

REGENTS' POLICY
PART IV – HUMAN RESOURCES
Chapter 04.02 - General Personnel Policies

P04.02.010. Equal Employment Opportunity and Affirmative Action: Statement of Intent.

The board recognizes that discrimination in employment practices has in the past foreclosed economic opportunity to a substantial number of persons in the United States. The board is committed to oppose illegal employment discrimination and to prohibit it within the university. In addition to prohibiting illegal employment discrimination, as a part of its commitment to equal employment opportunity, the board is committed through an affirmative action program, to recruit, employ and promote qualified “protected class” persons who have been historically under-represented in the workforce. (06-06-07)

P04.02.012. Equal Employment Opportunity Program.

The program of equal employment opportunity consists of two parts: nondiscrimination and a program of affirmative action.

A. Nondiscrimination

1. In accordance with federal and state laws and regulations, the university will not engage in impermissible discrimination. In accordance with federal and state law and regulation, the university makes its programs and activities available without discrimination on the basis of race, religion, color, national origin, citizenship, age, sex, physical or mental disability, status as a protected veteran, marital status, changes in marital status, pregnancy, childbirth or related medical conditions, parenthood, sexual orientation, gender identity, political affiliation or belief, genetic information, or other legally protected status. Among the federal and state laws and regulations prohibiting discrimination in employment that pertain to the university as of September 2014 are:

Equal Pay Act
Title VI and Title VII of the Civil Rights Act of 1964
Executive Order 11246
Age Discrimination in Employment Act
Title IX of the Education Amendments of 1972
Section 504 of the Rehabilitation Act of 1973
Vietnam Era Veterans' Readjustment Assistance Act of 1974
Pregnancy Discrimination Act of 1978
Immigration Reform & Control Act of 1986
Civil Rights Restoration Act of 1987
Americans with Disabilities Act of 1990 as amended
Age Discrimination Act of 1975
Genetic Information Non-Discrimination Act of 2008
Alaska Statute 14.40.050 and 18.80.220

2. Individual merit will be considered by the university. University hiring decisions will be based on the individual's qualifications, demonstrated abilities, and performance, as appropriate.

B. Affirmative Action

The university seeks to hire, train and promote individuals based on qualifications and demonstrated ability to perform the job. In its commitment to affirmative action, the university is committed to recruit and retain women and minorities in positions of employment where they have been traditionally under-represented. The concept of affirmative action requires that practices that adversely impact protected classes should be eliminated unless the university can demonstrate a legally permissible basis. To accomplish the goals of its affirmative action program, the university encourages employment applications from and makes special efforts to recruit protected classes.

(06-01-17)

P04.02.014. Implementation.

The president and the chancellors are responsible for planning, implementing, and monitoring an effective program of equal employment opportunity. The president and each chancellor will provide an annual report to the board with regard to the effectiveness of their respective equal employment opportunity program.

(06-20-97)

P04.02.024. Consensual Sexual Relations.

- A. Faculty members or staff who engage in sexual relations with students enrolled in their classes or subject to their supervision, even when both parties have consented to the relationship, will be engaging in unprofessional behavior.
- B. Supervisors who have authority or control over employees and engage in sexual relations with those employees, abuse their power, even when both parties have consented to the relationship.

(06-06-07)

P04.02.026.. Limitation of Liability.

Nothing in P04.02.020 - 04.02.026 will be construed or applied to create a right to an award of damages or other monetary compensation against the university or university employees beyond any existing under state or federal law.

(08-15-97)

P04.02.030. Reasonable Accommodation for People with Disabilities: Prohibition Against Discrimination on the Basis of Disability.

All members of the university community have a right to a working and learning environment free of all forms of illegal discrimination including discrimination against people with disabilities. It is the university's intent that no employee, or user of university facilities, be subjected to unlawful discrimination based on disability.

(06-06-07)

P04.02.040. Drug-Free Workplace.

- A. The unlawful manufacture, distribution, dispensing, possession, or use by an employee of a controlled substance as defined in Schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812), and as further defined by regulation at 21 C.F.R. 1308.11 - 1308.15 is prohibited in any workplace of the university.
- B. All employees will abide by the terms of this policy as a condition of their employment and will notify the university of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 working days after the conviction. Within 30 days of receiving the notice of conviction, the university will take appropriate personnel action against the employee as prescribed by University Regulation, up to and including termination, or require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.
- C. The University Regulation implementing this section must provide for publishing a statement to notify employees of this policy and to establish a drug-free awareness program to inform employees about: the dangers of drug abuse in the workplace; the university's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- D. Each employee will be provided a copy of this policy and accompanying University Regulation.

(06-20-97)

P04.02.050. Employee Alcohol and Controlled Substances Testing.

- A. The University Regulation implementing P04.02.040 and this section will at a minimum provide for the establishment of alcohol and controlled substances testing programs as required by law; the imposition of penalties on employees when tests exceed allowable levels; compliance with reporting and record keeping requirements; dissemination to affected employees of educational materials explaining the legal requirements, this policy and University Regulation; and provide for appropriate staff training and employee assistance programs. Collective bargaining units representing affected university employees will be given written notice concerning the availability of this information.
- B. All employees subject to laws mandating alcohol and controlled substances testing will comply with such laws, this Regents' Policy and University Regulation as a condition of their employment.

(06-06-07)

UNIVERSITY REGULATION
PART IV - HUMAN RESOURCES
Chapter 04.02 – General Personnel Regulations

R04.02.010. Equal Employment Opportunity and Affirmative Action: Statement of Intent.

Persons have equal employment opportunities at the University of Alaska based solely upon their qualifications and demonstrated ability or demonstrated potential ability.

This regulation does not apply to sex or gender-based discrimination. These forms of discrimination are addressed in Regents' Policy and University Regulation 01.04.

Each major administrative unit will have a written Affirmative Action Program which sets forth specific affirmative action responsibilities.

Methods of recruiting, screening and selection will be documented and be approved by the regional personnel office or Equal Employment Opportunity Coordinator, as determined by the president or chancellor as appropriate, prior to recruitment.

Definition of Terms:

1. "Equal Employment Opportunity Coordinator" means the regional Affirmative Action office director or designated person, whichever reference is applicable.
2. "Applicant" refers to an individual who applies for a specific position vacancy during a specified recruitment period.
3. "Hiring Authority" refers to the individual who is accountable for following recruiting and staffing policy and regulation and applicant selection decisions.
4. "Persons with Disabilities" means an individual with a disability as defined by the Americans with Disabilities Act.
5. "Working Environment" means any place where the business of the university is conducted in the name of the university or any unit thereof.

(06-29-17)

R04.02.024. Consensual Sexual Relationships.

A. Faculty-Student Relationships

1. Within the instructional context:

It is considered a serious breach of professional ethics for a member of the faculty to participate in a sexual relationship with a student who is enrolled in a course being taught by the faculty member or whose academic work, including work as a research or teaching assistant, is being supervised by the faculty member.

2. Outside the instructional context:

Sexual relationships between faculty members and students occurring outside the instructional context may lead to difficulties, particularly when the faculty member and student are in the same academic unit or in units that are academically allied; relationships that the parties view as consensual may appear to others to be exploitative. Further, in such situations the faculty member may face serious conflicts of interest and should be careful to distance himself or herself from any decisions that may reward or penalize the student involved.

B. Supervisor-Employee Relationships

Consensual sexual relationships between a supervisor and his or her employees, including circumstances where a staff member has authority or control over a student's living or learning environment, are prohibited.

It is a violation of the ethical obligation to the employee or student, to other employees or students, to colleagues, and to the university for a staff member to fail to withdraw from participation in activities or decisions that may reward or penalize an employee or student with whom the staff member has or has had a sexual relationship.

(06-29-17)

R04.02.030. Reasonable Accommodation for People with Disabilities.

The university will, absent undue hardship, provide a reasonable accommodation to an applicant or employee who is a qualified individual with a disability.

(08-07-14)

R04.02.032. Definitions.

In R04.02.030 - 04.02.036, unless the context requires otherwise:

- A. "ADA" means the federal law known as the Americans with Disabilities Act of 1990, as amended;
- B. "ADA Coordinator" means the individual designated to administer the university's ADA compliance program at the MAU. The name and contact information of the ADA Coordinator will be posted on the website of the regional human resources office;
- C. "Disability" means, with respect to an individual:
 - 1. A physical or mental impairment that substantially limits one or more major life activities of such individual and that is not transitory and minor;
 - 2. A record of such an impairment; or

3. Being regarded as having such an impairment. Individuals who meet the definition of “disability” solely under the “regarded as” prong of the definition of “disability” are not entitled to receive reasonable accommodation.
- D. “Equal Employment Opportunity Coordinator” or EEO Coordinator, means the individual designated to administer the university’s affirmative action plan at the MAU, or designee, whichever reference is applicable;
- E. “Qualified Individual” means an individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position. The individual must be able to perform the essential functions of the position held or desired without posing a direct threat to the health or safety of the individual or others in the workplace or learning environment.
- F. "Reasonable Accommodation" means modifications or adjustments:
1. To a job application process that enable a qualified applicant with a disability to be considered for the position such applicant desires; or
 2. To the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or
 3. That enables the employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

Reasonable accommodation may include but is not limited to making existing facilities used by employees readily accessible to and usable by individuals with disabilities, job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; and other similar accommodations for individuals with disabilities.

- G. “Undue Hardship” means, with respect to the provision of an accommodation, significant difficulty or expense incurred by the university.

(08-07-14)

R04.02.033. Request for Accommodation Process.

Requests for reasonable accommodation may be made by an applicant, employee, or by a third party on the applicant or employee’s behalf.

1. The requester must give verbal or written notification to the ADA Coordinator or to a supervisor in the employee’s chain of command. Notification must include the existence of a disability, the disability-related limitation(s) or workplace barrier(s) that need to be accommodated, and, if known, the desired modification or adjustment to the application process or work environment.

2. A supervisor who receives verbal or written notification of a request for accommodation will promptly notify the ADA Coordinator.
3. The ADA Coordinator will provide written confirmation of the receipt of a request for reasonable accommodation to the requester, either by letter or email.
4. Requests for accommodation will be processed as expeditiously as possible and within a reasonable period of time, depending on the specific circumstances. Reasonable accommodation requests by an applicant will be processed expeditiously, using timeframes tailored to the application process.
5. The ADA Coordinator may request medical documentation from an applicant or employee in support of a request for reasonable accommodation. Any request for medical documentation may not be open ended, and will be limited to documentation of the individual's disability and the functional limitations for which reasonable accommodation is sought. Submission of medical documentation is not required when the disability for which a reasonable accommodation is sought is known or readily observable and the need for accommodation is known or obvious.
6. If the ADA Coordinator determines that the applicant or employee is a qualified individual with a disability, the ADA Coordinator will initiate an interactive process with the applicant or employee to determine a reasonable accommodation.
7. In attempting to determine a reasonable accommodation, the ADA Coordinator will obtain and clarify relevant information from the employee, the supervisor, the regional personnel director, and other involved persons, as applicable.
8. The ADA Coordinator will identify effective solutions, including recommendations for reasonable accommodations, and report those recommendations to the respondent's immediate supervisor, regional human resources office, and other appropriate administrative officers.
9. The university will make a reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability unless the accommodation would impose an undue hardship on the operation of university business.
10. Any denial of a requested reasonable accommodation will be provided in writing. The written denial will include the reason for the denial and information about the reconsideration process, and be dated and signed by the ADA Coordinator or designee.
11. An applicant or employee may seek reconsideration by the EEO Coordinator of a denial of a requested reasonable accommodation. The EEO Coordinator or designee may conduct a review, decline a review, or refer the matter to an administrative process.
12. An employee or the employee's supervisor may make a request to the ADA Coordinator for modification of a reasonable accommodation when the accommodation is no longer effective in enabling the employee to perform the essential functions of the position.

13. Requests for reasonable accommodation and related documentation, such as requests for additional information and decisions regarding accommodation requests, and any medical or disability-related information provided to the ADA Coordinator, will be treated as confidential medical records and maintained in a separate medical file, except that:
 - a. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the applicant or employee and necessary accommodations;
 - b. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and
 - c. Government officials engaged in enforcing laws shall be provided relevant information on request.

(08-07-14)

R04.02.034. Formal Complaint.

An employee who claims to have been subjected to discrimination based upon a disability and who has exhausted the reasonable accommodation process may initiate a written formal complaint in accordance with R01.02.025.E.

(11-19-19)

R04.02.036. Remedies.

Unjustified delay or refusal to implement the reasonable accommodations determined by the ADA Coordinator may lead to referral to an appropriate administrative officer to obtain proper and timely action. An employee who delays or refuses unjustifiably to implement the reasonable accommodations is subject to disciplinary action.

(08-07-14)

R04.02.040. Drug-Free Workplace.

Regents' Policy 04.02.040 prohibits the unlawful manufacture, distribution, dispensing, possession, or use by an employee of a controlled substance in any workplace of the university. The following steps will be taken to provide a drug-free workplace.

- A. Each major administrative unit (MAU) will publish a statement notifying employees that the violation of such prohibition will subject them to appropriate disciplinary action.
- B. Each MAU will establish a drug-free awareness program to inform employees about:
 1. The dangers of drug abuse in the workplace;
 2. The university's policy of maintaining a drug-free work-place; and
 3. The availability of drug counseling, rehabilitation and employee assistance programs; and
 4. The penalties that the university may impose for drug abuse violations occurring in the workplace.
- C. As a condition of employment, each employee shall abide by the terms of P04.02.040 and this regulation.

D. The university will take one or more of the following personnel actions against an employee who violates P04.02.040 or this regulation:

1. Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved by the university;
2. Impose a sanction up to and including termination for cause.

Violations of policy or regulation which are also violations of federal or state law may be referred to the appropriate agencies. In such situations, cases may proceed concurrently at the university and in the criminal justice system.

E. As a condition of employment, each employee shall notify the regional human resources office in writing of any conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

1. Within ten calendar days after the university learns of a conviction of an employee who is engaged in the performance of an award of federal financial assistance, the university shall give written notice to every federal agency on whose award the convicted employee was working.
2. Within 30 calendar days after the university learns of a conviction, the university shall take personnel action as prescribed in paragraph D. above.

(08-07-14)

R04.02.050. Employee Alcohol and Controlled Substances Testing.

A. Definitions

For purposes of this regulation, the following definitions apply:

1. "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
2. "Alcohol use (or use alcohol)" means any consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
3. "Alcohol concentration" is the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.
4. "Commerce" means 1) any trade, traffic or transportation within the jurisdiction of the United States between a place in a state and a place outside of such state, including a place outside of the United States and 2) trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in subsection 1) of this section.

5. "Commercial motor vehicle" or "CMV" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle
 - a. has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
 - b. has a gross vehicle weight rating of 26,001 or more pounds; or
 - c. is designed to transport 16 or more passengers, including the driver; or
 - d. is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under federal hazardous materials regulations.
6. "Confirmation test," in Controlled Substance testing, is a second analytical procedure to identify the presence of specific drug or metabolite that is independent of the screening test and that uses a different technique and chemical principle from that of the screening test in order to ensure reliability and accuracy. In alcohol testing, it is a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration.
7. "Controlled Substance" means marijuana, cocaine, opiates, amphetamines and phencyclidine.
8. "Covered Employee" or "Employee" means any University of Alaska employee required to hold a CDL as a function of their employment. This includes for purposes of pre-employment testing only, applicants and current employees selected for employment in such a position. A Covered Employee may be off-duty, on-duty, pre-duty or "on call" status.
9. "Driver" means any Covered Employee who operates a CMV. This includes, but is not limited to: full-time, regularly employed drivers, casual, intermittent, temporary, part-time, or occasional drivers.
10. "Driving Time" means all time spent at the driving controls of a CMV in operation.
11. "Medical Review Officer" is a licensed physician responsible for receiving laboratory results generated by the university's controlled substance testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate a Covered Employee's confirmed positive test result together with his/her medical history and any other relevant biomedical information.
12. "Observer" a trained supervisor or other trained university official.
13. "Performing a Safety-Sensitive Function" a Covered Employee is considered to be performing a Safety-Sensitive Function during any period in which he or she is

actually performing, ready to perform, or immediately available to perform any Safety-Sensitive Functions.

14. "Safety-Sensitive Function" means:
- a. All time a Covered Employee is at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the Covered Employee has been relieved from duty by the Covered Employee's supervisor.
 - b. All time the Covered Employee is inspecting equipment as required by DOT regulations or otherwise inspecting, servicing, or conditioning any CMV at any time.
 - c. All driving time as defined in the term driving time in this regulation.
 - d. All time, other than driving time, in or upon any CMV except time spent resting in a sleeper berth as sleeper berth is defined by DOT regulations.
 - e. All time a Covered Employee is loading or unloading or supervising or assisting in the loading or unloading of a CMV, attending a CMV being loaded or unloaded, remaining in readiness to operate the CMV, or in giving or receiving receipts for shipments loaded or unloaded
 - f. All time spent by a Covered Employee performing the driver requirements of DOT regulations relating to accidents.
 - g. All time spent by a Covered Employee repairing, obtaining assistance, or remaining in attendance upon a disabled CMV.
15. "Screening test (or initial test)", in controlled substance testing, is an immunoassay screen to eliminate "negative" urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.
16. "Substance Abuse Professional" means a licensed physician or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

B. Applicability

This regulation applies to all University of Alaska employees who are required to hold a CDL as a function of their university employment ("Covered Employees").

C. Prohibitions

It is a violation of this regulation for a Covered Employee to:

1. report or return to work within four hours after using alcohol;

2. use alcohol on the job, including during breaks or meals;
3. possess alcohol on the job, including during breaks or meals;
4. have a confirmation test result indicating an alcohol concentration of 0.02 or greater;
5. use alcohol within eight hours following an accident or until the Covered Employee is tested, whichever occurs first;
6. report for duty or remain on duty when the Covered Employee is using or has used any controlled substance (except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely perform a Safety-Sensitive Function, including operating a Commercial Motor Vehicle (CMV));
7. test positive for a controlled substance;
8. refuse to submit to an alcohol or controlled substance test as required by federal laws or regulations or this regulation.

If a Covered Employee engages in the conduct described above, the employee is considered to have engaged in Prohibited Conduct, is immediately disqualified from performing a Safety-Sensitive Function, including operating a CMV, and is subject to disciplinary action as set forth in Section I of this regulation.

D. Required Tests

A Covered Employee is required to submit to alcohol and controlled substance testing under the circumstances set forth in this section. Before performing a test, the trained supervisor or other trained university official will notify the employee that the test is being performed pursuant to the United States Department of Transportation (DOT) regulations and at no cost to the employee.

1. Pre-Employment Testing

For the purposes of pre-employment testing only, "Covered Employee" includes applicants and current employees selected for employment in such a position. Prior to the first time a Covered Employee performs Safety-Sensitive Functions for the university, the employee will undergo testing for alcohol and controlled substances. No Covered Employee will be allowed to perform Safety-Sensitive Functions unless the employee has been administered an alcohol test with a result indicating an alcohol concentration less than 0.02 and has received a controlled substances test indicating a verified negative test result.

The applicable regional personnel office will obtain, pursuant to a Covered Employee's consent, information on the employee's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results,

and refusals to be tested, within the preceding two years, which are maintained by the employee's previous employers. This information must be obtained and reviewed by the applicable regional personnel office no later than 14 calendar days after the first time a Covered Employee performs Safety-Sensitive Functions for the university, if it is not feasible to obtain the information prior to the employee performing Safety-Sensitive Functions. A Covered Employee will not be allowed to perform Safety-Sensitive Functions more than 14 days without obtaining the information.

A Covered Employee will not be allowed to perform Safety-Sensitive Functions if the university obtains information showing an alcohol test with a concentration of 0.04 or greater, or a verified positive controlled substances test result, or refusal to be tested, unless the applicable regional personnel office obtains information on the employee's subsequent Substance Abuse Professional evaluation and associated successful return to duty testing.

2. Reasonable Suspicion Testing

A Covered Employee will submit to an alcohol and/or controlled substance test when a trained supervisor or other trained university official "Observer" has reasonable suspicion to believe that the employee has engaged in Prohibited Conduct, except for the conduct prohibited by section C.3. of this regulation.

A determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The observations must be made during, just preceding, or just after the period of the work day that the employee is performing a Safety-Sensitive Function. The observations may include indications of the chronic and withdrawal effects of controlled substances. The Observer must attempt to find another trained supervisor or other trained university official to corroborate the observations in writing. The Observer must then escort the employee to the designated collection or test site.

If an alcohol test required by this section is not administered within two hours following the reasonable suspicion determination, the Observer will prepare a report stating the reasons the alcohol test was not timely administered; if the alcohol test is not administered within eight hours following the reasonable suspicion determination, there will be no further attempts to administer the test and the Observer will prepare a report stating the reasons why the test was not timely administered. The report(s) will be forwarded to the applicable regional personnel office.

A written record of the observations leading to a controlled substance reasonable suspicion test will be made by the Observer within 24 hours of the observed behavior or before the results of the controlled substance tests are released, whichever is earlier.

If an Observer is unable to obtain a reasonable suspicion alcohol test the Covered Employee may not remain on or return to duty if the employee appears to be under the influence or impaired by alcohol as indicated by specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. In this situation, the employee will only be permitted to return to work when:

- a. an alcohol test shows a concentration of less than 0.02; or
- b. 24 hours have elapsed since the reasonable suspicion observations.

3. Post-Accident Testing

As soon as practicable following an accident involving a CMV, a Covered Employee whom was performing a Safety-Sensitive Function with respect to the CMV must be tested for alcohol and controlled substances if:

- a. there was a death involved; or
- b. the employee received a citation for a moving traffic violation arising from the accident.

If an alcohol test is not administered within two hours following the accident, the Covered Employee's supervisor will prepare a report stating the reasons why the test was not timely administered. If an alcohol test is not administered within eight hours following the accident, there will be no further attempts to administer the test and the Covered Employee's supervisor will prepare a report stating the reasons why the test was not timely administered.

If a controlled substance test is not administered within 32 hours following the accident, there will be no further attempts to administer the test and the Covered Employee's supervisor will prepare a report stating the reasons why the test was not timely administered. The report(s) will be forwarded to the applicable regional personnel office. A Covered Employee who is subject to post-accident testing must remain readily available for the testing, or will be deemed to have refused to submit for testing.

The applicable regional personnel office will ensure that each Covered Employee receives necessary information, procedures and instructions prior to performing a Safety-Sensitive Function, including operating a CMV, so that the employee is able to comply with the requirements of this Section.

4. Random Testing

The random testing of Covered Employees will be unannounced, spread reasonably throughout the year, and will be conducted to assure that all Covered Employees have an equal chance of being tested. The Covered Employees to be tested will be randomly selected using a scientifically valid method.

The minimum annual percentage rate for random alcohol testing is 25 percent of the average number of Covered Employees or such other rate as may be set annually by the Federal Highway Administration. The minimum annual percentage rate for random controlled substances testing is 50 percent of the average number of Covered Employees or such other rate as may be set annually by the Federal Highway Administration.

Upon request by a supervisor, a Covered Employee must immediately proceed to the designated collection or test site. A Covered Employee may only be tested for alcohol while the employee is performing a Safety-Sensitive Function, just before the employee is to perform a Safety-Sensitive Function, or just after the employee has ceased performing such function.

5. Return-To-Duty Testing

When a Covered Employee has engaged in Prohibited Conduct, the employee will be permitted to return to work in accordance with the following procedures:

- a. The employee will receive a mandatory referral to the university's Employee Assistance Program for an evaluation by a Substance Abuse Professional who will determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substance use; and
- b. If the employee is identified as needing assistance and a rehabilitation program has been prescribed, the employee must be evaluated by the Substance Abuse Professional to determine that the employee has properly followed the recommended rehabilitation program; and
- c. The employee must undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 or, if the Prohibited Conduct involved a controlled substance, a return-to-duty controlled substance test with a result indicating a verified negative result for controlled substance use.

6. Follow-Up Testing

Following a determination by a Substance Abuse Professional that a Covered Employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the Covered Employee is subject to unannounced follow-up alcohol and/or controlled substance testing. The number and frequency of the tests will be determined by the Substance Abuse Professional, but will consist of at least six tests in the first twelve months following the employee's return to duty and may continue for up to five years. Follow up testing for alcohol may only be conducted while the employee is performing a safety-sensitive function, just before the employee is to perform a safety-sensitive function, or just after the employee has ceased performing such function.

E. University Notification Obligations

1. The applicable regional personnel office will:
 - a. notify a Covered Employee of the results of a pre-employment controlled substance test if the employee requests such results within 60 calendar days of being notified of the disposition of the employment application;
 - b. notify a Covered Employee of the results of random, reasonable suspicion and post-accident tests for controlled substances;
 - c. inform the Covered Employee which controlled substance or substances were verified as positive;
 - d. make reasonable efforts to contact and request each person who submitted a specimen under the university's program, regardless of the person's employment status, to contact and discuss the results of the controlled substances test with a Medical Review Officer when the Medical Review Officer has been unable to contact the person and will immediately notify the Medical Review Officer that the person has been notified to contact the Medical Review Officer within twenty-four hours;
 - e. provide information on contacting alcohol and/or Substance Abuse Professionals, counseling and treatment programs; and
 - f. ensure that each Covered Employee receives educational materials that explain this regulation, the meaning of alcohol and controlled substance misuse, treatment programs available and alcohol and controlled substance testing procedures. Covered Employees will acknowledge in writing receipt of such information.
2. Before performing an alcohol or controlled substance test, the trained supervisor or other trained university official will notify the Covered Employee that will be tested of the nature of the test and the reasons for the test. The notice can either be written or oral.

F. Testing Procedures

1. Alcohol

Tests will be conducted under the guidance of a Breath Alcohol Technician selected by the university and in accordance with DOT regulations at one or more designated testing sites.

The site(s) will afford privacy to the individual being tested. If the result of an initial test is an alcohol concentration of less than 0.02, no further testing is required and the results are transmitted to the applicable regional personnel office in a confidential manner.

If the result of an initial test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed within twenty minutes. The results of an initial test and the confirmation test are printed on the breath alcohol test forms, signed by both the Breath Alcohol Technician and the Covered Employee, and

transmitted to the applicable regional personnel office in a confidential manner. Should a breath test show an alcohol concentration of 0.02 or greater, a blood alcohol test may be offered to the Covered Employee as an option, although not required.

2. Controlled Substances

DOT regulations require testing for marijuana, cocaine, opiates, amphetamines and phencyclidine. Tests for these substances will be conducted under the guidance of the Medical Review Officer selected by the university and in accordance with DOT regulations at one or more designated collection sites. Collection of urine samples will allow individual privacy unless there is a reason to believe that a particular individual may alter or substitute the specimen. It is a violation of federal law and these regulations to adulterate or dilute a specimen during the collection procedure.

Test results are given to the Medical Review Officer for analyzing and reporting to the applicable regional personnel office.

G. Employee Refusal to Submit to Testing

Any Covered Employee who refuses to submit to a required alcohol or controlled substance test will be immediately removed from duty and such refusal will be treated as a positive test. Failure to provide adequate breath for testing when required without a valid medical explanation, failure to remain available for post-accident testing, failure to provide adequate urine for testing without a valid medical explanation, engaging in conduct that obstructs the testing process, or failure to sign the alcohol testing form constitutes a refusal to submit to testing.

H. If an Employee Tests Positive

If a Covered Employee has an alcohol concentration of 0.02 or greater in a confirmation test or tests positive for a controlled substance the employee is immediately disqualified from performing Safety-Sensitive Functions, including operating a CMV. The employee will also be subject to return-to-duty testing and disciplinary action as outlined in these regulations, and may be subject to follow-up testing.

I. Disciplinary Action

1. DOT regulations establish prohibited concentrations of alcohol and controlled substances that may be in a Covered Employee's system while the Covered Employee is performing a Safety-Sensitive Function and also establish other prohibited behavior for a Covered Employee. DOT regulations also establish certain minimum penalties for a Covered Employee who has a test result which exceeds the prohibited concentration amounts or who has engaged in prohibited behavior. In general, these penalties include i) prohibitions on driving a CMV for a period of time following the prohibited behavior (with the length of time increasing as the number of instances of prohibited behavior increase), ii) referral

to a Substance Abuse Professional, and iii) return to duty and follow up testing. An employer may, however, adopt stricter penalties.

2. In addition to the minimum penalties established by DOT regulations, the following disciplinary action will be imposed:
 - a. Covered Employees who test positive for controlled substances, who refuse to take a test or whose confirmation test result shows an alcohol concentration of 0.04 or greater will be considered to have engaged in behavior constituting grounds for dismissal for cause.
 - b. Covered Employees who engaged in other forms of Prohibited Conduct the first time will be relieved of duty without pay for the remainder of the employee's work day and for all of the next scheduled work day. For the second instance of Prohibited Conduct, the employee will be suspended for forty duty hours without pay. The third instance of Prohibited Conduct will constitute grounds for dismissal for cause.
 - c. Other violations of this regulation not described in a) and b) above will be dealt with in accordance with applicable policy, regulation or procedures.
3. The disciplinary action imposed by this section on a Covered Employee will be in addition to any other penalties that may be imposed for violations of state or federal laws or regulations pertaining to drivers of CMV's or holders of CDL's.

J. Access to Test Results

Except as required by law, no information about specific alcohol and controlled substance testing will be released by the university to outside parties. A Covered Employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or controlled substances, including any records pertaining to the employee's alcohol or controlled substances tests.

K. Records Retention

The applicable regional personnel office will maintain the following records in a secure location with controlled access:

1. Five Year Record Retention

Records of any employee alcohol test results indicating an alcohol concentration of 0.02 or greater; documentation of refusals to take required alcohol or controlled substance tests; verified positive controlled substance test results; equipment calibration documentation; documentation of Covered Employee evaluations and referrals; and a copy of the calendar year summary required by DOT regulations.

2. Two Year Record Retention

Records related to the collection process and training.

3. One Year Record Retention

Records of any negative and canceled controlled substance test results and alcohol tests results with a concentration of less than 0.02.

The Statewide Office of Human Resources will provide the regional personnel offices with a summary of additional records required to be maintained by DOT regulations. The regional personnel offices will be responsible for maintaining the additional records.

L. Training

All supervisors of Covered Employees and other university officials designated by the applicable chancellor to make reasonable suspicion observations will receive at least 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substance use to assist them in determining whether reasonable suspicion exists to require an employee to undergo testing. The training will cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances. It will also cover available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to the Employee Assistance Program and/or referral to a higher management authority.

M. Self-Reporting

A Covered Employee who self reports alcohol misuse or controlled substance use and requests university assistance will be immediately referred for treatment to a Substance Abuse Professional.

Within 10 working days, the employee must provide proof to the employee's supervisor of having undergone assessment screening. The proof must contain the treatment recommendations of the Substance Abuse Professional.

At least monthly, the employee will furnish the supervisor with proof of their continuing participation in the recommended treatment program until completed. Reoccurrences of alcohol misuse or controlled substance use will be subject to disciplinary action.

(06-20-97)

R04.02.060. Employer Sponsored Petitions for Foreign Nationals.

A. Nonimmigrant Visa Petitions

The University of Alaska (UA) may choose to sponsor nonimmigrant visa petitions for persons who are not United States citizens or permanent residents and are hired in a UA position in the following cases:

1. Exchange visitors (as defined by the Department of State) in a teaching or research non-tenure track position at a Department of State authorized MAU.
2. Foreign nationals in a teaching or research position that requires a Ph.D. or terminal degree within their profession, including post-docs.

3. Foreign nationals in an information technology (IT) position.
4. Foreign nationals from Canada or Mexico in a position listed on the NAFTA Professional Job Series List produced by the Department of Homeland Security (DHS).
5. Exceptions to the above authorized by the president/chancellors or a designee after consultation with the MAU or SW office with expertise in employer sponsored nonimmigrant visa.

Sponsorship of an employer sponsored visa petition includes gathering required information and documents, working with departments on processes and procedures, and facilitating the filing of Labor Condition Application if required. Sponsorship of an employer sponsored visa petition does not obligate UA to finance any costs associated with the petition, except as provided by federal or University Regulation. Sponsorship of an employer sponsored nonimmigrant visa petition by the university may be withdrawn or terminated at any time.

B. Permanent Resident Petitions

The University of Alaska may choose to sponsor permanent resident petitions based on employment upon the recommendation of the director or dean in the following cases:

1. Foreign nationals who are currently employed at UA in a teaching or research position that requires a Ph.D. or terminal degree within their profession.
2. Foreign nationals who are currently employed at UA in an information technology (IT) position.
3. Exceptions to the above authorized by the president/chancellors or a designee after consultation with the MAU or SW office with expertise in employer sponsored permanent resident petition.

Sponsorship of an employer sponsored permanent resident petition includes gathering required information and documents, working with departments on processes and procedures, and facilitating the filing of Labor Certification if required. Sponsorship of an employer sponsored permanent resident petition does not obligate UA to finance any costs associated with the petition, except as provided by federal or University Regulation. Sponsorship of an employer sponsored permanent resident petition may be terminated or withdrawn at any time.

(08-03-09)