitive Positions).
 - h. The drug and alcohol testing coordinator or other human resources representative must ask an applicant provided a conditional offer of employment for a safety-sensitive position whether he or she has, within the past two years, tested positive or refused testing on any pre-employment controlled substances or alcohol test that was administered by a DOT-regulated employer for which the applicant sought, but did not obtain, safety-sensitive employment. If the applicant admits that he/she had a positive test result or a refusal to be tested, the individual cannot perform safety-sensitive for the technical college until and unless the individual documents successful completion of the return-to-duty process. Given this admission, the technical college is authorized by the provisions of this procedure to withdraw the employment offer. (Attachment 4.8.1p2.a4)
 - i. The technical college drug and alcohol coordinator or other human resources representative must conduct a full query of the Clearinghouse prior to hiring an employee to perform safety-sensitive functions. The applicant must provide consent in the Clearinghouse prior to the college conducting the query. Failure of the applicant to provide consent may result in the withdrawal of the conditional offer of employment. Drivers may not perform safety-sensitive functions if violations are shown in the Clearinghouse unless the Return to Duty process has been completed, or the driver has completed the process and received a negative RTD test result, and the college assumes responsibility for follow-up testing.
 - j. The technical college drug and alcohol coordinator or other human resources representative must request the drug and alcohol testing history from each DOT-regulated employer the applicant has worked for during the previous two years, including, as applicable, his/her current employer. The applicant's written permission is required to initiate each request. For this reason, an applicant's written permission to solicit this information is considered a condition of employment and his/her failure to include all previous covered employers (including his/her current employer) or his/her failure to sign the consent form(s) will result in his/her conditional offer of employment being withdrawn. NOTE: a separate consent form must be used for each employer listed by the applicant. (Attachment 4.8.1p2.a5)
 - i. when possible, this information should be obtained and reviewed prior to allowing an applicant to commence employment in a safety-sensitive position.
 - ii. a good faith effort must be made to obtain and review this information no later than thirty (30) calendar days from the date the individual began performing safety-sensitive duties.
 - iii. if a violation is reported by a previous DOT-regulated employer, the individual must not be permitted to perform any safety-sensitive duties if the information indicates that the individual has violated a DOT alcohol or controlled substances testing rule. The technical college must determine if the individual has successfully completed

the DOT return-to-duty process to include: an evaluation by a SAP, successful completion of any required counseling; has passed a return-to-duty alcohol and/or controlled substances test; and, has been subject to required follow-up testing.

NOTE: if the employee has mandated follow-up testing to complete, it is the technical college's responsibility to ensure that this testing is followed.

- k. If a technical college receives a request from a DOT-regulated employer pertaining to a current or former employee's potential employment in a safety-sensitive position requiring possession of a CDL, written permission from the employee/former employee must be received before the release of the following information:
 - i. alcohol test results reflecting an alcohol concentration of 0.04 or greater;
 - ii. verified positive controlled substances test results;
 - iii. any refusal to be tested, including any adulterated or substituted specimen(s);
 - iv. any other violations of DOT alcohol and/or controlled substances testing regulations; and,
 - v. for any employee who violated DOT alcohol or drug testing regulations, documentation of successful completion of all return-to-duty requirements.

2. Random Testing

- a. Pursuant to U.S. DOT and FMCSA regulations, an employee encumbering a safety-sensitive position shall be subject to random controlled substances and alcohol testing.
- b. The annual percentage of covered employees subject to random alcohol and controlled substances testing is determined by the Georgia Department of Administrative Services and selections are made between ten (10) and twelve (12) time per calendar year.
- c. Employee(s) encumbering a position designated for testing will be required to report for testing as outlined in this procedure.
- d. The State of Georgia's contract service agent will periodically select a sample of safety-sensitive positions (to be tested) from a statewide pool of similarly identified positions that are subject to random controlled substances and alcohol testing.
- e. The service agent will forward a list of TCSG position(s) selected for testing to the drug and alcohol testing coordinator in each identified technical college. The notification will also include the date on which incumbent(s) of these position(s) are to report for testing.
- f. With the exception of those situations listed below, the incumbent(s) of these position(s) shall be directed to report for testing on the established testing date. If a selected position is vacant on the testing date, the selection of the position should be disregarded.
- g. If an employee selected for testing is on any type of paid or unpaid leave; is attending mandatory training or training away from the worksite; or, is on an extended assignment away from the worksite performing duties not subject to testing, the following actions should be taken;
 - i. if the employee returns to work within thirty (30) calendar days of the official test date, he/she should, if at all possible, be directed to report immediately for testing. Pursuant to related authority, the testing date must be established no later than two (2) business days following his/her return to work; or,
 - ii. if the employee returns to duty after the thirty (30) calendar day period has elapsed, he/she will not be subject to testing and should not be notified that the position he/she encumbers was selected for random testing.
- h. Drug and alcohol testing coordinators should identify the time, collection site, and deadline date that each selected employee must report for testing.. In making this determination, the testing coordinator should consider the business hours of the selected

collection site, the employee's work schedule (including assignment to a different work location), any planned leave, and upcoming state holidays. Employees selected for random alcohol testing must be tested within 2 hours (before or after) of performing safety-sensitive duties.

- i. On the designated testing date, the technical college drug and alcohol testing coordinator shall issue a memorandum (Attachment 4.8.1p2.a6. or 4.8.1p2.a7.) to each affected employee directing them to report for controlled substances or alcohol testing.
- j. The memorandum must be signed by the employee and the drug and alcohol testing coordinator. Included will be the date and time the test must be completed by and the penalty for refusing to take the test or for testing positive.
- k. An employee directed to report for controlled substances testing should be provide with the federal, DOT-specific Drug Testing Custody and Control Form (CCF) for presentation at the collection site. The generic Non-DOT-specific CCF may not be used by an incumbent of a safety-sensitive position as this is a violation of federal testing regulations. An employee reporting for alcohol testing will be provided a DOT Alcohol Testing Form at the collection site prior to testing.
- l. The drug and alcohol testing coordinator must complete the random Drug/Alcohol Testing Log for Safety Sensitive Positions (Attachment 4.8.1.p2.a3) and the employee must initial the log.
- m. All time spent by an employee in the testing process during regular work hours and during off-duty hours, to include travel time to and from the collection site, is considered "hours worked".
- n. Employees are eligible for a mileage reimbursement if a personal vehicle is used to report for testing.
- o. The expense of controlled substances testing is the responsibility of the TCSG and its technical colleges.

3. Reasonable Suspicion Testing

- a. A driver is subject to reasonable suspicion controlled substances or alcohol testing when there is reason to believe that he/she has violated a controlled substances or alcohol prohibition. In these instances, the determination that reasonable suspicion exists to require a driver to undergo a controlled substances or alcohol test must be based on specific, contemporaneous, articulable observations concerning a driver's appearance, behavior, speech, or body odors. NOTE: observations may include indications of the chronic and withdrawal effects of controlled substances.
- b. Alcohol testing may only be conducted when the employee is scheduled to perform safety-sensitive functions, and not more than two hours before or two hours following the performance of safety-sensitive duties.
- c. A reasonable suspicion determination may only be made by a supervisor, manager, or other technical college official (to include a campus police officer or security officer) who has been trained to make these determinations. The training must contain a minimum of one hour of training for alcohol and one hour for controlled substances and must cover the noted physical/appearance, behavioral, speech indicators of probable controlled substance or alcohol use.
- d. Prior approval of the System Office Director of Human Resources or General Counsel must be obtained before a reasonable suspicion controlled substance or alcohol test is conducted.
- e. A Reasonable Suspicion Alcohol or Drug Testing Behavior/Incident Documentation Form (Attachment 4.8.1p2.a8.) must be completed by the referring technical college

supervisor/manager/official. NOTE: the form must be signed by the college representative.

- f. When it is determined that an employee will be tested for the presence of a controlled substance or alcohol, the employee will not be permitted to drive to and from the collection site. Instead, the employee must be transported to and from the collection site by a technical college representative.

4. Post-Traffic Accident Testing – Commercial Motor Vehicle

- a. A driver involved in an on-the-job traffic accident while operating a commercial motor vehicle is required to undergo controlled substances and alcohol testing as soon as possible following the accident if:
 - i. the accident involved the loss of human life; or,
 - ii. if the driver is cited for a moving violation as a result of the accident, provided the accident involved either a person being medically evacuated from the scene or the vehicle being towed from the scene. Note: The citation must be given within 8 hours of the accident for alcohol testing and 32 hours of the accident for controlled substances testing.
- b. If a controlled substances test is not administered within thirty-two (32) hours following a traffic accident, the technical college shall cease attempts to administer the test. Instead, the college shall prepare and maintain on file a record stating the reasons the test was not promptly administered. These records shall be submitted to the FMCSA upon request.
- c. If an alcohol test is not administered within 2 hours following a traffic accident, the college shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If the alcohol test is not administered within 8 hours following the traffic accident, the technical college shall cease attempts to administer the test. Instead, the college shall prepare and maintain on the same record. These records shall be submitted to the FMCSA upon request.
- d. A driver subject to post-traffic accident testing shall remain readily available for such testing or he/she may be considered to have refused to submit to testing.
- e. The results of a urine test for the use of controlled substances, or a blood or breath test for alcohol conducted by federal, state or local officials having independent authority to conduct the test shall be considered to meet the testing requirements of this Paragraph, provided that such test(s) conform to applicable federal, state or local controlled substances/alcohol testing requirements and the results are obtained by the technical college.

5. Controlled Substances Testing Process & Observed Samples

- a. After having been directed to report for controlled substances testing, an applicant or employee should immediately report to an authorized collection site with a picture ID and the appropriate Custody and Control Form.
- b. An observed sample may be required when a site collection representative determines that a sample temperature is outside of the acceptable range of 90 degrees to 100 degrees Fahrenheit; when the sample has an unusual appearance; or when the donor exhibits unusual behavior during the collection process. After consultation with the System Office General Counsel and the Designated Employer Representative, the General Counsel, System Office Director of Human Resources, or technical college president, as applicable, may direct the collection site to collect an observed sample if he/she believes that the donor may attempt to alter or falsify the sample.

- c. An immediate collection under direct observation with no advance notice to the employee will be required if:
 - i. The laboratory reported to the MRO that a specimen is invalid, and the MRO reported that there was not an adequate medical explanation for the result;
 - ii. The MRO reported that the original positive, adulterated, or substituted result had to be cancelled because the test of the split specimen could not be performed; or
 - iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation.
- d. Unless approved by the System Office General Counsel, a sample will not be collected as an observed sample unless the necessity has been confirmed by a supervisor of the site representative or other appropriate collection site personnel.
- e. Following a self-disclosure of a substance abuse problem, an observed sample will be required on a return-to-duty and all follow-up testing.
- f. An observed sample may only be conducted by a representative of the collection facility or subcontractor who is the same gender as the gender with which the donor identifies, which may be the same as, or different from, the donor's sex assigned at birth.
- g. The collection site will provide the donor (i.e., an applicant or employee) with a copy of the completed Custody and Control Form. The applicant/employee must present his/her copy of the Form to the drug and alcohol testing coordinator to acknowledge that testing was completed. The testing coordinator shall retain a copy of the Form and the applicant/employee shall retain the copy provided by the collection site.

6. Alcohol Testing Process and Accompanying Consequences

- a. After having been directed to report for alcohol testing, an employee should immediately report to the designated testing site with a picture ID.
- b. Testing will be accomplished through an alcohol breath test conducted by a certified Breath Alcohol Technician using an evidential breath testing device.
- c. If the initial test results reflect an alcohol concentration of less than 0.02 percent, the employee will be provided a copy of the completed alcohol testing form for presentation to the technical college drug and alcohol testing coordinator immediately upon returning to work. An employee with test results reflecting any measureable alcohol concentration will be permitted to return to duty only with the authorization of the technical college president or his/her designee.
- d. If the initial test results reflect an alcohol concentration of 0.02 percent or higher, a confirmation test shall be conducted not less than fifteen (15) nor more than twenty (20) minutes after the first test.
- e. If the alcohol confirmation test indicates an alcohol concentration of 0.02 percent or higher, the employee will be immediately removed from his/her duties and not be permitted to drive a vehicle. The employee should be assisted with making necessary transportation arrangements. The employee will also be placed in suspension without pay status for a minimum period of twenty-four (24) hours and until such time as a return-to-duty test is performed with a negative test result. Formal, written notification should be provided to the employee using Attachment 4.8.1p2.a9.
- f. Any formal disciplinary action initiated by a technical college in response to an employee's alcohol test result (in addition to placement on suspension without pay), shall follow applicable provisions of the TCSG procedure governing Positive Discipline or, as applicable, the TCSG procedure governing Adverse Employment Actions.

- g. If the employee is retained, the following must take place before the employee is returned to duty.
 - i. The employee will be provided a list of qualified SAPs or contact information for an SAP network that will offer qualified SAPs to the employee.
 - ii. The employee will be evaluated by an SAP and complete any education, counseling, or treatment recommended by the SAP.
 - iii. A follow-up evaluation must be completed by the same SAP.
 - iv. The employee must complete a return-to-duty alcohol test with a result of less than 0.02.
 - v. The employee will be subject to unscheduled, unannounced follow-up testing in accordance with the plan prescribed by the SAP, for up to five years. The technical college may not require more testing than prescribed by the SAP.
- h. The drug testing coordinator must report any alcohol violations to the Clearinghouse no later than the close of the third business day following the date that they received the information.

7. Positive Controlled Substances Test Results and Accompanying Consequences

- a. An applicant or employee whose drug test result is reported by the MRO as positive, adulterated, or substituted will be immediately dismissed or have the offer of employment withdrawn. The individual should be notified of this action through the use of the appropriate attachment (Attachment or 4.8.1p2.a11 or 4.8.1p2.a12. The testing coordinator will provide the applicant or employee with a list of qualified Substance Abuse professionals (SAPs) or contact information for an SAP network that will offer qualified SAPs to the applicant or employee.
 - i. If the applicant or employee is employed with another State agency/entity, the testing coordinator must inform the Department of Administrative Services (DOAS), who will then inform the current employing agency.
 - ii. If the applicant or employee is employed with another technical college, the testing coordinator must inform DOAS and the System Office Director of Human Resources, who will inform current employing college.
- b. The applicant or employee shall also be disqualified from state employment for a period of two (2) years from the date of testing.
- c. The dismissal action referenced above shall be initiated pursuant to the TCSG procedure governing Positive Discipline or, as applicable, the TCSG procedure governing Adverse Employment Actions.
- d. The effective date of the dismissal for an employee covered under Positive Discipline shall be the date of notification.
- e. The MRO will report all verified positives, adulterated or substituted samples, and any refusal-to-test determinations to the Clearinghouse within two business days of the determination or verification.

8. Refusing Testing and Accompanying Consequences

- a. For purpose of DOT regulated alcohol and drug testing, a driver "refuses" or is considered to have "refused" to submit to alcohol or drug testing when he/she:
 - i. expressly declines to submit to testing;
 - ii. fails to appear/report for testing in a timely manner after proper notification by a technical college drug and alcohol testing coordinator or other college official;
 - iii. fails to remain at the testing site until the testing process is completed;

- iv. fails to provide adequate breath for alcohol testing without a valid medical explanation;
 - v. fails to provide adequate urine for drug testing without a valid medical explanation;
 - vi. provides a urine sample determined by the testing laboratory and the Medical Review Officer to have been adulterated or substituted;
 - vii. in instances of a directly observed or monitored collection in a drug test, he/she fails to permit the observation or collection of the specimen;
 - viii. fails to undergo a medical examination or evaluation, as directed by a Medical Review Officer as a part of the verification process;
 - ix. engages in other conduct that clearly obstructs or interferes with the testing process and/or fails to cooperate with any part of the testing process, to include tampering with or attempting to adulterate the specimen;
 - x. when the Medical Review Officer verifies the testing laboratory's determination and reports an adulterated or substituted test result, or,
 - xi. leaving the scene of an accident without a valid reason or without the approval of a supervisor, manager, or other college official before alcohol and/or drug test(s) have been conducted.
- b. An applicant or employee who refuses testing will be immediately dismissed or have the offer of employment withdrawn. The individual should be notified of this action through the use of the appropriate attachment (Attachment 4.8.1p2.a10 or 4.8.1p2.a11. The testing coordinator will provide the applicant or employee with a list of qualified Substance Abuse professionals (SAPs) or contact information for an SAP network that will offer qualified SAPs to the applicant or employee.
 - i. If the applicant or employee is employed with another State agency/entity, the testing coordinator must inform the Department of Administrative Services (DOAS), who will then inform the current employing agency.
 - ii. If the applicant or employee is employed with another technical college, the testing coordinator must inform DOAS and the System Office Director of Human Resources, who will inform current employing college.
 - c. The applicant or employee shall also be disqualified from state employment for a period of two (2) years from the date of refusal.
 - d. The dismissal action referenced above shall be initiated pursuant to the TCSG procedure governing Positive Discipline or, as applicable, the TCSG procedure governing Adverse Employment Actions.
 - e. The effective date of the dismissal for an employee covered under Positive Discipline shall be the date of notification.
 - f. Any refusal-to-test determinations that are made by the technical college drug testing coordinator must be reported to the Clearinghouse no later than the third business day following the determination. Any refusal-to-test determination made by the MRO will be reported by the MRO within two business days of making the determination.

9. Self-Disclosure of a Controlled Substances or Alcohol Problem

- a. An employee who notifies his/her president (or his/her designee) of a problem involving the use of controlled substances or alcohol shall maintain his/her employment provided:
 - i. the notification is submitted to the president or their designee in writing;
 - ii. the written notification must occur prior to: performing a safety-sensitive function; a directive to report for control substances or alcohol testing; or, an arrest for a criminal offense involving alcohol, a controlled substance, marijuana or, a dangerous drug. NOTE: an employee arrested for a criminal offense involving a

- controlled substance, marijuana, or a dangerous drug, is subject to disciplinary action up to and including dismissal as provided in the TCSG procedure governing Positive Discipline or, as applicable, the TCSG procedure governing Adverse Employment Actions; and,
- iii. the employee must agree, in writing, to the conditions outlined in this section.
- b. The employee must agree to the following:
- i. he/she must undergo an assessment by a Substance Abuse Professional (SAP) selected or approved by a technical college official from the list of qualified SAP's associated with the TCSG Employee Assistance Program provider;
 - ii. he/she agrees to fully comply with all educational and/or treatment plan recommendations developed by the SAP;
 - iii. he/she agrees to accept responsibility for all costs associated with following the educational and/or treatment plan.
 - iv. he/she agrees to provide the technical college president or his/her designee with written certification from the SAP regarding satisfactory completion of the recommended educational and/or treatment plan;
 - v. he/she agrees to undergo a return-to-duty controlled substances/alcohol test with the understanding that the result must be a "verified negative" as determined by a Medical Review Officer;
 - vi. he/she agrees to undergo periodic, unscheduled follow-up controlled substances/alcohol tests for up to five (5) years in accordance with the SAPs recommended plan.
 - vii. he/she understands that if he/she refuses to submit to controlled substances/alcohol testing or fails to comply with the terms of the agreement, he/she will be dismissed from employment;
 - viii. he/she understands that if a laboratory-confirmed positive controlled substances test is verified by a Medical Review Officer, or a breath alcohol test indicates any measurable alcohol concentration, he/she will be dismissed from employment; and,
 - ix. he/she understands that pursuant to applicable FMCSA regulations, he/she will not be permitted to perform safety-sensitive functions while the activities referenced in in this subparagraph are ongoing and until the technical college is fully satisfied that the employee has complied with all established conditions. NOTE: the inability to perform safety-sensitive functions may require the employee to use available paid leave or to request a leave of absence without pay to maintain employment.
- c. No employee may avail themselves of this entitlement more than once in a five (5) year period.
- d. The drug testing coordinator must report to the Clearinghouse any negative return-to-duty tests and any successful completion of all follow up tests no later than the third business day following the receipt of the information.

VII. Records Retention:

Pursuant to DOT and FMCSA regulations, the retention of records/documents associated with alcohol and drug testing must be maintained for the following designated periods:

Two Years:

Records pertaining to the alcohol and controlled substances collection process to include documents related to random selections, reasonable suspicion determinations, post-accident determinations, medical evaluations for insufficient amounts of urine and breath, supervisor and employee education

and training records, records of negative and cancelled controlled substances test results; and, alcohol test results with a concentration of less than 0.02 percent.

Three Years:

As required by the applicable provisions of 49 CFR Part 40.25, information obtained from an employee's previous employers regarding the individual's alcohol and controlled substances test results and/or documentation of efforts made to obtain this information.

Five Years:

Records of alcohol test results indicating an alcohol concentration of 0.02 percent or greater; records of verified positive controlled substances test results; documentation of refusals to take required alcohol and controlled substances tests, including substituted and adulterated test results; SAP results; all screening/testing logs and yearly summary of CDL alcohol and controlled substances testing activity.

Indefinite:

Records related to the education and training of supervisors and employees while the individual performs the functions which require the training and for 2 years after ceasing to perform those functions.