

RESOLUTION NO. 2004 - 104

AUTHORIZING A REVISION OF THE GREATER CLEVELAND  
REGIONAL TRANSIT AUTHORITY'S SUBSTANCE ABUSE  
POLICY FOR NON-SAFETY SENSITIVE EMPLOYEES

WHEREAS, the Board of Trustees of the Greater Cleveland Regional Transit Authority established the Drug and Alcohol Policy covering both Safety Sensitive and Non-Safety Sensitive Positions pursuant to Resolution 1989-055 adopted on April 18, 1989; and

WHEREAS, the Board of Trustees has amended the Drug and Alcohol Policy, now designated the GCRTA Substance Abuse Policy for Safety Sensitive Employees, pursuant to Resolutions Nos. 1994-229, 1998-24, 1999-102 and 2002-50; and

WHEREAS, the Greater Cleveland Regional Transit Authority has been requested by The Ohio Department of Transportation to revise the Substance Abuse Policy for Non-Safety Sensitive Employees as a result of a Safety Audit; 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 the public at large and is thereby justified in prohibiting employees from using drugs and/or alcohol on duty or while subject to being called to duty; and

WHEREAS, having a clearly-defined substance abuse policy assists the Board of Trustees and management in establishing a drug-free workplace.

WHEREAS, the Greater Cleveland Regional Transit Authority has a need to revise the Substance Abuse Policy for Non-safety Sensitive employees as a result of an audit request;

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

Section 1. That the revised Substance Abuse Policy for Non-Safety Sensitive Employees, a copy of which is attached hereto and fully incorporated herein and made a part of this resolution, is hereby adopted as the policy of the Greater Cleveland Regional Transit Authority. Section 2. That this resolution shall become effective immediately upon its adoption.

Attachment : Substance Abuse Policy for Non-safety Sensitive Employees

Adopted: July 20, 2004

  
\_\_\_\_\_  
President

Attest:   
\_\_\_\_\_  
CEO, General Manager/Secretary-Treasurer

CEO, General Manager/Secretary-Treasurer

# GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY

## SUBSTANCE ABUSE POLICY FOR NON-SAFETY SENSITIVE EMPLOYEES

### 1.0 PURPOSE/SCOPE:

It is the policy of the Greater Cleveland Regional Transit Authority (GCRTA) to provide the safest possible work environment for its employees. This policy establishes guidelines and procedures for the administration of the Authority's Drug and Alcohol Testing Program for non-safety sensitive employees and provides requirements for non-safety sensitive employees to submit to testing for the presence of drugs and/or alcohol. The Authority requires all employees to be free of drugs and/or alcohol when performing their job duties.

### 2.0 REFERENCE(S):

This policy is written in conjunction with rules and regulations as defined by:

- 2.1 49 CFR Part 29, Drug-Free Workplace Act of 1998
- 2.2 41 USC 701 *et. seq.*, Drug Free Workplace Act of 1988
- 2.3 GCRTA Employee Performance Code
- 2.4 Driver's License Requirement Policy 600.08 and Procedure 1700.07

### 3.0 OBJECTIVES

- 3.1 To recognize, address and minimize the devastating effect pervasive drug use and alcohol misuse has on employees.
- 3.2 To encourage employees to participate in the Employee Assistance Program (EAP) and to assist employees who are plagued by problems associated with drugs or alcohol (See Addendum F of this Policy). Voluntary employee participation is confidential and will not adversely affect an employee's employment with the Authority.
- 3.3 To clearly and concisely outline the procedures required to comply with the federal regulations.

### 4.0 DEFINITIONS

- 4.1. An "**accident**" means an unplanned, unexpected or unintended event that occurs during the conduct of the employer's business during normal working hours either with an employer-supplied motor vehicle or a personal motor vehicle being used in conducting the employer's business.
- 4.2. An "**adulterated specimen**" means a specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

- 4.3. A **"cancelled test"** is a drug or alcohol test that has an identified problem that cannot be or has not been corrected. A cancelled test is neither positive nor negative.
- 4.4. A **"dilute specimen"** has creatinine and specific gravity values that are lower than expected for human urine.
- 4.5. An **"Evidential Breath Testing (EBT) device"** is defined as a breath testing device that is capable of measuring a 0.02 alcohol concentration level and can distinguish alcohol from acetone. An EBT must be capable of conducting an air blank and performing an external calibration check.
- 4.6. The term **"intoxicant"** includes, but is not limited to ethanol (alcohol), amphetamines, barbiturates and other hypnotics, cocaine, narcotics (opiates such as heroin, morphine, 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/her job.
- 4.7. An **"invalid drug test"** refers to the result of a drug test from a urine specimen that contains an unidentified adulterant or an unidentified interfering substance; has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result.
- 4.8. The **"Medical Review Officer" (MRO)** is a licensed physician responsible for receiving laboratory results generated by an employer's drug testing laboratory who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive tests result together with his or her medical history and any other relevant biomedical information. (See Addendum A)
- 4.9. A **"non-safety sensitive employee"** is any employee at Authority who does not perform a safety sensitive function as defined by the *Substance Abuse Policy for Safety-Sensitive Employees*. The non-safety sensitive employee does not operate a revenue service vehicle, whether in or out of service; operate a non-revenue service vehicle requiring a Commercial Drivers License; control the dispatch or movement of a revenue service vehicle; maintain a revenue service vehicle or equipment used in revenue service or carry a firearm for security purposes.
- 4.10. **"On-Call"** duty is defined as being scheduled for specific after duty hours and the employee must report to duty when called. (Example: Safety Personnel)
- 4.11. The **"Substance Abuse Professional (SAP)"** is a licensed physician, a licensed or certified psychologist and a licensed or certified employee assistance professional, or certified alcohol and drug abuse counselor that has knowledge of and clinical experience in the diagnosis and treatment of substance abuse-related disorders. The role of the SAP is to evaluate if an employee with a verified positive test or who has refused a test is in need of assistance in resolving problems associated with prohibited drug use or alcohol misuse. The SAP also evaluates if an employee has complied with treatment recommendations, recommends when the employee is ready for return to duty testing and for follow up testing. The SAP then recommends the required number of follow up drug/alcohol tests after the employee returns to duty. (See Addendum A)
- 4.12. A **"substituted specimen"** has a creatinine and specific gravity value that is so diminished that it is not consistent with human urine.

- 4.13. A “**verified test**” is a drug test result or a validity testing result from a Department of Health and Human Services (HHS) certified laboratory that has undergone review and final determination by the MRO.

5.0 POLICY APPLICATION:

This policy applies to all employees who are incumbents in non-safety sensitive positions, and to all applicants or employees who may apply for or who may transfer to a non-safety sensitive position.

6.0 CIRCUMSTANCES WHICH WARRANT TESTING:

- 6.1 All non-safety sensitive employees are required as a condition of employment to submit to drug testing (urine specimen required) and alcohol testing (breath or blood sample required) under the following circumstances:
- 6.1.1 Drug testing at the time of the employment physical examination;
  - 6.1.2 Drug testing at the time of or during a work-related physical examination;
  - 6.1.3 Drug and alcohol as a condition of discipline due to previous offense under the Policy;
  - 6.1.2 At any time there is a “reasonable suspicion” of employee drug/alcohol use;
  - 6.1.3 At the time of return-to-duty from rehabilitation as determined by the Substance Abuse Professional (SAP);
  - 6.1.4 When an employee requires follow-up testing;
  - 6.1.5 At the time of an accident as described in Section 8.3 of this policy.
- 6.2 Pre-duty or on-duty use of alcohol: All employees are prohibited from using alcohol or being under the influence of alcohol while performing their job duties. Supervisors with actual knowledge or reasonable suspicion that an employee is using alcohol or is under the influence will not permit the employee to perform or continue to perform his/her job functions. Moreover, supervisors shall complete the necessary documentation for reasonable suspicion for alcohol misuse and send the employee for testing based on the information obtained.
- 6.2.1 Supervisors will not allow an unscheduled employee to report to duty who acknowledges the use of alcohol. Employees that provide such acknowledgement will not be subject to disciplinary action under this policy.
- 6.3 On-call employees: The consumption of alcohol is prohibited for employees during his or her specified on-call hours.
- 6.4 The consumption of any illegal drugs such as marijuana, cocaine, amphetamines, opiates and phencyclidine (PCP) and etc. or any other drug that may impair the function of an employee while performing his/her job duties is prohibited at all times and employees may be tested for these substances any time during the performance of their duty as noted in Section 6.1 of this policy.
- 6.5 Non-safety sensitive employees are not permitted to consume alcohol while performing work within the course and scope of employment, which includes, but is not limited to, on/off site work during normal working hours. Further, the consumption and possession of alcohol is prohibited while on GCRTA property and at any time while driving a GCRTA vehicle.

## 7.0 SPECIFIC TESTING REQUIREMENTS:

- 7.1 GCRTA will perform specific drug and alcohol testing that is based on the circumstances identified in Section 6.0 of this policy.
- 7.2 All drug and alcohol testing will follow proper procedures as noted in Addendum E and F. The standard chain of custody process will be utilized and only non-federal chain of custody forms will be used.
- 7.3 Each employee tested under GCRTA requirements will be notified of the purpose for the testing.
- 7.4 A verified positive drug test result cannot be negated by an employee presenting negative results collected under other circumstances.

## 8.0 TYPES OF TESTING REQUIRED:

- 8.1 Employment or Pre-Placement Testing: The purpose of pre-employment testing is to identify applicants who may have current drug. The Human Resources Department will send all applicants for employment for drug testing after a conditional offer of employment. An applicant may not perform job functions until employment drug tests are administered with verified negative results.
  - 8.1.1 In the event drug and/or alcohol tests are considered a "cancelled test" or results are "invalid", the covered employee or applicant must retake the drug/alcohol test with verified negative results before starting a safety sensitive position.
  - 8.1.2 Applicants who have not been placed in a position within 90 consecutive calendar days of their initial testing will be required to re-take the drug testing and have verified negative results before starting job duties.
- 8.2 Reasonable Suspicion Testing: The purpose of reasonable suspicion testing is to provide a method to identify drug or alcohol affected employees who may pose a danger to themselves and others in their performance of job functions.
  - 8.2.1 Reasonable suspicion testing will be performed when a supervisor(s), or other company official(s) who has been trained in detecting the signs and symptoms of drug use or alcohol misuse believe that the employee has used a prohibited drug and/or engaged in alcohol misuse.
  - 8.2.2 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.
  - 8.2.3 The employee will be informed of the reason for testing and transported for testing immediately after the supervisor completes valid documentation.
  - 8.2.4 Alcohol testing must be based on observations and documented as noted in 8.2.2 and shall be performed only while the employee is performing job duties.

8.2.5 If alcohol testing is not performed within 2 hours following the determination to test, a written statement will be made on the reasonable suspicion document why the testing could not be performed. This documentation will be maintained in Medical Services.

8.3 Accident Testing: GCRTA will require drug and alcohol testing of an employee who has had or who may have caused/contributed to an on the job accident as identified in Section 4.1 when there is a loss of life or for other non-fatal accidents.

8.3.1 The following events will require accident testing:

- A fatality occurs of anyone involved in the accident;
- Bodily injury that requires immediate medical attention;
- Any vehicular damage that requires repair; or
- Any performance or lack of performance of the employee that may have contributed to accident.

8.3.2 The decision to not administer a drug and/or alcohol test shall be based on the investigating person's determination, using the best available information at the time of the determination, that the employee's performance could not have contributed to the accident. Such a decision must be documented in detail, including the decision-making process used to reach the decision not to test.

8.3.3 Post accident testing will be administered as soon as practicable following the accident. Every attempt should be made to complete **alcohol testing** within two (2) hours of the accident. When it is not possible to perform testing within the two (2) hour limit, the supervisor is required to document the reasons. Every effort should be made to continue to attempt to perform testing. When it is not possible to obtain a specimen within eight (8) hours, the supervisor will cease attempting and update the two (2) hour report. Alcohol use is prohibited by any covered employee required to take a post accident alcohol test for 8 hours or until alcohol testing is performed, whichever occurs first after the occurrence.

8.3.4 The **drug testing** time limit is a maximum of 32 hours post accident. The supervisor will provide written documentation whenever testing cannot be performed within the specified time limit.

8.3.5 An employee who is subject to post accident testing shall remain readily available for testing. If he or she leaves the scene of the accident without notifying the investigator in charge or is not readily available for testing, it will be considered that the employee has refused to submit to testing.

8.3.6 The requirements to perform drug and alcohol testing should in no way require the delay of necessary medical attention or interfere with a law enforcement investigation.

8.3.7 When post accident testing is required based on GCRTA criteria, the collection site will use only non-federal custody and control forms.

8.4 Return to Duty Testing: The purpose of return to duty testing is to provide a degree of assurance that an employee is currently drug and alcohol free and is able to return to work without undue concern of continued drug abuse or alcohol misuse after rehabilitation.

- 8.4.1 Whenever any of the following has occurred, the employee must first be evaluated by the Substance Abuse Professional (SAP) and pass a return to duty drug and/or alcohol test before returning to employment meeting the following criteria:
- Has had verified positive drug test result (as noted in Section 11 of this policy)
  - Has had a breath alcohol content (BAC) of 0.02 or greater, or
  - Has been involved in any other activity that violates this policy including refusal to submit to testing.
- 8.4.2 Return to duty testing cannot occur until the SAP has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of his/her duties.
- 8.4.3 Follow-up testing will be performed when an employee returns to work as described in Section 8.4.1. The purpose of follow-up testing is to serve as motivation to the employee to remain free of prohibited substances and to provide GCRTA assurance that the employee has not resumed the use of drugs or alcohol after rehabilitation. When an employee is returned to duty, unannounced follow-up testing will be performed as prescribed by the SAP.
- 8.4.4 The SAP must present GCRTA's Medical Services with a release to return to duty and a follow-up testing plan outlining the number and frequency of unannounced testing. Follow-up testing can be continued for up to 60 months after return to work.
- 8.4.5 Follow-up testing must be performed as recommended in the SAP's testing plan. If testing is not performed as outlined, the subjected employee will not be permitted to perform his/her job duties until testing is completed.
- 8.4.6 A follow up test that has been determined by the Medical Review Officer as "cancelled" is not considered a completed test and must be recollected.

## 9.0 TESTING PROTOCOL

9.1 Alcohol Testing: In order to protect the integrity of the breath testing process, GCRTA will utilize collection sites that have Evidential Breath Testing Devices (EBT's). The testing equipment must provide triplicate printed results, assign unique and sequential numbers, print the manufacturer's name for the device, the device's serial number and the time of the test.

- 9.1.1 The EBT must have a manufacturer-developed quality assurance plan approved by the National Highway Traffic Safety Administration (NHTSA) that includes the following requirements:
- A designated method to be used to perform external calibration checks of the device;
  - A specified minimum interval for performing external calibration checks of the device;
  - A specified tolerance on an external calibration check; and
  - A specified inspection, maintenance and calibration requirement.

- 9.1.2 GCRTA will only utilize certified Breath Alcohol Technicians (BAT) which allows the performance of the screening and confirmation test to be performed at one collection site. The BAT will be trained to proficiency in the operation of the EBT. To protect the security of the testing site and process the breath alcohol testing location must afford privacy, not permit unauthorized persons access, and the EBT must be stored in a secure location. The BAT will protect the testing process by testing only one employee at a time, complete the entire alcohol test procedure before starting another process on another employee and not leave the testing site until the procedure is completed.
- 9.1.3 The alcohol testing procedure is located in Addendum D.
- 9.2 Drug Tests: Urine drug testing will consist of testing for marijuana, cocaine, opiates, phencyclidine and amphetamines. GCRTA reserves the right to test for other drugs such as barbiturates, non-barbiturate sedatives and non-amphetamine stimulants. Testing procedures will consist of specimen collection, laboratory testing, Medical Review Officer review and SAP referral, if needed.
- 9.2.1 The GCRTA is committed to insuring both the accuracy of testing procedures and the confidentiality of test results. Accordingly, the GCRTA will employ only certified Health and Human Service (HHS) testing laboratories that utilized state-of-the-art technology, follow accepted chain of custody procedures and strictly preserve confidentiality of all test results. GCRTA has contracted with a certified laboratory to perform drug testing and a secondary laboratory to perform split sample testing. (See Addendum A)
- 9.2.2 Under separate contract, specific collections sites are available throughout the Greater Cleveland area that are convenient for use and results are automatically sent to GCRTA's Medical Review Officer. Collection site personnel will meet the training and qualification standards for drug specimen collection that is required for the safety-sensitive collection process.
- 9.2.3 In order to protect the security and integrity of the urine collection each collection site will provide a privacy enclosure for urination, a toilet, a suitable, clean writing surface and a water source outside the private enclosure for hand washing. Access to each collection area will be restricted during specimen collection. A blue dye will be used in each toilet and all other water sources will be inoperable or secured. These procedures will be monitored by Medical Servers on a routine basis to assure integrity of the testing process.
- 9.2.4 The drug testing procedure is outlined in Addendum C.
- 9.3 Medical Review Officer: When a drug test result is confirmed as positive, adulterated, substituted, or invalid, the employee will be contacted by the Medical Review Officer (MRO). The Medical Review Officer will interpret the employee's confirmed positive test by the following method:
- Review the individual's medical history
  - Afford the employee an opportunity to discuss the test result
  - Decide whether there is legitimate medical explanation for the result
  - Inform the employee that s/he has 72 hours in which to request a test of the split sample. This time period is inclusive of all weekends and holidays.



9.3.1 An employee may request a split sample by calling Medical Services at (216) 566-5106. If there is no answer, the employee will leave a voice mail message. Medical Services will contact the employee to obtain the required written verification and payment for testing. The Medical Review Officer will be notified by Medical Services that the employee has requested split sample testing.

9.3.2 Medical Review Officer services are provided by contract with a certified physician who meets national qualification standards for substance abuse evaluation.

9.4 Observed Collection Procedure: Direct observed collection will be performed immediately with no advanced warning when:

- The collector identifies an attempt to alter a specimen has occurred;
- The collector identifies an attempt to tamper with a specimen;
- A specimen is reported as invalid because there is no adequate medical explanation for the result;
- When a positive, adulterated or substituted test result is reported as a cancelled test because testing on the split specimen could not be performed;
- The temperature of the specimen falls out of the range of 90 - 100° F.
- Direct observation will NOT be performed when recollection is to occur for a dilute sample.

9.5 Observation in all instances will be made by the same sex. Observed collection will be performed immediately upon detection, and all specimens collected will be sent for analysis. The collection site will immediately notify GCRTA's Medical Services of the occurrence and request approval to perform observed collection. The reason to perform direct observation collection will be provided to the employee by either the collector or Medical Services personnel.

#### 10.0 ACTION TO BE TAKEN UPON RECEIPT OF POSITIVE TEST RESULTS OR REFUSAL TO TEST

Specific action will be required when a covered employee has a verified positive drug test or a confirmed alcohol test result of 0.02 or greater.

10.1 When positive drug results are received from the MRO, Medical Services will immediately notify authorized supervisor(s). The covered employee will be immediately removed from the duty. The appropriate disciplinary action will be implemented as outlined by this policy.

10.2 When a positive alcohol result of 0.02 or greater has been confirmed by BAT, the employee will not be permitted to return to service. The appropriate disciplinary action will be implemented as outlined by this policy. The employee will not be permitted to drive his/her own vehicle and an alternate means of transportation will be utilized.

10.3 If an employee refuses to submit to drug or alcohol testing, the employee will be removed from his/her job duties and appropriate disciplinary action will be implemented as outlined by this policy.

#### 11.0 DISCIPLINARY CONSEQUENCES OF DRUG USE AND MISUSE OF ALCOHOL

The GCRTA has implemented the following disciplinary process for any employee who tests positive for drugs and/or alcohol under this policy.

11.1 GCRTA requires of all employees to be free of drugs and alcohol when performing his/her job duties. Any employee with a verified positive drug test; an alcohol concentration of 0.02 or greater; or refuses to submit to testing will be removed from his/her job duties and must be evaluated by a Substance Abuse Professional (SAP).

11.2 Disciplinary Consequences For Positive Alcohol: When an applicant for employment or when an employee tests positive for alcohol within the prohibited time frames, the following disciplinary action occurs:

a) Employees with less than 6 months service: Immediate Discharge

b) Employees with greater than 6 months of service:

BAC of 0.02 or less

Any value less than 0.02 is considered a negative test.

BAC of 0.02% to 0.079%

First Offense: 30 calendar day conditional suspension. An employee suspended under this section will be referred to Substance Abuse Professional (SAP) at GCRTA's established Employee Assistance Program (EAP) within seven (7) days of the failed test. The employee must participate in the program as prescribed by the SAP and will not be eligible to return to work until completion of the suspension period or completion of the SAP's recommendations. Failure to comply with the SAP's recommended treatment program will result in discharge.

After release by the SAP to return to work, the employee will undergo a return to duty test with an alcohol result of less than 0.02%, will participate in any required aftercare program and submit to follow up testing as determined by the SAP.

An employee who fails to meet any of the conditions set forth in this section is subject to immediate termination. Furthermore, GCRTA 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 overall work record.

Second Offense under this policy within a 3 year period: Immediate Discharge

BAC OF 0.08% or higher

Immediate Discharge

The use, sale or possession on duty of any intoxicant (drug or alcohol) will result in Immediate discharge.

11.3 Disciplinary Consequences For Positive Marijuana-Related Substances:

a) Job Applicants

Not Hired

b) Employees with less than 6 months of service: Immediate Discharge

c) Employees with more than 6 months service:

First Offense will result in a thirty (30) calendar day conditional suspension. An employee suspended under this section will be referred to Substance Abuse Professional (SAP) at GCRTA's established Employee Assistance Program (EAP) within seven (7) days of the failed test. The employee must participate in the program as prescribed by the SAP and will not be eligible to return to work until completion of the suspension period or completion of the SAP's recommendations. Failure to comply with the SAP's recommended treatment program will result in discharge.

After release by the SAP to return to work, the employee will undergo a return to duty test with a negative result, will participate in any required aftercare program and submit to follow up testing as determined by the SAP.

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

An employee who fails to meet any of the conditions set forth in this section is subject to immediate termination. Furthermore, GCRTA 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 overall work record.

Second Offense: Immediate discharge within three (3) year period following first offense.

11.4 Disciplinary Consequences for Prohibited Drugs: (not including marijuana or prescription drugs) Prohibited drugs are cocaine, opiates, phencyclidine and amphetamines, and the following applies:

a) Job Applicants

Not Hired

b) Employees:

Immediate discharge for reasonable suspicion, post accident, and pre-placement testing.

- c) When it has been determined that an employee has participated in the off duty sale, distribution or possession with the intention to distribute illegal drugs or the manufacture of illicit drugs resulting in a criminal conviction, immediate discharge will result.
- d) The use, sale or possession on duty of any intoxicant (drug or alcohol) will result in immediate discharge.

11.5 Disciplinary Consequences For Prescription Drugs: In accordance with GCRTA requirements, the following applies:

- a) Job Applicants
  - When the applicant tests positive for a prescription drug which may affect his/her ability to perform the applicant's proposed job duties, s/he will not be considered for employment unless Human Resources has received the following information prior to testing:
    - Notification of the use of the prescription drug
    - A doctor's letter indicating the applicant's ability to perform his/her proposed job duties is not impaired. If the applicant's job duties would be impaired, the physician must indicate the duration of the impairment.

- b) Employees:
  - When an employee tests positive for a prescription drug which may affect his/her ability to perform the employee's job duties, s/he will be discharged unless the employee has provided the supervisor with notification from the employee's doctor of the use of a prescription drug and an indication of the employee's ability to perform his/her job duties without impairment. When the employee's job duties would be impaired, the physician must indicate the duration of impairment.

Employees, required to use prescription drugs authorized by a licensed health care professional, are responsible for being aware of any effect such drug may have on the performance of their duties. A physician's prescription form 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.

11.6 Disciplinary Consequences For Testing Positive For Any Intoxicant: such as hypnotics, barbiturates, hallucinogens, etc.

- a) Job Applicants: Not hired
- b) Employees: Immediate Discharge

11.7 Disciplinary Consequences For A Driver's Licenses Suspension Due To A DUI Conviction: This provision is in effect for employees that are covered by the Driver's License Requirement Policy and drive a non-revenue or company vehicle. In cases of driver's license suspension due to conviction for DUI, while operating a private vehicle, the

employee will be required to enroll in and successfully complete a program through the Authority's SAP during the suspension period. The employee must make contact with the SAP within seven (7) calendar days of the suspension and provide proof of contact to his/her supervisor. If convicted of DUI while operating an Authority vehicle, the employee will be discharged. (See Driver's License Requirement Policy)

#### 11.8 Other Disciplinary Consequences:

11.8.1 The Drug Free Workplace Act, Federal Regulation 49 CFR Part 29, provides that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited on the Greater Cleveland Regional Transit Authority property. Furthermore, it is a violation of company rules as well as State and local laws. Any employee violating provisions of the Drug Free Workplace Act will be subject to immediate discharge and criminal prosecution.

11.8.2 Pursuant to the Drug Free Workplace Act, any employee convicted of a drug violation occurring in the GCRTA workplace is required to notify his supervisor no later than five (5) working days following his/her conviction. Compliance is required of all recipients of federal funding and is a prerequisite to continued employment with the Greater Cleveland Regional Transit Authority.

11.8.3 The following behavior constitutes a refusal to submit to drug and alcohol testing:

- Verbal or written refusal by any employee to submit to urine and/or breath test or refusal to sign the testing forms;
- Any employee who refuses to submit to a direct observation collection;
- Declination by an employee to submit to a second test when requested by the Authority or the collector;
- Failure of the employee to remain at the testing site until collection is complete
- Refusal by an employee to make an attempt to provide a urine sample after the allotted time period of 3 hours and up to 40 ounces of water;
- Any employee who has a verified adulterated or substituted test result;
- Failure to undergo a medical examination or evaluation for either shy bladder or shy lung;
- Any employee who fails to provide sufficient quantities of breath or urine without valid medical explanation by an Authority designated physician;
- Refusal by an employee who normally voids by utilization of self-catherization but declines to do so;
- Any employee whose conduct prevents the completion of required drug and/or alcohol test;
- Failure of any employee to comply with the directions of the collector, such as refusing to leave outer garments, purses, briefcases etc in a secured location prior to obtaining a specimen;
- Any employee who does not report to the collection site in the allotted time;
- Any employee who is not readily available for post accident testing; or
- Any employee who leaves the scene of an accident without proper authorization.

All of these actions constitutes a refusal and have the same consequences as a positive test. The employee will be immediately discharged.

11.8.4 Any employee who attempts to tamper or alter a specimen or obstruct the collection procedure will be immediately discharged.

11.8.5 Recognizing that approaching a co-worker about an alcohol or drug problem is not an easy one, employees are encouraged to not cover up or correct errors of an impaired co-worker which only "enables" the employee to continue the problem. Co-workers are encouraged to suggest the use of the Employee Assistance Program or suggest contacting the EAP Facilitator at each district for assistance in obtaining information about the EAP program. Informing management of an employee's suspected drug/alcohol use should be viewed as a means of helping that individual and possibly saving their life and the lives of others.

## 12.0 RESPONSIBILITY FOR PROGRAM ADMINISTRATION

The Drug and Alcohol Program is administered by the Manager, Occupational Health. GCRTA's Occupational Health Services is located at the GCRTA Main Office Building, 1240 W.6<sup>th</sup> Street, Cleveland, Ohio 44113. (See Addendum A)

Any employee may review the referenced regulations and cited reference materials in the Substance Abuse Policy and/or procedures in the Medical Services Office by appointment. Requests for copies for regulatory information should be made in writing, addressed to Medical Services. A nominal processing fee may be involved for copies of regulatory information depending on the extent of the request.

## 13.0 CONFIDENTIALITY OF RECORDS

Employees may request a copy of any of their own drug and alcohol test results. All requests must be in writing. Requests by telephone will not be honored in order to preserve the employee's confidentiality of results. Results will be mailed to the employee's home address or the employee may pick up results in person in Medical Services provided that the employee has a picture identification. Results of drug and alcohol testing will not be released to outside entities or any third party without the written consent of the employee.

## 14.0 ATTACHMENT

Addendum A – MRO, SAP, Laboratory Services and GCRTA Administrator  
Addendum B – Laboratory Testing Limits  
Addendum C – Drug Testing Procedure  
Addendum D - Alcohol Testing Procedure  
Addendum E – Life Consequences of Drug Abuse and Alcohol Misuse

This Policy supercedes all previous policies and procedures.

## **Addendum A**

### **MRO, SAP, Laboratory Services and GCRTA Administrator**

#### **Medical Review Officer (MRO)**

Dr. Ronald Hawes, M.D.  
East Side Occupational Health Center  
4450 St. Clair Avenue  
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(216) 431-0927

#### **Substance Abuse Professional (SAP)**

Sharon Ryan-Hawley, CEAP  
Recovery Resources  
3950 Chester Avenue  
Cleveland, Ohio 44114  
(216) 431-4140

#### **Laboratory Drug Testing**

Clinical Reference Laboratory  
DHHS, SAMHSA, National Laboratories Certification Program Certificate  
8433 Quivira Road  
Lenexa, Kansas 66215  
1-800-445-6917

#### **GCRTA Drug & Alcohol Program Administration**

Linda K. Tancek  
Manager, Occupational Health  
Root McBride Building  
1240 W. 6<sup>th</sup> Street  
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## Addendum B

### Laboratory Testing Cut-off Limits for the Minimum Quantity of Drug Detected

The following laboratory testing cut-off limits are federally mandated for the minimum quantity of drug detected in the initial test and the confirmation test:

Type of Drug or Metabolite	Initial Test Level	Confirmation Test Level
1. Marijuana Metabolites a. THC	50 ng/ml	15 ng/ml
2. Cocaine Metabolites (Benzoylecgonine)	300 ng/ml	150 ng/ml
3. Phencyclidine (PCP)	25 ng/ml	25 ng/ml
4. Amphetamines a. Amphetamine b. Methamphetamine	1000 ng/ml	500 ng/ml 500 ng/ml (Specimen must also contain amphetamine at a concentration $\geq$ 200 ng/ml)
5. Opiate Metabolites a. Codeine b. Morphine c. 6 acetylmorphine	2000	2000 ng/ml 2000 ng/ml 10 ng/ml (Test for 6-AM conducted only when specimen contains morphine at a concentration $\geq$ 2000 ng/ml)
6. Barbiturates	300 ng/ml	300 ng/ml
7. Benzodiazepines	300 ng/ml	300 ng/ml
8. Methodone	300 ng/ml	300 ng/ml
9. Methaqualone	300 ng/ml	300 ng/ml
10. Propoxyphene	300 ng/ml	300 ng/ml



## **Addendum C**

### **Urine Specimen Collection Process**

Urine specimen collection Outlined below is the collection procedure. The testing process will begin upon entry to the collection site without undue delay.

1. If an alcohol test is also required in conjunction with the drug test, alcohol testing will be performed prior to the drug screen collection.
2. Employee identification will be verified by a photo ID using either a valid Ohio Driver's license or GCRTA Identification card.
3. The collection process will be explained to the employee.
4. The employee will be requested to remove outer clothing such as coat, sweater, jacket, hat or overalls. All clothing and personal items such as a briefcase, purse or other items will be placed in a mutually agreeable location. Although the employee will not be required to remove all clothing, he/she will be requested to display the contents of pockets to ensure that no items are present which could be used to adulterate the specimen.
5. Prior to collection of the specimen, Step 1 of the chain of custody will be completed by the collector.
6. The employee will then be instructed to wash and dry his or her hands.
7. The employee will be provided a specimen container and directed to a secured restroom to collect a specimen.
8. The minimum specimen amount is 45 ml. If there is insufficient volume, the specimen collected must be discarded. At no time is it permitted to combine urine collected from separate voids to create a sufficient specimen. The employee has up to three (3) hours to complete drug and may drink up to 40 ounces of water throughout the waiting period in order to provide a specimen. The employee will be notified when the three (3) hour period begins and when it will end. It is not considered a refusal if the employees chooses not to drink the 40 ounces of water. Failure to provide a specimen within the allotted time period will result in evaluation under the "shy bladder" procedure.
9. The temperature of the specimen will be obtained within 4 minutes after the specimen collection and the acceptable temperature range must be between 90° to 100° F.
10. The collector will pour or "split" the sample of at least 15 ml in a separate collection bottle and leave the remaining specimen in the original container. This process will be performed before the employee.
11. Both bottles will be sealed and labeled in the presence of the employee. After the specimen has been labeled, the employee will initial the bottle labels.
12. The chain of custody form will be completed with the appropriate signatures, social security number, birth date and current date.
13. The appropriate portion of the chain of custody form along with the primary sample and the split sample will be place in a single shipping container, initialed by the collector and placed in secure storage until laboratory pick up.

Shy Bladder evaluation will be performed when an employee is unable to provide at least 45 ml. of urine within three (3) hours and being provided no more than 40 ounces of water. Outlined below is the process that will be utilized:

1. If an insufficient specimen has been collected, it will be discarded unless the specimen was out of temperature range or it showed evidence of adulteration or tampering.
2. The collection procedure will be discontinued and documented on the chain of custody. The collector must notify Medical Services and the MRO within 24 hours, however, it is expected that each collection site will notify Medical Services

immediately and will send the chain of custody with the documentation within the 24 hour period.

3. Medical Services will consult with the MRO, and a licensed physician, acceptable to the MRO will be selected. The employee must be referred to the selected physician within five (5) days of the occurrence. Medical Services will contact the employee with the selected physician's name, location and date of the evaluation.
4. The employee will be placed on administrative leave pending medical results.
5. The MRO shall confer with the evaluating physician and will provide Medical Services with a written determination as soon as it is made.
6. If it has been determined that a medical condition exists, the test will be considered "cancelled" and the employee resumes working.
7. If it has been determined that no medical condition exists, the test will be considered "refusal to test because..." and the appropriate disciplinary action as outlined in this policy will be followed.

## Addendum D

### Breath Alcohol Collection Process

Breath alcohol testing. Outlined below is the testing procedure. The testing process will begin upon entry to the collection site without undue delay.

1. Alcohol testing takes precedence over drug testing and will be performed before the drug screen collection.
2. Employee identification will be verified by a photo ID using either a valid Ohio Driver's license or GCRTA Identification card.
3. After testing procedures are explained to the employee, the BAT will complete Step 1 of the Alcohol Testing Form and the employee will complete Step 2 and sign the certification.
4. The employee will select or the BAT will select a individually wrapped disposable mouthpiece. The BAT will insert the mouthpiece into the testing device.
5. The employee will be instructed to blow steadily and forcefully into the mouthpiece for at least six seconds or until the device indicates that an adequate amount of breath has been obtained.
6. If the employee does not provide a sufficient amount of breath, the employee will be instructed to attempt again to provide an sufficient amount of breath. If the employee fails after this attempt, the BAT may provide a third opportunity and may use manual testing if BAT believes that results can be obtained. Failure after the third attempt will result in medical evaluation for "Shy Lung".
7. After successful completion of the testing, the employee will be shown the results.
8. When the results of the test are an alcohol concentration of less than 0.02, the test will be considered negative. The BAT will sign and date Step 3 on the Alcohol Testing Form and transmit the information to Medical Services in a confidential manner.
9. When the results of the test are an alcohol concentration 0.02 or greater, a confirmation test to be performed. The confirmation test must be at least 15 minutes, but not more than 30 minutes, after the completion of the initial test.
10. During the waiting period for confirmation testing, the employee will not be permitted to eat, drink, smoke or place anything in his or her mouth or belch. The BAT will inform the employee that the test will be conducted at the end of the waiting period even if the employee disregards instructions. The BAT will observe the employee at all times and will document any disregard of instructions in the "remarks" area of the testing form.
11. Before confirmation testing, the BAT shall conduct an air blank test on the EBT. The reading should not be greater than 0.00.
12. The employee shall be shown the results of the confirmation test and BAT will inform the transporting supervisor of the results. Based on the results, the supervisor will take appropriate action based on the criteria outlined in this policy.
13. The BAT will immediately notify Medical Services of results greater that 0.02 and send hard copy confidentially by U.S. Mail or courier.
14. In order to confirm that telephoned results are valid when received from the collection site, Medical Services personnel will call the collection site after receiving concentration results over 0.02 to confirm the results and verify the identification of the person reporting the results.

"Shy lung evaluation will occur when an employee attempts and is unable to provide an adequate amount of breath after following the procedure outlined above. Outlined below is the process that will be utilized.

1. If the employee fails after two attempts, the BAT may provide a third opportunity and may use manual testing if the BAT believes that results can be obtained. Failure after the third attempt will result in medical evaluation for "Shy Lung". When the employee has failed to provide adequate breath, the BAT will discontinue the test and note the fact on the "Remarks" line of the Alcohol Testing Form and immediately notify Medical Services.

2. The BAT will direct the employee to continue to attempt to complete the breathalyzer by utilizing a manual testing method for up to fifteen (15) minutes from the time of the last failed attempt. If GCRTA's designated physician is available, the employee will then immediately proceed to a pulmonary assessment at the testing facility. If the physician is not available, the employee will be scheduled to receive a pulmonary assessment within 5 days of the occurrence. During the assessment period, the employee will be placed on administrative leave and will not be permitted to perform safety sensitive functions until the evaluation process is complete.
3. If no test results are obtained through the manual breath testing method to determine if there has been alcohol misuse and no immediate pulmonary assessment is available, GCRTA will permit the employee to volunteer for a blood screen for alcohol by immediately signing a written document requesting blood testing. The blood will be drawn with sixty (60) minutes of the initial breathalyzer test so as to provide valid results regarding employee's use of alcohol at the time of the breathalyzer test.
4. If the additional manual breath test(s) or blood alcohol screen test is negative and pulmonary assessment is successfully completed with no existing medical condition which precludes the breathalyzer test, the employee will be evaluated the Substance Abuse Professional (SAP) and returned to work in accordance with the recommendation of the SAP. So long as the employee contacts the SAP within twenty-four (24) hours of the initial testing, promptly schedules an appointment, reports to the SAP at the appointed time and place, and the SAP recommends an immediate return to work, the employee will be made whole for the time lost during this testing and evaluation process. If the SAP assessment identifies a substance abuse problem which requires treatment prior to return to work, the employee will utilize paid or unpaid leave in accordance to the GCRTA's FMLA policy, if applicable, or other leave policies. Follow up testing will be performed in accordance with the SAP's recommendations.
5. If the additional manual breath test(s) or blood test is negative, but the pulmonary assessment reveals a medical condition, the employee will be returned to work. However, if it is determined medical treatment is required prior to returning to work, the employee will utilize paid or unpaid leave in accordance to the GCRTA's FMLA policy if applicable, or other leave policies as needed.
6. If the pulmonary assessment does not reveal a medical condition, but the additional manual breath test (s) or blood alcohol test reveal alcohol concentration of 0.02 or above, the employee will be subject to the procedures and penalties outlined in this policy.
7. If the employee fails to complete the additional manual breath test(s), does not choose to voluntarily submit to a blood alcohol test, refuses to obtain medical evaluation, refuses to be evaluated by the SAP or follow the SAP recommendations, and the pulmonary assessment does not find a valid medical explanation for the failure to provide sufficient breath, the employee will be immediately discharged as refusal to submit to testing.

## Addendum E

### Life Consequences of Drug Abuse and Alcohol Misuse

Both drug abuse and alcohol misuse are serious and complex issues that have far reaching consequences, not only for the individual affected, but on family, friends and co-workers. When an individual uses drugs or alcohol, everything that is important, such as family, friends, job, money and self respect are at risk. Addiction gradually consumes for and more of an individual's time, energy and health. Any list of behavioral signs cannot be completely accurate for everyone, however, the most important sign to watch for is a marked change in behavior that could signal that there is a drug or alcohol problem. Some of the possible symptoms of drug abuse or alcohol misuse are as follows:

- |                           |  |
|---------------------------|--|
| <b>Physical Symptoms:</b> | Exhaustion, untidiness, blank stare, slurred speech, unsteady walk, changes in appearance after work break.                              |
| <b>Mood:</b>              | Constant depression or anxiety, irritability, suspicion and mood swings.   |
| <b>Actions:</b>           | Argumentative, excessive sense of self-importance, avoids talking  |
| <b>Absenteeism:</b>       | Frequent "emergency" absences, often absent on Monday mornings, frequent unexplained disappearances from work station.                   |
| <b>Accidents:</b>         | Takes needless risks, disregards safety of others, higher-than-average accident rate.  |
| <b>Work Patterns:</b>     | Inconsistent work quality and productivity, mistakes and carelessness, lapses of memory, increased difficulty in handling complex tasks. |
| <b>Relationships:</b>     | Overreacts to criticism, withdrawn, problems at home and/or work, borrows money from friends.  |

The effect of a drug or alcohol problem on co-workers is equally impairing. Impaired employees affect co-workers, work performance, customer relations and the company's reputation and can threaten company property, other employees and the public.



Greater Cleveland Regional Transit Authority  
**STAFF SUMMARY AND COMMENTS**

K-22

TITLE/DESCRIPTION: <b>AUTHORIZING A REVISION OF THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY'S SUBSTANCE ABUSE POLICY FOR NON-SAFETY SENSITIVE EMPLOYEES</b>	Resolution No.: 2004-104
	Date: July 15, 2004
	Initiator: Human Resources Division
ACTION REQUEST: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____	

1.0 PURPOSE/SCOPE: This action will authorize revisions to the Substance Abuse Policy for Non-Safety Sensitive Employees for the Authority to comply from the request with the Ohio Department of Transportation's Safety Audit.

2.0 DESCRIPTION/JUSTIFICATION: The Ohio Department of Transportation requests that the Greater Cleveland Regional Transit Authority establish, implement and maintain a Substance Abuse Policy designed to create a drug-free workplace among its non-safety sensitive employees.

A non-safety sensitive employee is defined as any employee who does not operate a revenue service vehicle; operate a non-revenue service vehicle requiring a Commercial Driver's License; control the dispatch or movement of a revenue service vehicle; maintain a revenue service vehicle or equipment used in revenue service or carry a firearm for security purposes.

As a result of the Safety Audit performed by the Ohio Department of Transportation, changes were made to the policy to incorporate the following:

1. Updated technological changes for testing techniques for drug and alcohol and treatment/rehabilitation methods to reflect the current practices.
2. The addition of post accident testing which will occur when an unplanned, unexpected or unintended event happens during the conduct of the employer's business during normal working hours either with an employer-supplied motor vehicle or a personal vehicle being used to conduct the employer's business.
3. A clear definition of the confidentiality requirement for releasing results and maintenance of records.

The revised policy has been discussed with the Amalgamated Transit Union (ATU), Local 268 and the Fraternal Order of Police. Areas of discussion focused on the consequences imposed for policy violations.

3.0 PROCUREMENT BACKGROUND: Does not apply.

4.0 DBE/AFFIRMATIVE ACTION BACKGROUND: Does not apply.

- 5.0 POLICY IMPACT: The revisions of the Substance Abuse Policy will make the Greater Cleveland Regional Transit Authority compliant with the requests from the Ohio Department of Transportation's Safety Audit.
- 6.0 ECONOMIC IMPACT: Does not apply.
- 7.0 ALTERNATIVES: Do not approve a revision of the policy. This would not allow the Greater Cleveland Regional Transit Authority to comply with the requests of the Ohio Department of Transportation and could jeopardize federal financial assistance.
- 8.0 RECOMMENDATION: The revised Policy was discussed with the Executive Committee of the Board of Trustees on July 6, 2004 and recommended to the full Board for approval.
- It is recommended that the Board of Trustees authorize the revisions to the Substance Abuse Policy for Non-safety Sensitive Employees.
- 9.0 ATTACHMENTS: None

Recommended and certified as appropriate to the availability of funds, legal form and conformance with the Procurement requirements.



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CEO, General Manager/Secretary-Treasurer