

RESOLUTION NO. 1994 - 229

APPROVING THE ADOPTION OF A DRUG AND ALCOHOL POLICY
COVERING SAFETY-SENSITIVE POSITIONS

WHEREAS, the Greater Cleveland Regional Transit Authority is required by the Federal Transit Administration to establish and implement a drug and alcohol program as a condition to receiving federal financial assistance; and

WHEREAS, the Greater Cleveland Regional Transit Authority has a deep concern for the well-being of its employees and the safety of its patrons and public at large; and

WHEREAS, the Greater Cleveland Regional Transit Authority has a governmental interest in ensuring the well-being of its employees, the safety of its patrons and traveling public is thereby justified in prohibiting employees from using drugs and alcohol on duty or while subject to being called for duty or having it in their system while on duty; and

WHEREAS, having a clearly-defined drug and alcohol policy will assist the Board of Trustees and management in establishing a drug-free workplace which in turn would reduce accidents and casualties in the performance of its operations;

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

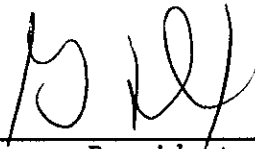
Section 1. That the Drug and Alcohol Policy shown in Attachment A hereto is hereby adopted as official policy of the Authority effective January 1, 1995.

Section 2. That the General Manager/Secretary-Treasurer of the Authority is hereby authorized to undertake the necessary actions to implement this Drug and Alcohol Policy.

Section 3. That this Resolution shall become effective immediately upon its adoption.

Attachment A: Drug and Alcohol Policy for safety-sensitive employees
Attachment B: Safety-sensitive classifications

Adopted: _____ December 20, 1994 _____



President

Attest: 

General Manager/Secretary-Treasurer

Greater Cleveland Regional Transit Authority

DRUG AND ALCOHOL TESTING POLICY FOR SAFETY SENSITIVE EMPLOYEES

The Greater Cleveland Regional Transit Authority has a deep concern and interest in the health and welfare of its employees. In light of this concern, and in recognition of the devastating effect of pervasive drug and alcohol abuse in American society, the Authority has established a comprehensive Employee Assistance Program ("EAP") to assist employees who are plagued by problems associated with drug or alcohol abuse. The Authority encourages its employees to come forward and participate in the EAP. Employee participation in the EAP is both voluntary and confidential, and will not adversely affect an employee's employment with the Authority.

The Authority also has a paramount responsibility to provide the riding public with the safest possible transportation and to provide its employees with the safest possible work environment. Furthermore, as a recipient of federal funding, the Authority is required to comply with the regulations issued by the Federal Transportation Administration ("FTA"), including the newly issued regulations requiring mandatory drug and alcohol testing of certain public transportation employees. In view of these responsibilities, the Authority will require all safety sensitive employees (see attached list) to submit to testing for the presence of alcohol and/or drugs in their systems as described herein. All employees must be free of drugs and /or alcohol when performing a safety sensitive function. It is important to note that this Drug and Alcohol Testing Policy is mandatory and is independent of the EAP.

A. CIRCUMSTANCES WHICH WARRANT TESTING.

The FTA and the Authority require Safety sensitive employees, as a condition of employment to submit to urine or breath testing under the following circumstances:

1. At the time of the pre-employment physical examination.
2. At the time of any work-related physical examination.
3. At any time when there is a "reasonable suspicion" of employee drug use. The following circumstances create a "reasonable suspicion:" (1) when two supervisors

and/or transit police officers have reasonable suspicion based on personal observation of abnormal behavior by an employee, including appearance, behavior, speech, or breath odor, which objectively indicates drug or alcohol impairment; (2) direct observation of drug use or possession by any Authority supervisor or transit police officer; (3) a pattern of abnormal conduct or erratic behavior; (4) arrest or conviction for a drug-related offense; (5) information provided by reliable, credible sources and, if feasible, independently corroborated; or (6) newly discovered evidence that an employee has tampered with a previous drug test.

Supervisors and transit police officers will receive training in detecting drug and/or alcohol abuse prior to requiring the employee to submit to testing under this subsection.

4. When the employee is in an accident involving:
 - a. a pedestrian where the employee either contributed to or cannot be immediately discounted from contributing to the accident
 - b. a fixed object
 - c. two or more RTA vehicles where the employee contributed to or cannot be immediately discounted from contributing to the accident
 - d. a RTA vehicle striking the rear end of another vehicle
 - e. a head-on collision where the employee either contributed to or cannot be immediately discounted from contributing to the collision
 - f. a RTA vehicle sideswiping another vehicle or striking another vehicle broadside where the employee either contributed to or cannot be immediately discounted from contributing to the accident
 - g. physical damage of greater than \$5,000 where the employee either contributed to or cannot be immediately discounted from contributing to the accident
 - h. personal injury requiring immediate medical treatment where the employee either contributed to

or cannot be immediately discounted from contributing to the accident.

- i. The FTA specifically requires post accident drug and alcohol testing of each surviving covered employee as soon as practicable following an accident involving the loss of human life.
 - j. The FTA requires post accident drug and alcohol testing of each covered employee following an accident when a citation arising from the accident has been issued. However, the Authority policy requires post accident drug and alcohol testing even if a citation has not been issued.
5. As a condition of discipline due to a previous offense under this policy.
 6. When an employee returns from a sickness/accident leave of greater than 5 work days or any unscheduled absence from work where:
 - a. such employee was absent without leave, or
 - b. the employee exhibits physical symptoms of recent drug and/or alcohol use during any return-to-work physical
 7. When an employee is selected at random for testing pursuant to the FTA mandated random testing policy.
 8. When an employee transfers into a safety sensitive position.

B. DISCIPLINE.

Under FTA regulations, unless otherwise stated, discipline for policy violations shall be determined by the employer. Therefore, employees who test positive for the presence of drugs and/or alcohol under this policy shall receive discipline as follows:

1. ALCOHOL

The Authority requires all employees must be free of drugs and /or alcohol when performing a safety sensitive function.

In accordance with FTA regulations, a safety sensitive employee must not consume alcohol while performing a safety sensitive function, four (4) hours prior to performing a safety sensitive function and up to eight (8) hours following an accident or until the employee undergoes post accident testing, which ever occurs first.

- a. Job applicants - Not hired.
- b. Probationary Employees - Immediate Discharge.
- c. Non-Probationary Employees

(1) Any employee performing a safety sensitive function or operating a commercial motor vehicle as described above with an alcohol content of .08 or more.

First Offense: Immediate Discharge.

(2a) Any employee performing a safety sensitive function or operating a commercial motor vehicle as described above with a BAC of .04 but less than .08. First Offense - 30 Day conditional suspension. The employee will be referred to a SAP for consultation. The employee must participate in the program prescribed by the SAP and must undergo a follow-up test and test less than .02 prior to returning to a safety sensitive function. Should the employee test .02 or more on the return to work test, the employee will be subject to discipline, up to and including discharge.

(2b) Second Offense within a three year period of testing .04 but less than .08.- Discharge.

(3a) Any employee testing .02 but less than .04. will be removed from a safety sensitive function for at least eight (8) hours. The employee will be required to undergo a second test and test below .02 BAC prior to being returned to a safety sensitive function.

(3b) Should the employee again test .02 BAC but less than .04 BAC, after the eight (8) hour removal from service, the employee will be referred to a SAP for consultation.

The employee must participate in the program prescribed by the SAP and must undergo a follow-up test and test less than .02 BAC prior to being returned to a safety sensitive function. Should the employee again fail to test less than .02 BAC the employee will be subject to discipline up to and including discharge.

- (3c) A second offense within a three (3) year period of an employee testing .02 but less than .04.

Penalty: Thirty (30) day conditional suspension and referred to the SAP for consultation. Employee must participate and complete the program prescribed by the SAP.

- (3d) A third offense within a three (3) year period of an employee testing .02 but less than .04.

Penalty: Immediate discharge.

2. MARIJUANA-RELATED SUBSTANCES.

- a. Job applicants - Not hired.
- b. Probationary Employees - Immediate discharge.
- c. Non-Probationary Employees -

First Offense: Conditional 30 day suspension
An employee suspended under this section will be referred to a Substance Abuse Professional (S.A.P.). In no event will an employee be eligible to return to work less than 30 days after the failed test. Furthermore, following completion of the SAP Evaluation the employee shall be required to:

- (1) submit to a drug/alcohol test prior to returning to work, and
- (2) participate in follow-up treatment as prescribed by the SAP

PROVIDED: An employee who fails to meet any of the conditions set forth above (other than failure of a return to

work drug/alcohol test) is subject to immediate discharge. Furthermore, RTA reserves the right to discharge rather than suspend employees under this section if warranted by surrounding circumstances such as the nature of the incident in question and the employee's work record.

In the event that the employee tests positive for marijuana in a return to work drug/alcohol test, he/she shall be conditionally suspended for an additional 30 days subject to the conditions set forth above. In the event that the employee fails his/her second return to work test, he/she shall be immediately discharged.

Second Offense: A second offense under this policy within a three (3) year period will result in Immediate Discharge.

3. PRESCRIPTION DRUGS

a. Job Applicants -

If the applicant tests positive for a prescription drug which may affect his/her ability to perform the applicant's proposed job duties, he/she will not be considered for employment unless the Human Resources Division/Personnel Services Department has received prior to testing all of the following:

- (1) Notification of the use of prescription drugs.
- (2) A doctor's letter indicating the employee's ability to perform his/her proposed job duties is (or is not) impaired and, if applicable, the duration of time for which such abilities will (or will not) be impaired.

b. Probationary and Non-Probationary Employees

If an employee tests positive for a prescription drug which may affect his/her ability to perform the employee's job duties, he/she will be

discharged unless the employee's supervisor has received all of the following:

- (1) Notification of the use of prescription drugs.
- (2) A doctor's letter indicating the employee's ability to perform his/her job duties is (or is not) impaired and the duration of time for which such abilities will (or will not) be impaired.

4. OTHER INTOXICANTS.

- a. Job Applicants - Not Hired.
- b. Probationary and Non-Probationary Employees - Immediate Discharge.

PROVIDED: Where an employee tests positive for any intoxicant during a regularly scheduled, work-related physical examination and the positive test result is the employee's first offense under this policy, the employee will be conditionally suspended for 30 days. An employee suspended under this section will be referred to a Substance Abuse Professional and must participate in follow up treatment as prescribed by the SAP. In no event will an employee be eligible to return to work less than 30 days after the failed test. Furthermore, following completion of the treatment prescribed by the SAP, the employee shall be required to:

- (1) submit to a physical and drug/alcohol test prior to returning to work, and
- (2) participate in follow-up treatment as prescribed by the SAP.

The Authority also reserves the right to subject the employee to unannounced drug and/or alcohol tests in addition to regular random testing stated herein, at any time during the two year period following the date of the employee's return to work. An employee who fails to meet any of the conditions set forth above is subject to immediate discharge.

5. OTHER DISCIPLINARY ACTION

a. Use, sale or possession while on duty of any intoxicant (drug or alcohol) -- Immediate discharge.

b. Off-duty sale, distribution or possession with intent to distribute illegal drugs or manufacture of illicit drugs resulting in a criminal conviction. -- Immediate discharge.

c. An employee who refuses to submit to a urine, and/or breath test or who has an inability to provide sufficient quantities of breath or urine to be tested, without a valid medical explanation and/or who fails to report to the collection site in the time allocated or who leaves the scene of an accident without proper authorization under this policy will be immediately discharged. An employee who attempts to tamper with, switch, or adulterate a and/or urine sample or the collection procedure will be immediately discharged.

d. Physician-prescribed intoxicants

Employees required to use prescription drugs authorized by a licensed physician are responsible for being aware of any effect such drug may have on the performance of their duties and to report the use of such substances to their supervisor, in writing, prior to reporting to work. When an employee does not comply with this requirement, a physician's prescription will not be an acceptable excuse for the use or possession of an intoxicant and the employee will be subject to discipline as set forth above.

e. Definition of intoxicant

The term "intoxicant" includes, but is not limited to, ethanol (alcohol), amphetamines, barbiturates and other hypnotics, cocaine, narcotics, (opiates such as heroin, morphine and codeine, methadone), PCP and other hallucinogens, marijuana and any other cannabinoid (e.g., hashish). The term intoxicant also includes any other substance that alters one's senses or could affect one's ability to function in his or her job.

- f. It should be noted that though the Authority encourages employees who have a problem with drug or alcohol abuse to come forward and voluntarily participate in the EAP, an employee will not avoid discipline under this Drug and Alcohol Testing Policy by requesting participation in the EAP after the employee has been selected for or commits an infraction which warrants testing. However, discipline can be avoided if an employee admits to drug/alcohol abuse and volunteers for participation in the EAP before he or she is selected for or commits an infraction which warrants testing. This provision will be offered to employee on a one time only basis. Subsequent occurrences of drug/alcohol abuse will result in Immediate discharge. All employees must be free of drugs and /or alcohol when performing a safety sensitive function.

C. Rehabilitation

The Authority will permit all employees who come forth voluntarily prior to being selected for a drug/alcohol test or who voluntarily enroll in a drug/alcohol rehabilitation program prior to being selected for a drug/alcohol test, to have one rehabilitation opportunity without being subject to disciplinary action.

Employees choosing a rehabilitation program will be permitted to take a leave of absence of up to thirty (30) days for purposes of the rehabilitation treatment. Additional time may be granted upon the receipt of a certified medical certificate.

All employees must be free of drugs and /or alcohol when performing a safety sensitive function.

D. TESTING PROCEDURE.

The Authority is committed to insuring both the accuracy of testing procedures and the confidentiality of test results. Accordingly, the Authority will comply with the DOT regulations set forth in 49 CFR part 40. The Authority will employ only accredited testing labs that use state of the art testing technology. This includes confirming tests for all initial positive tests that follow accepted procedures concerning chain of custody, and that strictly preserve the confidentiality of all test results.

1. Disclosure by an employee of the use of a prescribed or otherwise legal drug which may affect his/her ability to perform his/her job at the time of taking the test will not excuse the employee from strict compliance with the requirements of subsections B(3)(b) and B(5)(d) of this policy.
2. Normally, an applicant or an employee will not be directly observed while producing a urine specimen. However if there is a reason to believe that an individual has altered or substituted the specimen, the FTA requires the collection of a second specimen as soon as possible under the direct observation of a same gender collection site person.
3. In accordance with FTA regulations, if a confirmed positive test result is achieved, the employee will be contacted by the Medical Review Officer (MRO) to review and interpret the individual's confirmed positive test by (1) reviewing the individual's medical history (2) affording the individual the opportunity to discuss the test result (3) deciding whether there is a legitimate medical explanation for the result. If the positive test is confirmed, the employee will be notified by the MRO that he/she has 72 hours in which to request a test of the split specimen.
4. Individuals having questions about this drug and alcohol testing program may contact Medical Services, at 566-5264, located in the Main Office Building.

Greater Cleveland Regional Transit Authority

ACKNOWLEDGMENT

I have attended the Greater Cleveland Regional Transit Authority's Drug and Alcohol training program and received a copy of the Greater Cleveland Regional Transit Authority's Drug and Alcohol Policy for Safety Sensitive Employees

Date

Employee's Signature

Social Security Number

Employee's Name (Printed)

Work Location

Please complete, sign and return this form at the end of this training session.

12/15/94

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Safety Sensitive Classifications

A/C Mechanic	0535	2
Assistant Equipment Supervisor	0647	2
Assistant Maintenance Supervisor	0649	2
Assistant Operations Instructor	0511	1
Assistant Rapid Transit Shop Supervisor	0623	2
Assistant Section Supervisor	0645	2
Assistant Superintendent CRT Equipment	1046	2
Assistant Track Supervisor	0652	2
Bench Electrician	0542	2
Body Mechanic	0446	2
Body Mechanic	0541	2
Brake Mechanic	0528	2
Chief of Police (Director of Security)	1511	5
Coach Inspector	0628	2
Conductor	0436	1
Crew Chief	0646	2
CRT Dispatcher	0557	3
CRT Group Leader	0554	2
CRT Operator	0137	1
CRT Road Supervisor	0658	4
Electrical Maintenance Supervisor	1265	2
Electronic Technician	0624	2
Equipment Body Mechanic	0521	2
Equipment Electrician	0543	2
Equipment Helper	0142	2
Equipment Helper	0342	2
Equipment Mechanic	0447	2
Equipment Mechanic	0545	2
Equipment Repair Leader	0547	2
Equipment Servicer	0442	2
Equipment Supervisor	1266	2
Equipment Unit Mechanic	0546	2
Equipment Welder	0539	4
Field Supervisor Transit Police	1248	5
Forklift Operator	0348	4
Hostler	0147	2
Hostler	0347	2
Laborer	0352	2
Laborer Helper	0143	2
Laborer/Flagger	0152	2
Lead Signal Technician	0651	2

Safety Sensitive Classifications

Line Maintainer	0453	2
Line Maintainer	0653	2
Line Supervisor	1257	2
Load Dispatcher	1137	3
Machinist	0526	2
Maintainer	0458	2
Maintainer Helper	0358	2
Maintenance Instructor	0612	2
Maintenance Leader	0549	2
Maintenance Supervisor	1172	2
Maintenance Technician	0548	2
Maintenance Training Specialist	1242	2
Motor Repair Leader	0567	2
Operations Instructor	0611	1
Operator	0437	1
Operator/Part -Time	0438	1
Plumbing Maintenance Supervisor	1264	2
Police Officer Part Time	0336	5
Radio Control Supervisor	1147	3
Radio Technician	0544	2
Radio Technician	0444	2
Rail Traffic Supervisor	1249	4
Rapid Transit Brake Mechanic	0524	2
Rapid Transit Electrical Maintainer	0459	2
Rapid Transit Shop Supervisor	1252	2
RT Air Conditioning Mechanic	0553	2
RT Equipment Electrician	0522	2
RT Equipment Mechanic	0523	2
RT Machinist	0525	2
RT Technician	0660	2
Section Supervisor	1258	2
Senior Substation Operator	0559	2
Signal Maintainer	0450	2
Signal Maintenance Technician	0550	2
Signal Technician	0650	2
Special Equipment Operator/ Mechanic	0552	2
Special Equipment Operator/Mech. Leader	0654	2
Substation Maintainer	0448	2
Substation Maintainer	0648	2
Superintendent CRT Equipment	1267	2
Supervisor - Bus Operations - Except Station Dispatcher	0531	3
Supervisor - Rail Operations - Except Station Dispatcher	0532	3
Supervisor of Overhead	1239	2

Safety Sensitive Classifications

Supervisor of Part Time Police Officer	0570	5
Supervisor of Power	1233	2
Supervisor of Radio Maintenance	1241	2
Supervisor of Signals	1234	2
Supervisor of Track	1273	2
Tower Control Supervisor	0635	3
Track Maintainer	0452	2
Traffic Supervisor	1259	2
Train Attendant (Rail Station Attendant)	0435	1
Training Specialist - Transportation	1141	1
Transit Police Lieutenant	1060	5
Transit Police Officer	0340	5
Transit Police Sergeant	0540	5
Unit Rebuild Inspector	0443	2
Vehicle Servicer	0346	2
Work Train Operator	0451	4
Yardmaster	0562	3
Zone Supervisor	0634	4