



**Drug-Free Workplace
Policy and Procedures**
September 2018



RTA

**REGIONAL
TRANSIT AUTHORITY**
OF SOUTHEAST MICHIGAN

Drug-Free Workplace Policy and Procedures Policy - Revision Log		
Revision Name: September 2018	Adopted On: September 20, 2018	Update Notes: Triennial review updates

Signed: 

Title: Chief Operating Officer

Date: September 21, 2018

Regional Transit Authority of Southeast Michigan Drug-Free Workplace Policy and Procedures

Purpose

In compliance with 49 CFR Part 655, as amended, 49 CFR Part 382, as amended, and 49 CFR Part 40, as amended the Regional Transit Authority of Southeast Michigan (RTA) has developed this drug-free workplace policy and procedures. Copies of Parts 655, 382, and 40 are available from the Chief Operating Officer (COO) and can be found on the Internet at the Department of Transportation (DOT) Office of Drug and Alcohol Policy and Compliance website <http://www.transportation.gov/odapc>.

In addition, DOT has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

All RTA employees are subject to the provisions of the Drug-Free Workplace Act of 1988 as a condition of employment in accordance with these regulations.

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify the Chief Operating Officer no later than five days after such conviction.

The RTA has established a drug and alcohol awareness program to educate employees about the dangers of drug use and alcohol abuse as well as the specifics of this Policy. In furtherance of this Policy, the RTA is committed to the following principles: Respect for an employee's dignity and right to privacy; providing assistance to employees when needed; and the recognition that alcohol and/or drug dependency are potential health problems which are treatable.

Scope

This policy outlines the practice and procedure designed to correct instances of identified alcohol and drug use in the workplace.

This policy applies to all employees and all applicants for employment of the RTA. The Chief Operating Officer is responsible for policy administration.

Substance Abuse Awareness

Illegal drug use and alcohol misuse have many serious adverse health and safety consequences. In addition to educating employees about the dangers of drug use and alcohol abuse, information about those consequences and sources of help for drug or alcohol problems is available from the COO, who can make referrals to assist employees with drug or alcohol problems.

Employee Assistance

The RTA will assist and support employees who voluntarily seek help for such problems before becoming subject to discipline or termination under this policy. Such employees will be allowed to use accrued paid time off, placed on leaves of absence, referred to treatment providers and otherwise accommodated as required by law. Such employees may be required to document that they are successfully following prescribed treatment and to take and pass follow-up tests if they hold jobs that are safety-sensitive or require driving, or if they have violated this policy previously. Once a drug test has been scheduled, unless otherwise required by the Family and Medical Leave Act or the Americans with Disabilities Act, the employee will have forfeited the opportunity to be granted a leave of absence for treatment, and will be subject to possible discipline, up to and including discharge.

Employees should report to work fit for duty and free of any adverse effects of illegal drugs or alcohol. This policy does not prohibit employees from the lawful use and possession of prescribed medications. Employees must, however, consult with their doctors about the medications' effect on their fitness for duty and ability to work safely, and they must promptly disclose any work restrictions to their supervisor. Employees should not, however, disclose to the RTA underlying medical conditions unless directed to do so.

Work Rules

1. Whenever employees are working, operating any RTA vehicle, are present on RTA premises, or conducting company-related work offsite, they are prohibited from:
 - a. Using, possessing, buying, selling, manufacturing or dispensing an illegal drug (to include possession of drug paraphernalia).
 - b. Being under the influence of alcohol or an illegal drug as defined in this policy.
 - c. Possessing or consuming alcohol.
2. The presence of any detectable amount of any illegal drug or illegal controlled substance in an employee's body system, while performing company business or while in a company facility, is prohibited.
3. The RTA will not allow employees to perform their duties while taking prescribed drugs that are adversely affecting their ability to safely and effectively perform their job duties. Employees taking a prescribed medication must carry it in the container labeled by a licensed pharmacist or be prepared to produce it if asked.
4. Any illegal drugs or drug paraphernalia will be turned over to an appropriate law enforcement agency and may result in criminal prosecution.

Drug-Testing

Employees will be subject to drug or alcohol testing if they cause or contribute to accidents that damage a vehicle, machinery, equipment or property of the RTA, an RTA employee or of a third party, or that result in an injury to themselves, an RTA employee or a third party. Employees will also be subjected to drug or alcohol testing whenever the RTA has a reasonable suspicion that an employee has violated this Policy. Reasonable suspicion means a belief that the employee has used, or is using, drugs and or alcohol in violation of this Policy, based upon such factors as: observable phenomena, such as actual observation of usage of such substances, the observation of alcohol, alcohol containers, illegal drugs or drug paraphernalia in the employee's possession, or in an area controlled or occupied by the employee (e.g., vehicle, office, desk, etc.), or a display of erratic behavior or physical symptoms of usage of such

substances while on duty by a RTA representative who can describe the personal observations concerning the appearance, behavior, speech, or breath odor of the employee; reliable and corroborated reports by others that the employee has consumed alcohol or used forbidden substances while on duty; evidence that the employee has tampered with one or more prior drug/alcohol tests while employed with the RTA; or evidence that the employee has been involved in drug possession, use or sale while on RTA property or while using RTA equipment. Further, when required by state or federal law, rule or regulation, employees will be subject to random drug and/or alcohol testing,

In any of the instances described above, the investigation and subsequent testing should take place as soon as practicable. *Under no circumstances will the employee be allowed to drive himself or herself to the testing facility.*

Follow-up

Employees who have tested positive, or otherwise violated this policy, are subject to discipline, up to and including discharge. Depending on the circumstances and the employee's work history/record, the RTA may offer an employee who violates this policy or tests positive the opportunity to return to work, for example on a last-chance basis pursuant to mutually agreeable terms, which could include follow-up drug testing at times and frequencies determined by the RTA for a minimum of one year but not more than two years, as well as a waiver of the right to contest any termination resulting from a subsequent positive test. If the employee either does not complete the rehabilitation program or tests positive after completing the rehabilitation program, the employee will be subject to immediate discharge from employment.

Collection and Testing Procedures

Employees subject to alcohol testing should be driven to a RTA-designated facility and will be required to provide breath specimens, or any other specimen determined by the designated facility. The specimen taken shall be tested by trained technicians using federally approved testing devices capable of producing printed results that identify the employee.

Employees subject to drug testing should be driven to a RTA-designated facility and directed to provide a urine specimen, or any other specimen determined by the designated facility. Applicants and employees may provide specimens in private unless they appear to be submitting altered, adulterated or substitute specimens. Collected specimens should be sent to a federally certified laboratory and tested for evidence of marijuana, cocaine, opiates, amphetamines, PCP, benzodiazepines, methadone, methaqualone and propoxyphene use. (Where indicated, specimens may be tested for other illegal drugs.) The laboratory should screen all specimens and confirm all positive screens. There must be a chain of custody from the time specimens are collected through testing and storage.

The laboratory should transmit all positive drug test results to a medical review officer (MRO) retained by RTA, who should offer persons with positive results a reasonable opportunity to rebut or explain the results. Individuals with positive test results may also ask the MRO to have their split specimen sent to another federally certified laboratory to be tested at the applicant's or employee's own expense. Such requests must be made within 72 hours of notice of test results. If the second facility fails to find any evidence of drug use in the split specimen, the employee or applicant will be treated as passing the test.

In no event should a positive test result be communicated to the RTA until such time that the MRO has confirmed the test to be positive.

Confidentiality

Information and records relating to positive test results, drug and alcohol dependencies, and legitimate medical explanations provided to the MRO should be kept confidential to the extent required by law and maintained in secure files separate from normal personnel files. Such records and information may be disclosed among managers and supervisors on a need-to-know basis and may also be disclosed when relevant to a grievance, charge, claim or other legal proceeding initiated by or on behalf of an employee or applicant.

Inspections

The RTA reserves the right to inspect all portions of its premises for drugs, alcohol or other contraband. All employees, contract employees, and visitors may be asked to cooperate in inspections of their persons, work areas and property that might conceal a drug, alcohol or other contraband. Employees who possess such contraband or refuse to cooperate in such inspections are subject to appropriate discipline, up to and including discharge.

Crimes Involving Drugs

The RTA prohibits all employees, including employees performing work under government contracts, from manufacturing, distributing, dispensing, possessing or using an illegal drug in or on company premises or while conducting company business. The RTA employees are also prohibited from misusing legally prescribed or over-the-counter (OTC) drugs. Law enforcement personnel should be notified, as appropriate, when criminal activity is suspected.

The RTA does not desire to intrude into the private lives of its employees, but recognizes that employees' off-the-job involvement with drugs and alcohol may have an impact on the workplace. Therefore, the RTA reserves the right to take appropriate disciplinary action for drug use, sale or distribution while off company premises. All employees who are convicted of, plead guilty to or are sentenced for a crime involving an illegal drug are required to report the conviction, plea or sentence to the COO within five days. Failure to comply will result in automatic discharge. Cooperation in complying may result in suspension without pay to allow management to review the nature of the charges and the employee's past record with the RTA.

Definitions

"Company premises" includes all buildings, offices, facilities, grounds, parking lots, lockers, places and vehicles owned, leased or managed by the RTA or on any site on which the company is conducting business.

"Illegal drug" means a substance whose use or possession is controlled by federal law but that is not being used or possessed under the supervision of a licensed health care professional. (Controlled substances are listed in Schedules I-V of 21 C.F.R. Part 1308.)

“Refuse to cooperate” means to obstruct the collection or testing process; to submit an altered, adulterated or substitute sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or to fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure. Employees who leave the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will also be considered to have refused to cooperate and will automatically be subject to discharge.

“Under the influence of alcohol” means an alcohol concentration equal to or greater than the legal limit for Driving Under the Influence in the State of Michigan, or the presence of observable factors including, but not limited to, actions, appearance, speech or bodily odors that reasonably cause a supervisor to conclude that an employee is impaired because of alcohol use.

“Under the influence of drugs” means a confirmed positive test result for illegal drug use per this policy. In addition, it means the misuse of legal drugs (prescription and possibly OTC) when there is not a valid prescription from a physician for the lawful use of a drug in the course of medical treatment (containers must include the patient’s name, the name of the substance, quantity/amount to be taken and the period of authorization).

Post-Accident Related Drug and/or Alcohol Testing Protocol

1. The employee will be advised that the RTA policy is to conduct a drug and/or alcohol test to document whether the employee was in violation of this Policy during the time of the incident.
2. The employee will be transported to any one of the RTA’s contracted testing facilities (e.g., health services, prompt care or the emergency department). One member of management or a designated attendant will accompany the employee. *Under no circumstances will the employee be allowed to drive himself or herself to the testing facility.*
3. Prior to leaving for the testing facility, supervision/management will contact the testing facility to inform it that a staff member from the RTA will be arriving and will need a drug or alcohol test completed.
4. The employee should be provided water to drink prior to leaving the company premises.
5. The employee should be given reasonable time—not to exceed 15 minutes—to secure photo ID in the company of a RTA representative.
6. The employee to be tested must present a photo ID (i.e., a driver’s license or state ID card) to the testing facility staff before the specimen can be obtained. Ensure that the employee brings the photo ID with him or her when leaving RTA premises.
7. The employee to be tested must sign a consent form provided by the testing facility. Refusal to sign is interpreted as a refusal to cooperate and will automatically be subject to discharge.
8. A RTA representative must sign as a witness to the collection procedure, along with the tested employee.
9. After returning to the company or when leaving the testing facility, the supervisor/manager must make arrangements to transport the person home (unless testing results are immediate and showed no indication of alcohol consumption or drug ingestion). Under no circumstances will the tested employee be allowed to drive himself or herself home, if the test results showed any indication of alcohol consumption or drug ingestion.

Enforcement

The COO is responsible for policy interpretation, administration and enforcement.

This Policy does not alter the employment status of any at-will employee. Both the RTA and an at-will employee remain free to terminate the employment relationship at any time, with or without cause or notice.

Drug and Alcohol Policy Certificate of Receipt

I hereby certify that I have received a copy of this latest version of the RTA Drug and Alcohol Policy, dated _____.

Signature, Date