

POST-ACCIDENT TESTING AGREEMENT FOR DRIVERS OF MU VEHICLES

Marymount University establishes guidelines to be followed to protect the safety of individuals operating any motor vehicle on University business. Protecting our employee drivers, their passengers, and the general public is of the highest priority to Marymount University.

A. Constituents of Post-Accident Testing

Employees who are in an accident involving a University-owned vehicle operating on a public road that results in (1) a fatality; (2) bodily injury to a person who, as a result of the injury, immediately receives a medical treatment away from the scene of the accident; or (3) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle(s) to be transported away from the scene by a tow truck or other vehicle are subject to Post-Accident Testing.

Applicants offered employment as well as current employees must provide advance written consent for post-accident testing and release of test results to the University. Written procedures to be followed by the employee following an accident shall be maintained at all times in the glove compartment of the University commercial or owned vehicles.

B. Pre-Testing Procedure

As soon as possible following an accident involving a University owned vehicle, the driver(s) involved in the accident must be tested for alcohol and controlled substances. If an employee is injured in an accident and is unable to provide a breath sample or urine specimen, the University is authorized to obtain information from the testing site that would indicate alcohol or controlled substance use.

An alcohol test under this section should be administered within two (2) hours following the accident, but in no case more than eight (8) hours after the accident. A controlled substances test under this section must be administered within thirty-two (32) hours following the accident.

An employee who is subject to post-accident testing shall remain readily available for such testing. If the employee is not available for any reason, except temporarily leaving the accident scene to obtain assistance in responding to the accident or obtaining necessary emergency medical care, he/she will be deemed to have refused to submit to testing. An employee may not ingest food or drink during the period prior to testing.

Prior to completing post-accident testing, employees should first contact HRS informing the department of the incident. Employees subject to post-accident testing for an incident which occurs in-state is required to complete testing at any available INOVA testing sites. Those whom experienced the incident out of state is required to complete testing with Concentra testing sites.

In-State

To access the closest INOVA site to you, please visit: [<http://www.inova.org/healthcare-services/emergency-services/locations/index.jsp>]. For additional questions concerning INOVA please call the phone number pertaining to the site location closest to you.

Out of State

To access the closest Concentra site to you, please visit: [<http://maps.concentra.com/corporate/>]. For additional questions concerning Concentra please call the Concentra Customer Care Line at (866) 944-6046 (Hours of Operation for the Concentra Customer Care Line are 8AM-8PM, Monday-Friday).

C. Testing Procedure

All drug and alcohol test results must be in compliance with federal testing guidelines. The federal laws that provide drug free workplace and alcohol and controlled substances testing standards are:

- (1) Drug Free Workplace Act of 1988 and
- (2) Omnibus Transportation Employee Testing Act of 1991 (49 C.F.R. Parts 382, *et seq.*, FHWA Regulations on Controlled Substances and Alcohol Use and Testing and 49 C.F.R. Part 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs)).

All drug and alcohol testing shall be done by a laboratory approved by the National Institute of Drug Abuse (“NIDA”). All testing will be conducted from urine specimens or breath tests administered by qualified contractor personnel. Tests shall be conducted as specified in DOT regulations, 49 C.F.R. Part 40. Under these regulations, testing will be conducted for alcohol and five specific drugs:

- (1) Marijuana
- (2) Cocaine
- (3) Opiates
- (4) Amphetamines
- (5) Phencyclidine (PCP)

Supervisors are responsible for providing written documentation to include the amount of time taken between accident and testing and the reason for the delay any time alcohol testing is not performed within two (2) hour and drug testing is not performed within thirty-two (32) hours and forward the information to the HRS Director.

D. Test Results

I. Alcohol Test Results

1. If the results of the first test are negative, the testing laboratory will inform the employee and HRS of the NEGATIVE report and no further testing of the

specimen will be conducted. The Breath Alcohol Technician (BAT) shall forward the results of all alcohol tests to HRS.

2. If the result of the screening test is a blood alcohol concentration of 0.02 percent or greater, the BAT shall perform a confirmatory test within 20 minutes after the completion of the screening test, but not less than 15 minutes after the screening test.
3. If the result of a Blood Alcohol Concentration (“BAC”) test is equal to or exceeds 0.02 percent, the employee and HRS will be notified and the employee shall be removed immediately from all driving related duties and shall be subject to disciplinary action, which shall include termination of employment.
4. HRS will notify the Department Director who will make transportation arrangements to act.
5. The procedures in the “Positive Test Results”, must be followed.
6. Medical Review Officer (MRO) evaluation is not required for BAC tests.
7. If the confirmatory test is negative, the testing lab will so inform the employee and HRS.

II. Controlled Substances Test Results

1. If the result of the first test is negative, the testing laboratory will forward the results to the MRO and no further testing of the specimen will be conducted. MRO staff will “administratively review” the records and report the results to HRS. HRS will notify the department director. The Department Director will notify the employee of the negative results of the test.
2. If the result of the first test is POSITIVE, (results exceed the levels for any of the five drugs), a second, confirmatory test will be performed. The Laboratory shall forward the results of the test to the MRO for review. The MRO shall review and interpret confirmed POSITIVE test results. The MRO shall examine alternate medical explanations for any POSITIVE test results. This may include, but is not limited to, conducting a medical interview and a review of the employee’s medical history, or review of any other relevant biomedical factors. If the first sample is suspected of adulteration, the MRO shall recommend that the University obtain and analyze another sample from the employee.
3. The MRO shall afford the employee the opportunity to discuss a POSITIVE test result before reporting the result to HRS.

4. The MRO shall inform the employee of his or her right to request that the specimen be tested in a different NIDA approved laboratory for presence of the drug(s) for which a positive result was obtained. The MRO shall honor the employee's request if it is made within seventy-two (72) hours of the employee having been informed of a verified positive test result.
5. After contacting the employee, but in no case more than three business days after completing the review, the MRO shall provide HRS with the following information:
 - a) The controlled substances test being reported was conducted in accordance with 49 C.F.R. Part 40;
 - b) The name of the employee for whom the test results are being reported;
 - c) The reason for the test (e.g., pre-employment, random, post-accident, etc.);
 - d) The date and location of the test collection;
 - e) The identities of the person or entities performing the collection, analysis of specimens and serving as the MRO for the specific test; and
 - f) The verified test results of a controlled substances test, either positive or negative, and, if positive, the identity of the controlled substance(s) for which the test was verified positive.
6. If the MRO is not able to contact the employee, the MRO shall report to HRS that he or she has made and documented all reasonable efforts to contact the employee. HRS shall, as soon as practicable, ask the appropriate Department Director or his/her designee to direct the employee to contact the MRO before next driving a MU owned vehicle within twenty-four (24) hours, whichever is earlier.
7. If the MRO determines that there is a legitimate medical explanation for a positive test result, the MRO shall report the results as NEGATIVE.

III. Positive Test Results

1. In the event of a positive alcohol or controlled substances test result, the employee must be assigned to a non-safety sensitive position or non-driving, or be placed on personal leave or leave without pay until a determination is made regarding discipline and/or treatment. The employee's supervisor and/or department director must discuss individual cases with HRS.

2. An employee who is assigned to a non-safety sensitive position or non-driving, or who is relieved of his or her duties placed on Administrative leave or leave without pay until a determination is made regarding discipline and/or treatment relieved of his or her duties shall not be permitted to operate a motor vehicle.
3. A thorough review of the circumstances will be conducted by HRS prior to taking any disciplinary action. The disciplinary action taken will be in accordance with MU's progressive discipline procedures.

IV. Test Records

1. Test results will be sent to the HRS Benefits Manager. The records pertaining to the alcohol and controlled substances testing program then shall be maintained by HRS. Access to these records shall be limited to designated staff in HRS.
2. Both positive and negative drug test information shall be maintained by HRS. POSITIVE drug test results shall be maintained for five years in the employee's personnel record. NEGATIVE test results shall be maintained separate from employee personnel records by HRS for a minimum of 12 months.
3. Except as required by law or expressly authorized or required by DOT regulations 49 C.F.R. Part 382. Test information maintained under the alcohol and controlled substances testing program will be released only to the employee, on written request, or to an identified person as directed by the specific written consent of the employee authorizing the release of the information.

E. Appeal

If any employee tests positive for use of illegal drugs, a confirming test will automatically be conducted on the employee's original specimen. The employee must pay for the confirmatory test before it is performed. If the confirmatory test indicates the employee has not used illegal drugs in violation of this Policy, any subsequent action will be based on the results of the confirmatory test. In addition, the University will reimburse the employee for the costs of confirmatory testing, and will purge the employee's record of the results of the initial test.

If the confirmatory test indicates the employee has used illegal drugs in violation of this Policy, the results of the initial test will control for the purposes of any subsequent action. If the second test confirms the initial positive result, a physician at the facility doing the testing will review the test results to determine if a legitimate medical reason exists for the positive result. Any subsequent action will be based on the physician's findings.

The employee may elect to provide, in writing, information to rebut and/or explain the results of the test. This information will be evaluated by a physician at the facility that performed the

testing, and a determination as to the appropriate subsequent action will be made by the physician at the facility that performed the testing.

FAILURE TO REPORT CONDITIONS NOTED IN DRIVER REQUIREMENTS ABOVE IS A VIOLATION THAT COULD RESULT IN DISCIPLINARY ACTION, UP TO AND INCLUDING DISMISSAL.

Marymount University will adhere to the Federal and State Laws regarding both drug and alcohol use. These sanctions will be imposed to any employee who violates these laws, in addition to the University's employment action which may include termination.

As an employee of Marymount University, I agree to abide by these terms of the Drug and Alcohol Usage and Testing Policy. I also agree to the release of test results to MU Human Resource Services for random or reasonable suspicion testing.

Printed Name: _____

Signature: _____

Date: _____

