



Southeast Colorado Enterprise
Development, Inc. (SECED, Inc.)
SE TPR / SETran



SECED/SETRAN'S POLICY IMPLEMENTING THE FEDERAL TRANSIT ADMINISTRATION REGULATIONS ON DRUG USE AND ALCOHOL MISUSE

OVERVIEW

This policy is designed to enhance productivity and safety and foster excellence by maintaining a safe and productive environment for employees. The SECED/SETran maintains a strong commitment to a drug-free and alcohol-free work environment and has adopted this policy to provide guidance to supervisors and employees in dealing with drug and alcohol misuse. This policy is applicable only to SECED/SETran employees subject to Federal Transit Administration (FTA) regulations on drug use and alcohol misuse (49 CFR, Part 40 as amended and Part 655). The SECED/SETran reserves the right to conduct drug and/or alcohol tests of applicants for employment and current employees in accordance with the provisions of any other state and/or federal law. This policy will be kept current with the latest federal regulatory changes and interpretations.

Provisions set forth under SECED/SETran policy will appear in italics.

The SECED/SETran is dedicated to assuring the fair and equitable application of this substance abuse policy. Supervisors are required to use and apply all aspects of the policy in an unbiased and impartial manner and any supervisor who knowingly disregards the requirements of the policy or who is found to be deliberately misusing the policy in regard to subordinates will be subject to disciplinary action.

To further our commitment to providing a safe, drug-free and alcohol-free environment, the SECED/SETran has adopted the following policies:

- an employee and supervisor education and training program;
- a drug and alcohol testing program for employees and applicants for employment in safety-sensitive positions;
- a program for evaluating employees who violate the drug use and alcohol misuse policy; and
- administrative procedures for record keeping, reporting, releasing information and certifying compliance.

EMPLOYEE CATEGORIES SUBJECT TO TESTING

Under FTA regulations, all employees who perform safety-sensitive functions, and all applicants for and incumbent employees seeking transfer to safety-sensitive positions, will be included in this drug and alcohol testing program. Participation in this drug and alcohol testing program is a condition of employment for each safety-sensitive employee.

The FTA defines the term “safety sensitive” to apply to all employees in a position to perform the following functions: 1) operate revenue service vehicles, whether or not the vehicle is in revenue service; 2) operate non-revenue service vehicles that require drivers to hold a Commercial Drivers License (CDL); 3) control dispatch or movement of service vehicles; 4) maintain revenue service vehicles or equipment used in revenue service; and 5) security personnel carrying firearms.

The SECED/SETran has reviewed the duties performed by all employees to determine safety-sensitive positions. Any new job classifications will be analyzed for safety-sensitive duties.

The following duties and the corresponding position titles are covered under the FTA policy.

Transit Mobility Facilitator	may operate a small or medium sized transit system bus
Bus Driver	operates small or medium sized transit system bus
Clerk/Dispatcher	may operate a small or medium sized transit system bus
Mechanic/ Shop Foreman	maintains transit system bus

The following positions have been determined by the SECED/SETran to meet the FTA definition:

- all bus operators, paid or volunteer
- all bus maintenance personnel

Excluded are:

- contractors performing safety sensitive maintenance duties on Section 18 vehicles.

This list is subject to amendment at any time. Supervisors who perform or who are likely to perform safety-sensitive functions also are considered safety-sensitive employees and will be included in the drug and alcohol testing program applicable to all safety-sensitive employees.

PROHIBITED CONDUCT

- ALCOHOL

Employees who perform safety-sensitive functions must not consume alcohol: 1) during specified on-call hours; 2) while performing a safety-sensitive function; 3) within four hours prior to performing a safety-sensitive function; and 4) for up to eight hours following an accident, or until the employee undergoes a post-accident test, whichever occurs first. An

on-call employee must acknowledge, at the time they are called to duty, that they have used alcohol at the time they are called to report for duty. *The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.*

As referred to in this policy, alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol. FTA regulations currently prohibit a covered employee from reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater. An employee found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall still be relieved from duty for at least eight hours or until the start of the employee's next scheduled duty period, whichever is longer, and pursuant to SECED/SETran policy as long as there are at least 24 hours between taking the test and they start work again.

- **CONTROLLED SUBSTANCES**

Employees who perform a safety-sensitive function are strictly prohibited from using or ingesting prohibited drugs at any time, except when the use is pursuant to the instruction of a physician who has advised the employee that the substance does not affect the employee's ability to safely perform his or her job. Manufacturing, distributing, dispensing, possessing or using controlled substances in the work place is prohibited, pursuant to the Drug-Free Workplace Act. *Pursuant to the SECED/SETran policy, any employee who manufactures, distributes, dispenses, processes, sells, attempts to sell, or arranges to sell a controlled substance to any other person while on duty, whether on or off SECED/SETran property, whether on or off duty, shall be subject to discipline up to and including discharge.*

As referred to in this policy, a controlled substance or prohibited drug means marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP). FTA regulations currently prohibit the performance of safety-sensitive functions when a prohibited level of any of five specified drugs is detectable above the Federally established cut off levels in the employee's urine.

DRUG AND ALCOHOL TESTING PROGRAM

Safety-sensitive employees will be subject to testing pursuant to FTA regulations. *Testing of non-safety-sensitive employees, applicants for non-safety-sensitive positions and any testing of safety-sensitive employees over and above the requirements of FTA regulations will be performed pursuant to separate authority of the SECED/SETran.* Any testing procedures utilized by the SECED/SETran will conform to applicable federal and state requirements.

Under the SECED/SETran policy, a refusal to take a test will constitute the equivalent of a positive drug test or an alcohol test of 0.04 or greater. Therefore, refusal by an employee to submit to required testing or failure to pass a drug or alcohol test will lead to disciplinary action up to and including discharge. Any employee who refuses to submit to

a required drug or alcohol test will not be permitted to continue to perform safety-sensitive functions.

The following situations are considered a refusal to test:

- Inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation. A physician must provide a written conclusion that the employee's inability to provide a urine or breath specimen has no medical cause.
- Conduct which prevents the completion of a required drug or alcohol test. Failure to cooperate with any part of the testing process.
- Failure to appear at the collection site at all or in a timely manner (excluding pre-employment testing).
- Leaving the scene of an accident without a valid reason before the tests have been conducted (Failure to remain Readily Available following an accident).
- Failure to attempt to provide a urine or breath specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- Failure to allow a directly observed or monitored collection when circumstances mandate it.
- Failure to take a second test the employer or collector has directed the employee to take
- Failure to undergo a medical examination or evaluation as directed by the MRO or DER.
- A verified adulterated or substituted test result is a refusal to test.
- The MRO'S verification of a test that is adulterated or substituted.
- Failure to remain until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- Failure to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- Possessing or wearing a prosthetic or other device used to tamper with the testing process.
- Admitting the adulteration or substitution of a specimen to the collector or MRO.
- Refusal to sign the certification at Step 2 of the ATF.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

The SECED/SETran will adhere to all required standards of confidentiality. Testing records and results will be released only to those authorized to receive such information.

TESTING FOR CONTROLLED SUBSTANCES

The drugs that will be tested for are:

- Marijuana
- Cocaine

- Opioids (including codeine, morphine, heroin, hydrocodone/hydromorphone, and oxycodone/oxymorphone)
- Phencyclidine (PCP)
- Amphetamine (including methamphetamine, MDMA and MDA)

DOT rule preempts state medicinal use of marijuana initiatives.

Drug testing of safety-sensitive employees authorized by FTA regulations will be considered positive if the amounts of the metabolites present are above the minimum thresholds established in 49 CFR Part 40, as amended.

While drug testing by the SECED/SETran normally will be limited to marijuana, cocaine, amphetamines, opiates and PCP, the SECED/SETran reserves the right, pursuant to its policy and its own authority, to require employees to provide separate specimens for testing for other controlled substances, as permitted by law. The SECED/SETran reserves the right, pursuant to its policy and under its own authority, as permitted by law, to perform drug tests of applicants or non-safety-sensitive employees using the same procedures FTA requires for testing safety-sensitive employees. Non-DOT tests must be performed using non-DOT Chain of Custody forms as well as Non-DOT Alcohol Testing Forms. The SECED/SETran reserves the right to refer an employee for a fit for duty physical examination by a physician when there are concerns about their health as it relates to safety.

TESTING FOR ALCOHOL

Alcohol testing of safety-sensitive employees will be performed pursuant to FTA regulations. This means that USDOT mandated random, reasonable suspicion and follow up alcohol testing can only be conducted just before, during, or just after the performance of safety-sensitive functions. *However, . The SECED/SETran reserves the right, pursuant to its policy and under its own authority, as permitted by law, to perform alcohol tests of non-safety-sensitive employees using the same procedures FTA requires for testing safety-sensitive employees. Alcohol tests performed under SECED/SETran authority will be performed using non-DOT testing forms.*

TESTING PROCEDURES

The SECED/SETran will select an appropriate site for the administration of drug and alcohol tests, which meets the requirements specified by the U. S. Department of Transportation (DOT). In the event of both drug and alcohol tests required, the alcohol test will be completed first.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

A dilute specimen is a specimen with creatinine and specific gravity values that are lower than expected for human urine. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO. The second test will be considered the test of record.

Consistent with 49 CFR part 40 collection under direct observation (by a person of the same gender) with no advance notice will occur if:

1. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the Designated Employer Representative (DER) that there was not an adequate medical explanation for the result; or
2. The MRO reports to the DER that the original positive, adulterated, or substituted test result had to be canceled because the test of the split specimen could not be performed.
3. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).
4. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
5. The temperature on the original specimen was out of range;
6. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
7. All follow-up-tests; or
8. All return-to-duty tests

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHSTA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in this policy. An alcohol concentration of less than 0.02 will be considered a negative test.

The SECED/SETran affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity

of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

ROLE OF THE MEDICAL REVIEW OFFICER (MRO)

A specially trained physician serving as MRO will review all drug test results first. The MRO will notify the SECED/SETran directly if an employee's drug test result is negative. If the drug test result is positive, the MRO will contact the employee to discuss the test, to determine if the positive test result is valid and to notify the employee that they have 72 hours to request a test of the split specimen. (See the Section entitled "Retesting at the Employee's Request" for a detailed description of split test procedures.) The SECED/SETran only will be informed that an individual has tested positive or negative. The specific drug(s) involved may be disclosed to the SECED by the MRO. The levels detected will not be disclosed by the MRO to the SECED/SETran.

ROLE OF THE SUBSTANCE ABUSE PROFESSIONAL (SAP)

The SAP's function is to protect the public interest by professionally evaluating the employee and recommending appropriate education/treatment, follow-up tests and after care. The SAP providing services is a licensed physician (Medical Doctor or Doctor of Osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or the ICRC or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC)) and has the knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders. The SAP will follow the procedures set forth in 49 CFR Part 40.

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug test a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undo concerns for public safety.

Covered employees will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a

relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

TYPES OF TESTING

The SECED/SETran will perform the following types of drug and alcohol testing:

1. Pre-Employment Testing (drug only)
2. Reasonable Suspicion Testing;
3. Post-Accident Testing;
4. Random Testing;
5. Return to Duty Testing; and
6. Follow-Up Testing.

1. PRE-EMPLOYMENT TESTING

All applicants for employment in and incumbent employees seeking transfer to safety-sensitive positions will be informed in writing of the federally-mandated testing requirements and will undergo a pre-employment drug test. The SECED/SETran will not hire an applicant for or transfer an employee to a safety-sensitive position unless the result of the applicant's or employee's drug test is negative.

In instances where a FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool, the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results reported back to the SECED/SETran prior to the conduct of safety-sensitive job functions.

When a covered employee or applicant has previously failed a DOT pre-employment drug test, the employee or applicant must present the SECED/SETran proof of successfully completing a referral, evaluation and treatment plan as described in 49 CFR Part 40 subpart O.

If otherwise qualified, an individual with permanent or long term disabilities that directly render them unable to provide an adequate urine specimen, will be able to perform safety-sensitive duties despite their inability to provide urine during a pre-employment test. The MRO will determine long term inability to provide urine by a medical examination and consultation with the employee's or applicant's physician.

• CONSEQUENCES OF A POSITIVE TEST RESULT

A positive pre-employment drug test shall be considered sufficient grounds to disqualify the applicant or incumbent employee from employment with the SECED/SETran in a safety-sensitive position. Pursuant to SECED/SETran policy, an incumbent employee whose drug test result is positive will be subject to the same consequences as an employee whose random drug test was positive.

The SECED/SETran will not assign an applicant or incumbent employee who has refused to take or had a verified positive pre-employment drug test to a safety-sensitive position. *If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be referred to a SAP. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.*

If a pre-employment test is canceled, the SECED/SETran will require the applicant to take and pass another pre-employment drug test.

Applicants are required (even if ultimately not hired) to provide the SECED/SETran with signed written releases requesting FTA drug and alcohol records from all previous, DOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. The SECED/SETran is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must provide the SECED/SETran proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

2. REASONABLE SUSPICION TESTING

Employees who perform a safety-sensitive function will be required to submit to a drug or alcohol test when the SECED/SETran has a reasonable suspicion that the employee has used a prohibited drug or misused alcohol. Reasonable suspicion is established if a supervisor trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. The determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee consistent with possible drug use or alcohol misuse.

A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation.

The SECED/SETran will direct an employee to undergo reasonable suspicion testing for alcohol only if such observations are made during, just preceding or just after the period of the day that the employee is required to comply with the employee alcohol use prohibitions. The alcohol test may be administered only just before, just after or during the period the employee is to perform a safety-sensitive function. The supervisor making the decision to test for reasonable suspicion may not act as the Breath Alcohol Technician (BAT) for that test. If a reasonable suspicion test is not performed within two hours after such a determination, the SECED/SETran will prepare and maintain a record stating the reasons the test was not promptly administered. No employee suspected of alcohol

misuse, as shown by the behavioral, speech or performance indicators of alcohol misuse, may perform or continue to perform safety-sensitive functions until an alcohol test is administered evidencing a blood alcohol concentration of less than 0.02.

An employee who undergoes reasonable suspicion testing will be removed from service pending the test results. If the test results are negative, the employee will be returned to work and paid for any time lost per SECED/SETran policy.

- **CONSEQUENCES OF POSITIVE TEST RESULT**

If the reasonable suspicion drug or alcohol test result is positive, the employee will be removed from the safety-sensitive position, referred to the SAP and will be subject to discipline up to and including discharge *will result in immediate termination*. The employee shall be subject to the same requirements regarding assessment, rehabilitation, return-to-duty and follow-up testing applied to employees following a positive random test.

3. POST-ACCIDENT TESTING

FATAL ACCIDENTS - A covered employee will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle, whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.

NON-FATAL ACCIDENTS - A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:

- a. The accident results in injuries requiring immediate medical treatment away from the scene, and the covered employee may have contributed to the accident.
- b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, and the covered employee may have contributed to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

General Accident Procedures:

The appropriate supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and

no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

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 for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care

Employees and supervisors should follow the following steps in a post-accident situation:

1. treat injuries first;
2. cooperate with local law enforcement officers;
3. explain to employees the need for testing;
4. conduct tests promptly; and
5. collect accident documentation promptly.

- **CONSEQUENCES OF POSITIVE TEST RESULT**

If the result of a drug or alcohol test is positive, the employee will be removed from the performance of his or her safety-sensitive function, referred to the SAP and will be subject to discipline, *up to and including discharge, as determined by the SECED/SETran. Pursuant to SECED/SETran policy, the first offense will result in immediate termination.* The employee shall, at a minimum, be subject to the same requirements regarding assessment, rehabilitation, return-to-duty and follow-up testing applied to employees following a positive random test.

4. RANDOM TESTING

Safety-sensitive employees will be randomly tested for both drugs and alcohol.

Random testing will be conducted for all employees performing safety-sensitive functions. The minimum annual rate of random selections is established by the FTA and reviewed annually. Random testing will be unannounced and spread reasonably throughout the year and will be conducted on all days and hours during which transit service is in operation. There will be no pattern to when random tests will be conducted. Employees will be selected randomly by a scientifically valid method, such as a random number table or a computer-based random number generator that is mapped to the employee's social security number. The selection process will guarantee that each covered employee will have an equal chance of being tested each time selections are made. Employees shall

remain in the pool even after being selected and tested. Therefore, an employee may be selected for a random test more than once during a year.

Employees will be selected anonymously using an identification number having no correlation to actual employee names. The employee must report to the collection site immediately after receiving notification of his or her selection from the random pool. In the event a randomly selected employee is absent from work on the day their test is scheduled, the employee will be tested immediately upon their return to work, as practicable, unless the employee fails to return to work before the next randomly selected testing date.

There is no discretion on the part of management or operations in the selection and notification of individuals for testing.

A safety-sensitive employee will be subject to random testing for alcohol only while the employee is performing safety-sensitive functions or just before or just after performing safety-sensitive functions.

- **CONSEQUENCES OF POSITIVE RESULT**

Pursuant to SECED/SETran policy, any employee who tests positive for drugs or whose alcohol test result is 0.04 or greater will be relieved of all duties.

5. RETURN-TO-DUTY-TESTING – With a new employee application

The purpose of return-to-duty testing is to provide a degree of assurance to the employer that the individual is presently drug and alcohol free and is able to return to work without undue concern of continued drug abuse or alcohol misuse.

An employee who receives a verified positive drug test result, an alcohol test result of 0.04 or greater, or who refuses to submit to any test, may not return to work until the employee is: 1) evaluated by a SAP who determines that the employee has followed any treatment program prescribed by the SAP and 2) passes a return-to-duty test. A return-to-duty test will be performed only after the SAP indicates that the employee has completed or is following any prescribed treatment program. In the return-to-duty evaluation, the SAP also will determine the frequency and duration of follow-up testing after the employee returns to duty. The SAP may recommend that the employee be subject to a return-to-duty test for both drugs and alcohol even if the employee only tested positive for one or the other. To pass the return-to-duty test, the result must be a verified negative drug test result and/or an alcohol test result of less than 0.02.

Any and all follow up testing and/or return-to-duty testing will be performed under direct observation.

- **CONSEQUENCE OF POSITIVE TEST RESULT**

Pursuant to SECED/SETran policy, any positive return-to-duty drug test or alcohol test with a result of 0.02 or higher will be grounds for immediate termination.

6. FOLLOW-UP TESTING

The purpose of follow-up testing is to motivate employees to remain drug and alcohol free after returning to duty following a positive test and to provide the employer with assurances that the person has not resumed drug use or alcohol misuse.

Employees permitted to return to duty are subject to unannounced follow-up testing. The SAP will determine the frequency and duration of the follow-up testing. A minimum of six follow-up tests during the first 12 months after the employee returns to duty will be performed. The testing period shall not exceed 60 months from the employee's return to duty. Follow-up testing is separate from and in addition to the regular random testing program. Accordingly, employees subject to follow-up testing will remain in the standard random pool and will be tested whenever their names come up for random testing, even if this means being tested twice in the same day, week or month.

The SAP may recommend that the employee be subject to follow-up testing for both drugs and alcohol even if the employee only tested positive for one or the other. Therefore, an employee who is subject to follow-up drug tests may be required to take one or more follow-up alcohol tests with a result of less than 0.04. If the employee is subject to follow-up alcohol tests, the employee may be required to take one or more follow-up drug tests with a verified negative result. Follow-up alcohol testing will be conducted only just before, just after or during the period the employee is to perform a safety-sensitive function.

Any and all follow up testing and/or return-to-duty testing will be performed under direct observation

- **CONSEQUENCES OF A POSITIVE TEST RESULT**

Pursuant to SECED/SETran policy, any positive test result for an employee subject to follow-up testing (including the positive result of a safety-sensitive job transfer, random, reasonable suspicion, post-accident or other test) will be grounds for immediate discharge. The employee will be removed from safety-sensitive duties, advised of treatment programs and referred to SAP for evaluation.

Alcohol and drug tests are not optional. If you refuse to provide a specimen, the consequences will be the same as if you had a positive test and you will not be allowed to perform or continue to perform your duties.

Consistent with 49 CFR part 40 refusal to test is defined as:

The following situations are considered a refusal to test:

- Inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation. A physician must provide a written conclusion that the employee's inability to provide a urine or breath specimen has no medical cause.

- Conduct which prevents the completion of a required drug or alcohol test. Failure to cooperate with any part of the testing process.
- Failure to appear at the collection site at all or in a timely manner (excluding pre-employment testing).
- Leaving the scene of an accident without a valid reason before the tests have been conducted (Failure to remain Readily Available following an accident).
- Failure to attempt to provide a urine or breath specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- Failure to allow a directly observed or monitored collection when circumstances mandate it.
- Failure to take a second test the employer or collector has directed the employee to take
- Failure to undergo a medical examination or evaluation as directed by the MRO or DER.
- A verified adulterated or substituted test result is a refusal to test.
- The MRO'S verification of a test that is adulterated or substituted.
- Failure to remain until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- Failure to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- Possessing or wearing a prosthetic or other device used to tamper with the testing process.
- Admitting the adulteration or substitution of a specimen to the collector or MRO.
- Refusal to sign the certification at Step 2 of the ATF.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

Pursuant to SECED/SETran Policy, any employee who tampers with, falsifies, substitutes, or alters a urine sample, breath test, or who attempts to do so, shall be discharged.

CONSEQUENCES FOR ENGAGING IN DRUG AND ALCOHOL-RELATED CONDUCT

• CONTROLLED SUBSTANCES

An employee who tests positive for drugs or refuses to submit to a drug test must be removed from performing safety-sensitive functions immediately. *Pursuant to SECED/SETran policy, a verified positive drug test may subject the employee to discipline, up to and including discharge.* An employee who tests positive for drugs or refuses to submit to a drug test may not perform a safety-sensitive function until the employee has been evaluated by a SAP, completed all recommended treatment and taken a return-to-duty drug test with a verified negative result. *The SECED/SETran retains the right to terminate or otherwise discipline an employee who tests positive for drugs or refuses to submit to a drug test.*

- **ALCOHOL**

An employee who has an alcohol concentration of 0.02 or greater but less than 0.04 may not perform a safety-sensitive function for eight hours or, *pursuant to City policy, until their next regularly scheduled duty time with a minimum of 24 hours between the test and the time the employee goes to work. The employee will be subject to disciplinary action.* The employee will also be advised of treatment programs.

An employee who has an alcohol concentration of 0.04 or greater may not perform a safety-sensitive function until the employee has been evaluated by a SAP, completed all recommended treatment and passed a return-to-duty test with an alcohol concentration of less than 0.02. *Pursuant to SECED/SETran policy, any employee who tests positive for drugs or whose alcohol test result is 0.04 or greater will be relieved of all duties. The SECED/SETran retains the right to terminate an employee who tests positive for alcohol or refuses to submit to an alcohol test.*

An employee who refuses to take an alcohol test, uses alcohol while on duty/on call, or uses alcohol after an accident before an alcohol test has been administered, will be removed from safety-sensitive duties, advised of treatment programs and referred to an SAP for evaluation.

RETESTING AT THE EMPLOYEE'S REQUEST

DOT regulations provide for a split sample procedure that requires a portion of each urine specimen to be retained in a separate, sealed container. An employee whose urine test is positive may request that the split sample be tested at a separate laboratory approved by the U. S. Department of Health and Human Services. DOT regulations require that the employee make such request within 72 hours of learning of a verified positive test. In the event an employee fails to make a timely request, the employee must present information to the MRO documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive result or other circumstances unavoidably prevented the employee from timely contacting the MRO. If the MRO concludes that there is a legitimate explanation for the employee's failure to contact the MRO within 72 hours, the MRO shall initiate a test of the split specimen. The MRO shall request, in writing, the laboratory provide the split specimen to another DHHS certified laboratory for analysis.

If the analysis of the split specimen fails to re-confirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing, untestable or the split is found to be adulterated and the primary is not, the MRO must cancel the test and report cancellation to the DOT, employer and employee.

Pursuant to SECED/SETran policy, if the result of the retest or split sample test is negative, the employee will be reinstated with no loss of seniority and paid for lost back wages.

RECORDS OF RESULTS

Any covered employee is entitled, upon written request, to obtain copies of their drug and alcohol testing records, provide information to dispute the results, and have access to any pertinent records such as equipment calibration records and laboratory certifications.

NOTIFICATION OF CONVICTIONS

Pursuant to the requirements of the Drug-Free Workplace Act, employee must notify the SECED/SETran within five days of any criminal drug statute conviction for a violation occurring in the workplace.

DRUG AND ALCOHOL PROGRAM MANAGER

FTA regulations require that a single contact person be identified to answer questions about this policy.

RECORDS RETENTION

The SECED/SETran will maintain drug and alcohol testing records in a secure location, with limited and controlled access in a separate location from personnel records.

Records of verified positive drug tests, refusals, SAP referrals, annual reports, non-negative alcohol test results and inspection, maintenance and calibration documentation, Chain of Custody Forms and employee disputes will be retained by the SECED/SETran for five years.

Previous employer drug and alcohol test records and good faith documentation records will be retained by the SECED/SETran for a period of 3 years.

Records related to the collection process, employee education and training will be retained by the SECED/SETran for a period of 2 years.

Negative test results will be retained by the SECED/SETran for one year.

All records pertaining to a given urine specimen shall be retained by the drug testing laboratory for a minimum of two years. This two-year period may be extended upon written notification by FTA or by any company for which laboratory services are being provided. The laboratory shall maintain documents for any specimen known to be under legal challenge for an indefinite period.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than one year for testing if so requested by the employee through the Medical Review Officer, or by the employer, by the MRO, or by the relevant DOT agency.

EDUCATION AND TRAINING


1. TRAINING FOR EMPLOYEES

The SECED/SETran will display and distribute to employees performing a safety-sensitive function educational materials explaining the requirements of the FTA Drug and Alcohol Testing Regulations and its policies and procedures. Employees and supervisors who perform a safety-sensitive function will also be provided at least 60 minutes of training on the effects and indications of drug use. Employees will be required to sign a form indicating that they have received a copy of the policies and procedures. This form will be kept on file in their personnel files.

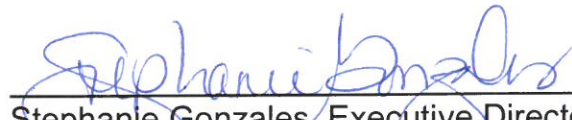
2. TRAINING FOR SUPERVISORS

Supervisors in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

This policy was adopted on this 27th day of March, 2024 at the SECED Board of Directors meeting.



Thomas Grasmick, SECED Chair



Stephanie Gonzales, Executive Director