

# Physical Environment and Properties

## Environmental Health & Safety

### Sec. 903-29: Drug and Alcohol Testing of Transportation Employees Policy

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**Responsible Administrator:** Director - Environmental Health & Safety

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#### References / Resources

- Federal Laws and Regulations
  - Omnibus Transportation Employee Testing Act of 1991 [Pub.L. 102-143, Title V.]\*
  - Department of Transportation Regulations 49CFR Parts 40, 382, 391,392,395\*
  - The Drug-Free Workplace Act of 1988 (Public Law 100-600, Title V, subtitle D)\*
  - \*Or current applicable laws or regulations
- University of California
  - [University Policy on Substance Abuse in the Workplace](#), November 1, 1990
  - Implementing Guidelines, December 1, 1990
  - [Personnel Policies for UC Staff Members](#)
  - University of California and AFSCME Agreement - [Service Unit](#)
- UCI Administrative Policies & Procedures
  - [Section 905-20](#), Driver Safety and Driving Records: DMV Employer Pull Notice (EPN) Program Procedures
  - [Section 903-30](#), Drug and Alcohol Testing of Transportation Employees Procedures

**Contact:** Occupational Health Programs Manager at (949) 824-6200 or [occhlth@uci.edu](mailto:occhlth@uci.edu)

#### A. Purpose and Scope

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This section describes UC Irvine policy required by federal regulations. These regulations are designed to protect the public by requiring employers to test transportation employees for the use of alcohol and drugs. The following summarizes applicable law; more complete information can be found in the sections of the Code of Federal Regulations cited in brackets.

#### B. Definition [49 CFR 382.107]

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1. Transportation Employee--any person who, in the course of University employment, operates a vehicle which meets one of the following criteria:
  - a. gross combination weight rating (including towed units if they have a rating of more than 10,000 pounds), or gross weight rating of 26,001 or more pounds;
  - b. designed to transport 16 or more passengers including the driver.

Occasional drivers and applicants who will meet the criteria are included. People for whom commercial license requirements are waived by law (e.g., firefighters with restricted license) are excluded.

2. Safety Sensitive Function--all on-duty time a transportation employee spends driving, waiting to drive, or performing work in or near a vehicle described in [B.1.](#) above. [382.107, 395.2]

## C. Policy

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1. A transportation employee shall not:
  - a. report for duty or remain on duty with an alcohol level of 0.04 or greater (See also [C.3.](#), below); [382.201]
  - b. use or be in possession of alcohol while on duty; [382.204]
  - c. use alcohol within four hours prior to reporting to duty;
  - d. use alcohol within eight hours after a fatal accident or an accident for which the employee receives a citation for a moving violation, or before undergoing a post-accident test, whichever occurs first; [382.209]
  - e. report for duty or remain on duty when the driver uses or tests positive for any controlled substance, except when the employee has provided his/her supervisor with a letter from a physician that the use is pursuant to the physician's instructions and that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle; [382.213, 382.215]
  - f. refuse to submit to any test required by this policy or related implementation plans. [382.211]
2. A transportation employee, other than an applicant, who is found to have violated any item in [C.1.](#) above:
  - a. is subject to all disciplinary measures, and has all the procedural rights, described in the applicable personnel policy or collective bargaining agreement;
  - b. shall not operate a vehicle as described in [B.1.](#) above until a return-to-duty test indicates an alcohol level of less than 0.02 or a negative result on a drug test, as appropriate to the violation; [382.309, 382.605c]
  - c. must be evaluated by a Department of Transportation-qualified substance abuse professional selected by the University. If the employee is identified as needing assistance in resolving drug or alcohol problems, the substance abuse professional may prescribe a rehabilitation program. The employee, if returned to duty, shall not operate a vehicle until the substance abuse

- professional determines that the rehabilitation program has been successfully completed; [382.605]
- d. must submit to follow-up testing as described in [C.5.f.](#) below; [382.311, 382.605c2ii]
  - e. shall be advised of all employee assistance resources available to evaluate, address and resolve problems associated with the misuse of alcohol and the use of controlled substances.
3. A transportation employee whose alcohol test indicates an alcohol concentration of 0.02 or greater but less than 0.04 may not return to a function which requires operation of a vehicle until the start of the next regularly scheduled duty period, nor less than 24 hours following the test. [382.505]
  4. All transportation employees shall be advised in writing of the federal requirements and the campus implementation of this policy and shall certify in writing the receipt of that information. All transportation employees shall be placed on the random testing pool list upon implementation of this policy.
  5. A transportation employee must be tested for drugs (marijuana, cocaine, amphetamines, opiates and phencyclidine) and alcohol in accordance with applicable federal regulations as follows:
    - a. Pre-employment -- An applicant for, or employee transferring to, a transportation employee job, as defined in [B.1.](#), above, must be tested for drugs before the first time a vehicle is to be operated. Job offers to applicants for transportation employee positions must be conditioned on meeting this requirement. [382.301]
    - b. Post-accident. A transportation employee who was operating a vehicle as described in [B.1.](#) above, at the time of a fatal accident, or who received a citation for a moving violation arising from an accident, must be tested as soon as practicable but in all cases within two hours for alcohol and within 32 hours for drugs. The employee must remain available for testing during this period or be deemed to have refused testing. [382.303]
    - c. Random testing. 25% of transportation employees will be selected per year for alcohol testing; and 50% for drug testing. An employee may be selected more than once per year. An employee who is notified of selection must report immediately to the test site. [382.305] All transportation employees shall be tested at least once every two years. [391.105]
    - d. Reasonable suspicion. When a supervisor who has received the training required by federal law has a reasonable suspicion, based on direct observation, that a transportation employee has violated the provisions of [C.1.](#) above, the employee must be tested immediately. The supervisor will arrange transportation to the test site. [382.307]
    - e. Return-to-duty -- See [C.2.b.](#) above.
    - f. Follow up testing - An employee who has a verified positive drug or alcohol test result must submit to at least six unannounced tests in the year following return to duty. [382.605,382.311]
  6. No supervisor with knowledge of a violation of this policy shall allow an employee he or she supervises to perform transportation duties. If a supervisor learns of a violation of this policy by an employee who is supervised by a different supervisor, the supervisor who learns of the violation shall notify the employee's supervisor.

7. Testing procedures are as required by relevant federal and state legislation and regulations. A DOT-qualified Medical Review Officer will receive all test results, verify test results, and maintain confidentiality of all records as required by law. A description of the testing procedures is available from the Human Resources Consultants (campus). [49 CFR 40]
8. Costs of testing and enrollment in the random pool will be recharged to departments quarterly.