

Metro Board Approved Policy

Drug and Alcohol Free Work Environment

Adopted: January 1, 1995

Historical Perspective

This policy was amended on July 28, 2011.

The current Drug & Alcohol-Free Work Environment policy has its roots in the policies of its predecessor agencies, the Southern California Rapid Transit District (RTD) and the Los Angeles County Transportation Commission (LACTC). Under its own authority, RTD introduced preemployment drug testing in 1973 and three years later made drug screening a part of the periodic medical examination required for Commercial Driver's License holders. In 1985, the RTD implemented a drug and alcohol abuse policy that included post-accident and incident based drug and alcohol testing. The LACTC adopted a drug and alcohol policy in May 1992 that included testing for reasonable cause.

After the merger between RTD and LACTC, the Board adopted on September 1994 a comprehensive Alcohol and Drug Abuse policy, which became effective January 1, 1995. The new policy integrated the policies of its predecessor agencies and complied with the U.S. DOT and FTA drug and alcohol testing regulations. The regulations included provisions for workers who perform safety sensitive functions and the addition of random testing. Since then, the U.S. DOT and the FTA have issued several amendments that have required the Board to periodically revisit its drug and alcohol policy.

The Board updated the policy in May 1997 to clearly differentiate drug and alcohol testing conducted under U.S. DOT and FTA regulations from testing conducted under its own authority. And in May 1999, the Board adopted amendments to the policy to reflect administrative changes and to clarify language regarding the Drug-Free Workplace Act of 1988. In addition, the Board changed the policy's name to the Drug & Alcohol-Free Work Environment Policy.

The Board approved on consent calendar the revised Drug & Alcohol-Free Work Environment Policy (#HR 4-2, effective date 05/26/2005).

The Board updated the policy in July 2011 to approve changes to the guidelines. Federal Transit Administration regulation 49 CFR Part 655 requires that recipients of FTA funding have a drug and alcohol policy that meets federal guidelines and that the Board of Directors adopt the policy. The Drug and Alcohol Free Work Environment policy establishes Metro's commitment to comply with all federal and state regulations to ensure a safe and substance abuse-free environment. This revision is the first update of the policy since May 26, 2005.

The policy applies to employees identified as safety-sensitive under the FTA's guidelines and complies with the latest amendments to the federal regulations. The policy also applies to non-safety-sensitive employees as permitted by law. In the revised policy, the requirement for preemployment testing of non-safety sensitive employees is eliminated based on a 9th Circuit Court of Appeals Decision (*Lanier v. City of Woodburn*).

The policy encourages employees with alcohol or drug dependency issues to seek professional rehabilitation assistance through Metro's Employee Assistance Program. To ensure sobriety and safety, this policy revision allows Metro to require monitoring of evaluation and treatment when self-disclosure or legal action reveals a substance abuse problem.

The policy previously prohibited the use of alcohol on all Metro property. The definition of "Metro property" specific to this policy has been changed as a result of Metro's purchase of Union Station, which contains facilities and designated areas where alcohol consumption is permitted.



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Los Angeles County
Metropolitan Transportation Authority

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POLICY STATEMENT

The Los Angeles County Metropolitan Transportation Authority (LACMTA) is dedicated to providing safe, dependable and efficient transportation services to customers and a safe work environment for employees. An employee's use of prohibited drugs and misuse of alcohol poses a significant risk to the safety of the employee, his or her coworkers, and the public.

By this reference, all applicable state and federal regulations governing workplace anti-drug use and alcohol misuse programs in the transportation industry are incorporated herein, as though fully set forth, as part of this policy. These regulations include, but are not limited to, Department of Transportation (DOT) regulations 49 CFR Part 40, as amended ("Procedures for Transportation Workplace Drug Testing Programs"); Federal Transit Administration (FTA) regulations, 49 CFR Part 655, ("Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations"); 41 U.S.C. Section 701-707 ("Federal Drug-Free Workplace Act of 1988"); and California Government Code section 8350 *et seq.*, ("Drug-Free Workplace Act of 1990").

NOTE: Additional requirements and/or disciplinary actions established under LACMTA authority are entered in **bold-faced type**. Requirements of the Federal Drug-Free Workplace Act (not covered under 49 CFR Part 655) are in *italics*.

PURPOSE

The purpose of this policy is to:

- A. Create a work environment free from the adverse effects of drug abuse and alcohol misuse;
- B. Deter and detect employees' use of illegal drugs and misuse of alcohol;
- C. Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances;

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- D. Encourage employees to seek professional assistance anytime personal problems, including drug or alcohol dependency, adversely affect their ability to safely perform their assigned duties; and
- E. Discipline employees who violate the policy, up to and including termination.

APPLICATION

Unless otherwise noted in specific provisions, this policy applies to **all LACMTA employees** regardless of their functions and to LACMTA property as defined in Section 11.0. It applies to split assignments, off-site lunch periods and/or breaks when an employee is scheduled to return to work or is on-call. **The application of this policy to non-safety-sensitive employees comes under LACMTA's own authority. Volunteers, visitors, invitees, licensees, contractors and vendors are also governed by the requirement to remain drug and alcohol free while on LACMTA property or when performing any business for or providing a service to LACMTA.**

As a condition of employment, safety-sensitive (covered) employees are required to submit to all drug and alcohol tests administered in compliance with the requirements of 49 CFR Parts 40 and 655 and **other conditions and testing required under LACMTA authority. Non-safety-sensitive employees are subject to all incident-based testing (reasonable suspicion, post-accident, return-to-duty and follow-up).**

As defined by the FTA, safety-sensitive employees include those who perform, or may be called upon to perform, the following safety-sensitive functions:

- A. Operating a revenue service vehicle, even when it is not in revenue service;
- B. Operating a non-revenue service vehicle when required to be operated by a Commercial Driver's License (CDL) holder;
- C. Controlling dispatch or movement of a revenue service vehicle;
- D. Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service; or
- E. Carrying a firearm for security purposes.

Managers and supervisors are considered safety-sensitive if they perform, or may be called upon to perform any of the above safety-sensitive functions.

The job classifications listed on Appendix A are considered safety-sensitive for the purposes of this policy.



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1.0 PROHIBITED BEHAVIORS

1.1 Illegal Drugs

All LACMTA employees are prohibited from consuming the following products at all times:

- A. Marijuana
- B. Cocaine
- C. Opiates
- D. Amphetamines
- E. Phencyclidine (PCP)

All LACMTA employees are prohibited from possessing or distributing the above products and are prohibited from reporting to work with these products or their metabolites in their systems.

1.2 Alcohol

A. All LACMTA employees are prohibited from:

1. **Consuming alcohol and/or having an open container of alcohol while on duty or while on LACMTA property, including parking areas, whether on-duty or not.**
2. Having alcohol in their system at 0.02 alcohol concentration or greater while performing safety-sensitive functions **or while on duty.**
3. Consuming alcohol within four (4) hours prior to performing safety-sensitive functions **or prior to reporting for duty.**
4. Consuming alcohol within eight (8) hours following an accident requiring a post-accident alcohol test or until undergoing a post-accident test, whichever occurs first.

- B. All safety-sensitive employees are prohibited from alcohol consumption while on-call and for the duration of the on-call status. If an employee is called to report to duty, the employee has the opportunity to acknowledge alcohol use and inability to perform his or her safety-sensitive function. If the employee acknowledges alcohol use but claims ability to perform his/her safety-sensitive function, the employee must first take an alcohol test and test negative before performing such function.

1.3 Prescriptions or Over-the-Counter Medications

(Refer to Fitness-for-Duty Policy, HR 29)



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1.4 Volunteers, Visitors, Invitees, Licensees, Contractors and Vendors

Whenever there is evidence or reasonable suspicion that a volunteer, visitor, invitee, licensee, contractor or vendor possesses, is distributing or may have used drugs or alcohol, they may be prohibited from entering or remaining on LACMTA property and may be prohibited from conducting any further business with or on behalf of LACMTA.

2.0 CONSEQUENCES OF POSITIVE DRUG AND/OR ALCOHOL TESTS

Any employee who has a verified positive drug test result, an alcohol concentration of **0.02 or greater**, or refuses to submit to a drug and/or alcohol test, including adulteration or substitution and all other actions deemed to constitute a refusal (**for more details see Section 11.0 - Definitions**), shall be considered to have violated this policy. The consequences of a violation are listed below and shall be imposed in all the types of tests listed in section 4.0.

1. Immediate removal from duty.
2. Referral to a Substance Abuse Professional (SAP) for evaluation, education and/or treatment.
3. **Discipline, up to and including termination.** Prior to assessing discipline, management will consider pertinent information including any aggravating and/or mitigating circumstances and will meet with LACMTA's Drug and Alcohol Disciplinary Review Committee (DADRC).
4. **Responsibility for the cost of any treatment or rehabilitation services will be paid directly by the employee or through his/her insurance provider.**

3.0 CONTACT PERSON

Any questions about this policy or any aspect of LACMTA's Drug and Alcohol Program should be referred to:

Title:	Drug and Alcohol Program Manager Human Resources Department, MS 99-14-8
Address:	One Gateway Plaza, Los Angeles, CA 90012
Telephone Number:	(213) 922-7172
Fax:	(213) 922-3885



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4.0 TYPES OF TESTING

A test refusal, a verified positive drug test result or an alcohol test result of 0.02 alcohol concentration or above, on any of the types of tests listed below will subject the employee to consequences as described in Section 2.0.

4.1 Pre-Employment Testing

Candidates for employment into a safety-sensitive position or any employee transferring from a non-safety-sensitive position to a safety-sensitive position will be required to undergo a pre-employment drug and alcohol test at a time and place designated by LACMTA. An alcohol test result below 0.02 and a verified negative drug test result must be received prior to any candidate's assuming the position or an employee's performance of any safety-sensitive function. If a pre-employment drug test is canceled, the candidate/employee will be required to submit to another drug test with no advance notice and successfully pass it.

LACMTA will check on the drug and alcohol testing background of all candidates (external applicants and current employees in non-safety-sensitive job classifications) being considered for final selection into any safety-sensitive position within LACMTA, subject to a candidate's written consent. Any candidate who refuses to provide the required written consent will not be hired into a safety-sensitive position, regardless of qualifications.

In instances where a safety-sensitive employee is on extended leave, regardless of the reason, for a period of 90 days or more and is removed from the random testing pool, the employee will be required to take a drug test and have negative results prior to performing any safety-sensitive functions. This requirement also includes employees who have been working in non-safety-sensitive positions and removed from the random testing pool for 90 days or more.

4.2 Reasonable Suspicion Testing

LACMTA shall conduct drug and alcohol tests when there is reasonable suspicion to believe any employee has used a prohibited drug and/or engaged in alcohol misuse. A determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning appearance, behavior, speech, or odors while the employee is on duty or subject to duty. These observations must be made by a supervisor or other LACMTA official who is trained in detecting the signs and symptoms of drug use and alcohol misuse.



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The supervisor or LACMTA official who makes the testing determination need not be the employee's own supervisor, as long as he/she has received training in detecting the signs and symptoms of drug use and alcohol misuse. The supervisor's observations will be documented in accordance with LACMTA policy, procedures and practices, and such documentation must be forwarded to the Drug and Alcohol Program Manager identified in Section 3.0.

All LACMTA employees may be subjected to reasonable suspicion testing for drugs anytime while on duty. Under FTA authority, a covered employee may only be subjected to reasonable suspicion testing for alcohol immediately before, during, or immediately after performance of any safety-sensitive function. However, under LACMTA authority, all employees may be subject to reasonable suspicion testing for alcohol at any time while on duty.

The following circumstances are also grounds for a reasonable suspicion testing referral:

- A. Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substances in the workplace or while on duty.**
- B. Industrial accident resulting in a traumatic injury which requires medical treatment. Any or all of the employees directly involved may be subjected to an alcohol and/or drug test when there is reasonable suspicion to believe that an employee's use of alcohol or drugs may have caused or contributed to the accident or injury.**
- C. Physical altercation or assault between two or more employees. All employees involved in the altercation will be tested, except when the employee is only attempting to restrain those involved in the altercation or a security officer is performing his or her official function.**

Once a supervisor or other authorized LACMTA official has made a reasonable suspicion determination, he/she must remove the employee from his/her job functions and have the employee accompanied to the collection site for testing immediately. If testing is not conducted within two hours, the reason for the delay must be documented and forwarded to the LACMTA Drug and Alcohol Program Manager, along with other documentation on decision to test. All attempts to complete an alcohol test must cease after eight hours from the time of the incident or observation.



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4.3 Post-Accident Testing

All safety sensitive employees who are involved in a traffic accident while operating a mass transit vehicle will be required to submit to drug and alcohol tests as soon as practicable after the accident, if as a result:

- A. An individual dies;
- B. An individual suffers bodily injury and immediately receives medical treatment away from the scene;
- C. The mass transit vehicle (bus, truck, van, or automobile) or any other vehicle involved in the accident suffers disabling damage as a result of the accident and is transported away from the scene by a tow truck or other vehicle; or
- D. The mass transit vehicle is a rail car and is removed from revenue service.

This requirement also applies to any employee who is operating any other LACMTA vehicle at any time, or who is driving a private vehicle while conducting LACMTA business at the time of the accident.

4.3.1 Fatal Accidents

Whenever there is a loss of human life, any surviving employee operating an LACMTA vehicle at the time of the accident must be tested for drugs and alcohol. Any safety-sensitive employee whose performance could have contributed to the accident must also be tested.

4.3.2 Non-Fatal Accidents

Following non-fatal accidents, the employee operating the vehicle at the time of the accident must be tested unless his/her performance can be completely discounted as a contributing factor to the accident. Any other safety-sensitive employee whose performance could have contributed to the accident must also be tested.

4.3.3 Other Post-Accident Testing Requirements

If an alcohol or drug test is required under this section, the employee must be tested as soon as practicable following the accident. An alcohol test must be administered within 8 hours of the accident. A drug test must be administered within 32 hours of the accident. If LACMTA is unable to perform such post-accident testing (i.e., employee is unconscious, employee is detained by law enforcement agency), LACMTA may use drug and alcohol post-accident test



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results administered by local law enforcement officials in lieu of testing under DOT procedures. The local law enforcement officials must have independent authority for the test, and LACMTA must obtain the results in conformance with local law.

The employee involved in an accident that requires testing must remain readily available for testing, including notifying LACMTA of his/her location if the employee leaves the scene of the accident before testing to obtain emergency medical care, or to obtain assistance in responding to the accident. The employee will be considered to have refused to submit to testing if the employee fails to comply with these requirements.

If the accident results in a fatality or if there is reasonable suspicion that the employee has used alcohol or a prohibited drug, the employee will be held out of service until LACMTA has received a verified negative drug test result and an alcohol test result of less than 0.02. All other employees may return to work as soon as practicable while the results of testing are pending.

Following receipt of negative drug and alcohol test results, the employee shall be promptly returned to his/her regular work and made whole for any lost wages, unless the employee must be held out-of-service or suspended for violations of other LACMTA policies, procedures or rules.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit an employee from leaving the scene of an accident to obtain assistance in responding to the accident or for emergency medical care.

4.4 **Random Testing**

All safety-sensitive employees are required to undergo random drug and alcohol tests. The random selection will be conducted using a scientifically valid method that gives each covered employee an equal chance of being selected every time a selection is made. As is the nature of the random method, it is possible that some employees will be selected several times in one year, and other employees not for several years. Management has no discretion regarding selection.

The number of employees randomly selected for drug and alcohol testing during the calendar year shall not be less than the percentage rates established by the FTA. Random testing will be spread throughout the calendar year and conducted at all days and times when safety-sensitive functions are performed. The testing dates and times are



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unannounced. Employees are required to proceed immediately to the designated collection site following notification. An unreasonable delay shall be considered a test refusal.

A covered employee shall only be randomly tested for alcohol immediately before, during, or immediately after performance of any safety-sensitive function. The employee may be randomly tested for drugs anytime while on duty.

4.5 Return-to-Duty Testing

If an employee who has violated this policy is not terminated, the employee shall not be allowed to return to duty until he/she has successfully completed the return-to-duty process. Violations include refusing a required test, having a verified positive, adulterated or substituted drug test result, and testing positive for alcohol at 0.02 or greater. This return-to-duty process includes evaluation by a SAP, successful completion of the rehabilitation, treatment or education program outlined by the SAP and obtaining a verified negative observed return-to-duty drug test and/or alcohol test under 0.02. A positive return-to-duty test will be considered a violation of this policy.

4.6 Follow-Up Testing

In addition to the return-to-duty test, **any** employee meeting the conditions described in Section 4.5 who returns to duty shall also be subject to follow-up testing for drugs and/or alcohol. The SAP determines the number, frequency and duration of follow-up tests that will be performed for a period of a minimum of 12 months to a maximum of five years. LACMTA will determine the actual follow-up testing dates. The employee's manager is responsible for coordinating testing with the LACMTA Drug and Alcohol Program Manager. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing. Employees are required to proceed immediately to the designated collection site following notification. An unreasonable delay shall be considered a test refusal.

4.7 Commercial Driver's License (CDL/Periodic) Testing

The California Department of Motor Vehicles (DMV) requires drivers of commercial motor vehicles (Class A or B licenses) to pass a medical examination to obtain or renew their medical certificates. LACMTA requires a drug test as part of this examination to ensure that the CDL holder is qualified to operate a commercial vehicle.



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4.8 Rail Safety Incident Testing

Any employee directly involved in, or who contributed to, a rail incident compromising the safety of employees, passengers, the general public or that could have potentially resulted in loss of life, injury or significant damage to property due to non-compliance with LACMTA safety rule(s) and/or LACMTA Standard Operating Procedures, shall be required to submit to drug and alcohol testing as soon as practicable after the incident. This includes:

- (a) non-compliance with a verbal and/or written train directive, unauthorized bypass of a safety system, violation of manual block procedures, or violation of a stop indication signal or safety-related special instruction;
- (b) operating through a misaligned switch in violation of LACMTA rules and/or procedures, unauthorized operation of a switch under a train, unauthorized movement through a switch, or entering a crossover prior to ensuring switches are aligned for intended movement;
- (c) providing improper, unsafe and/or conflicting directions during the performance of a control function, which results in an unsafe condition;
- (d) non-compliance with other safety rules and/or procedures that create unsafe conditions.

5.0 TESTING PROCEDURES

All drug and alcohol tests required under this policy will be administered and analyzed in accordance with the procedures set forth by DOT 49 CFR Part 40 ("Procedures for Transportation Workplace Drug Testing Programs") as amended. Throughout the testing process, the privacy of the employee will be protected and the integrity and validity of the process will be maintained. Detailed drug and alcohol specimen collection procedures are available at MyMetro.net or upon request from the Drug and Alcohol Program Manager identified in Section 3.0 of this policy.

5.1 Alcohol Testing Procedures

Tests for alcohol concentration will be conducted using an alcohol screening device and an evidential breath testing (EBT) device if the screen test is at 0.02 alcohol concentration or greater. An Alcohol Testing Form will be used and a unique sequential number will be assigned to each test.



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5.2 Drug Testing Procedures

For each drug test, a Custody and Control Form with a unique identification number will be used to ensure that the correct urine specimen and the test result for that specimen is attributed to the correct employee. A split specimen collection process will be utilized. An initial screening test using an immunoassay technique will be performed. If the specimen is positive for one or more of the drugs tested, then a confirmation test will be performed using mass spectrometry analysis. If the test is confirmed positive, the Medical Review Officer (MRO) will conduct a verification process, which includes giving the employee an opportunity to provide a valid medical explanation for the positive test result and an opportunity to request a test of the split specimen.

The laboratory must also conduct analyses to determine if a urine specimen is consistent with human urine or has been adulterated, tampered with, or diluted. If the MRO reports a “negative-dilute” test result from a pre-employment test, the candidate or employee will be required to immediately take a second test, unobserved. The result of the second test becomes the test of record.

If the laboratory reports to the MRO an “Invalid Result” or “Rejected for Testing” (because of a fatal or uncorrectable flaw), a recollection may also be required by the MRO, and depending on the circumstances, the specimen may have to be recollected under direct observation. The result of the second test becomes the test of record.

After notification by the MRO of a verified positive drug test or refusal to test because of adulteration or substitution, the employee has 72 hours to request, in writing, a test of the split specimen unless the employee presents the MRO with information documenting that serious injury, illness, lack of actual notice of the verified test result, or other circumstances unavoidably prevented the employee from making a timely request.

Following the employee’s timely request, the MRO will send a written request to the primary laboratory to forward the split specimen to a second laboratory certified by Health and Human Services (HHS) for testing without regard to the cut-off concentration. If the second laboratory fails to reconfirm the substance detected in the primary specimen or the adulterant identified, the test will be canceled. The MRO will report the cancellation and the reasons for it to the DOT, LACMTA and the employee. If the split specimen is not available for testing, the employee shall be directed, with no advance notice, to submit another specimen under direct observation.

All costs related to split specimen testing, including the shipping of the split specimen to the second HHS certified laboratory, will be paid by the candidate, the employee or the



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union, if such an arrangement is in effect. The employee or the union will be reimbursed if the second test invalidates the original test or if the test was canceled.

5.3 Directly Observed Urine Specimen Collection

Under the following circumstances, the employee will be instructed to undergo an immediate urine specimen collection under direct observation with no advance notice:

- A. If the laboratory reported to the MRO that a specimen was invalid and there was no adequate medical explanation for the result;
- B. If the MRO reported that the original positive, adulterated, or substituted test result had to be canceled because the split specimen testing could not be performed;
- C. If the collector observes employee conduct that clearly indicates an attempt to tamper with a specimen;
- D. If the temperature on the original specimen is out of range;
- E. If the original specimen appeared to have been tampered with; or
- F. If the test being conducted is a return-to-duty test or a follow-up test.

The observer must be the same gender as the employee, but need not be the collector. The observer must request the employee to raise his/her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the observer, by turning around, that they do not have a prosthetic device. The observer must also watch the specimen go from the employee's body into the collection container. If the employee declines to allow a directly observed collection when required or permitted under this policy, it is considered a refusal to test.

6.0 EDUCATION AND TRAINING

All employees will receive a copy of this policy. Additional employee education and training programs include posters, new employee orientation, community resources, informational materials and seminars.

All safety-sensitive employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use and alcohol misuse, including the effects and consequences on personal health, safety and the work environment. This mandated training will include information on community treatment and drug-abuse prevention resources and voluntary rehabilitation.

Drug and alcohol training similar to that mandated for safety-sensitive employees is available to non-safety-sensitive employees.



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Managers, supervisors and/or other LACMTA officers authorized by LACMTA to make reasonable suspicion determinations will receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

7.0 REHABILITATION ALTERNATIVES

- A. **Voluntary Rehabilitation:** LACMTA strongly encourages employees to voluntarily seek professional assistance for problems dealing with drug abuse and/or alcohol misuse. Voluntary rehabilitation means seeking treatment before the problem is detected as a result of LACMTA-directed alcohol and/or drug tests. LACMTA provides an Employee Assistance Program (EAP) to help employees identify the problem and obtain treatment. However, participation in the EAP does not excuse or exempt an employee from discipline following a positive test result or other violation of this policy.
- B. **Self Disclosure to Management:** When an employee admits alcohol misuse or drug abuse to a supervisor or a manager, LACMTA has a responsibility to act on this information to protect the safety of the employee, his or her coworkers and the public. Therefore, the employee will be referred to the SAP for an assessment. The employee must successfully complete the rehabilitation, treatment and/or education that are prescribed by the SAP and pass the return-to-duty test(s) as determined by the SAP. The employee will also be subject to follow-up testing as prescribed by the SAP. Self-disclosure, on its own, would not be considered a violation of the policy; however, it does not exempt the employee from any testing required under company or federal testing authority.
- C. **Drug and Alcohol Related Legal Actions:** If an employee incurs outside legal action related to a drug or alcohol offense that impacts work responsibilities such as driving a vehicle, LACMTA will follow the same process detailed in paragraph B above.

In most cases the employee will be removed from duty until the SAP process and return-to-duty testing have been successfully completed; however, management, in collaboration with the DADRC, has the discretion to allow the employee to work during this process if safety will not be compromised. The employee will be permitted to take accrued sick leave or administrative leave to participate in the SAP prescribed treatment program. If the employee has insufficient accrued leave, the employee will be placed on leave without pay until the SAP has determined that the employee has successfully completed the required treatment program and releases him/her to return to duty. LACMTA leave policies will apply, including the Medical Disability Leave (HR 44) policy and Family Medical Leave (HR 33) policy.



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8.0 CONFIDENTIALITY AND ACCESS TO FACILITIES AND RECORDS

Employees have a right to examine their own drug and alcohol testing records, provide information to dispute the results, and have access to any pertinent data such as EBT calibration or drug testing laboratory certification. They also have a right to obtain a copy of their own test results by submitting a written request to the Drug and Alcohol Program Manager identified in Section 3.0 of this policy.

LACMTA will maintain the confidentiality of the testing records to protect the privacy of the individuals tested. Individual test results or medical information will be released to third parties (including unions) only with the employee's specific written consent, or to those parties authorized by the DOT, FTA, or other agency authorized by law or regulation to receive such information without the employee's consent.

The employee's written consent is not required in administrative or legal proceedings such as:

- A. A lawsuit, grievance, or administrative proceeding brought by, or on behalf of the employee, resulting from a positive test or a refusal to test; or
- B. A criminal or civil action resulting from an employee's performance of safety-sensitive duties where the alcohol or drug test information is deemed relevant.

9.0 FEDERAL DRUG-FREE WORKPLACE ACT of 1988 (DFWA) REQUIREMENTS

Under the DFWA, employees are prohibited from the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace. Employees are required to notify management in writing of any criminal drug statute convictions received for a violation occurring in the workplace, no later than five calendar days after such a conviction. Within 10 calendar days of receiving such notice, LACMTA will provide written notification of the conviction to the FTA. Within 30 calendar days of receiving notice of the conviction, LACMTA will take appropriate disciplinary action, or require the employee to participate and successfully complete a drug rehabilitation program. All LACMTA employees must abide by the requirements of this statement as a condition of employment.

Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

10.0 PREEMPTION OF STATE AND LOCAL LAWS OR LABOR AGREEMENTS

If a conflict occurs between state and local laws or labor agreements and any federal regulation, the federal regulation prevails. Federal regulations do not preempt provisions of state criminal laws that impose sanctions for reckless conduct attributed to prohibited drug use or alcohol



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misuse, whether the provisions apply specifically to transportation employees, employers, or the public in general.

11.0 DEFINITIONS

Accident Triggering a Drug and Alcohol Test: An occurrence associated with the operation of a vehicle, if as a result:

- A. An individual dies;
- B. An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident;
- C. The mass transit vehicle involved is a bus, van or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or
- D. The mass transit vehicle involved is a rail car and the vehicle is removed from revenue service.

Adulterated Specimen: A urine specimen that has been altered, as evidenced by test results showing a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an expected substance.

Alcohol Concentration: The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

Alcohol Use: The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol. For purposes of this policy, alcohol is alcohol regardless of source.

Breath Alcohol Technician (BAT): An individual who instructs and assists employees or applicants in the alcohol testing process and operates an EBT device.

Canceled Test: A drug or alcohol test with an identified problem that cannot be or has not been corrected, or which CFR 49 Part 40 requires to be canceled. A canceled test is neither a positive nor a negative test.

Collector: A person who instructs and assists individuals at a collection site, who receives and makes an initial inspection of the specimen provided by the individual, and who initiates and completes the Custody and Control Form (CCF).



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Controlled Substances: Any drug classified by the U.S. Drug Enforcement Agency (DEA) into the five schedules or classes on the basis of their potential for abuse, accepted medical use, and accepted safety for use under medical supervision.

Designated Employer Representative (DER): An employee designated to administer LACMTA's Drug and Alcohol Program and authorized by LACMTA to take immediate action(s) to remove employees from safety-sensitive duties and make required decisions in the testing and evaluation processes. The DER also receives test results and other communications on behalf of LACMTA, consistent with the requirements of 49 CFR Part 40.

Disabling Damage: Damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. This includes damage to a motor vehicle, where the vehicle could have been driven, but would have sustained further damage if so driven. It does not include:

- A. Damage that can be remedied temporarily at the scene of the accident without special tools or parts;
- B. Tire disablement without other damage even if no spare tire is available;
- C. Headlamp, mirror or tail light damage; or
- D. Damage to turn signals, horn, or windshield wipers that make them inoperative.

DOT: United States Department of Transportation.

Drug Abuse: Use of any illegal drug or controlled substance without a valid prescription, misuse of legally prescribed drugs, or use of illegally obtained prescription drugs. This includes use of prescription drugs legally prescribed to another individual.

Evidential Breath Testing (EBT) Device: A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the 0.02 and 0.04 alcohol concentrations and placed on the NHTSA's Conforming Products List.

FTA: Federal Transit Administration; an agency in the U.S. Department of Transportation.

Invalid Drug Test: The result reported by a HHS-certified laboratory, in accordance with HHS Mandatory Guidelines, when a positive, negative, adulterated or substituted result cannot be established for a specific drug or specimen validity test.

LACMTA Property: For the purpose and application of this policy, LACMTA property includes all facilities where employees are assigned and their respective employee parking areas and LACMTA vehicles and facilities used for public transit. It does not include the public facilities



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and spaces at Union Station, nor does it include LACMTA property used for authorized commercial activities.

Mass Transit Vehicles: Vehicles used for mass transportation or ancillary services.

Medical Prescriptions: A medication prescription written by a physician which indicates the employee's name, date, substance, dosage (quantity or amount to be taken), and period of authorization. It is a violation of this policy to use any controlled substance that is inconsistent with the prescription. Please note that the legality of a prescribed medication is based on U.S. federal law; for example, a prescription for "medical marijuana" under California code is not recognized by the DOT/FTA.

Medical Review Officer (MRO): A licensed physician who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program. He or she must have knowledge of substance abuse disorders and possess the appropriate medical training to interpret and evaluate medical explanations for certain drug test results.

Mitigating Circumstances: Individual circumstances that, when taken collectively, may be considered in assessing appropriate discipline for policy violations. Examples are: nature or consequence of the violation, job functions, employment history, length of service and performance record of the employee.

Negative Drug Test: The result reported by an HHS-certified laboratory to an MRO, when the specimen contains no drug or the concentration of the drug is less than the cutoff and the sample is a valid specimen.

Off-duty: The status of an employee who is not presently working or required to report to work.

On Call: See Subject to Duty.

Positive Alcohol Test: The presence of alcohol in the body at a concentration of 0.02 or greater as measured by an EBT device.

Positive Drug Test: The result reported when the specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations and is verified by the MRO. Effective October 1, 2010, the confirmatory cut-off (ng/mL) for the prohibited controlled substances is as follows:

A. Marijuana	15
B. Cocaine	100
C. Opiates	2000
D. Amphetamines	250



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E. Phencyclidine (PCP) 25

Reconfirmed: The result reported for a split specimen when the secondary laboratory is able to corroborate the original result reported for the primary specimen.

Refusal to Test:

- A. Failure to appear at the collection site within a reasonable time, as determined by the employer, after being directed to do so by the employer representative (except for pre-employment test).
- B. Failure to remain at the collection site until the testing process is completed, except in pre-employment situations where leaving the site before the testing process begins is not deemed to be a test refusal.
- C. Failure to provide a urine, breath, or saliva specimen as required by 49 CFR Part 40.
- D. Failure to permit the observation or monitoring of specimen collection when it is required.
- E. Failure to provide a sufficient amount of urine or breath specimen without a valid medical explanation (see Shy Bladder Procedure below).
- F. Failure or refusal to take a second test when required.
- G. Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the “shy bladder” or “shy lung” procedures of 49 CFR Part 40.
- H. Failure to cooperate with any part of the testing process (for example, refusing to empty pockets or wash hands when so directed by the collector, behaving in a confrontational way that disrupts the collection process, refusing to sign Step 2 of the alcohol testing forms when required, etc).
- I. Failure to remain readily available for post-accident testing, including failure to notify LACMTA management of employee’s location if employee leaves the scene of the accident prior to undergoing a post-accident test.
- J. A verified adulterated or substituted test result.
- K. For an observed collection, failure to follow the observer’s instructions to raise or lower clothing and turn around.
- L. Possessing or wearing a prosthetic or other device that could be used to interfere with the collection.
- M. Admitting to the collector or MRO to having adulterated or substituted the specimen.

NOTE: - A refusal to test is equivalent to a positive test result.

- **Employees are responsible for complying with the protocol required during the drug and alcohol testing process. In**



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certain circumstances, while failure to comply may not be deemed a “refusal to test,” the employee may nevertheless be disciplined for not cooperating or complying in full with the procedures set forth in this policy.

Safety-Sensitive Employee: An employee who performs a safety-sensitive function. This includes any period in which he or she is actually performing, ready to perform, or immediately available to perform any one of the following safety-sensitive functions:

- A. Operating a revenue service vehicle, even when it is not in revenue service;
- B. Operating a non-revenue service vehicle when required to be operated by a Commercial Driver’s License (CDL) holder;
- C. Controlling dispatch or movement of a revenue service vehicle;
- D. Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service; or
- E. Carrying a firearm for security purposes.

“Shy Bladder” Procedures: Protocol for handling situations when a donor has difficulties in providing a sufficient urine sample (45 ml) in a single bladder void, within the maximum time allowed. If the donor is ultimately unsuccessful, a medical examination is conducted to determine if the failure to provide is the result of a legitimate medical condition.

Split Specimen: In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second HHS-certified laboratory for testing upon employee request following a verified positive, adulterated or substituted test result from the primary specimen.

Subject-to-Duty: The status of an employee who is scheduled to report for work at an assigned time and or who has not been finally and completely released from the responsibility of performing further work that day. Subject-to-duty also means any employee who is responsible for being available to perform work on an emergency basis when called to do so, i.e. in an “on-call” status, if the employee is guaranteed extra compensation because of his/her “on-call” status. An employee who is simply responsible for responding, if available, when the employee is not within either definition above, is not considered to be subject-to-duty for the purposes of this policy.

Substance Abuse Professional (SAP): A licensed or certified professional with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, and follow-up testing.



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Substituted Specimen: A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

Vehicles Used by LACMTA: Buses, vans, automobiles, rail cars, non-revenue commercial motor vehicles, and vehicles used by armed security personnel.

12.0 RESPONSIBILITIES

All LACMTA employees, at all levels, must abide by the requirements of this policy as a condition of employment. Each employee must receive and sign for a copy of this policy and is responsible for reading, understanding and meeting its specific standards and obligations.

Managers and supervisors are strictly accountable for the consistent application and enforcement of this policy, as well as maintaining confidentiality at all times. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, is subject to disciplinary action, up to and including discharge.

13.0 FLOW CHART

Not Applicable

14.0 REFERENCES

The following references are available at <http://mymetro/hr/Programs/DnA.asp>

Regulations

Omnibus Transportation Employee Testing Act of 1991

49 CFR Part 655

49 CFR Part 40

Federal Drug Free Workplace Act of 1988 (41 U.S.C. Sections 701-707)

49 CFR 391.41 - 391.49

Resources

Discipline (HR 47)

Fitness for Duty (HR 29)

Employee Assistance Program (HR 40)



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HUMAN RESOURCES
Drug and Alcohol Free Work Environment

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What Employees Need To Know

Prohibited Behaviors

Drug Collection Procedures

Alcohol Testing Procedures

Facts About Random Testing

The Role of the Medical Review Officer

The Role of the Substance Abuse Professional

Looking For Help? (Resource & Referral Listing)

Contact List

Drug and Alcohol Free Work Environment Policy Update Bulletins:

- 01-14-2000 Drug & Alcohol Policy Bulletin
- 07-31-2001 Upcoming Drug & Alcohol Policy Revision
- 12-01-2001 Notification of Regulatory Changes to the Drug and Alcohol Policy
- 07-20-2003 Major Revision to the Safety-Sensitive Job Classification List
- 03-08-2004 Notification of Changes to the Drug and Alcohol Program
- 08-15-2008 Federal Regulatory Changes, Effective August 25, 2008
- 09-12-2008 Additional Requirements under the Drug-Free Workplace Act
- 09-20-2010 Federal Regulatory Changes, Effective October 1, 2010

15.0 ATTACHMENTS

Appendix A - Listing of Safety-Sensitive Job Classifications

16.0 PROCEDURE HISTORY

- 02/03/93 Former LACTC and former SCRTD interim procedures board-adopted
- 01/01/95 New procedure
- 07/01/97 Revised to be in conformance with mandated regulatory changes
- 09/21/99 Revised to be in conformance with mandated regulatory changes
- 03/28/02 Revised to be in conformance with mandated regulatory changes
- 05/26/05 To reflect policy changes made under LACMTA authority
- 05/06/11 Revised to be in conformance with mandated federal regulatory revisions and changes made under LACMTA authority
- 03/25/14 Biennial review: no changes at this time
- 01/27/16 Biennial review: no changes at this time



LISTING OF SAFETY-SENSITIVE JOB CLASSIFICATIONS BY TITLE
(Revised August 4, 2011)

<u>JOB CODE</u>	<u>TITLE</u>	<u>REASON CODE</u>
9597	Assistant Operations Control Manager	C
7204	Assistant Manager, Rail Division Transportation	C, O
9657#	Assistant Transportation Operations Manager	C, O
0782	Body Repairer "A"	M, O
0786	Body Repairer "A" Leader	M, O
0850	Bus Operator Full Time	O
0999	Bus Operator Part Time	O
0991	Bus Operator Part Time (BDOF)	O
0848	Bus Operator Trainee Full Time	O
0998	Bus Operator Trainee Part Time	O
0990	Bus Operator Trainee Part Time (BDOF)	O
0851	Bus Operator/Acting Transit Operations Supervisor	O
0856	Bus Operator/Extra Schedule Checker	O
0884	Cash Clerk/Relief Vault Truck Driver	L
8041	Collision Investigations Manager	O
8040	Collision Investigations Specialist	O
7009	Director, Rail Transportation Operations	C, O
9635	Director of Operations Control	C, O
0803	Electronic Communications Technician	M, O
0815	Electronic Communications Technician Leader	M, O
4011	Equipment Maintenance Instructor	M, O
4007	Equipment Maintenance Supervisor (EMS)	M
0789	Facilities Systems Technician	M
0790	Facilities Systems Technician Leader	M
4009	Field Equipment Technician	M
0830	Laborer "A"	L
0779	Machinist	M
0780	Machinist Leader	M
0762	Maintenance Specialist	M, L
0769	Maintenance Specialist Leader	M, L
0745	Maintenance Specialist Leader – Temp	M, L
0752	Master Mechanic	M
0753	Master Mechanic Leader	M
0817	Mechanic "A"	M, O, L
0814	Mechanic "A" Leader	M, O, L
0781	Mechanic "A" Leader - Temp	M, O, L
0812	Mechanic "AA"	M, O, L
0810	Mechanic "AA" Leader	M, O, L
0820	Mechanic "B"	M, O, L
0818	Mechanic "B" Leader	M, O, L
0822	Mechanic "C"	M, O, L



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0821	Mechanic "C" Trainee	M, O, L
0754	Mechanic "D"	M
0775	Non-Revenue Rail Equipment Mechanic	M
0776	Non-Revenue Rail Equipment Mechanic Leader	M
9640	Operations Assistant Instruction Manager	C, O
9607	Operations Control Center Manager	C, O
0784	Painter "A"	O, M
0787	Painter "A" Leader	O, M
0767	Rail Body/Paint Repairer	M
0747	Rail Body/Paint Repairer Leader	M
4605	Rail Communications Supervisor	M
0763	Rail Electronic Communication Inspector	M
7203	Rail Division Transportation Manager	C, O
0758	Rail Electronic Communication Inspector Leader	M
7007	Rail Equipment Maintenance Instructor	M
7005	Rail Equipment Maintenance Supervisor	M
7212	Rail Integration and Instruction Manager	C, O
0743	Rail Warranty Equipment Specialist	M
0849	Rail Warranty Equipment Specialist Leader	M
4609	Rail Signal Supervisor	M, C
4608	Rail Track Supervisor	M, C
4610	Rail Traction Supervisor	M, C
7205	Rail Transit Operations Supervisor	C, O
0882#	Revenue Collector	L
0912#	Revenue Collector Leader	L
0363	Security Officer II	F
0423	Security Officer/Canine Handler	F
0422	Sr. Security Officer	F
0829	Service Attendant	O, M
0827	Service Attendant Leader	O, M
0785	Service Attendant Leader - Temp	O, M
0744	Sr. Service Attendant	O, M
0764	Signal Inspector	M
0757	Signal Inspector Leader	M
0823#	Tools & Materials Technician	L
0765	Track Inspector	M
0756	Track Inspector Leader	M
0766	Traction Power Inspector	M
0755	Traction Power Inspector Leader	M
0859	Train Operator Full Time	O
0997	Train Operator Part Time	O
0858	Train Operator Trainee Full Time	O
0996	Train Operator Trainee Part Time	O
9646	Transit Operations Supervisor, Instruction	C, O
9647	Transit Operations Supervisor, Control Center	C



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9648	Transit Operations Supervisor, Division Operations	O
9649	Transit Operations Supervisor, Vehicle Operations	C, O
8817	Transit Security Lieutenant	F
8816	Transit Security Sergeant	F
9654#	Transportation Operations Manager	C,O
0931	Truck Driver/Clerk	L
0930	Sr. Truck Driver/Clerk	L
0826	Utility "A"	M, O
0824	Utility "A" Leader	M, O
0783	Utility "A" Leader - Temp	M, O
0974	Vault Truck Driver	L
9658#	Vehicle Operations Manager	C
0807	Warranty Equipment Mechanic	M, O
0792	Warranty Equipment Mechanic Leader	M, O

SAFETY-SENSITIVE REASON CODES

- O - Operates a revenue service vehicle, even when not in revenue service.
- M - Performs repair/maintenance of revenue service vehicles or equipment used in revenue service.
- C - Controls the movement of revenue service vehicles.
- L - Operates a non-revenue service vehicle requiring a Commercial Driver's License (CDL).
- F - Carries a firearm for security purposes.

IMPORTANT NOTES:

1. Individual employees in other classifications/positions who obtain a CDL, at management's request, and operate a revenue vehicle for ANY reason, will be considered safety-sensitive and subject to:
 - a. Federal pre-employment drug and alcohol testing, prior to obtaining the CDL.
 - b. Inclusion in the random testing pool and testing when selected.
2. List is subject to change as job classification titles are amended, added or deleted.
3. Classifications marked with "#" have been added to the list since the last formal revision, dated August 15, 2008.

PLEASE POST



Metro

DRUG AND ALCOHOL PROGRAM BULLETIN
**Clarification to Drug and Alcohol Free Work Environment
Policy**

Date: April 20, 2015
To: All Employees
From: Carmen Sison Mayor, DEO, Human Resources
Subj: Drug and Alcohol Policy Clarification – Effective Immediately

Managers and supervisors are urged to read and post this bulletin

The Federal Transit Administration (FTA) recently conducted a formal audit of Metro's Drug and Alcohol Program. As a result of the audit, updates to Metro's Drug & Alcohol Free Work Environment Policy HR 46 were recommended in order to further clarify Metro's current policy practice and procedures. Please see the attached Summary of Changes to view the list of the recommended clarification items.

Please note that these updates do not change or affect Metro's current policy practice or procedures, which have been in effect since 2002.

The updates listed in the Summary of Changes are effective immediately and will be reflected in the next policy revision.



**Summary of Changes
Drug and Alcohol Free Work Environment (HR 46)**

Policy Section	Revision	Reason
Application, Item B	Added: “the vehicle is” in Part B, so that the sentence reads: “B. Operating a non-revenue service vehicle when the vehicle is required to be operated by a Commercial Driver’s License (CDL) holder.”	Clarification of FTA regulations
1.2 Alcohol, Item C	Added: Item C, “An alcohol test result with a concentration of a 0.04 or greater is considered a positive test as defined by the FTA. However, an alcohol test result with a concentration of 0.02 - 0.039 shall be considered a policy violation under Metro’s own authority and therefore carries the same consequences as a positive test.”	Clarification of FTA regulations
2.0 Consequences of Positive Drug and/or Alcohol Tests, #1	Added: “safety-sensitive”, so that the sentence reads: “1. Immediate removal from safety-sensitive duty.”	Clarification of FTA regulations
2.0 Consequences of Positive Drug and/or Alcohol Tests, #2	Added: “or substance abuse counselor” so that the sentence reads: “2. Referral to a Substance Abuse Professional (SAP) or substance abuse counselor for evaluation, education and/or treatment.”	Clarification of FTA regulations. The term Substance Abuse Professional is used only for FTA violations. Therefore, the term Substance Abuse Counselor is used for non-DOT violations.
2.0 Consequences of Positive Drug and/or Alcohol Tests, #4	Removed: “responsibility for”, so that the sentence reads: “4. The cost of any treatment or rehabilitation services will be paid directly by the employee or through his/her insurance provider.”	Clarification of Metro policy
4.1 Pre-Employment Testing, 3 rd paragraph	Removed: “or more” and “and have” Added: “Or more consecutive”, “during that absence”, “DOT pre-employment”, “with a verified”, “were”, and “or more consecutive”, so that the paragraph reads: “In instances where a safety-sensitive employee is on extended leave, regardless of the reason, for a period of 90 or more consecutive days and is removed from the random testing pool during that absence, the employee will be required to take a DOT pre-employment drug test with a	Clarification of FTA regulations



**Summary of Changes
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Policy Section	Revision	Reason
	verified negative result prior to performing any safety-sensitive functions. This requirement also includes employees who have been working in non-safety-sensitive positions and were removed from the random testing pool for 90 or more consecutive days."	
4.1 Pre-Employment Testing, 4 th paragraph	Added: "If a covered employee or applicant has previously failed or refused a pre-employment drug or alcohol test administered under any DOT agency regulation, the employee must provide proof of having successfully completed a SAP referral, evaluation and treatment plan as described in Section 40.25."	Clarification of DOT regulations
4.2 Reasonable Suspicion Testing, 3 rd paragraph	Added: "non-DOT", so that the sentence reads: "However, under LACMTA authority, all employees may be subject to non-DOT reasonable suspicion testing for alcohol at any time while on duty."	Clarification of Metro policy
4.2 Reasonable Suspicion Testing, 4 th paragraph	Added: "non-DOT", so that the sentence reads: "The following circumstances are also grounds for a non-DOT reasonable suspicion testing referral"	Clarification of Metro policy
4.2 Reasonable Suspicion Testing, 5 th paragraph	Added: "alcohol" and "the", so that the sentence reads: "If alcohol testing is not conducted within two hours, the reason for the delay must be documented and forwarded to the LACMTA Drug and Alcohol Program Manager, along with other documentation on the decision to test."	Clarification of FTA regulations
4.3 Post-Accident Testing, 1 st paragraph	Removed: "a traffic" and "while operating a mass transit vehicle" Added: "an" and "as defined in Part 655 and Section 11.0 of this policy", so that the sentence reads: "All safety sensitive employees who are involved in an accident as defined in Part 655 and Section 11.0 of this policy will be required to submit to drug and alcohol tests as soon as practicable after the accident, if as a result:"	Clarification of FTA regulations
4.3 Post-Accident Testing, Item C	Removed: "mass transit" Added: "public transportation" so that the sentence	FTA revised the definition of post-accident



**Summary of Changes
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Policy Section	Revision	Reason
	reads: "The public transportation vehicle (bus, truck, van, or automobile) or any other vehicle involved in the accident suffers disabling damage as a result of the accident and is transported away from the scene by a tow truck or other vehicle."	
4.3 Post-Accident Testing, Item D	Removed: "mass transit" Added: "public transportation" so that the sentence reads: "The public transportation vehicle is a rail car and is removed from revenue service."	FTA revised the definition of post-accident
4.3 Post-Accident Testing, 2 nd paragraph	Removed: "this", "applies", and "the" Added: "Under LACMTA authority, non-DOT post-accident testing", "apply", and "an", so that the sentence reads: "Under LACMTA authority, non-DOT post-accident testing requirements also apply to any employee who is operating any other LACMTA vehicle at any time, or who is driving a private vehicle while conducting LACMTA business at the time of an accident."	Clarification of Metro policy
4.3.3 Other Post-Accident Testing Requirements, 1 st paragraph	Added: "any delay that causes the alcohol test to be conducted more than two hours after the accident will be documented and this record will be maintained in the file. All attempts to conduct the alcohol test shall cease after 8 hours."	Clarification of FTA regulations
4.4 Random Testing, 3 rd paragraph	Removed: "shall" and "the" Added: "may" and "A covered", so that the paragraph reads: "A covered employee may only be randomly tested for alcohol immediately before, during, or immediately after performance of any safety-sensitive function. A covered employee may be randomly tested for drugs anytime while on duty."	Clarification of FTA regulations
4.8 Rail Safety-Incident Testing, 1 st paragraph	Added: "non-DOT", so that the sentence reads: "Any employee directly involved in, or who contributed to, a rail incident compromising the safety of employees, passengers, the general public or that could have potentially resulted in loss of life, injury	Clarification of Metro policy



**Summary of Changes
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Policy Section	Revision	Reason
	or significant damage to property due to non-compliance with LACMTA safety rule(s) and/or LACMTA Standard Operating Procedures, shall be required to submit to non-DOT drug and alcohol testing as soon as practicable after the incident.”	
5.2 Drug Testing Procedures, 2 nd paragraph	Added: “unless the MRO requires direct observation”, so that the sentence reads: “If the MRO reports a “negative-dilute” test result from a pre-employment test, the candidate or employee will be required to immediately take a second test, unobserved, unless the MRO requires direct observation.”	Clarification of FTA regulations
5.2 Drug Testing Procedures, 5 th paragraph	Removed: “without regard to the cut off concentration.”	Clarification of FTA regulations
5.2 Drug Testing Procedures, 6 th paragraph	Removed: “was” Added: “is”, so that the sentence reads: “The employee or the union will be reimbursed if the second test invalidates the original test or if the test is canceled.”	Clarification of Metro policy
5.3 Directly Observed Urine Specimen Collection, 2 nd paragraph	Added: “that could be used to tamper with the collection process”, so that the sentence reads: “The observer must request the employee to raise his/her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the observer, by turning around, that they do not have a prosthetic device that could be used to tamper with the collection process.”	Clarification of FTA regulations
6.0 Education and Training, 2 nd paragraph	Removed: “and alcohol misuse” Added: “Additional training may be included to cover the signs and symptoms of alcohol misuse.”	Clarification of FTA regulations and Metro policy
7.0 Rehabilitation, Item B	Removed: “SAP”, “the”, and “as determined by the SAP” Added: “substance abuse counselor” and “non-DOT”, so that Item B reads: <u>Self Disclosure to Management</u> : When an employee admits alcohol	Clarification of FTA regulations and Metro policy



**Summary of Changes
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Policy Section	Revision	Reason
	<p>misuse or drug abuse to a supervisor or a manager, LACMTA has a responsibility to act on this information to protect the safety of the employee, his or her coworkers and the public. Therefore, the employee will be referred to a substance abuse counselor for an assessment. The employee must successfully complete the rehabilitation, treatment and/or education that are prescribed by the substance abuse counselor and pass a non-DOT return-to-duty test. The employee will also be subject to non-DOT follow-up testing as prescribed by the substance abuse counselor. Self-disclosure, on its own, would not be considered a violation of the policy; however, it does not exempt the employee from any testing required under company or federal testing authority.”</p>	
7.0 Rehabilitation, Item C, 2 nd paragraph	<p>Removed: “SAP”</p> <p>Added: “Assessment, education, and treatment”, “any”, and “substance abuse counselor”, so that the paragraph reads: “In most cases the employee will be removed from duty until the assessment, education, and treatment process and return-to-duty testing have been successfully completed; however, management, in collaboration with the DADRC, has the discretion to allow the employee to work during this process if safety will not be compromised. The employee will be permitted to take accrued sick leave or administrative leave to participate in any prescribed treatment program. If the employee has insufficient accrued leave, the employee will be placed on leave without pay until the substance abuse counselor has determined that the employee has successfully completed the required treatment program and releases him/her to return to duty. LACMTA leave policies will apply, including the Medical Disability Leave (HR 44) policy and Family Medical Leave (HR 33) policy.”</p>	Clarification of FTA regulations and Metro policy



**Summary of Changes
Drug and Alcohol Free Work Environment (HR 46)**

Policy Section	Revision	Reason
11.0 Definitions, Accident Triggering a Drug and Alcohol Test	Wherever the term “mass transit” was used, it was replaced with the term “public transportation”	FTA revised the definition of post-accident
11.0 Definitions, Aggravating Circumstances	Added definition: Aggravating Circumstances: “Individual circumstances that, when taken collectively, may be considered in assessing appropriate discipline for policy violations. Examples are: nature or consequence of the violation, job functions, employment history, accident record, length of service and performance record of the employee.”	Clarification of Metro policy
11.0 Definitions, Canceled Test	Corrected to read: 49 CFR Part 40, instead of “CFR 49 Part 40”.	Clarification of FTA regulations
11.0 Definitions, Controlled Substances	Corrected: Changed the word Agency to Administration, so it reads: U.S. Drug Enforcement Administration.	Corrected
11.0 Definitions, Mass Transit Vehicles	Terminology changed to: Public Transportation Vehicles Removed: “mass” Added: “public”, so that the definition reads: “ <u>Public Transportation Vehicles:</u> Vehicles used for public transportation or ancillary services.”	FTA revised the definition of post-accident
11.0 Definitions, Mitigating Circumstances	Added: “accident record”, so that the definition reads: “Individual circumstances that, when taken collectively, may be considered in assessing appropriate discipline for policy violations. Examples are: nature or consequence of the violation, job functions, employment history, accident record, length of service and performance record of the employee.”	Clarification of Metro policy
11.0 Definitions, Policy Violation Alcohol Test	Added definition: “The presence of alcohol in the body at a concentration of 0.02 – 0.039 as measured by an EBT device.”	Clarification of Metro policy
11.0 Definitions, Positive Alcohol Test	Corrected: 0.04 instead of 0.02, so that the definition reads: “The presence of alcohol in the body at a concentration of 0.04 or greater as measured by an EBT device.”	Clarification of FTA regulations



**Summary of Changes
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Policy Section	Revision	Reason
	Added: FTA, so that the terminology is: "Positive Alcohol Test (FTA)"	
11.0 Definitions, Refusal to Test, Item J	Removed: "a verified" Added: "Verification by the MRO of an", so that the definition reads: "Verification by the MRO of an adulterated or substituted test result."	Clarification of FTA regulations
11.0 Definitions, Refusal to Test, Item N	Removed example from Item H and created Item N: Failure to sign Step 2 of the Alcohol Testing Form	Clarification of FTA regulations
11.0 Definitions, Refusal to Test, NOTE	Removed: "is equivalent to" Added: "has the same consequences as", so that the sentence reads "A refusal to test has the same consequences as a positive test result."	Clarification of FTA regulations
11.0 Definitions, Safety-Sensitive Employee, Item B	Added: "The vehicle is" so that Item B reads: "Operating a non-revenue service vehicle when the vehicle is required to be operated by a Commercial Driver's License (CDL) holder."	Clarification of FTA regulations

NOTE: THIS SUMMARY COVER SHEET IS INTENDED FOR REVIEW PURPOSES ONLY. IT IS NOT INTENDED FOR INTERPRETATION OF POLICY GUIDELINES. REFER TO POLICY DOCUMENT FOR ACTUAL GUIDELINES AND PROCEDURES.