The City of
OKLAHOMA CITY
HUMAN RESOURCES DEPARTMENT
420 W. Main, Suite 110; Oklahoma City, Oklahoma 73102

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IMPORTANT INFORMATION

Candidates and City of Oklahoma City Employees Need to Know About United States Department of Transportation (DOT) Drug and Alcohol Testing

Federal Motor Carrier Safety Administration (FMCSA) Regulation § 382.601 requires the City of Oklahoma City to provide educational materials regarding alcohol and controlled substances testing prior to referring individuals for testing.

Q: What categories of drivers are subject to the provisions of FMCSA Regulation § 382.601?

A: Anyone designated by United States Department of Transportation (DOT) Federal Motor Carrier Safety Administration Regulations as occupying a safety-sensitive position is subject to DOT drug and controlled substances testing. For the City of Oklahoma City, this means positions requiring a Commercial Driver License Class A, B, or C (including any required endorsements) as specified on approved City of Oklahoma City job descriptions.

Q: What period of the workday is the driver required to be in compliance with FMCSA Regulations?

A: Essential job functions are listed on job descriptions as well as vacancy announcements. You are required to be in compliance with FMCSA Regulations any time you are on duty and working within the scope of your employment with the City of Oklahoma City. This includes all time from the time you begin to work, or you are required to be in readiness to work until the time you are relieved from work and all responsibility for performing work.

Q: What driver conduct is prohibited?

A: You must not use or possess alcohol or any illicit drug while assigned to performing driving functions or while actually performing driving functions. This means you must not be on duty or operating a City vehicle or performing any job duties while under the influence of alcohol or illicit drugs. You must not be in possession of alcohol or illicit drugs during duty time or while on City of Oklahoma City premises. **Employees in job classifications requiring driving can be subject to disciplinary action up to and including termination if they test positive for marijuana components or metabolites, even if they possess a medical marijuana license.**

You must not report for duty within four hours after using alcohol or remain on duty while having an alcohol concentration of 0.04 percent or greater.

You will be put out-of-service for 24 hours if you have any detectable amount of alcohol under 0.04 percent.

You must not report for duty, drive a City-owned vehicle or equipment, or remain on duty when you have used a prescribed medication that could impair your ability to perform your essential job functions.

You must not report for duty, drive a City-owned vehicle or equipment, or remain on duty when you have used any drug or controlled substance, except when the use is pursuant to the instructions of a licensed practitioner/physician or dentist, and the licensed practitioner/physician or dentist has advised you that the substance will not adversely affect your ability to perform your essential job functions. **Employees in job classifications requiring driving can be subject to disciplinary action up to and including termination if they test positive for marijuana components or metabolites, even if they possess a medical marijuana license.**

It is your responsibility to notify your supervisor that you are taking any medication, drug or controlled substance that may impact your ability to operate a vehicle or other City equipment.

You must not refuse to submit to any test for alcohol or controlled substances.

You must not refuse to submit to any test by adulterating or substituting your specimen.

Candidates refusing to undergo testing or with a confirmed positive test will not be offered employment.

City of Oklahoma City employees refusing to undergo testing will be cause for a conclusion of an adverse inference and the employee will be subject to disciplinary action up to and including termination.

Failure or refusal to sign the consent form and to submit to reasonable suspicion testing will be cause for a conclusion of an adverse inference relative to the employee being under the influence, as well as a charge of insubordination, and the appropriate disciplinary action, up to and including termination, will be administered.

Q: What are the circumstances under which the driver will be tested for alcohol and/or controlled substances including post-accident testing under § 382.303(d)?

A: The City of Oklahoma will administer testing as follows:

1. **Pre-Employment Testing**
   The City of Oklahoma will require all selected candidates to complete a drug test and receive a negative result before they begin operating a commercial motor vehicle, as required by § 382.301.
2. **Random Testing**
   The City of Oklahoma will conduct random, unannounced drug and alcohol testing at rates specified by the Department of Transportation. At minimum, these rates will include 50

percent of employees for drug testing and 10 percent for alcohol testing annually, per § 382.305.

3. **Post-Accident Testing**
   The City of Oklahoma will require post-accident testing under the conditions defined in § 382.303. Testing will occur when a crash involves any of the following:
   - A fatality, with or without a citation
   - Injuries requiring immediate medical attention combined with a citation
   - Disabling vehicle damage requiring a tow combined with a citation
4. **Reasonable Suspicion Testing**
   The City of Oklahoma will conduct reasonable suspicion testing when a supervisor observes specific behaviors or indicators suggesting that an employee may be impaired, in accordance with § 382.307.
5. **Return-to-Duty Testing**
   The City of Oklahoma will require return-to-duty testing after an employee has a positive test result, refuses a test, or violates drug and alcohol regulations. The employee must complete an evaluation with a Substance Abuse Professional (SAP) and provide a negative test result before resuming safety-sensitive duties, as required under § 382.309.
6. **Follow-Up Testing**
   Following a return-to-duty process, the City of Oklahoma will conduct follow-up testing as outlined in § 382.311. This will include at least six tests over a 12-month period and may continue for up to four years, based on the SAP's recommendations.

Further Information: Specifics related to the testing components listed above are detailed in Human Resources Bulletin 25-01 entitled, "Drug and Alcohol Testing Procedure," for non-represented job classifications; and AFSCME CBA Addendum C Drug and Alcohol Testing Policy, for represented job classifications. Links to applicable procedures or policies are provided in background materials.

Q: What procedures will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by § 382.303(d)?

A: Collection, storage, transportation, and testing procedures are conducted in accordance with rules established by the Oklahoma State Board of Health, applicable FMCSA Regulations, and federal/state statutes including the following:

Candidates and employees must present a picture ID (Oklahoma Driver License or City identification card, etc.) or be accompanied by an exempt supervisor/manager who can provide identification as the employer representative to the medical testing personnel representative prior to testing as required by NIDA regulations.

Testing facilities shall meet the qualifications and standards of and be licensed by the State Department of Health.

Samples shall be collected only by those persons "deemed qualified" by the State Board of Health.

Appropriate labeling of samples shall occur so as to reasonably preclude the probability of erroneous identification of test results.

Body component samples that are appropriate for drug (urine specimen) and alcohol (breath) testing will be collected with due regard to the privacy of the individual being tested.

A written record of the chain of custody of the sample will be maintained until the sample is no longer required.

A candidate or employee will be given the opportunity to provide notification of any information which they consider relevant to the test, including currently or recently used drugs or other relevant information, at the time the sample is taken.

Reporting levels utilized for identification of positive substance abuse results shall be those levels established by the DOT and FMCSA Regulations.

Any employee who is found to have a positive drug test may designate an appropriate testing facility to which the split sample will be sent for repeat testing. Such testing facility must also meet the standards of this section. Positive alcohol tests do not allow for a split sample to be sent to another facility.

Further Information: Specifics related to the testing components listed above are detailed in Human Resources Bulletin 25-01 entitled, "Drug and Alcohol Testing Procedure," for non-represented job classifications; and AFSCME CBA Addendum C Drug and Alcohol Testing Policy, for represented job classifications. A copy of the applicable procedure or policy is included in this educational packet.

Q: Is the driver required to submit to alcohol and controlled substances tests administered in accordance with these regulations?

A: Candidates refusing to test shall not be offered employment. Employees refusing to undergo testing shall be subject to disciplinary action up to and including termination. Employees found supplying or attempting to supply an altered sample or a substitute sample, not their own, by alternative means, shall be subject to disciplinary action, up to and including termination.

Q: What constitutes a refusal to submit to an alcohol or controlled substances test?

A: DOT Regulations and City policy prohibit you from refusing a test. Following are some examples of conduct that the DOT regulations define as refusing a test:

- Failure to appear for any test after being directed to do so by your employer.
- Failure to remain at the testing site until the testing process is complete.
- Failure to provide a urine or breath sample for any test required for federal regulations.

- Failure to permit the observation or monitoring of you providing a urine sample. (Tests conducted under direct observation or monitoring occur in limited situations. The majority of specimens are provided in private.)
- Failure to provide a sufficient urine or breath sample when directed, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure.
- Failure to take a second test when directed to do so.
- Failure to cooperate with any part of the testing process (e.g., refusing to empty your pockets when directed by the collector, behaving in a confrontational way that disrupts the collection process, and failure to wash your hands after being directed to do so by the collector).
- Failure to follow the observer's instructions (during a direct observation collection) to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- Admitting to the collector or Medical Review Officer that you adulterated or substituted the specimen.

Q: What are the consequences for refusing a test?

A: Refusal to undergo a test or a confirmed positive test shall result in a withdrawal of a conditional offer of employment. Employees refusing to undergo testing shall be subject to disciplinary action up to and including termination. Employees found supplying or attempting to supply an altered sample or a substitute sample, not their own, by alternative means, shall be subject to disciplinary action, up to and including termination.

Q: What are the consequences for drivers found to have violated these regulations?

A: In accordance with FMCSA Regulation § 382.201, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 percent or greater. The City of Oklahoma City, having knowledge that a driver has an alcohol concentration of 0.04 percent or greater, will not permit the driver to perform or continue to perform safety-sensitive functions.

In accordance with FMCSA Regulation § 382.205, no driver shall use alcohol while performing safety-sensitive functions. The City of Oklahoma City, having actual knowledge that a driver is using alcohol while performing safety-sensitive functions, will not permit the driver to perform or continue to perform safety-sensitive functions.

In accordance with FMCSA Regulation § 382.207, no driver shall perform safety-sensitive functions within four hours after using alcohol. The City of Oklahoma City, having actual knowledge that a driver has used alcohol within four hours, will not permit a driver to perform or continue to perform safety-sensitive functions.

In accordance with FMCSA Regulation § 382.209, no driver required to take a post-accident alcohol test under § 382.303 shall use alcohol for eight hours following the accident or until he or she has undergone a post-accident alcohol test, whichever occurs first.

In accordance with FMCSA Regulation § 382.211, no driver shall refuse to submit to a pre-employment controlled substances test under § 382.301; a post-accident alcohol or controlled substances test required under § 382.303; a random alcohol or controlled substances test required under § 382.305; a reasonable suspicion alcohol or controlled substances test required under § 382.307; a return-to-duty alcohol or controlled substances tested required under § 382.300; or a follow-up alcohol or controlled substances test required under § 382.311. The City of Oklahoma City will not permit a driver who refuses such tests to perform or continue to perform safety-sensitive functions.

In accordance with FMCSA Regulation § 382.213, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any drug or substance identified in 21 CFR 1308.11 Schedule I. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR Part 1308 except when the use is pursuant to the instructions of a licensed medical practitioner as defined in § 382.107, who is familiar with the driver's medical history and has advised the driver that the substances will not adversely affect the driver's ability to safely operate a commercial motor vehicle. The City of Oklahoma City, having actual knowledge that a driver has used a controlled substance, will not permit the driver to perform or continue to perform safety-sensitive functions. The City of Oklahoma City may require a driver to inform the City of any therapeutic drug use.

In accordance with FMCSA Regulation § 382.215, no driver shall report for duty, remain on duty, or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. The City of Oklahoma City, having knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances, will not permit the driver to perform or continue to perform safety-sensitive functions.

Q: What are the consequences for drivers found to have an alcohol concentration of 0.02 percent or greater but less than 0.04 percent?

A: You will be put out-of-service for 24 hours if you have any detectable amount of alcohol under 0.04 percent. [Oklahoma Department of Public Safety Commercial Driver License Manual] Additionally, the City of Oklahoma City will mandatorily refer you to the Employee Assistance Program, and you will be subject to disciplinary action.

Q: What are the effects of alcohol and controlled substances on an individual's health, work, and personal life?

A: Please refer to the attached educational materials.

Q: What are signs and symptoms of an alcohol or a controlled substances problem (the driver's or a co-worker's)?

A: Please refer to the attached educational materials.

Q: What are 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?

A: The City of Oklahoma City has an Employee Assistance Program (EAP) available to its employees. Employees who voluntarily participate in the EAP or are required to participate as a condition of continued employment, will be referred on a *confidential basis*. Participation in an assistance program may be covered by the employee's health insurance plan. However, any costs associated with the employee's participation in an assistance/rehabilitation program, which are not covered by the employee's insurance plan, will be borne by the employee.

Accrued leave may be used during the time an employee is participating in an in-patient treatment program. Leave without pay may be granted for those employees who have insufficient accumulated leave to complete the program.

Q: What is the United States Department of Transportation (USDOT) FMCSA Drug and Alcohol Clearinghouse?

A: The Clearinghouse is a secure online database that gives employers, the Federal Motor Carrier Safety Administration (FMCSA), State Driver Licensing Agencies (SDLAs), and state law enforcement personnel real-time information about commercial driver's license (CDL) and commercial learner's permit (CLP) holders' drug and alcohol program violations. The Clearinghouse contains records of violations of drug and alcohol prohibitions including positive drug or alcohol test results and test refusals. When a driver completes the return-to-duty (RTD) process and follow-up testing plan, this information is also recorded in the Clearinghouse.

Q. Are drivers of commercial motor vehicles required to register with the USDOT FMSCA Drug and Alcohol Clearinghouse?

A: Candidates/City employees being considered for positions with commercial licensure Job Requirements as specified on approved job descriptions or who drive or operate equipment requiring commercial licensure must submit electronic consent through the U.S. Department of Transportation's USDOT FMCSA Drug and Alcohol Clearinghouse granting the City access to the employees' records. Failure or refusal to consent to access will result in candidates/City employees being disqualified from consideration and City employees being subject to disciplinary action following an evaluation of current license requirements (e.g., driving). Registration to provide consent is available at: https://clearinghouse.fmcsa.dot.gov/register.

Q: How do I register to provide consent with the USDOT FMCSA Drug and Alcohol Clearinghouse?

A: You are being provided a copy of instructions for registering with the USDOT FMCSA Drug and Alcohol Clearinghouse.

Q: What personal information is the City of Oklahoma City required to collect and maintain for you because you hold a commercial driver license?

A: The City of Oklahoma is required to collect, maintain and report the following personal information for employees required to hold a commercial driver license to the USDOT FMCSA Drug and Alcohol Clearinghouse:

- Verified positive, adulterated, or substituted controlled substance test results;
- Alcohol confirmation test with a concentration of 0.04 or higher;
- Refusal to submit to any test required in the FMCSA Regulations or City policies;
- Employer's report of actual knowledge as defined by U.S. Department of Transportation Regulations to include: (1) On-duty alcohol use as defined in FMCSA Regulations § 382.205; off-duty alcohol use as defined in FMCSA Regulations § 382.207; (2) alcohol use following an accident as defined in FMCSA Regulations § 382.209; and (3) controlled substance use as defined in FMCSA Regulations § 382.213;
- Substance abuse professional report of the successful completion of a return-to-duty process;
- A negative return-to-duty test; and
- Employer's report of completion of follow-up testing.

Q: Does the City have a written Drug and Alcohol Testing Policy?

A: Yes. A copy of the applicable procedure or policy is included in this educational packet. Human Resources Bulletin 25-01, "Drug and Alcohol Testing Policy," for non-represented job classifications, and AFSCME CBA Addendum C entitled "Drug and Alcohol Testing Policy," for represented job classifications. These documents provide specific information on the City's procedure/policy related to the use of alcohol or controlled substances and are specifically based on the City's independent authority to promulgate the policy.

Q: Who has been designated to answer questions about the materials?

A: If you have any questions about these materials, you may contact the City of Oklahoma City, Human Resources Department (Employee and Labor Relations), at 405-297-2530.

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