



Purpose

Drug and alcohol abuse is a serious problem which causes grief for afflicted employees and significant costs to Salt Lake City Corporation. Our goal is to maintain a drug-free workplace in order to prevent errors, injuries, and other problems stemming from chemical/substance abuse.

The purpose of this procedure is to provide guidelines and information for employees and supervisors regarding alcohol and drug screening for random, follow-up, post-accident, reasonable suspicion, and repeat positive tests, and for pre-employment drug screening.

This procedure, which applies to all city employees, is intended to comply with the *Omnibus Transportation Employee Testing Act of 1991* and department of transportation rules covering commercial driver's license (CDL) operations. DOT tests will be completed prior to and kept completely separate from non-DOT tests in all respects. When arranging for testing services, HR consultants or designated department representatives will specify whether a test is a DOT test or a non-DOT test.

Pre-employment Screening Procedure

1. Supervisor contacts job candidate that they are being offered position contingent upon passing pre-employment drug screen and (when required) DOT physical and/or functional capacity evaluation. Instructs candidate they will receive an email with the drug testing information.
2. Recruiter sends an email to the candidate with the required information for the drug test.
3. Recruiter notifies both hiring authority and candidate of results of drug test.

CLD Holders: Random Testing

1. DER submits a current list of CDL holders to a third party administrator for each testing pool each month.
2. The third party administrator pulls a random list each month in accordance with FMCSA regulations.
3. DER notifies the supervisor or department designated representative.
4. Supervisor provides notice to randomly selected CDL operator(s) to be tested while on duty.
5. Supervisor advises CDL operator where screening will take place and advises employee they have a maximum of two hours to arrive at the site and be available for testing.

CDL Holders: Follow-up Screening

1. DER sets up random follow-up testing schedule with provider for all positive CDL holders.
2. An employee of the provider will notify the supervisor and DER of the random test per the schedule.
3. Supervisor notifies employee that day of random follow-up test and ensures the employee has time to test while on the clock.

CDL Holders: Post-Accident Screening

1. Employee must notify supervisor of accident as soon as possible.
2. Supervisor reports immediately to accident scene.
3. If accident involved loss of human life, or if a vehicle is towed from scene, and the employee received a moving traffic violation, or if there are other grounds for reasonable suspicion testing, supervisor advises employee they will need to undergo a drug and alcohol screen.
4. If employee is able to go with supervisor, supervisor contacts screening provider to advise that transported employee will soon arrive for drug and alcohol screen. Specifies DOT testing.
 - a. Testing is arranged as soon as possible, but not more than two hours from time of accident.
 - b. If accident occurs after screening provider's normal work hours, call to arrange an on-site screening. Screening location must have available restroom for on-call technician to perform testing.
5. After screening is completed, supervisor will arrange for the employee to get a ride home.
6. Supervisor places employee on paid administrative leave until advised of screening results.
7. If results are negative, supervisor calls employee back to work.



Reasonable Suspicion Testing

1. Supervisor observes and documents behaviors that suggests an employee may be under the influence of a chemical substance.
2. If another supervisor is available, asks them to observe employee's appearance and behavior.
3. If employee appears impaired, advises employee that they will be taken for screening under the reasonable suspicion provisions of the city's drug and alcohol policy. Screening must take place within eight hours. Note: The supervisor is not required to perform an alcohol test when an employee is caught with alcohol in their possession. Under city policy, alcohol possession goes beyond reasonable suspicion and the supervisor is required to immediately remove the employee from duty.

An employee's appearance, performance, behavior, speech, or body odor may support reasonable suspicion that the employee is impaired by drugs or alcohol. A reasonable suspicion determination should be supported by two or more of the following:

- a. Discovery or presence of illegal or suspicious substances or materials in an employee's possession or within the employee's control;
- b. Observations of an employee ingesting, injecting, smoking, or inhaling a prohibited substance;
- c. Odor of alcohol or residual odor peculiar to some chemical or controlled substances; or
- d. Poor physical coordination, slow reactions, slurred speech, hand tremors, unsteady walking, dilated or constricted pupils, disorientation, or unusual restlessness.

Other events, actions, or admissions by the employee that may support a reasonable suspicion determination, include the following:

- a. Changes in work performance;
 - b. Increased accidents or injuries;
 - c. Repeated failure to follow instructions or operating procedures;
 - d. Poor judgment and difficulty in concentration;
 - e. Uncharacteristic inability to follow a series of consecutive directions in a predictable and/or logical manner;
 - f. Changes in personal hygiene;
 - g. Social withdrawal, including isolation, overreacting to criticism;
 - h. Flagrant disregard of safety procedures;
 - i. Abusive, loud, combative, aggressive, threatening, fearful, paranoid, or other uncharacteristic behavior;
 - j. An accident or near-accident in which employee carelessness may be a contributing factor;
 - k. Credible information received by a city supervisor or officer suggesting that an employee may be abusing alcohol, a controlled substance, or using illegal drugs;
 - l. Unexplained or frequent absenteeism; or
 - m. Arrest or conviction for violation of a criminal drug statute or an illegal act involving drug or alcohol abuse.
4. Supervisor drives employee or assigns someone to drive employee to screening provider facility. If after screening provider's normal work hours, calls screening facility and requests on-site testing. Screening location must have available restroom for on-call technician to perform testing.
 5. After screening is completed, supervisor makes arrangements for employee to get home.
 4. Supervisor places employee on paid administrative leave until advised of screening results.
 5. Supervisor and second observer, if appropriate, documents the behavior that led them to the decision to send the employee for a screening.
 6. If results are negative, supervisor calls employee back to work.
 7. If results are positive, see positive test results section.



Testing and Notification Process:

Breath Alcohol Screen

1. This test will be performed at the screening provider using a breathalyzer.
2. If test is negative, employee returns to job duties.
3. Screening facility notifies HR Business Partner or designated department representative.
Note: If employee is also tested for drugs, employee would **not** be returned to job duties until supervisory personnel receive notification of a negative screening result.
4. If alcohol screen test is positive, technician conducts confirmation test 15 minutes later.
5. If confirmation test is positive, technician:
 - a. Advises employee of result while employee is still at testing site.
 - b. Notifies HR Business Partner or designated department representative.

Drug Screen

1. This test will be performed at screening provider facility using a urine sample.
2. Screening facility will send the sample to the lab to be tested.
3. The lab will send the results to the MRO to report out the results on their website.
4. If the result is positive, the MRO contacts employee to determine cause for positive result.
5. If employee does not return MRO's calls or messages, the MRO notifies the DER they are unable to reach the employee. The DER attempts to reach the employee also. If the employee does not return the call within specified time frame, the MRO reports the test result as positive to the DER.
6. Once employee provides the required information, the MRO makes a determination whether the test is positive or negative.
7. If the employee does not provide required information or the substance is illegal, the MRO will deem the test as positive and then notify the DER of the result.
8. The DER notifies the employee's supervisor as soon as possible of the positive result.

Positive Test, Including Cases Treated as Positive Due to Refusal to Test

Alcohol

CDL holders only: If the confirmation alcohol breath test result is at a concentration of .02 to .04, the employee cannot perform safety sensitive duties for 4 hours. (Test is conducted by a breath alcohol technician (BAT) at screening facility.) If the test is .04 or greater, the test is considered positive under the FMCSA regulations for CDL holders.

Drugs

CDL holders will be subject to the cut-off limits as determined by the FMCSA. Non-CDL holders will be subject to the cut-off limits as determined by generally accepted limits.

Refusal to Test

Refusal to test is treated the same as a positive test result.

Except for a pre-employment test, employee is deemed to have refused to take a required test when they:

- a. Fail to appear for test within a reasonable time after the supervisor directs them to do so.
- b. Fail to remain at the screening facility until the testing process is complete.
- c. Fail to provide a urine specimen for any required drug test.
- d. In the case of a directly observed or monitored-collection drug test, fail to permit the observation or monitoring of the specimen. Fails to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if employee has any type of



prosthetic or other device that could be used to interfere with the collection process. (Observer will be the same gender as employee.)

- e. Fail to provide a sufficient amount of breath or urine when directed and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
Note to HR Business Partner or designated department representative: When the collector informs you that the employee has not provided a sufficient amount of breath or urine, you must, after consulting with the MRO, direct the employee to obtain, within five days, an evaluation from a licensed physician, acceptable to the MRO, who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen.
- f. Fail or declines to take an additional drug or alcohol test the employer or collector has directed employee to take.
- g. Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the designated department representative. (In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test.)
- h. Fail to cooperate with any part of the testing process (e.g., refuses to empty pockets when directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector, or as a DOT employee taking a DOT alcohol test, refuses to cooperate or sign a DOT alcohol testing form (ATF) as instructed.
- i. Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- j. Attempt to tamper with urine specimen, as evidenced by temperature out of range, color, or odor, or presence of foreign objects or material, or other signs of tampering.
- k. Admit to the collector or MRO that they adulterated or substituted the urine specimen.

When MRO reports a positive drug test specimen is dilute

If MRO informs DER that a positive drug test was dilute, the test is to be treated as a verified positive test. Employee is not directed to retest.

Note to HR Business Partner or designated department representative: If dilute specimen was negative, and if MRO directs that a recollection must be conducted under direct observation (because the creatinine concentration of the specimen was equal to or greater than 2 mg/dL but less than or equal to 5mg/dL), immediately arrange a recollection.

Addressing Positive Drug and/or Alcohol Tests

The *referral-and-return-to-duty process* should be seen as an alternative to employment termination, subject to departmental discretion based on the circumstances of each case. It does not preclude termination of employment or other discipline, which may occur on the first offense. Particularly if notification of a confirmed positive test represents a repeat offense, the department may choose to bypass the following procedure and move directly to a pre-determination hearing.

When an alcohol confirmation test is positive, or when the MRO verifies the accuracy of a positive drug test or concludes that a result is to be treated as positive (including refusal to test):

1. Supervisor immediately removes employee from duties, if they are still in the workplace.
2. Supervisor places employee on paid administrative leave pending disciplinary action.
3. Supervisor coordinates with HR Business Partner to decide course of action and start the discipline process.
4. Supervisor removes employee from paid administrative leave once decision letter is issued. Employee takes suspension time as outlined in the decision letter or the employee is separated from employment.



5. If termination is not the decision, 6 random drug tests over the next 12 months will be included in the decision letter.

If termination is not the decision, CDL holders must do the following per FMCSA regulations in addition to the steps above:

1. Supervisor works with HR Business Partner to refer employee to substance abuse professional (SAP).
2. Employee will make appointment with SAP.
3. SAP meets with employee to determine appropriate action.
4. Employee signs release-of-information form at first meeting to allow SAP to confirm attendance and discuss treatment recommendations with DER.
5. Employee attends required classes and/or other treatment recommended and checks in with SAP as required.
6. Upon completion of recommended program, SAP communicates with DER when employee is ready to return to work.
7. Employee contacts HR Business Partner to schedule the return-to-work (RTW) test at screening facility. Negative RTW test must be achieved within four weeks of a decision letter being issued.
8. HR Business Partner coordinates with DER to schedule employee for RTW screen at screening facility.
9. SAP provides DER written recommended future action (including any follow-up testing) and time frames. Recommends a minimum of six unannounced, follow-up drug tests during the coming 12-month period.
10. After receiving negative RTW result, HR Business partner discusses with supervisor the employee's return-to-work date.
11. Employee will use their paid time off balances to cover time needed between the issuance of the decision letter and the return-to-work date. If the employee does not have sufficient paid time off to cover the time off, the employee will be required to take time off with no pay.

Things to consider for course of action:

1. Is this the first offense?
2. Where is the employee currently in the progressive disciplinary process?
3. Are there other issues that are involved? For example, was someone hurt by their actions?
4. If the employee is not a CDL holder, the employee is not required to follow the SAP process. The supervisor can offer the employee an opportunity to go to a counselor that specializes in substance abuse. If the employee requests to meet with a counselor the following things need to be considered:
 - i. HR Business Partner will contact the DER to set up the counseling.
 - ii. HR Business Partner should contact HR Leave Team to send the FMLA and SDI paperwork, if appropriate.
5. Non-CDL holders do not have to take a return to work drug test.

Background Checks for Drug and Alcohol Testing Records of Candidate for CDL Operation

Supervisor

1. Asks HR Business Partner for assistance.

HR Business Partner or Designated Individual Performing Background Check

1. Asks candidate seeking to perform safety-sensitive duties for the first time—or employee being considered for transfer to a safety-sensitive position—to provide written consent for the city to request, from any DOT-regulated employer(s) employing the employee during any period during the two years before the date of the employee's application or transfer, the following information:
 - a. Alcohol tests with a result of 0.02 or higher alcohol concentration;
 - b. Verified positive drug tests;
 - c. Refusals to be tested (including verified adulterated or substituted drug test results);



- d. Other violations of DOT agency drug and alcohol testing regulations; and
 - e. With respect to any candidate/employee who violated a DOT drug and alcohol regulation, documentation of the candidate/employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee.
 - f. The information obtained from a previous employer includes any drug or alcohol test information such as previous employer obtained from previous employers as applicable to DOT agency regulations.
2. If feasible, obtains and reviews this information before the candidate/employee first performs safety-sensitive functions.
 3. If not feasible, obtains and reviews the information as soon as possible. However, informs hiring authority that employee must not be permitted to perform safety-sensitive functions after 30 days from the date on which the employee first performed safety-sensitive functions, unless a good faith effort to obtain this information has been documented.
 4. If information discloses candidate/employee has violated a DOT agency drug and alcohol regulation, advises hiring authority that candidate/employee must not be allowed to perform safety-sensitive functions unless information is obtained that the candidate/employee has subsequently complied with the return-to-duty requirements established in **section F** above and DOT agency drug and alcohol regulations.
 5. Provides to each of the employers from whom information is requested under step 1 above, the candidate's/employee's written consent for the release of the information.
Note: The release of information must be in any written form (e.g., fax, e-mail, letter) that ensures confidentiality. The previous employer must maintain a written record of the information released, including the date, the party to whom it was released, and a summary of the information provided.
 6. Asks the candidate/employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the candidate/employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years.
 7. If the candidate/employee admits that he or she had a positive test or a refusal to test, advises hiring authority to not allow the candidate/employee to perform safety-sensitive functions, until and unless he/she documents successful completion of a return-to-work process such as outlined in **section F** above.
 8. Maintains a written, confidential record of the information obtained from previous employer(s) or of the good faith efforts made to obtain the information. Retains this information for three years from the date the employee first performs safety-sensitive duties.

HR Team or Designated Individual

If asked by a DOT-regulated employer to provide the information described in the foregoing procedure about a city employee's drug and alcohol testing record, you must forward the request to the designated HR Business Partner to complete who will immediately release the requested information to the employer making the inquiry, and document what was sent to whom and when.