

HIDALGO COUNTY, TEXAS
PERSONNEL POLICY MANUAL

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Date Authorized:	08/18/2020
Supersedes:	N/A

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION CLEARINGHOUSE POLICY

POLICY STATEMENT. The Hidalgo County FMCSA Clearinghouse Policy (the “Policy”) has been created to comply with title 49 of the Code of Federal Regulations Part 382. It is mandated that all service agents, every person, and all employers of such persons who operate a commercial motor vehicle in commerce in any State and who are subject to commercial driver license (“CDL”) requirements must, along with other requirements, report information about a driver to the Federal Motor Carrier Safety Administration Clearinghouse (“FMCSA” and the “Clearinghouse”) and must screen each driver in pre-employment investigation and during employment through the Clearinghouse as stated in 49 CFR§ 382. The intent of the program is to create safer roads by preventing CDL holders from concealing drug and alcohol violations by moving on to a next job or a new jurisdiction. Drug and alcohol violation records maintained in the clearinghouse will “follow” the driver regardless of how many times he or she changes employers or applies for a CDL in another state.

SCOPE. This Policy applies to all County employees and applicants for employment whose position or prospective position requires a commercial driver’s license (CDL) and use of a commercial motor vehicle or as required by law.

FMCSA CLEARINGHOUSE COMPLIANCE.

DRIVER: All County of Hidalgo commercial drivers shall comply with state and federal laws and maintain any job qualifications, licenses or certifications required for their position, which includes being subject to Federal Motor Carrier Administration Drug and Alcohol Clearinghouse reporting and screening. FMCSA Clearinghouse system requires Driver registration.

Driver is subject to the following queries of the Clearinghouse:

Pre-Employment Query: An applicant for CDL Driver position is subject to a pre-employment full-query search of the Clearinghouse. Applicant should provide electronic consent through the Clearinghouse so the County may perform the pre-employment full-query search of the Clearinghouse.

Limited Query: County must conduct a limited query of the Clearinghouse at least once annually to determine whether drug and alcohol violation information about a Driver exists in the Clearinghouse. Driver shall provide a written consent to the County for this purpose. If the limited query indicates that information exists, the County will then request electronic consent through the Clearinghouse from the Driver to perform a full query of the Clearinghouse to obtain applicable drug and/or alcohol violation information.

Additionally, County may conduct periodic queries of the Clearinghouse by following the steps referenced above. The County may not allow a Driver to perform any safety-sensitive function if the Driver refuses to grant the consent referenced above.

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REPORTING: The County will report the following information about a Driver to the FMCSA Clearinghouse by the close of the third business day following the date on which it obtains the information:

1. A verified positive, adulterated, or substituted controlled substances test result;
2. An alcohol confirmation test with a concentration of 0.04 or higher;
3. A refusal to submit to a test in violation of 49 CFR §382.211 (including pre-employment, post accident, random, reasonable suspicion, return to duty and follow-up testing);
4. An employer's report of actual knowledge, as defined at 49 CFR §382.107, of:
 - a. On duty alcohol use pursuant to 49 CFR §382.205;
 - b. Pre-duty alcohol use pursuant to 49 CFR §382.207;
 - c. Alcohol use following an accident pursuant to 49 CFR §382.209; and
 - d. Controlled substance use pursuant to 49 CFR §382.213;
5. A Substance Abuse Professional report of the successful completion of the return-to-duty process;
6. A negative return-to-duty test; and
7. An employer's report of completion of follow-up testing.

County may not allow a Driver to perform any safety-sensitive function if the result of a Clearinghouse query demonstrates any of the reportable information stated above, except where the query demonstrates:

- (1) That the Driver has successfully completed the Substance Abuse Professionals ("SAP") evaluation, referral, and education/treatment process set forth in 49 CFR §40, subpart O; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP. See. 49 CFR§ 382.701(d)(1)
- (2) That, if the Driver has not completed all follow-up tests as prescribed by the SAP in accordance with §40.307 of this title and specified in the SAP report required by §40.311 of this title, the driver has completed the SAP evaluation, referral, and education/treatment process set forth in 49 CFR §40, subpart O, of this title and achieves a negative return-to-duty test result, and the employer assumes the responsibility for managing the follow-up testing process associated with the testing violation. See. 49 CFR§ 382.701(d)(2)

PENALTIES. Failure to comply will subject an employee to disciplinary action up to, and including, dismissal from employment by the County of Hidalgo in addition to possible federal repercussions as stated in the regulations. (49 CFR §382).