

# Procedure: 4.8.1p1

## Non-Federally Regulated Drug and Alcohol Testing

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**Adopted:** November 3, 2011



### **I. PURPOSE:**

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 as well as all associated Technical Colleges.

Based on these goals, the TCSG has established drug and alcohol testing protocols to prevent the hiring and/or the continued employment of individuals who may cause harm to themselves or others, which 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.

According to related authority, it is expressly prohibited for a TCSG employee to manufacture, distribute, dispense, sell, possess, or use illegal drugs, unauthorized drugs, prohibited inhalants, or other controlled substances, including prescription medications prescribed to someone else. Also, as provided in the TCSG procedure governing Standards of Business Conduct, an employee's possession or use of alcohol or illegal drugs in the workplace (to include any clinical/ internship/ externship site) is expressly prohibited.

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 before performing safety-sensitive or high-risk 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 perform their assigned duties safely.

Further, it is expressly prohibited for any TCSG employee to possess/transport alcoholic beverages or illegal drugs in a state vehicle or to use/consume alcohol or illegal drugs while traveling in a state vehicle, a state-sponsored leased or rental vehicle, or a personal vehicle upon which the state is providing or could provide mileage reimbursement. Additionally, the unauthorized use of legally obtained drugs (including drugs prescribed by a health care provider) that may adversely affect job performance or safety is prohibited.

### **II. RELATED AUTHORITY:**

21 CFR Part 1308- Schedule of Controlled Substances  
Federal Drug-free Workplace Act of 1988

HHS Regulations, 53, Federal Register 11979, et seq., as amended  
O.C.G.A. §16-13-1 et seq. – Dangerous Drugs  
O.C.G.A. § 34-9-415 – Drug-free Workplace Programs  
O.C.G.A. § 45-20-90 et seq. – Random Drug Testing – High-Risk Jobs  
O.C.G.A. § 45-20-110 et seq. – Pre-Employment Drug Testing  
O.C.G.A. § 45-23-1 et seq. – Drug-free Public Work Force Act of  
1990. State Personnel Board 21  
TCSG State Board Policy 4.8.1 – Drug-Free Workplace

### **III. APPLICABILITY:**

All work units and Technical Colleges that are associated with the Technical College System of Georgia.

### **IV. DEFINITIONS:**

**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.

**Alcohol:** the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl and isopropyl alcohol.

**Alcohol Concentration:** 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.

**Alcohol Confirmation Test:** a breath test using an evidential breath testing (EBT) device 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." The devices are 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).

**Alcohol Screening Test:** the initial procedure to determine whether an employee may have a prohibited concentration of alcohol in their breath or saliva.

**Alcohol Use:** the drinking or swallowing any beverage, liquid mixture, or preparation containing alcohol, including medication.

**Applicant:** For this procedure, an individual who has been offered initial state employment with any work unit or Technical College associated with the Technical College System of Georgia in a 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 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.

**Breath Alcohol Technician (BAT):** conducts alcohol screening and confirmation tests by collecting and analyzing breath specimens using an approved evidential breath-testing (EBT) device

**Business Day:** Weekdays at a Technical College's administrative office or the administrative,

support, and programmatic offices in the TCSG System Office are open.

**Collection Site:** a location where individuals present themselves to provide a urine specimen to be analyzed for the presence of drugs/controlled substances, e.g., a physician's office, a commercial collection site, or a local hospital or clinic.

**Controlled Substance:** a drug, substance in Schedules I-V of O.C.G.A. §16-13-21, et seq., 21 CFR Part 1308 declared by state or federal law to be illegal for sale or use unless used with a valid prescription from a health care practitioner.

**Controlled Substances Act:** a federal law that regulates the prescribing and dispensing of psychoactive drugs, including stimulants, depressants, and hallucinogens. The Act lists five (5) categories of restricted drugs, organized by their medical acceptance, abuse potential, and ability to produce dependence.

**Dangerous Drug:** any drug or substance other than a controlled substance declared by state or federal law to be illegal for sale or use unless with a valid prescription from a health care practitioner.

**Drug and Alcohol Testing Coordinator:** the System Office or Technical College employee who functions as the entity's "Designated Employer Representative" (DER). In this capacity, the employee receives communication from the MRO, DOAS, and the DOAS contract service agency regarding drug testing and specific test results and is authorized to facilitate actions consistent with the provisions of this procedure.

**Drug Test or Drug Testing:** the collection and testing of urine consistent with the provisions of O.C.G.A. §34-9-415 and the mandatory Guidelines for Federal Workplace Drug Testing Programs (HHS Regulations, 53, Federal Register 11979, et seq. as amended).

**HHS:** the Department of Health and Human Services or any designee of the Secretary, Department of Health, and Human Services.

**High-Risk Work/High-Risk Position:** work/position where inattention or errors in judgment by the incumbent while on duty will have the potential for significant risk of harm to the employee, other employees, students, patients, or the general public. A position will not be designed as high risk if an incumbent does not regularly perform high-risk work even though others in the same job perform such tasks.

**Illegal Drug:** includes but is not limited to marijuana/cannabinoids (THC), cocaine, amphetamines/methamphetamines, opioids, phencyclidine (PCP), or any controlled substance or dangerous drug not used in a lawful manner. The term does not include any drug used according to and following a valid prescription and not otherwise prohibited by state or federal law. **NOTE:** For this procedure, an employee's use of another individual's valid prescription constitutes illegal drug use.

**Invalid Drug Test:** the result reported by an HHS-certified laboratory following the criteria established by HHS Mandatory guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

**Medical Review Officer (MRO):** an appropriately licensed physician who receives and

reviews laboratory-confirmed drug test results; allows an applicant/employee to discuss the test results; evaluates the results and information received in conjunction with an employee/applicant'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, rejected, substituted or invalid test result.

**Negative Result:** the result reported by an 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 valid.

**Positive Result:** the result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the established cutoff concentrations.

**Reasonable Suspicion:** a determination by a designated agency official that an employee may not be free of alcohol and/or illegal drugs while at work or performing assigned duties. Any such determination should be based on an employee's behavior, appearance, speech, body odor, and/or job performance.

**Refuses Testing or Refused Testing:** an applicant/employee "refuses to test" or is considered to have "refused testing" for alcohol and/or drugs when they:

1. expressly declines to submit to testing;
2. fails to appear/report for testing after proper notification;
3. fails to remain readily available for testing or who has left the testing site/location before submitting to the test;
4. fails to provide adequate breath for alcohol testing without a valid medical explanation;
5. fails to provide adequate urine for drug testing without a valid medical explanation;
6. provides a urine sample determined by the testing laboratory and the Medical Review Officer to have been adulterated or substituted; or,
7. engages in conduct that obstructs the testing process.

**Rejected Drug Test Result:** a decision by the laboratory to reject a specimen in response to an insufficient amount of urine, a temperature out of the normal range, etc.

**Sample or Specimen:** urine provided by a donor for drug testing. Where regulations allow for testing some other bodily fluid or tissue, such substance would also be considered a sample or specimen.

**Service Agent:** any person or entity, other than an employer's employee, 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.

**Split Specimen Collection:** a drug testing collection in which urine is divided into two separate specimen bottles: a primary specimen that is tested and a secondary specimen that remains unopened and available for retesting.

**Substance Abuse Professional:** an appropriately certified professional who evaluates employees who have violated drug and/or alcohol regulations or policies and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

**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.

**Technical College System of Georgia (TCSG):** a state agency established according 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.

**Verified Test:** a drug or validity test result from an HHS-certified laboratory that has undergone review and a final determination by a Medical Review Officer.

## **V. ATTACHMENTS:**

Attachment 4.8.1p1.a1. – Pre-Employment Drug Testing Acknowledgement

Statement Attachment 4.8.1p1.a2. – Pre-Employment Drug Testing

Notification - Sample Letter Attachment 4.8.1p1.a3. – Screening Log

Attachment 4.8.1p1.a4. – Random Drug Testing Selection – Sample

Memorandum Attachment 4.8.1p1.a5. – Reasonable Suspicion Behavior

Incident Form

Attachment 4.8.1p1.a6. – Alcohol Test Results – Unauthorized Leave Without Pay – Sample Letter

Attachment 4.8.1p1.a7. –Withdrawal of Employment Offer –

Sample Letter Attachment 4.8.1p1.a8. – Refusal – Sample Letter

Attachment 4.8.1p1.a9. – Positive Drug Test – Sample Letter

## **VI. PROCEDURE:**

### **A. General Provisions**

1. After an analysis is performed by a Technical College's Office of Human Resources, positions that should be subject to random drug testing and/or pre-employment drug testing shall be submitted in a memorandum from the college president to the Commissioner for their consideration. For System Office position(s), the initial analysis and accompanying written communication shall be conducted/initiated by the Deputy Commissioner, Assistant Commissioner, or their designee.
2. Following submission of a written request, the System Office Director of Human Resources, in consultation with the System Office General Counsel, will make a recommendation to the Commissioner as to whether the referenced position(s) are appropriate for drug testing.
3. All position(s) endorsed by the Commissioner will be submitted, in writing, to the Georgia Department of Administrative Services (DOAS) Human Resources Administration (HRA) Division for review and confirmation that the identified position(s) are appropriate for testing.
4. The System Office Director of Human Resources will be notified, in writing, by DOAS after a decision has been made. Upon receipt of the notification, the Technical College president or System Office official will be notified, in writing, of those position(s) that are appropriate for placement in a random drug testing pool and/or those position(s) that may be designated for pre-employment drug testing. No position may be designated for random and/or pre-employment drug testing unless the Commissioner and DOAS have approved the position.
5. All TCSG System Office and Technical College employees are subject to reasonable suspicion, return-to-duty, and follow-up testing for the presence of alcohol and/or illegal drugs.

6. Any change in a position's assigned duties and responsibilities that may impact placement in a random drug testing pool and/or designation for pre-employment drug testing should be reported to the System Office Director of Human Resources within fifteen (15) calendar days of any such change(s).
7. All job announcements for positions subject to random and/or pre-employment drug testing will include a statement that informs applicants that if a conditional offer of employment is made, they are subject to testing appropriate to the position sought.
8. When an interview is scheduled, an applicant should be notified verbally and/or through e-mail that employment in the position of interest is subject to and contingent upon completing a drug test.
9. A TCSG Pre-Employment Drug Testing Acknowledgement Statement (Attachment: 4.8.1p1.a1.) must be completed by an applicant offered employment in a position subject to pre-employment drug testing. If an applicant refuses to sign the Acknowledgement Statement, they will not be considered further for the position.
10. Only an HHS-certified laboratory (as selected by the State of Georgia's Department of Administrative Services and/or its contract service agent) will be retained to perform a urinalysis to detect the presence of illegal drugs. The laboratory must comply strictly with federally approved chain-of-custody procedures, quality control, 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 (i.e., the applicant or employee) who provided the sample to ensure that all tests can be correctly traced to the donor. An MRO shall be designated to receive all laboratory results from every type of drug test and will ensure that an individual whose laboratory-confirmed positive test result has been allowed to justify the test result.
11. Each Technical College will keep medical information related to drug and alcohol testing confidential; however, test results may be released as provided in federal or state law or other administrative proceedings or law enforcement investigations and litigation arising from such testing. An employee will be asked for consent before specific medical information is released to anyone or any entity other than those referenced above. NOTE: all discussions between an employee and an MRO concerning a positive test result are confidential unless the employee is considered a potential safety risk. In this instance, the MRO will contact a Technical College's drug and alcohol testing coordinator to communicate their concerns.

## **B. Drug & Alcohol Testing – Categories and Provisions:**

### **1. Pre-Employment Testing & Procedures**

- a. For purposes of this procedure, an "applicant" is defined as an individual who has been provided a conditional offer of employment with the TCSG System Office or a Technical College in a position subject to drug testing; a current TCSG employee who is an incumbent of a position not subject to pre-employment drug testing and who has been offered employment in a System Office or Technical College position subject to pre-employment drug testing; or, is a current TCSG employee who has been offered employment in a different state agency/organization in a position subject to pre-employment drug testing. **NOTE:** pre-employment drug testing is not required when a TCSG employee who has previously been tested moves (without a break-in service) between jobs in the System Office or a Technical College subject to drug testing.
- b. An applicant offered full- or part-time employment in one of the following occupational areas/jobs is required to undergo pre-employment drug testing and receive a negative test result:

- i. a law enforcement position serves in a Technical College's campus police department. The incumbent must be a P.O.S.T. certified peace officer whose duties and responsibilities include carrying a firearm and, as applicable, exercising arrest powers. **NOTE:** the selected candidate for a security position (not P.O.S.T.-certified) is not subject to pre-employment drug testing as they does not engage in "high risk" work;
  - ii. an adult education instructor or other instructional/support position assigned to a Georgia Department of Corrections (GDC) or Georgia Department of Juvenile Justice (DJJ) facility with responsibility for the delivery of instructional services to adult or juvenile offenders, provided such testing is mandated, in writing, by the respective GDC or DJJ facility of assignment in conjunction with established GDC or DJJ policy;
  - iii. a health sciences faculty position assigned to/associated with a public or private clinical/internship/externship site or agency (e.g., a hospital, medical center, laboratory, etc.) with responsibility for supervising students as a part of their certificate/diploma/degree program. An applicant is subject to drug testing only if the site/agency mandates such testing. This requirement should be documented, in writing, in the accompanying Memorandum of Agreement or a Memorandum of Understanding between the site/agency and the college with a corresponding notation that pre-employment drug testing is also required of all site/agency employees performing similar duty assignments/tasks, e.g., direct patient care. **NOTE:** if these work assignments are added to a health sciences faculty member's responsibility after employment has commenced and the site/agency stipulates that pre-employment or pre-placement drug testing be performed consistent with these provisions, the employee is subject to such testing before beginning these duties;
  - iv. a full- or part-time position assigned to a Technical College's child care/child enrichment center whose responsibilities include direct contact with/direct care and oversight of children including, but not limited to instructors, child care workers and, as applicable, food service employees, administrative and administrative support staff, and dedicated center maintenance staff; and,
  - v. any other Technical College position whose duties and responsibilities are considered "high risk."
- c. An applicant provided a conditional offer of employment in a position subject to pre-employment drug testing should be directed to report for testing after the offer has been accepted but before employment begins. Formal written notification should be provided using Attachment: 4.8.1p1.a2. (Pre-Employment Drug Testing Letter). The drug and alcohol testing coordinator should also complete the Pre-Employment Drug Screening Log (Attachment: 4.8.1p1.a3.).

## 2. Random Testing

- a. Jobs/positions subject to random testing include:
  - i. Technical College employees serving in a P.O.S.T. certified law enforcement capacity in a Technical College's campus police department are subject to random testing. **NOTE:** employees in a security position (not P.O.S.T. certified) are not subject to random drug testing as they do not engage in "high risk" work;
  - ii. health sciences faculty assigned to/associated with a public or private

clinical/internship/externship site or agency to supervise students in on-site clinical activities associated with their certificate, diploma, or degree program(s) are subject to random drug testing only if random testing is also mandated by the site/agency for their employees performing similar tasks, e.g., direct patient care. In writing, this requirement should be documented in the accompanying Memorandum of Agreement or a Memorandum of Understanding between the site/agency and the college. In these settings, incumbents of these positions would regularly perform high-risk work where inattention to duty or errors in judgment while on duty has the potential for significant risk of harm to the health and safety of patients. NOTE: if such work assignments are added to a health sciences faculty member's responsibility after employment has commenced and the clinical/internship or externship site stipulates that random drug testing be conducted consistent with these provisions, the employee must be provided written notification of this requirement; and,

- iii. any other positions whose job responsibilities are considered "high risk" in which an act of negligence, inattention to duty, a lapse of judgment, or an act of misconduct (by the incumbent) could jeopardize the health and safety of the employee or others. To be included in a random drug testing pool, an identified full- or part-time position must be regularly assigned high-risk work irrespective of the duties and responsibilities assigned to other positions in the same job.
- b. The State of Georgia's contract service agent will periodically select a sample of positions from the pool of designated positions.
- c. The service agent will forward the list of selected positions and the testing date to the drug and alcohol testing coordinator at the Technical College or System Office.
- d. Except for the situations listed below, the position incumbents will be directed to report for testing on the established date. If a selected position is vacant, the selection of the position will be disregarded.
- e. If an employee selected for testing is on paid leave, attending mandatory training, or is away from the worksite, the following actions should be taken:
  - i. If the employee returns to work within thirty (30) calendar days of the official test date, they should, if at all possible, be directed to report immediately for testing. According to related authority, the testing date must be established no later than two (2) business days following their return to work; or,
  - ii. if the employee returns to duty after the thirty (30) calendar day period has elapsed, they are not subject to drug testing and should not be notified that the position they encumbers was selected for random testing.
- f. Drug and alcohol testing coordinators should specify the time, collection site, and date each selected employee must report for testing on Attachment 4.8.1p1.a3. When making this determination, the testing coordinator should consider the business hours of the selected collection site, the employee's work schedule (including an assignment to a different work location), any planned leave, and upcoming state holidays. Employees must not be provided advanced notice of required drug testing.
- g. On the designated testing date, the Technical College or System Office drug and alcohol testing coordinator shall issue a memorandum (i.e., Attachment 4.8.1p1.a4.) to each affected employee directing them to report for drug testing.

- h. The employee and the drug and alcohol testing coordinator must sign the memorandum. Included will be the date and time the test must be completed and the penalty for refusing to take the test or for testing positive.
- i. An individual directed to report for drug testing should be provided with a Forensic Drug Testing Custody and Control (CCF) Form for presentation at the testing/collection site. **NOTE:** the federal CCF Form (i.e., a DOT-specific CCF Form) may not be provided to an employee who does not encumber a safety-sensitive position as this violates federal testing regulations.
- j. The Technical College or System Office drug and alcohol testing coordinator must complete the Drug Screening Log (Attachment: 4.8.1p1.a3.). In addition, the employee must initial the log indicating receipt of necessary form(s) and other document(s).
- k. All time an employee spends in the drug testing process during regular work hours and off-duty hours, including travel time to and from the collection site, is considered "hours worked."
- l. Employees are eligible for mileage reimbursement if a personal vehicle is used to report for testing.
- m. The expense of drug testing is the responsibility of TCSG and its Technical Colleges.

### **3. Reasonable Suspicion Testing**

- a. Reasonable suspicion testing may be required when there is reason to believe an employee is not free of illegal drugs. At the same time, in the workplace or while performing assigned duties and responsibilities, including when operating a state vehicle, a state-sponsored leased or rental vehicle or a personal vehicle upon which the state provides or could provide mileage reimbursement.
- b. Prior approval from the System Office Director of Human Resources or General Counsel must be obtained before a reasonable suspicion drug test is conducted.
- c. A reasonable suspicion determination may only be made by a supervisor, manager, or other System Office or Technical College official (to include a campus police officer or security officer) who has been trained to make these determinations. The training must cover the physical, behavioral, speech, and performance indicators of probable illegal drug use and must be a minimum of one hour in duration.
- d. Reasonable suspicion testing may be based on an employee's appearance, behavior, speech, odors, or other evidence found or reported. Factors that may lead to a reasonable suspicion determination include, but are not limited to:
  - i. an on-the-job incident such as a medical emergency that is likely attributable to an employee's use of illegal drugs or alcohol;
  - ii. direct observation of an employee's behavior that may render the employee unable to perform assigned duties and responsibilities or which may pose a threat to the health, safety, or welfare of the employee, other employees, students, or the public;
  - iii. verifiable information that an employee may not be free of illegal drugs or alcohol;
  - iv. documented deterioration in an employee's job performance that is likely attributable to their use of an illegal drug(s);
  - v. physical evidence that an employee has used illegal drugs or alcohol while at work or while on any System Office or Technical College worksite or campus location during established working hours; and,

- vi. any other action(s) by an employee which provides a supervisor, manager, or any other System Office or Technical College official a reason to suspect that the employee is not free of illegal drugs.
- e. A Reasonable Suspicion Alcohol or Drug Testing Behavior/Incident Documentation Form (Attachment: 4.8.1p1.a5.) must be completed by the System Office/Technical College, supervisor/manager/official. NOTE: the supervisor/manager/official must sign the form.
- f. When it is determined that an employee will be tested for the presence of illegal drugs or alcohol, the employee will not be permitted to drive to and from the testing site. Instead, the employee must be transported to and from the nearest testing site by a System Office or Technical College official.

#### **4. Medical Review Officer Responsibilities**

- a. Upon receiving a laboratory-confirmed report for a positive, an adulterated or substituted sample/specimen, or a rejected sample, the Medical Review Officer (MRO) will attempt to contact the applicant/employee at the telephone numbers listed on the drug testing form to discuss the results privately. In addition, the MRO will determine if there is an alternative medical explanation for the test result.
- b. An applicant/employee with a laboratory-confirmed positive test result may request that the split sample of the drug test is submitted for separate analysis or that the remaining portion of the original specimen is re-analyzed. NOTE: in these instances, the cost of the additional testing shall be the responsibility of the applicant/employee, and TCSG shall seek reimbursement for the cost of such testing. TCSG cannot, however, condition the testing on the applicant's/employee's ability or willingness to pay (for the test). In addition, TCSG is fully responsible for ensuring that the testing is performed promptly.
- c. The MRO might cancel the drug test if there is an error in the testing process. In this instance, the MRO will determine if it is advisable to retest the applicant or employee based on the reasons for the canceled test. When advised to retest, the drug and alcohol testing coordinator will act following the recommendation of the MRO.
- d. The MRO will report the test results as positive or, as applicable, a refusal to test if the applicant/employee:
  - i. expressly refuses to discuss the test results with the MRO;
  - ii. declines the opportunity to explain the results;
  - iii. admits to the use of one or more illegal drug(s); or,
  - iv. cannot provide an alternative medical explanation for the presence of one or more illegal drug(s).
- e. If the MRO cannot contact the applicant/employee after a reasonable initial attempt, the Technical College/System Office drug and alcohol testing coordinator will be notified. In turn, the testing coordinator will attempt to contact the applicant/employee to direct him/her to immediately contact the MRO and indicate that the test result will be reported as positive or, as applicable, a refusal to test if the MRO is not contacted within 72 hours.
- f. If the drug and alcohol testing coordinator cannot locate the applicant/employee within two (2) business days after the initial attempt, the MRO will be notified, and the test result will be reported as positive or, as applicable, a refusal to test.
- g. The MRO will then notify DOAS or, as applicable, the service agent under contract to DOAS of a positive or a refusal to test result. This information will then be transmitted to the drug and alcohol testing coordinator in the employing Technical College or, as applicable, the System Office.

## **5. Drug Testing Process & Observed Samples**

- a. After being directed to report for drug testing, an applicant or employee should immediately report to an authorized collection site with a picture ID and the Forensic Drug Testing Custody and Control Form.
- b. Drug testing is conducted by collecting a urine sample. The sample is subsequently tested by a certified laboratory that follows a specific chain of custody procedures to ensure that the test is not compromised. Laboratory reports (including laboratory-confirmed positive results) are forwarded to a Medical Review Officer for review and a final determination.
- c. An observed sample may be required when a site collection representative determines that a sample temperature is outside the acceptable range of 90 degrees to 100 degrees Fahrenheit, when the sample has an unusual appearance, or when the donor exhibits unusual behavior or appearance during the collection process. In addition, after consultation with the System Office General Counsel, the System Office Director of Human Resources or Technical College president may direct the collection site to collect an observed sample if it is believed that the donor may attempt to alter or falsify the sample.
- 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. 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.
- f. The collection site will provide the donor (i.e., an applicant or employee) with a copy of the completed Forensic Drug Testing Custody and Control Form. The applicant/employee must present their copy of the Form to the drug and alcohol testing coordinator at their Technical College or, as applicable, the System Office 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 being 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 at a breath testing site (e.g., a medical center, testing laboratory, or law enforcement agency).
- c. Suppose the initial test results reflect an alcohol concentration of less than 0.02 percent. In that case, the employee will be provided a copy of the completed alcohol testing form for presentation to the System Office or Technical College drug and alcohol testing coordinator immediately upon returning to work. An employee with any measurable alcohol concentration will be permitted to return to duty only with the authorization of the Commissioner, Technical College president, or their designee.
- d. Suppose the initial test results reflect an alcohol concentration of 0.02 percent or higher. In that case, a confirmation test shall be conducted not less than 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 their duties and not permitted to drive a vehicle. The employee should be assisted with making necessary transportation arrangements. The employee will also be placed on unauthorized leave without pay status for a minimum of twenty-four (24) hours until a return-to-duty test is performed with a negative test result. Formal, written notification should be provided to the employee using Attachment: 4.8.1p1.a6.
- f. Any formal disciplinary action initiated by the System Office or Technical College in response to an alcohol test result reflecting any measurable alcohol concentration (in addition to placement on leave without pay as referenced above) shall follow applicable provisions of the TCSG procedure governing Positive Discipline or the TCSG procedure governing Adverse Employment Actions.

## **7. Positive Drug Test Results and Accompanying Consequences**

- a. An applicant provided a conditional offer of employment will have their job offer rescinded/withdrawn if their laboratory-confirmed positive drug test result is verified by a Medical Review Officer for the presence of illegal drug(s). The applicant will be disqualified from state employment for two (2) years. The individual should be notified of this using Attachment 4.8.1p1.7.
- b. A TCSG employee who, in the course of their System Office or Technical College employment, undergoes drug testing and whose laboratory-confirmed positive drug test result is verified by a Medical Review Officer for the presence of illegal drug(s) shall be dismissed from employment. The employee will be disqualified from state employment for two (2) years. Formal, written notification should be provided to the employee using Attachment 4.8.1p1.a8.
- c. A TCSG employee who has been offered employment in a different state agency/organization or a different System Office or Technical College position subject to drug testing shall be dismissed from employment if a Medical Review Officer verifies their laboratory-confirmed positive test result for the presence of illegal drug(s). Formal, written notification should be provided to the employee using Attachment 4.8.1p1.a8.
- d. The dismissal action referenced above shall be initiated according to the TCSG procedure governing Positive Discipline or, as applicable, the TCSG procedure governing Adverse Employment Actions.
- e. As provided in State Personnel Board Rule 21 and its related sub-rules, the effective date of the dismissal will be the date of notification.

## **8. Refuses Drug Testing and Accompanying Consequences**

- a. An applicant provided a conditional offer of employment who is not a State of Georgia employee will have their job offer rescinded/withdrawn if they refuses drug testing. The individual should be notified of this action using Attachment: 4.8.1p1.a7. **NOTE:** according to related authority, the applicant shall also be disqualified from state employment for two (2) years;
- b. An applicant provided a conditional offer of employment which is currently employed with another State agency/organization will have their job offer rescinded/withdrawn if they refuses drug testing. The individual will be notified of this action using Attachment: 4.8.1p1.a7.
- c. A TCSG employee who, in the course of their System Office or Technical College employment, refuses testing shall be dismissed. Formal, written notification should be provided to the employee using Attachment:

4.8.1p1.a8.

- d. A TCSG employee who has been offered employment in a different state agency/organization or a different System Office or Technical College position subject to drug testing shall be dismissed if they refuses to test. Formal, written notification should be provided to the employee using Attachment: 4.8.1p1.a8.
- e. The dismissal action referenced above will be initiated according to the TCSG procedure governing Positive Discipline or, as applicable, the TCSG procedure governing Adverse Employment Actions.
- f. As provided in State Personnel Board Rule 21, the effective date of the dismissal for an employee covered under Positive Discipline shall be the date of notification. For tenured faculty working under the terms of an employment contract, the effective date should be established consistent with the notification requirements of the TCSG procedure governing Adverse Employment Actions.

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

- a. Any System Office employee who notifies the System Office Director of Human Resources or, as applicable, a Technical College employee who notifies their president (or their designee) of a problem involving the use of illegal drugs or alcohol shall maintain their TCSG employment provided:
  - i. the notification is submitted in writing;
  - ii. the written notification must occur before a directive to report for drug or alcohol testing or before an arrest for a criminal offense involving alcohol, a controlled substance, marijuana, or a dangerous drug. NOTE: in response to an arrest for a referenced criminal offense, an employee is subject to disciplinary action up to and including dismissal as provided in the TCSG procedure governing Positive Discipline and, as applicable, the TCSG procedure governing Adverse Employment Actions; and,
  - iii. the employee must agree, in writing, to the following conditions:
    - 1. they must undergo an assessment by a Substance Abuse Professional (SAP) selected or approved by a System Office or, as applicable, a Technical College official from the list of qualified SAPs associated with the TCSG Employee Assistance Program provider;
    - 2. they agree to fully comply with all treatment plan recommendations developed by the SAP; and,
    - 3. they agree to accept responsibility for all costs associated with following the treatment plan.
    - 4. they agree to provide the System Office Director of Human Resources, Technical College president, or their designee with written certification from the SAP regarding satisfactory completion of the recommended treatment plan;
    - 5. they agree to undergo a return-to-duty drug test with the understanding that the result must be a “verified negative” as determined by a Medical Review Officer;
    - 6. they agree to undergo periodic, unscheduled follow-up drug or alcohol tests for up to five (5) years (according to the provision of State Personnel Board Rule 21);
    - 7. they understands that if they refuses to submit to a drug or alcohol test or fails to comply with the terms of the agreement, they will be dismissed from employment;
    - 8. they understands that if a laboratory-confirmed positive drug test is verified

by a Medical Review Officer or an alcohol breath test indicates any measurable alcohol concentration, they will be dismissed from employment.

- b. No employee may avail themselves of this entitlement more than twice in five (5) years.

## **VII. RECORD RETENTION:**

According to related authority governing the alcohol and drug testing of individuals applying for employment or current employees in certified identified occupational categories, associated records/documents must be maintained for the following designated periods:

### **Two Years**

Records related to the alcohol and drug testing collection process include documents related to random selection, reasonable suspicion determinations; post-accident determinations; medical evaluations for insufficient amounts of urine or breath; supervisor/manager training records; records of negative and canceled drug test results; and alcohol test results with a concentration of less than 0.02 percent. Also included are all screening/testing logs.

### **Five Years**

Records of alcohol test results indicate an alcohol concentration of 0.02 or higher; records of verified positive drug test results, including substituted or adulterated drug test results; and documentation of refusals to take required alcohol and/or drug tests.

### **Indefinite**

Records related to the education and training of supervisors and employees while the individual performs the required training for two (2) years after ceasing to perform those functions.

## Pre-Employment Controlled Substances Testing Acknowledgement Statement

I acknowledge that I have read and understand the following provisions about required pre-employment drug testing:

1. I understand that as a condition of employment as a \_\_\_\_\_ with \_\_\_\_\_ I must pass a controlled substances test as administered in a manner consistent with O.C.G.A. § 34-9-415 and applicable federal and state laws, regulations, and procedures established by the Department of Administrative Services.
2. I understand that the Technical College System of Georgia (TCSG) will pay for the drug test.
3. I understand that I will not be considered further for employment if I refuse to submit to drug testing, if my actions meet any other example of "refuses or refused to test" as defined in the above-listed regulations, or if I test positive for the presence of illegal drug(s),
4. I understand that I will also be disqualified from employment with any State employer for two (2) years if I test positive for illegal drug(s) or if I refuse or am considered to have "refused" drug testing.
5. As applicable, I acknowledge that I have taken or have been asked to take a drug test for the following State employers (i.e., any agency, department, board, bureau, commission, college, university, institution, or authority) within the past two years:

| State Employer<br>Negative) | Date of Test | Test Result (Positive or |
|-----------------------------|--------------|--------------------------|
| _____                       | _____        | _____                    |
| _____                       | _____        | _____                    |
| _____                       | _____        | _____                    |

6. I acknowledge that withholding or falsifying any of the above-referenced information will result in my release from employment.
7. I acknowledge that if I refuse to sign this form, I will not be considered further for the above-referenced position.

\_\_\_\_\_  
Applicant Name Printed

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## Pre-Employment Controlled Substances Testing Notification – Sample Letter

(Date)

XXXXXXXXXXXXXXXXXXXX

Dear:

Please be advised that your conditional offer of employment for service as a \_\_\_\_\_ with \_\_\_\_\_ Technical College includes the requirement that you successfully pass a controlled substances test in a manner consistent with O.C.G.A. § 34-9-415 and applicable federal and state laws and regulations and procedures established by the Department of Administrative Services. Your testing will take place at the \_\_\_\_\_ collection site.

You must bring picture identification and the attached Forensic Drug Testing and Control Form to the testing site. As we have discussed, you must complete the testing process no later than (Specified Time) on (Specified Date).

**(FOR APPLICANTS)** As referenced in the Pre-Employment Controlled Substances Testing Acknowledge Statement that you completed, if you refuse to submit to testing; if your actions meet any other example of "refuses or refused to test" as this term is defined in the TCSG Procedure governing Drug and Alcohol Testing for Non-Federally Regulated Positions; or, if you test positive for the presence illegal drug(s), your conditional offer of employment will be withdrawn. In addition, you will be disqualified from employment with any State employer for two (2) years.

**(FOR EMPLOYEES)** Please be advised that if you refuse to submit to testing; if your actions meet any other example of "refuses or refused to test" as this term is defined in the TCSG Procedure governing Drug and Alcohol Testing for Non-Federally Regulated Positions; or if you test positive for the presence of illegal drug(s), you will be dismissed from employment consistent with the provisions of the TCSG Procedure governing Positive Discipline or, as applicable, the TCSG Procedure governing Adverse Employment Actions.

Any questions concerning these requirements should be directed to \_\_\_\_\_. Sincerely,

XXXXXXXXXXXX

**My signature below indicates that I understand the conditions outlined in this letter and that I have received the Forensic Drug Testing and Control Form.**

\_\_\_\_\_  
Applicant/Employee Signature

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## DRUG AND ALCOHOL TESTING: NON FEDERALLY REGULATED POSITIONS

# TECHNICAL COLLEGE SYSTEM OF GEORGIA

## Drug & Alcohol Testing Log

[illegible]

## Memorandum – Random Controlled Substances Testing Selection

TO: \_\_\_\_\_

FROM: \_\_\_\_\_

SUBJ: \_\_\_\_\_

DATE: \_\_\_\_\_

Consistent with the provisions of the Technical College System of Georgia's (TCSG) Drug and Alcohol Testing for Non-Federally-Regulated Positions, the position you hold has been randomly selected for controlled substances testing.

To undergo the test, you must report to the \_\_\_\_\_ collection site with picture identification and the attached Forensic Drug Testing Custody and Control Form. You must complete the testing process no later than \_\_\_\_\_ on. Following the test, you must present your copy of the completed DOT Forensic Drug Testing Custody and Control Form to \_\_\_\_\_ immediately upon your return to duty.

As you are aware, your continued employment is contingent upon your receiving a negative test result. Therefore, please be advised that if your actions meet the definition of "refuses or refused" testing as the term is defined in the above-referenced procedure or if you test positive for the presence of a controlled substance, you will be separated from employment according to the TCSG Procedure governing Positive Discipline or, as applicable, the TCSG Procedure governing Adverse Employment Actions.

Any questions regarding the testing process should be directed to \_\_\_\_\_ at \_\_\_\_\_.

*My signature indicates that I understand the conditions outlined in this memorandum and that I have received the DOT Forensic Drug Testing Custody and Control Form.*

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

**Reasonable Suspicion Alcohol/Controlled Substances Testing**

**Behavior/Incident Documentation Form**

Work Unit: \_\_\_\_\_ Location of Incident: \_\_\_\_\_

Employee Name: \_\_\_\_\_

Date of Observation: \_\_\_\_\_ Time: \_\_\_\_\_ Length of Time Observed: \_\_\_\_\_

Observed By: \_\_\_\_\_

Additional Witness(es): \_\_\_\_\_

Description of Behavior/Incident: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The behavior I observed includes:

☐ Performance Indicators, specifically: \_\_\_\_\_

And, as applicable, the following observations:

☐ Behavior/Conduct: \_\_\_\_\_

☐ Speech Indicators: \_\_\_\_\_

☐ Appearance/Physical Indicators: \_\_\_\_\_

☐ Body Odors: \_\_\_\_\_

**Referred for:** ☐ Alcohol Test ☐ Drug Test ☐ Both

**Employee:** ☐ Agreed to Testing ☐ Refused Testing

**If Alcohol Test, Will Test Be Conducted at the Work Site by a BAT:** ☐ Yes ☐ No

**As Applicable, Means of Transportation to Collection Site:** \_\_\_\_\_

**As Applicable, Name of Collection Site:** \_\_\_\_\_

**As Applicable, Address of Collection Site:** \_\_\_\_\_

**Time Departed Work Site:** \_\_\_\_\_ **Scheduled Appointment Time:** \_\_\_\_\_

**Signature of Referring Official:** \_\_\_\_\_

**Memorandum – Random Controlled Substances Testing Selection**

TO: \_\_\_\_\_

FROM: \_\_\_\_\_

SUBJ: \_\_\_\_\_

DATE: \_\_\_\_\_

Consistent with the provisions of the Technical College System of Georgia's (TCSG) Drug and Alcohol Testing Procedure for Non-Federally-Regulated Positions, you are required to submit a reasonable suspicion drug or alcohol test.

To undergo the test, you will be transported to where the test will be administered.

As you are aware, your continued employment \_\_\_\_\_ is contingent upon your receiving a negative test result. Therefore, please be advised that if your actions meet the definition of "refuses or refused" testing as the term is defined in the above-referenced procedure or if you test positive for the presence of a controlled substance, you will be separated from employment according to the TCSG Procedure governing Positive Discipline or, as applicable, the TCSG Procedure governing Adverse Employment Actions.

Any questions regarding the testing process should be directed to \_\_\_\_\_ at \_\_\_\_\_.

*My signature indicates that I understand the conditions outlined in this memorandum and that I have been referred for a reasonable suspicion drug and/or alcohol test and must immediately report for testing. According to the provisions of the TCSG Procedure governing Drug and Alcohol Testing of Non-Regulated Positions, I understand that a positive result for controlled substances or my failure to complete the drug and/ or alcohol testing process will result in my dismissal from employment.*

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

## **Drug and Alcohol Testing for Non-Federally-Regulated Positions**

### **Alcohol Test Results – Unauthorized Leave without Pay – Sample Letter**

Date

XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX

Dear

On (Day and Date), you were directed to report for random, reasonable suspicion, return-to-duty, or follow-up alcohol testing. Based on the results of an alcohol confirmation test, the Breath Alcohol Technician has determined that your alcohol concentration (at the time of testing) was percent.

Given that the results indicated an alcohol concentration of 0.02 percent or more significant and according to the provisions of the TCSG Procedure governing Drug and Alcohol Testing for Non-Federally-Regulated Positions, you will be placed unauthorized leave without pay for a minimum period of twenty-four (24) hour and/or until a return-to-duty test is performed with negative results.

Please be advised that you are also subject to further disciplinary action regarding your alcohol test results. Any such action will be delivered consistently with the provisions of the TCSG Procedure governing Positive Discipline or, as applicable, the TCSG Procedure governing Adverse Employment Actions.

Any questions should be directed to. Sincerely,

Cc:

## Sample Letter - Withdrawal of Employment Offer

Date

XXXXXXXXXXXXXXXXXXXXX

Dear:

To **date**, you were offered employment with **Name of College** as a **job title**. However, as the attached Pre-Employment Controlled Substances Testing Notification Letter provided, your employment was contingent upon successfully passing a controlled substances test. Therefore, on **the date**, you were directed to report for testing.

**(Select the appropriate option)**

After receiving this directive, **you refused to submit to testing or failed to appear/report for testing at the specified time and date.**

After receiving this directive and appearing at the collection site, **you engaged in conduct that obstructed the testing process, OR you failed to remain available for testing or left the testing site/location before submitting to the test, OR you failed to provide adequate breath/urine for testing without a valid medical reason/explanation, OR you tested positive for the presence of a controlled substance.**

Please be advised that this letter serves as formal written notification that your conditional offer of employment with Name of College has been withdrawn. You will also be disqualified from employment with any State employer for two (2) years from the date of refusal.

Any questions regarding these actions should be directed to **the HR**

**Representative.** Sincerely,

Cc:

## Sample Letter - Separation Based on a Positive Controlled Substances Test

Date

XXXXXXXXXXXXXXXXXXXXX

Dear:

As you are aware, on the **date** you were directed to report for **random/reasonable suspicion/return-to-duty/follow-up** drug testing. After receiving this directive and appearing at the collection site, you tested positive for the presence of illegal drugs.

Given that you have tested positive for the presence of a controlled substance, please be advised that you will be dismissed from employment with **Name of Technical College** at the close of business on **the date**. Additionally, you will be disqualified from state employment for two years from the test date. This action has been taken according to the TCSG Procedure governing **Positive Discipline OR Adverse Employment Actions** and, as applicable, the provisions of State Personnel Board Rule 21 about the established effective date.

Any questions should be directed to **the HR Representative**.

Sincerely,

CC:

## Sample Letter - Separation Refused Testing

Date

XXXXXXXXXXXXXXXXXXXXX

Dear:

As you are aware, on the **date** you were directed to report for **random/reasonable suspicion/return-to-duty/ follow-up alcohol/drug** testing.

**(Select the appropriate option)**

After receiving this directive, **you refused to submit to testing or failed to appear/report for testing at the specified time and date.**

After receiving this directive and appearing at the collection site, **you engaged in conduct that obstructed the testing process, OR you failed to remain available for testing or left the testing site/location before submitting to the test, OR you failed to provide adequate breath for testing without a valid medical reason/explanation.**

Please be advised that you are considered to have "refused testing," and pursuant to applicable provisions of the TCSG Procedure governing Drug and Alcohol Testing for Non-Federally-Regulated Positions, you will be dismissed from employment with **\_\_\_\_\_** Technical College effective at the close of business on **\_\_\_\_\_**. Additionally, you will be disqualified from state employment for two years from the date of refusal. This action has been taken according to the provisions of the TCSG Procedure governing **(Positive Discipline OR Adverse Employment Actions)** and, as applicable, the provisions of State Personnel Board Rule 21 on the established effective date.

Any questions should be directed to the **HR Representative.**

Sincerely,

CC: