



SunLine Transit Agency
June 26, 2024
10:30 a.m. – 11:00 a.m.

AGENDA

BOARD OPERATIONS COMMITTEE

Wellness Room
32-505 Harry Oliver Trail
Thousand Palms, CA 92276

NOTICE TO THE PUBLIC

SunLine has discontinued its COVID-19 Emergency Declaration and has returned its Board and Board Committee meetings to live and in-person attendance at the location noted above. These meetings are no longer available for viewing, attendance, or comment by two-way audiovisual platform, two-way telephonic service, webcasting, or streaming video broadcast. SunLine may prepare audio or video recordings of Board meetings. In accordance with the Brown Act and California Public Records Act, these recordings are subject to public inspection for a period for thirty (30) days after the meeting.

In compliance with the Brown Act, agenda materials distributed 72 hours or less prior to the meeting, which are public records relating to open session agenda items, will be available for inspection by members of the public prior to or at the meeting at SunLine Transit Agency's Administration Building, 32505 Harry Oliver Trail, Thousand Palms, CA 92276 and on the Agency's website, www.sunline.org.

In compliance with the Americans with Disabilities Act, Government Code Section 54954.2, and the Federal Transit Administration Title VI, please contact the Clerk of the Board at (760) 343-3456 if special assistance is needed to participate in a Board meeting, including accessibility and translation services. Notification of at least 72 hours prior to the meeting time will assist staff in assuring reasonable arrangements can be made to provide assistance at the meeting.

ITEM

RECOMMENDATION

1. CALL TO ORDER
2. FLAG SALUTE
3. ROLL CALL
4. PRESENTATIONS

<u>ITEM</u>	<u>RECOMMENDATION</u>
5. FINALIZATION OF AGENDA	
6. PUBLIC COMMENTS	RECEIVE COMMENTS
NON AGENDA ITEMS Members of the public may address the Committee regarding any item within the subject matter jurisdiction of the Committee; however, no action may be taken on off-agenda items unless authorized. Comments shall be limited to matters not listed on the agenda. Members of the public may comment on any matter listed on the agenda at the time that the Board considers that matter. Comments may be limited to 3 minutes in length.	
7. COMMITTEE MEMBER COMMENTS	RECEIVE COMMENTS
8. REVISED DRUG & ALCOHOL POLICY NO. B-010394 (Staff: Bryan Valenzuela, Chief Safety Officer)	DISCUSSION (PAGE 3-48)
9. REGULATION AND PROHIBITION OF PASSENGER CONDUCT ORDINANCE 2024-01 (Staff: Bryan Valenzuela, Chief Safety Officer)	DISCUSSION (PAGE 49-60)
10. WORKPLACE VIOLENCE PREVENTION PLAN (Staff: Bryan Valenzuela, Chief Safety Officer)	INFORMATION (PAGE 61-106)
11. ADJOURN	

SunLine Transit Agency

DATE: June 26, 2024 **DISCUSSION**

TO: Board Operations Committee

FROM: Bryan Valenzuela, Chief Safety Officer

RE: Revised Drug & Alcohol Policy No. B-010394

Background

SunLine Transit Agency has an established Drug & Alcohol Policy. This policy has been updated to comply with Assembly Bill 2188 (AB 2188) which amended the California Fair Employment and Housing Act to make it unlawful to discriminate against an applicant or employee for the following:

1. Using cannabis while off the job and away from the workplace.
2. For failing employer-required drug tests which screens for nonpsychoactive cannabis metabolites in the hair, blood, urine, or other bodily fluids.

The requirements of AB 2188 only apply to Non-Safety Sensitive personnel. Summarized below are the revisions made to the attached redlined policy that reflect the updates required by AB 2188:

1. Revise the definition of "Drugs" to include 6-AM Analyte (Heroin Specific), Hydrocodone/Hydromorphone, and Oxycodone/Oxymorphone.
2. Addition of safety-sensitive position to include Safety Officers.
3. Addition of language in section 9.0, Drugs (or the metabolites) Tested For, to include:
 - a. The Agency will test DOT-regulated employees for the following drugs and their metabolites, as listed within Title 49 CFR Part 40.85, which has been incorporated into this Policy as written and revised: 6-AM Analyte (Heroin Specific), Hydrocodone/Hydromorphone, Oxycodone/Oxymorphone, Marijuana, Cocaine, Amphetamines, Phencyclidine, and Opioids.

- b. The Agency will test non-DOT-regulated employees for the following drugs and their metabolites, which has been incorporated into this Policy as written and revised: 6-AM Analyte (Heroin Specific), Amphetamine, Barbiturates, Benzodiazepines, Cocaine, Methadone (Dolophine), Methamphetamine, Methaqualone (Quaalude), Opioids – 4, Phencyclidine, Propoxyphene MTB (Darvon/Darvocet).

Financial Impact

No financial impact.

Attachments:

- [Item 8a](#) – Redlined Copy of Drug and Alcohol Policy No. B-010394
- [Item 8b](#) – Drug and Alcohol Policy No. B-010394 (Redlined Changes Accepted)

DRUG & ALCOHOL POLICY

1.0 POLICY STATEMENT

SunLine Transit Agency (SunLine) is dedicated to providing safe, dependable and efficient transportation services to our passengers and the citizens of the Coachella Valley. Agency employees are our most valuable resource, and it is our goal to provide a healthy and satisfying, working environment that promotes personal opportunities for growth. We also recognize that our employees' use of illegal drugs and misuse of alcohol poses a significant risk to public safety, reduces productivity in the workplace, and negatively affects the employee's health and well being. In view of this, the Agency has adopted this policy that is designed to

1. Create a work environment free from the adverse effects of drug abuse and alcohol misuse;
2. Deter and detect employee's use of illegal drugs and misuse of alcohol;
3. Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances;
4. Encourage employees to seek professional assistance anytime personal problems, including drug or alcohol dependency, adversely affect their ability to safely perform their assigned duties; and
5. Discipline employees who violate the policy, up to and including termination.

1.1 Proper Application of the Policy

SunLine Transit Agency is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

1.2 Policy Amendments

Amendments that represent major management policy change will be approved by the SunLine Board of Directors. The CEO/General Manager may issue amendments, which are required because of changes in Federal or State law or regulation. All amendments require the review of SunLine Counsel for legal sufficiency.

2.0 PURPOSE

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the safety and health risks posed by the misuse of alcohol and use of prohibited drugs. This policy is intended to comply with all applicable state and Federal regulations governing workplace anti-drug use and alcohol misuse programs. They include DOT 49 CFR Part 40, as amended ("Procedures for Transportation Workplace Drug and Alcohol Testing Programs"); FTA 49 CFR Part 655, as amended ("Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations"); DOT 49 CFR Part 29 (Drug-Free Workplace Act of 1988); and CA Govt. Code Section 8350 et seq. ("Drug Free Workplace Act of 1990"). This policy incorporates the requirements of the above regulations for safety-sensitive employees and others when so noted. **Policies indicated in bold text represent SunLine Transit Agency authority.** Requirements of the Drug-Free Workplace Act of 1988 (DFWA) are entered in *Italics*.

3.0 APPLICABILITY

Unless otherwise noted in specific provisions, this policy applies to all employees (including contract employees) regardless of their functions. The application of this policy to non-safety-sensitive employees comes under the Agency's own authority. Visitors, invitees, and vendors also are prohibited from entering the premises and/or from conducting any work on behalf of the Agency when illegal substances are present in their system, or the odor of alcohol is present on their breath. This policy applies to off site lunch periods or other authorized breaks when an employee is scheduled to return to work or is on-call.

Contractors that provide safety-sensitive work for the Agency (e.g. transporting vehicles for maintenance purposes) are not covered by this policy; but they are required to provide proof to STA that they have a drug and alcohol testing program that complies with the minimum requirements of Part 40 and Part 655.

4.0 PRE-EMPTION OF STATE AND LOCAL LAWS

If any conflict occurs between this policy, State and local laws and any requirement of Federal regulations, the Federal regulations prevail. However, Federal regulations do not pre-empt provisions of State criminal laws that impose sanctions for reckless conduct attributed to prohibited drug use or alcohol misuse, whether the provisions apply specifically to transportation employees, employers, or the public in general.

5.0 DEFINITIONS

The definitions in this policy are intended to track those described in the Federal Regulations specified in Section 2.0.

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

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

Alcohol Screening Device (ASD): A breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and appears on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" because it conforms to the model specifications from NHTSA

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

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

Collection Site: A place designated by the Agency where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs, and/or measure for alcohol by an evidential breath testing device.

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

Covered Employee: A person, including a volunteer, applicant / transferee, or contract employee, who performs or is required to perform a safety-sensitive function for the Agency.

Designated Employer Representative: An employee or employees authorized by the Agency to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, following a positive test, test refusal, or other policy violations.

DHHS: Department of Health and Human Services.

Disabling Damage: Damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs, including damage to motor vehicles that could have been driven, but would have been further damaged if so driven. "Disabling damage" does not include:

- Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
- Tire disablement without other damage even if no spare tire is available.
- Headlamp or taillight damage.
- Damage to turn signals, horn, or windshield wipers, which makes them inoperable.

DOT: U.S. Department of Transportation.

Drugs: ~~The drugs for which tests are required under this part and DOT agency regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids.~~

The drugs for which tests are required by DOT agency regulations are 6-AM Analyte (Heroin Specific), Hydrocodone/Hydromorphone, Oxycodone/Oxymorphone, marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids.

Drug Abuse: Use of any illegal drug or controlled substance without a valid prescription, misuse of legally prescribed drugs, or use of illegally obtained prescription drugs. This includes use of prescription drugs legally prescribed to another Individual or simply having any detectable amount of an illegal drug within your bodily system.

Evidential Breath Testing (EBT) Device: A device that is approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

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

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

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

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory drug test results, who has knowledge of substance abuse disorders, and has the appropriate medical training to interpret and evaluate medical explanations for certain drug test results.

Positive Alcohol Test: The presence of alcohol in the body at a blood alcohol concentration (BAC) of 0.04 or greater as measured by an EBT device.

Positive Drug Test: The result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentration.

Public Transportation Vehicles: Vehicles used for public transportation or ancillary services. They include buses, electric buses, vans, automobiles, rail cars, trolley cars, trolley buses or vessels, non-revenue commercial motor vehicles, and vehicles used by armed security personnel.

Refusal to Test: Includes circumstances or behaviors such as:

- Failure to appear or reporting late for any test (except pre-employment for the newly hired) requested by the agency.
- Failure to remain at the testing site until the testing process is completed,
- Failure to provide a urine, breath, or saliva specimen as required by DOT Part 40.
- Failure to permit the direct observation or monitoring of specimen collection when it is required under Title 49 CFR Part 40.
- Failure to provide a sufficient amount of urine or breathe specimen without a valid medical explanation.
- Failure or refusal to take a second test when required.

- Failure to undergo a medical evaluation when required.
- Failure to cooperate with the testing process. (Examples: refusal to empty pockets when requested, failure to wash hands after being directed to do so by the collector, or behaving in a confrontational manner that disrupts the collection process).
- In alcohol testing, refusal to sign the Alcohol Test Form.
- For an observed collection, failure to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if employee is wearing any type of prosthetic or other device that could be used to interfere with the collection process.
- Possession or wearing of a prosthetic or other device that could be used to interfere with the collection process.
- Admitting adulteration or substitution to the collector or the MRO.
- Leaving the scene of an accident without just cause prior to submitting to a test.
- If the MRO reports a verified adulterated or substituted test result.

Note: A refusal to test carries the same consequences as a positive test result.

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

Substance Abuse Professional (SAP): A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendation concerning education, treatment, follow-up testing, and aftercare. Any SAP obtained must meet the Part 40 qualification requirements PRIOR to use with any Return to Duty process.

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

6.0 EDUCATION AND TRAINING

The education and ongoing awareness component of this policy will include display of posters, distribution to all covered employees and representatives of employee organizations of the drug and alcohol policy and other informational

materials, and periodic information seminars. Each employee will be required to sign an acknowledgment form that he/she received a copy of the policy.

As required by FTA regulations, the Agency will provide to all safety-sensitive employees a minimum of 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.

Supervisors or Agency officials who may make reasonable suspicion referrals shall receive an additional 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use, and at least 60 minutes on the physical, behavioral, speech and performance indicators of probable alcohol misuse.

7.0 CONTACT PERSONS

Any questions about this policy or any aspect of the SunLine's drug and alcohol-free program should be referred to:

Title: Drug and Alcohol Program Manager
Address: 32505 Harry Oliver Trail
Thousand Palms, CA 92276
Telephone Number: (760) 343-3456
Fax Number: (760) 343-4547

8.0 COVERED EMPLOYEES

As a condition of employment, all safety sensitive employees are required to submit to drug and alcohol tests administered in accordance with Title 49 CFR Parts 40 and 655. (**Non- safety-sensitive employees are covered under this Policy under the Agency's own authority.**) A refusal to submit to a test as directed will carry the same consequences as a positive test result as stated in this policy. (Please refer to Section 5.0 - DEFINITIONS for specific circumstances or behaviors that are considered refusal to test.)

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

1. Operating a revenue service vehicle, even when it is not in revenue service;
2. Operating a non-revenue service vehicle which is required to be operated by a Commercial Driver's License (CDL) holder;

3. Controlling dispatch or movement of a revenue service vehicle;
4. Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service;
5. Carrying a firearm for security purposes;

The Agency has determined that the job classifications listed below are considered safety-sensitive for the purposes of this policy.

- Training Supervisor
- Transportation Supervisor
- Maintenance Supervisor
- Dispatcher
- **Safety Officers**
- Bus Operator
- Mechanic
- Utility Worker
- Contracted transit services personnel

Company, Non-DOT regulated positions are:

- **Operators of any company vehicle not requiring a Commercial Driver License to operate**
- **Operators of company machinery or equipment**
- **Any employee deemed by the Agency to be working in a potentially hazardous work environment.**

9.0 DRUGS (OR THEIR METABOLITES) TESTED FOR

~~The agency will test for the following drugs and their metabolites, as listed within Title 49 CFR Part 40.85, which has been incorporated into this Policy as written and revised: Marijuana, Cocaine, Amphetamines, Phencyclidine, and Opioids. This Policy shall apply to all DOT Regulated employees as well as **Non-DOT Regulated employees.**~~

The agency will test DOT- regulated employees for the following drugs and their metabolites, as listed within Title 49 CFR Part 40.85, which has been incorporated into this Policy as written and revised: 6-AM Analyte (Heroin Specific), Hydrocodone/Hydromorphone, Oxycodone/Oxymorphone, Marijuana, Cocaine, Amphetamines, Phencyclidine, and Opioids.

The agency will test non-DOT-regulated employees for the following drugs and their metabolites, which has been incorporated into this Policy as written and revised: 6-AM Analyte (Heroin Specific), Amphetamine, Barbiturates, Benzodiazepines, Cocaine, Methadone (Dolophine), Methamphetamine, Methaqualone (Quaalude), Opioids – 4, Phencyclidine, Propoxyphene MTB (Darvon/Darvocet).

10.0 PROHIBITED CONDUCT/BEHAVIORS

Under the Drug-Free Workplace Act of 1988, employees are prohibited from the unlawful manufacture, distribution, sale, dispensation, possession, or use of controlled substances in the workplace. Under its own authority, SunLine Transit also prohibits such activities in Agency vehicles, when the employee is in uniform whether on or off duty, or while on Agency business. Employees are required to notify management in writing of any criminal drug statute conviction he/she received for a violation occurring in the workplace, no later than five (5) calendar days after such a conviction.

Violation of this policy or failure to notify the agency of such shall subject the employee to disciplinary action, up to and including termination.

Within 10 calendar days of receiving such notice, Sunline shall provide written notification of the conviction to the FTA. Within 30 days of receiving notice of the conviction, Sunline shall take appropriate disciplinary action, up to and including termination of the employee, or require the employee to participate and successfully complete a drug rehabilitation program. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

10.1 Illegal Drugs

Any drug found within the employee's bodily system that, if possessed, would otherwise violate any Federal, State or Local law. This includes, but is not limited to those prohibited drugs referred to in Section 9.0. These drugs are illegal and employees are prohibited from consuming any of them at all times, on or off duty. Employees may be tested for illegal drugs anytime they are on duty or while on compensable work time.

10.2 Prescription or Over-the-Counter Medications

Under Agency policy, the appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, safety-sensitive

employees must notify the Human Resources Department prior to performing any “safety-sensitive” job for the Agency, and may not perform any safety function if their medication carries a warning label that mental functioning, motor skills or judgment may be adversely affected, unless the medication is being used in accordance with the instructions of a physician who has provided a written determination that the substance will not adversely affect the employee's ability to safely perform safety-sensitive duties. It is the employee's responsibility to determine from his or her physician or practitioner whether or not the substance may impair job performance. Failure to immediately report the use of impairing drugs or failure to provide a valid evidence of medical authorization will result in disciplinary action, up to and including termination.

A prescription is considered valid only if it is in writing and indicates the employee's name, date, the name of the substance, quantity or amount to be taken, and the period of authorization. Controlled substances obtained legally outside the United States are not considered valid medical prescriptions under this policy. It is a violation of this policy to use any controlled substance in a manner that is inconsistent with the prescription or is being used in violation of any Federal, State or Local law (i.e.: using another’s prescribed medications or medications from a foreign country).

10.3 Alcohol

Safety-sensitive employees are prohibited from consuming alcohol in any form under the following circumstances:

- While performing safety-sensitive functions;
- Within four (4) hours prior to performing safety-sensitive functions;
- While they are on call; or
- Within eight (8) hours following an accident requiring a post-accident alcohol test, unless the test was completed within 8 hours, whichever occurs first.

If an employee on call discloses alcohol consumption when called for duty, the Agency may require the employee to report to the collection site for alcohol testing to determine ability to perform a safety-sensitive function. If the employee tests below 0.02, he or she may be required to report to work

In addition, the Agency under its own authority prohibits possession and/or use of alcoholic beverages by any employee while on compensable work time, or while on Agency property or while operating any Agency vehicles-regardless of whether the employee is on or off duty. The Agency may perform an alcohol or drug test anytime an employee is on duty. An alcohol test is considered positive if the employee's alcohol concentration rate, as measured by an evidential breath testing device, is at 0.04 or

greater.

11.0 TYPES OF TESTING

11.1 Pre-Employment Testing

All safety sensitive candidates issued a conditional offer for employment or any employee transferring from a non-safety-sensitive to a safety-sensitive position will be required to undergo pre-employment drug and Breath alcohol tests at a time and place designated by the Agency.

Additionally, any safety-sensitive employee who has not performed any safety-sensitive function for at least 90 days and has been out of the random pool during that time will also be required to submit to a new Pre-Employment test prior to being allowed to perform any safety-sensitive work.

Pre-employment alcohol testing for non-safety sensitive positions is optional and at the discretion of SunLine Transit Agency. Any applicant testing positive during the hiring process will not be hired.

A verified negative drug test result and alcohol test result below 0.02 must be received by the Agency before an employee can start work for the Agency. If a pre-employment test is canceled, the individual will be required to undergo another test and successfully pass these tests with a verified negative result and have an alcohol test result below 0.02. Any MRO verified result of "Positive", "Adulterated", "Substituted" or "Refusal to Test" will immediately disqualify the applicant/employee from further employment with the Agency.

Subject to the candidate's written consent, the Agency will check on the drug and alcohol testing background of candidates and employees being considered for final selection into any safety sensitive position within the Agency, if they previously worked in a safety-sensitive position for a DOT-covered employer in the previous two years. If the individual refuses to provide the written consent, he or she will not be hired into the safety-sensitive position.

If the information obtained from the previous DOT-covered employer(s) indicates a violation of a DOT drug or alcohol testing rule, the employee may not be allowed to perform any safety-sensitive function unless he or she has successfully complied with the return-to-duty requirements of a D.O.T.-qualified Substance Abuse Professional (SAP) and has been cleared, in writing, by the SAP to resume D.O.T. regulated duties. If the individual has had a positive pre-employment drug or alcohol test, or has refused such a test, he or she will not be hired until and unless the individual has provided a documentation of successful completion of the return-to-duty process, which includes a SAP referral, evaluation and treatment plan.

11.2 Reasonable Suspicion Testing

It is the responsibility of any employee who observes or has knowledge of another employee in a condition which may impair his or her ability to safely and effectively perform his or her duties, or may pose a safety hazard to self or others, to promptly report the incident to his or her supervisor, or any supervisor if the immediate supervisor is not available.

Whenever a supervisor (or other Agency official) has reason to believe that an employee has used a prohibited drug and/or engaged in alcohol misuse, reasonable testing will be conducted. The individual who makes the referral need not be the employee's own supervisor, as long as he or she is a trained supervisor or agency official that received training in detecting the signs and symptoms of drug use and alcohol misuse. The supervisor's or Agency official's observations will be documented and such documentation shall be kept in the employee's confidential drug and alcohol testing file. Such documentation shall describe and document the following:

- a) the date and time observations were made;
- b) specific, contemporaneous and articulable observations concerning the employee's appearance, behavior, speech, body odors and/or performance;
- c) violation of a safety rule, or other unsafe work incident; and/or
- d) other physical, behavioral, speech, body odors or performance indicators of drug or alcohol use.

Suspicion is not considered reasonable, and thus not a basis for testing, if it is based solely on the observations and reports of third parties, a violation of a safety rule, or occurrence of an unsafe work incident. However, such suspicion may be a basis for further investigation, or for action to protect the safety of patrons, such as ordering the employee to stop work.

Once a supervisor or Agency official has made a reasonable suspicion determination, he or she must remove the employee from performing any safety-sensitive functions, transport the employee to the testing site immediately, and arrange for the employee's transportation to their home. The employee will remain out of service and on paid status while awaiting test results, unless the employee is suspended for any additional purposes concurrent with the waiting for the test results. If all test results are negative, the employee will be immediately returned to work. If the alcohol test result is positive, or the drug test result is non-negative (positive, adulterated, or substituted), the employee will be placed on unpaid status pending disciplinary action. Non-safety-sensitive employees will be tested in situations after an on-the-job injury or a reasonable suspicion situation has occurred, when the employee's performance or behavior may have

contributed to the job injury or may jeopardize employee health & safety.

FTA rule requires that a reasonable suspicion alcohol test be conducted only if the reasonable suspicion observation is made just before, during, or just after the employee's performance of safety-sensitive function. **However, under the Agency's own authority, a reasonable suspicion alcohol test may be performed any time the employee is on duty.** If the alcohol test is not conducted within two hours, the reason for the delay must be documented and kept in the employee's reasonable suspicion test file. All attempts to complete the alcohol test must cease after eight hours and the reason(s) for the inability to test documented.

11.3 Post –Accident Testing

Any employee operating a public transportation vehicle **or any other Agency-owned vehicle** at the time of an accident shall be required to submit to drug and alcohol tests as soon as practicable after the accident. For purposes of this policy, "accident" is defined as an accident involving a public transportation vehicle **or any other Agency-owned vehicle** where the result is:

- An individual dies;
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene;
- The vehicle (if bus, electric bus, van, or automobile) or any other vehicle(s) involved in the accident suffers a disabling damage as a result of the accident and is transported away from the scene by a tow truck or other vehicle.

Any property damage to any vehicle involved in the accident that will result in professional repair, on or off Agency property.

11.3.1 Fatal Accidents

Whenever there is a loss of human life, any surviving covered employee operating the vehicle **or any other Agency owned vehicle or equipment**, at the time of the accident must be tested immediately and must report the accident to his or her supervisor. All other covered employees whose performance could have contributed to the accident must be tested. **Failure to immediately report the accident is grounds for discipline, up to and including termination.**

11.3.2 Non-Fatal Accidents

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

be tested.

11.3.3 Other Post-Accident Testing Requirements

Employees involved in an accident that requires testing must remain readily available for testing, including notifying the Agency of their location if they leave the scene of the accident before testing to obtain emergency medical care, or to obtain assistance in responding to the accident. They will be considered to have refused to submit to testing if they fail to do so and **will be terminated from employment.**

Employees are prohibited from using alcohol for eight hours following an accident or until the post-accident testing is completed, whichever occurs first. Every effort will be made to conduct alcohol testing within two hours after the accident. In the event the alcohol test is delayed beyond two hours, the Agency will prepare and maintain a record stating the reason(s) for the delay. If an alcohol test is not administered within eight hours following the accident, the Agency will cease all efforts to administer the test and document the reason for the inability. In the event a drug test is not administered within 32 hours from the time of the accident, the Agency will cease all attempts to administer the drug test. This requirement should not be construed to delay the necessary medical attention for injured people following the accident.

If the Agency is unable to perform post-accident tests within the required period of compliance, the Agency will use the post-accident test results administered by State or local law enforcement personnel under their own authority, provided the test results are obtained by the Agency.

After the accident, the employee will be removed from service, but remain on paid status during the testing period and while awaiting test result, unless the employee is suspended for any additional purposes concurrent with the waiting of the test results. If all test results are negative, the employee will be immediately returned to work. If the alcohol test result is positive or the drug test result is non-negative (positive, adulterated, or substituted), the employee will be placed on unpaid status pending disciplinary action.

11.4 Random Testing

Safety-sensitive employees are required to undergo random drug and alcohol tests to deter use of prohibited drugs and misuse of alcohol. The random selection will be conducted using a scientifically valid method, such as a random number table or a computer-based random number generator, which gives each covered employee an equal chance of being selected every time a selection is made. As is the nature of the random method, it is possible that some employees will be selected several times in one year, and other employees not for several years. Management does not have any discretion on who will be selected.

Every effort will be made by the Agency to spread random testing reasonably throughout the calendar year, the testing period, all days of the week, and all hours when safety-sensitive functions are performed. The testing dates and times are unannounced and employees are required to immediately and directly proceed to the designated collection site following notification.

Random alcohol tests are authorized by the FTA only during, just before, or just

after the employee's performance of a safety-sensitive duty.

The Agency will conduct random drug and alcohol tests at a minimum annual percentage of covered employees as required by the FTA.. The rates are subject to change on an annual basis, depending on the industry-wide positive rate determined by the FTA from the annual MIS reports submitted by covered employers.

11.5 Return-To-Duty Testing

Sunline Transit has a "zero tolerance" policy, which means that an employee who violates the policy by testing positive for drugs or alcohol or refuses a required test is terminated after the first offense. However, in the event an employee who was previously terminated is returned to work by an authority outside of the agency, he or she will be subject to return to duty testing. This means, an employee who has refused a required test, has a verified positive, adulterated or substituted drug test result, or tests for alcohol at 0.04 BrAC or greater, shall not be allowed to return to safety-sensitive duties until after he or she has completed the return-to-duty process. This includes evaluation by a SAP, successful completion of the rehabilitation, treatment or education program outlined by the SAP, and obtaining a verified negative return-to-duty drug test and/or alcohol test under 0.04 BrAC. All return to duty tests shall be conducted under direct observation.

11.6 Follow-Up Testing

In addition to the Return-to Duty test described in Section 11.5, an employee who previously tested positive, or refused to take a required test, shall be subject to follow-up testing for drugs and/or alcohol, as prescribed by the SAP, for a minimum period of 12 months to a maximum of five years, As mandated by the DOT (Title 49 CFR, Part 40), the employee shall undergo at least six follow-up tests during the first 12 months of his or her return to work. Although they are both unannounced, follow-up testing is apart and separate from random testing. All follow-up tests shall be conducted under direct observation. The duration and frequency of testing will be designated by the SAP, but the actual follow-up

testing dates will be decided by the employee's manager or supervisor. **The employee is responsible for payment of all costs associated with follow-up testing.**

11.7 Drug & Alcohol Testing Procedures

All DOT drug and alcohol tests required under this policy will be administered in accordance with the "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (Title 49 CFR Part 40), as amended.

Throughout the testing process, the privacy of the employee will be protected and the integrity and validity of the process will be maintained. The drug testing procedure will include a split specimen collection method and a Federal Custody and Control Form will be used for all D.O.T. regulated tests, while a Forensic Custody & Control Form will be used for all non-regulated employees. Each form will have a unique identification number to ensure that the correct test result is attributed to the correct employee. An initial screening test using an immunoassay technique will be performed. If the specimen is positive for one or more of the drugs tested, then a confirmation test will be performed using the state-of-the-art gas chromatography/mass spectrometry (GC/MS) or Liquid Chromatography/Mass Spectrometry (LC/MS) analysis. If the test is confirmed positive, the MRO will conduct a verification process, which includes giving the employee an opportunity to provide a valid medical explanation for the positive test result.

Additionally, the laboratory may conduct analyses to determine if a urine specimen has been adulterated, tampered with, or diluted. If the MRO reports a "negative-dilute", "Invalid Result" or "Rejected for Testing" test result, the employee will be required to take a second test and depending on the level of the creatinine detected, the recollection may or may not be directly observed

Should the employee decline to take a test as directed by the Designated Employee Representative (DER) or DAPM, this constitutes a refusal to test under DOT agency regulations.

11.7.1 Procedures for Negative Dilute Testing

Negative Dilute Specimen Testing: All SunLine Transit Agency employees that produce negative-dilute urine specimens will be immediately retested using a second sample. Depending on the level of creatinine reported by the laboratory, the MRO may direct the recollection to be conducted under direct observation.,

Should the second test result in another negative dilute, the test will be considered a negative and no additional testing under DOT/FTA authority will be

required unless directed to do so by the MRO

11.7.2 Procedure for Alcohol Testing

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

Detailed drug and alcohol specimen collection procedures are outlined within Title 49 CFR Part 40, Subparts E, L and M and are available upon request from the Contact Persons identified in section 7.0 of this policy.

12.0 DIRECTLY-OBSERVED URINE SPECIMEN COLLECTION

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

- If the laboratory reported to the MRO that a specimen is invalid and there was no adequate medical explanation for the result;
- If the MRO reported that the original positive, adulterated, or substituted test result had to be canceled because the split specimen tested could not be performed;
- If the drug test is a return-to-duty or a follow-up test;
- If the MRO reported a negative-dilute test result from the initial test with a creatinine level between 2 - 5 mg/dL;
- If the collector observes employee conduct that clearly indicates an attempt to tamper with a specimen;
- If the temperature on the original specimen was out of range; or
- If the original specimen appeared to have been tampered with;

The collector shall be the same gender as the employee. If a same sex collector is not available, a same sex observer may be used. The observer is responsible for ensuring that the specimen goes from the employee's body into the collection container. If the employee declines to allow a directly observed collection when required under this policy, it is considered a refusal to test.

13.0 MONITORED URINE SPECIMEN COLLECTION

Under those circumstances when a multi-stall restroom has to be used for urine

specimen collection and the facility cannot be adequately secured, the collector will conduct a monitored collection. The monitor shall be the same gender as the employee, unless the monitor is a medical professional. The monitor will not watch the employee void into the collection container. However, if the monitor hears sounds or observes attempts to tamper with a specimen, an additional collection under direct observation will be ordered. If the employee declines to permit a collection authorized to be monitored, it is considered a refusal to test.

14.0 SPLIT SPECIMEN TESTING

After notification by the MRO of a positive drug test or refusal to test because of adulteration or substitution, the employee has 72 hours to request from the MRO (verbally or in writing) a test of the split specimen. It should be noted, however, that there is no split specimen testing authorized by the DOT for an invalid drug test result.

Following the employee's timely request, the MRO shall send a written request to the primary laboratory to forward the split specimen to a second DHHS-certified laboratory for testing without regard to the cut-off concentration. If the second laboratory fails to reconfirm the substance detected in the primary specimen or the adulterant identified, or if the split specimen is unavailable for testing, the test shall be canceled. The MRO shall report the cancellation and the reasons for it to the DOT, the Agency, and the employee. In the case of the split specimen being unavailable, the employee shall be directed, with no advance notice, to submit another specimen under direct observation.

All costs related to split specimen testing will be paid by the employee or the applicant. The individual shall be reimbursed if the second test invalidates the original test or if the test was canceled.

15.0 CONSEQUENCES / DISCIPLINE

Following a BrAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of their next regularly scheduled duty period (but for not less than eight hours) unless a retest results in the employee's alcohol concentration being less than 0.02.

Any safety-sensitive employee who has a verified positive drug test result, an alcohol concentration of 0.04 BrAC or above, or refuses to submit to a drug or alcohol test (including adulteration or substitution) shall be:

1. Immediately removed from safety-sensitive duty;
2. Referred to a SAP for evaluation, education or treatment

Under the Agency’s own authority, non-safety-sensitive employees also may be removed from duty, referred to a substance abuse counselor, and be subject to discipline, up to and including termination.

FTA regulations allow individual employers to determine the discipline to be imposed on employees who violate the DOT/FTA regulations or Agency policy. The Agency’s discipline policy is as follows:

- A. A first positive drug test result, test refusal, or alcohol test result of 0.04 BrAC or greater will result in immediate termination.**
- B. Other policy violations (e.g., failure to report the use of impairing medications, or failure to immediately report an accident) will subject the employee to disciplinary action, up to and including termination.**

16.0 REFERRAL EVALUATION AND TREATMENT

If an employee (including an applicant) tests positive for drugs or alcohol or refuses to submit to a test when required, the Agency shall advise the individual of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse and document such referral. He or she shall be given the name, address and phone number of Substance Abuse Professionals (SAPs) acceptable to the Agency and a list of community hot line numbers. **The individual will be responsible for any costs associated with the SAP evaluation and recommendation(s).**

17.0 VOLUNTARY REHABILITATION

SunLine employees are encouraged to voluntarily seek professional help directly from a substance abuse counselor before any substance use or dependence affects job performance. An employee who has a drug and/or alcohol abuse problem and has not been selected for testing or is not involved in a disciplinary proceeding may voluntarily refer himself or herself to a substance abuse counselor for evaluation and treatment recommendations. Confidentiality, job security and promotional opportunities will be protected. However, if the employee reports his or her substance abuse directly to an Agency employee or supervisor, instead of a substance abuse counselor directly, the Agency will require that a “Reasonable Suspicion” drug & breath alcohol test be immediately performed, in accordance with Section 11.2 of this Policy.

The employee may be eligible for sick leave, disability benefits, or vacation while undergoing rehabilitation or treatment. The cost of any treatment or rehabilitation services over and above those offered by the Agency will be the responsibility of the employee.

18.0 CONFIDENTIALITY AND ACCESS TO FACILITIES AND RECORDS

Employees have a right to examine their own drug and alcohol testing records, and have access to any pertinent data such as EBT calibration or drug testing laboratory certification. They also have a right to obtain a copy of their own drug and/or alcohol testing results by submitting a written request to any of the Designated Employer Representative identified In Section 7.0 of this policy.

The Agency will do everything possible to safeguard the confidentiality of drug and alcohol testing records and protect the privacy of the individuals tested. Individual test results or medical information will be released to third parties (e.g. previous employers, unions) only with the employee's specific written consent, or to those parties authorized by the DOT or FTA to receive such information without the employee's consent. Specific written consent applies only to a particular piece of information released to a particular person or organization at a particular time. Blanket releases are specifically prohibited by DOT.

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

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

Access to Agency facilities and drug and alcohol program records also must be provided, without the employee's consent to DOT or FTA agency representatives; the National Transportation Safety Board as part of an accident investigation; a Federal, State or local agency with regulatory authority over the Agency, or State or grantee required to certify FTA compliance with 49 CFR Parts 40 and 655. Except as outlined in DOT Section 40.355, and with the specific consent of the Agency, the Agency's TPA may receive and maintain records concerning the Agency's DOT drug and alcohol testing programs, without the employee's consent.

19.0 JOINT UNION-MANAGEMENT REVIEW ADVISORY COMMITTEE

- A. At the direction of Management, two representatives from the Union and two from Management, shall meet periodically to provide input regarding the Agency's Substance Abuse Program.
- B. The purpose of this meeting is to provide a channel of communication whereby participants can give input and make recommendations to the General Manager regarding the Substance Abuse Policy.

The consequences specified in Section 15.0 of the SunLine Transit Agency Drug and Alcohol Policy regarding a positive test or test refusal is not subject to arbitration.

DRUG & ALCOHOL POLICY

1.0 POLICY STATEMENT

SunLine Transit Agency (SunLine) is dedicated to providing safe, dependable and efficient transportation services to our passengers and the citizens of the Coachella Valley. Agency employees are our most valuable resource, and it is our goal to provide a healthy and satisfying, working environment that promotes personal opportunities for growth. We also recognize that our employees' use of illegal drugs and misuse of alcohol poses a significant risk to public safety, reduces productivity in the workplace, and negatively affects the employee's health and well being. In view of this, the Agency has adopted this policy that is designed to

1. Create a work environment free from the adverse effects of drug abuse and alcohol misuse;
2. Deter and detect employee's use of illegal drugs and misuse of alcohol;
3. Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances;
4. Encourage employees to seek professional assistance anytime personal problems, including drug or alcohol dependency, adversely affect their ability to safely perform their assigned duties; and
5. Discipline employees who violate the policy, up to and including termination.

1.1 Proper Application of the Policy

SunLine Transit Agency is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

1.2 Policy Amendments

Amendments that represent major management policy change will be approved by the SunLine Board of Directors. The CEO/General Manager may issue amendments, which are required because of changes in Federal or State law or regulation. All amendments require the review of SunLine Counsel for legal sufficiency.

2.0 PURPOSE

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the safety and health risks posed by the misuse of alcohol and use of prohibited drugs. This policy is intended to comply with all applicable state and Federal regulations governing workplace anti-drug use and alcohol misuse programs. They include DOT 49 CFR Part 40, as amended ("Procedures for Transportation Workplace Drug and Alcohol Testing Programs"); FTA 49 CFR Part 655, as amended ("Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations"); DOT 49 CFR Part 29 (Drug-Free Workplace Act of 1988); and CA Govt. Code Section 8350 et seq. ("Drug Free Workplace Act of 1990"). This policy incorporates the requirements of the above regulations for safety-sensitive employees and others when so noted. **Policies indicated in bold text represent SunLine Transit Agency authority.** Requirements of the Drug-Free Workplace Act of 1988 (DFWA) are entered in *Italics*.

3.0 APPLICABILITY

Unless otherwise noted in specific provisions, this policy applies to all employees (including contract employees) regardless of their functions. The application of this policy to non-safety-sensitive employees comes under the Agency's own authority. Visitors, invitees, and vendors also are prohibited from entering the premises and/or from conducting any work on behalf of the Agency when illegal substances are present in their system, or the odor of alcohol is present on their breath. This policy applies to off site lunch periods or other authorized breaks when an employee is scheduled to return to work or is on-call.

Contractors that provide safety-sensitive work for the Agency (e.g. transporting vehicles for maintenance purposes) are not covered by this policy; but they are required to provide proof to STA that they have a drug and alcohol testing program that complies with the minimum requirements of Part 40 and Part 655.

4.0 PRE-EMPTION OF STATE AND LOCAL LAWS

If any conflict occurs between this policy, State and local laws and any requirement of Federal regulations, the Federal regulations prevail. However, Federal regulations do not pre-empt provisions of State criminal laws that impose sanctions for reckless conduct attributed to prohibited drug use or alcohol misuse, whether the provisions apply specifically to transportation employees, employers, or the public in general.

5.0 DEFINITIONS

The definitions in this policy are intended to track those described in the Federal Regulations specified in Section 2.0.

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

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

Alcohol Screening Device (ASD): A breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and appears on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" because it conforms to the model specifications from NHTSA

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

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

Collection Site: A place designated by the Agency where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs, and/or measure for alcohol by an evidential breath testing device.

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

Covered Employee: A person, including a volunteer, applicant / transferee, or contract employee, who performs or is required to perform a safety-sensitive function for the Agency.

Designated Employer Representative: An employee or employees authorized by the Agency to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, following a positive test, test refusal, or other policy violations.

DHHS: Department of Health and Human Services.

Disabling Damage: Damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs, including damage to motor vehicles that could have been driven, but would have been further damaged if so driven. "Disabling damage" does not include:

- Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
- Tire disablement without other damage even if no spare tire is available.
- Headlamp or taillight damage.
- Damage to turn signals, horn, or windshield wipers, which makes them inoperable..

DOT: U.S. Department of Transportation.

Drugs: The drugs for which tests are required under this part and DOT agency regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids.

Drug Abuse: Use of any illegal drug or controlled substance without a valid prescription, misuse of legally prescribed drugs, or use of illegally obtained prescription drugs. This includes use of prescription drugs legally prescribed to another Individual or simply having any detectable amount of an illegal drug within your bodily system.

Evidential Breath Testing (EBT) Device: A device that is approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

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

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

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

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory drug test results, who has knowledge of substance abuse disorders, and has the appropriate medical training to interpret and evaluate medical explanations for certain drug test results..

Positive Alcohol Test: The presence of alcohol in the body at a blood alcohol concentration (BAC) of 0.04 or greater as measured by an EBT device.

Positive Drug Test: The result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentration.

Public Transportation Vehicles: Vehicles used for public transportation or ancillary services. They include buses, electric buses, vans, automobiles, rail cars, trolley cars, trolley buses or vessels, non-revenue commercial motor vehicles, and vehicles used by armed security personnel.

Refusal to Test: Includes circumstances or behaviors such as:

- Failure to appear or reporting late for any test (except pre-employment for the newly hired) requested by the agency.
- Failure to remain at the testing site until the testing process is completed,
- Failure to provide a urine, breath, or saliva specimen as required by DOT Part 40.
- Failure to permit the direct observation or monitoring of specimen collection when it is required under Title 49 CFR Part 40.
- Failure to provide a sufficient amount of urine or breathe specimen without a valid medical explanation.
- Failure or refusal to take a second test when required.

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- Failure to undergo a medical evaluation when required.
 - Failure to cooperate with the testing process. (Examples: refusal to empty pockets when requested, failure to wash hands after being directed to do so by the collector, or behaving in a confrontational manner that disrupts the collection process).
 - In alcohol testing, refusal to sign the Alcohol Test Form.
 - For an observed collection, failure to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if employee is wearing any type of prosthetic or other device that could be used to interfere with the collection process.
 - Possession or wearing of a prosthetic or other device that could be used to interfere with the collection process.
 - Admitting adulteration or substitution to the collector or the MRO.
 - Leaving the scene of an accident without just cause prior to submitting to a test.
 - If the MRO reports a verified adulterated or substituted test result.

Note: A refusal to test carries the same consequences as a positive test result.

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

Substance Abuse Professional (SAP): A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendation concerning education, treatment, follow-up testing, and aftercare. Any SAP obtained must meet the Part 40 qualification requirements PRIOR to use with any Return to Duty process.

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

6.0 EDUCATION AND TRAINING

The education and ongoing awareness component of this policy will include display of posters, distribution to all covered employees and representatives of employee organizations of the drug and alcohol policy and other informational

materials, and periodic information seminars. Each employee will be required to sign an acknowledgment form that he/she received a copy of the policy.

As required by FTA regulations, the Agency will provide to all safety-sensitive employees a minimum of 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.

Supervisors or Agency officials who may make reasonable suspicion referrals shall receive an additional 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use, and at least 60 minutes on the physical, behavioral, speech and performance indicators of probable alcohol misuse.

7.0 CONTACT PERSONS

Any questions about this policy or any aspect of the SunLine's drug and alcohol-free program should be referred to:

Title: Drug and Alcohol Program Manager
Address: 32505 Harry Oliver Trail
Thousand Palms, CA 92276
Telephone Number: (760) 343-3456
Fax Number: (760) 343-4547

8.0 COVERED EMPLOYEES

As a condition of employment, all safety sensitive employees are required to submit to drug and alcohol tests administered in accordance with Title 49 CFR Parts 40 and 655. (**Non- safety-sensitive employees are covered under this Policy under the Agency's own authority.**) A refusal to submit to a test as directed will carry the same consequences as a positive test result as stated in this policy. (Please refer to Section 5.0 - DEFINITIONS for specific circumstances or behaviors that are considered refusal to test.)

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

1. Operating a revenue service vehicle, even when it is not in revenue service;
2. Operating a non-revenue service vehicle which is required to be operated by a Commercial Driver's License (CDL) holder;

3. Controlling dispatch or movement of a revenue service vehicle;
4. Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service;
5. Carrying a firearm for security purposes;

The Agency has determined that the job classifications listed below are considered safety-sensitive for the purposes of this policy.

- Training Supervisor
- Transportation Supervisor
- Maintenance Supervisor
- Dispatcher
- Bus Operator
- Mechanic
- Utility Worker
- Contracted transit services personnel

Company, Non-DOT regulated positions are:

- **Operators of any company vehicle**
- **Operators of company machinery or equipment**
- **Any employee deemed by the Agency to be working in a potentially hazardous work environment.**

9.0 DRUGS (OR THEIR METABOLITES) TESTED FOR

The agency will test for the following drugs and their metabolites, as listed within Title 49 CFR Part 40.85, which has been incorporated into this Policy as written and revised: Marijuana, Cocaine, Amphetamines, Phencyclidine, and Opioids. This Policy shall apply to all DOT Regulated employees as well as **Non-DOT Regulated employees.**

10.0 PROHIBITED CONDUCT/BEHAVIORS

Under the Drug-Free Workplace Act of 1988, employees are prohibited from the unlawful manufacture, distribution, sale, dispensation, possession, or use of controlled substances in the workplace. Under its own authority, SunLine Transit also prohibits such activities in Agency vehicles, when the

employee is in uniform whether on or off duty, or while on Agency business. *Employees are required to notify management in writing of any criminal drug statute conviction he/she received for a violation occurring in the workplace, no later than five (5) calendar days after such a conviction.* **Violation of this policy or failure to notify the agency of such shall subject the employee to disciplinary action, up to and including termination.** *Within 10 calendar days of receiving such notice, Sunline shall provide written notification of the conviction to the FTA. Within 30 days of receiving notice of the conviction, Sunline shall take appropriate disciplinary action, up to and including termination of the employee, or require the employee to participate and successfully complete a drug rehabilitation program.* **Law enforcement shall be notified, as appropriate, where criminal activity is suspected.**

10.1 Illegal Drugs

Any drug found within the employee's bodily system that, if possessed, would otherwise violate any Federal, State or Local law. This includes, but is not limited to those prohibited drugs referred to in Section 9.0. These drugs are illegal and employees are prohibited from consuming any of them at all times, on or off duty. Employees may be tested for illegal drugs anytime they are on duty or while on compensable work time.

10.2 Prescription or Over-the-Counter Medications

Under Agency policy, the appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, safety-sensitive employees must notify the Human Resources Department prior to performing any "safety-sensitive" job for the Agency, and may not perform any safety function if their medication carries a warning label that mental functioning, motor skills or judgment may be adversely affected, unless the medication is being used in accordance with the instructions of a physician who has provided a written determination that the substance will not adversely affect the employee's ability to safely perform safety-sensitive duties. It is the employee's responsibility to determine from his or her physician or practitioner whether or not the substance may impair job performance. Failure to immediately report the use of impairing drugs or failure to provide a valid evidence of medical authorization will result in disciplinary action, up to and including termination.

A prescription is considered valid only if it is in writing and indicates the employee's name, date, the name of the substance, quantity or amount to be taken, and the period of authorization. Controlled substances obtained legally outside the United States are not considered valid medical prescriptions under this policy. It is a violation of this policy to use any

controlled substance in a manner that is inconsistent with the prescription or is being used in violation of any Federal, State or Local law (i.e.: using another's prescribed medications or medications from a foreign country).

10.3 Alcohol

Safety-sensitive employees are prohibited from consuming alcohol in any form under the following circumstances:

- While performing safety-sensitive functions;
- Within four (4) hours prior to performing safety-sensitive functions;
- While they are on call; or
- Within eight (8) hours following an accident requiring a post-accident alcohol test, unless the test was completed within 8 hours, whichever occurs first.

If an employee on call discloses alcohol consumption when called for duty, the Agency may require the employee to report to the collection site for alcohol testing to determine ability to perform a safety-sensitive function. If the employee tests below 0.02, he or she may be required to report to work

In addition, the Agency under its own authority prohibits possession and/or use of alcoholic beverages by any employee while on compensable work time, or while on Agency property or while operating any Agency vehicles-regardless of whether the employee is on or off duty. The Agency may perform an alcohol or drug test anytime an employee is on duty. An alcohol test is considered positive if the employee's alcohol concentration rate, as measured by an evidential breath testing device, is at 0.04 or greater.

11.0 TYPES OF TESTING

11.1 Pre-Employment Testing

All safety sensitive candidates issued a conditional offer for employment or any employee transferring from a non-safety-sensitive to a safety-sensitive position will be required to undergo pre-employment drug and Breath alcohol tests at a time and place designated by the Agency.

Additionally, any safety-sensitive employee who has not performed any safety-sensitive function for at least 90 days and has been out of the random pool during that time will also be required to submit to a new Pre-Employment test prior to being allowed to perform any safety-sensitive work.

Pre-employment alcohol testing for non-safety sensitive positions is optional and at the discretion of SunLine Transit Agency. Any applicant testing positive during the hiring process will not be hired.

A verified negative drug test result and alcohol test result below 0.02 must be received by the Agency before an employee can start work for the Agency. If a pre-employment test is canceled, the individual will be required to undergo another test and successfully pass these tests with a verified negative result and have an alcohol test result below 0.02. Any MRO verified result of "Positive", "Adulterated", "Substituted" or "Refusal to Test" will immediately disqualify the applicant/employee from further employment with the Agency.

Subject to the candidate's written consent, the Agency will check on the drug and alcohol testing background of candidates and employees being considered for final selection into any safety sensitive position within the Agency, if they previously worked in a safety-sensitive position for a DOT-covered employer in the previous two years. If the individual refuses to provide the written consent, he or she will not be hired into the safety-sensitive position.

If the information obtained from the previous DOT-covered employer(s) indicates a violation of a DOT drug or alcohol testing rule, the employee may not be allowed to perform any safety-sensitive function unless he or she has successfully complied with the return-to-duty requirements of a D.O.T.-qualified Substance Abuse Professional (SAP) and has been cleared, in writing, by the SAP to resume D.O.T. regulated duties. If the individual has had a positive pre-employment drug or alcohol test, or has refused such a test, he or she will not be hired until and unless the individual has provided a documentation of successful completion of the return-to-duty process, which includes a SAP referral, evaluation and treatment plan.

11.2 Reasonable Suspicion Testing

It is the responsibility of any employee who observes or has knowledge of another employee in a condition which may impair his or her ability to safely and effectively perform his or her duties, or may pose a safety hazard to self or others, to promptly report the incident to his or her supervisor, or any supervisor if the immediate supervisor is not available.

Whenever a supervisor (or other Agency official) has reason to believe that an employee has used a prohibited drug and/or engaged in alcohol misuse, reasonable testing will be conducted. The individual who makes the referral need not be the employee's own supervisor, as long as he or she is a trained supervisor or agency official that received training in detecting the signs and symptoms of drug use and alcohol misuse. The supervisor's or Agency official's

observations will be documented and such documentation shall be kept in the employee's confidential drug and alcohol testing file. Such documentation shall describe and document the following:

- a) the date and time observations were made;
- b) specific, contemporaneous and articulable observations concerning the employee's appearance, behavior, speech, body odors and/or performance;
- c) violation of a safety rule, or other unsafe work incident; and/or
- d) other physical, behavioral, speech, body odors or performance indicators of drug or alcohol use.

Suspicion is not considered reasonable, and thus not a basis for testing, if it is based solely on the observations and reports of third parties, a violation of a safety rule, or occurrence of an unsafe work incident. However, such suspicion may be a basis for further investigation, or for action to protect the safety of patrons, such as ordering the employee to stop work.

Once a supervisor or Agency official has made a reasonable suspicion determination, he or she must remove the employee from performing any safety-sensitive functions, transport the employee to the testing site immediately, and arrange for the employee's transportation to their home. The employee will remain out of service and on paid status while awaiting test results, unless the employee is suspended for any additional purposes concurrent with the waiting for the test results. If all test results are negative, the employee will be immediately returned to work. If the alcohol test result is positive, or the drug test result is non-negative (positive, adulterated, or substituted), the employee will be placed on unpaid status pending disciplinary action. Non-safety-sensitive employees will be tested in situations after an on-the-job injury or a reasonable suspicion situation has occurred, when the employee's performance or behavior may have contributed to the job injury or may jeopardize employee health & safety.

FTA rule requires that a reasonable suspicion alcohol test be conducted only if the reasonable suspicion observation is made just before, during, or just after the employee's performance of safety-sensitive function. **However, under the Agency's own authority, a reasonable suspicion alcohol test may be performed any time the employee is on duty.** If the alcohol test is not conducted within two hours, the reason for the delay must be documented and kept in the employee's reasonable suspicion test file. All attempts to complete the alcohol test must cease after eight hours and the reason(s) for the inability to test documented.

11.3 Post –Accident Testing

Any employee operating a public transportation vehicle **or any other Agency-owned vehicle** at the time of an accident shall be required to submit to drug and alcohol tests as soon as practicable after the accident. For purposes of this policy, "accident" is defined as an accident involving a public transportation vehicle **or any other Agency-owned vehicle** where the result is:

- An individual dies;
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene;
- The vehicle (if bus, electric bus, van, or automobile) or any other vehicle(s) involved in the accident suffers a disabling damage as a result of the accident and is transported away from the scene by a tow truck or other vehicle.

Any property damage to any vehicle involved in the accident that will result in professional repair, on or off Agency property.

11.3.1 Fatal Accidents

Whenever there is a loss of human life, any surviving covered employee operating the vehicle **or any other Agency owned vehicle or equipment**, at the time of the accident must be tested immediately and must report the accident to his or her supervisor. All other covered employees whose performance could have contributed to the accident must be tested. **Failure to immediately report the accident is grounds for discipline, up to and including termination.**

11.3.2 Non-Fatal Accidents

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

11.3.3 Other Post-Accident Testing Requirements

Employees involved in an accident that requires testing must remain readily available for testing, including notifying the Agency of their location if they leave the scene of the accident before testing to obtain emergency medical care, or to obtain assistance in responding to the accident. They will be considered to have refused to submit to testing if they fail to do so and **will be terminated from employment.**

Employees are prohibited from using alcohol for eight hours following an accident or until the post-accident testing is completed, whichever occurs first. Every effort will be made to conduct alcohol testing within two hours after the accident. In the event the alcohol test is delayed beyond two hours, the Agency will prepare and maintain a record stating the reason(s) for the delay. If an alcohol test is not administered within eight hours following the accident, the Agency will cease all efforts to administer the test and document the reason for the inability. In the event a drug test is not administered within 32 hours from the time of the accident, the Agency will cease all attempts to administer the drug test. This requirement should not be construed to delay the necessary medical attention for injured people following the accident.

If the Agency is unable to perform post-accident tests within the required period of compliance, the Agency will use the post-accident test results administered by State or local law enforcement personnel under their own authority, provided the test results are obtained by the Agency.

After the accident, the employee will be removed from service, but remain on paid status during the testing period and while awaiting test result, unless the employee is suspended for any additional purposes concurrent with the waiting of the test results. If all test results are negative, the employee will be immediately returned to work. If the alcohol test result is positive or the drug test result is non-negative (positive, adulterated, or substituted), the employee will be placed on unpaid status pending disciplinary action.

11.4 Random Testing

Safety-sensitive employees are required to undergo random drug and alcohol tests to deter use of prohibited drugs and misuse of alcohol. The random selection will be conducted using a scientifically valid method, such as a random number table or a computer-based random number generator, which gives each covered employee an equal chance of being selected every time a selection is made. As is the nature of the random method, it is possible that some employees will be selected several times in one year, and other employees not for several years. Management does not have any discretion on who will be selected.

Every effort will be made by the Agency to spread random testing reasonably throughout the calendar year, the testing period, all days of the week, and all hours when safety-sensitive functions are performed. The testing dates and times are unannounced and employees are required to immediately and directly proceed to the designated collection site following notification.

Random alcohol tests are authorized by the FTA only during, just before, or just

after the employee's performance of a safety-sensitive duty.

The Agency will conduct random drug and alcohol tests at a minimum annual percentage of covered employees as required by the FTA.. The rates are subject to change on an annual basis, depending on the industry-wide positive rate determined by the FTA from the annual MIS reports submitted by covered employers.

Non-safety-sensitive employees will be random tested under SunLine Transit Agency authority under the same regulations and guidelines as safety-sensitive employees. Random testing apply to those non-safety-sensitive employees whose job task assignments require the non-safety-sensitive employee to operate agency vehicles, equipment or may place the employee in a safety related situation or condition to complete the job task. Situations include, climbing ladders, working above ground or below ground, operating sedans, forklifts, power mowers and tools.

11.5 Return-To-Duty Testing

Sunline Transit has a "zero tolerance" policy, which means that an employee who violates the policy by testing positive for drugs or alcohol or refuses a required test is terminated after the first offense. However, in the event an employee who was previously terminated is returned to work by an authority outside of the agency, he or she will be subject to return to duty testing. This means, an employee who has refused a required test, has a verified positive, adulterated or substituted drug test result, or tests for alcohol at 0.04 BrAC or greater, shall not be allowed to return to safety-sensitive duties until after he or she has completed the return-to-duty process. This includes evaluation by a SAP, successful completion of the rehabilitation, treatment or education program outlined by the SAP, and obtaining a verified negative return-to-duty drug test and/or alcohol test under 0.04 BrAC. All return to duty tests shall be conducted under direct observation.

11.6 Follow-Up Testing

In addition to the Return-to Duty test described in Section 11.5, an employee who previously tested positive, or refused to take a required test, shall be subject to follow-up testing for drugs and/or alcohol, as prescribed by the SAP, for a minimum period of 12 months to a maximum of five years, As mandated by the DOT (Title 49 CFR, Part 40), the employee shall undergo at least six follow-up tests during the first 12 months of his or her return to work. Although they are both unannounced, follow-up testing is apart and separate from random testing. All follow-up tests shall be conducted under direct observation. The duration and frequency of testing will be designated by the SAP, but the actual follow-up

testing dates will be decided by the employee's manager or supervisor. **The employee is responsible for payment of all costs associated with follow-up testing.**

11.7 Drug & Alcohol Testing Procedures

All DOT drug and alcohol tests required under this policy will be administered in accordance with the "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (Title 49 CFR Part 40), as amended.

Throughout the testing process, the privacy of the employee will be protected and the integrity and validity of the process will be maintained. The drug testing procedure will include a split specimen collection method and a Federal Custody and Control Form will be used for all D.O.T. regulated tests, while a Forensic Custody & Control Form will be used for all non-regulated employees. Each form will have a unique identification number to ensure that the correct test result is attributed to the correct employee. An initial screening test using an immunoassay technique will be performed. If the specimen is positive for one or more of the drugs tested, then a confirmation test will be performed using the state-of-the-art gas chromatography/mass spectrometry (GC/MS) or Liquid Chromatography/Mass Spectrometry (LC/MS) analysis. If the test is confirmed positive, the MRO will conduct a verification process, which includes giving the employee an opportunity to provide a valid medical explanation for the positive test result.

Additionally, the laboratory may conduct analyses to determine if a urine specimen has been adulterated, tampered with, or diluted. If the MRO reports a "negative-dilute", "Invalid Result" or "Rejected for Testing" test result, the employee will be required to take a second test and depending on the level of the creatinine detected, the recollection may or may not be directly observed

Should the employee decline to take a test as directed by the Designated Employee Representative (DER) or DAPM, this constitutes a refusal to test under DOT agency regulations.

11.7.1 Procedures for Negative Dilute Testing

Negative Dilute Specimen Testing: All SunLine Transit Agency employees that produce negative-dilute urine specimens will be immediately retested using a second sample. Depending on the level of creatinine reported by the laboratory, the MRO may direct the recollection to be conducted under direct observation.,

Should the second test result in another negative dilute, the test will be considered a negative and no additional testing under DOT/FTA authority will be

required unless directed to do so by the MRO

11.7.2 Procedure for Alcohol Testing

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

Detailed drug and alcohol specimen collection procedures are outlined within Title 49 CFR Part 40, Subparts E, L and M and are available upon request from the Contact Persons identified in section 7.0 of this policy.

12.0 DIRECTLY-OBSERVED URINE SPECIMEN COLLECTION

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

- If the laboratory reported to the MRO that a specimen is invalid and there was no adequate medical explanation for the result;
- If the MRO reported that the original positive, adulterated, or substituted test result had to be canceled because the split specimen tested could not be performed;
- If the drug test is a return-to-duty or a follow-up test;
- If the MRO reported a negative-dilute test result from the initial test with a creatinine level between 2 - 5 mg/dL;
- If the collector observes employee conduct that clearly indicates an attempt to tamper with a specimen;
- If the temperature on the original specimen was out of range; or
- If the original specimen appeared to have been tampered with;

The collector shall be the same gender as the employee. If a same sex collector is not available, a same sex observer may be used. The observer is responsible for ensuring that the specimen goes from the employee's body into the collection container. If the employee declines to allow a directly observed collection when required under this policy, it is considered a refusal to test.

13.0 MONITORED URINE SPECIMEN COLLECTION

Under those circumstances when a multi-stall restroom has to be used for urine

specimen collection and the facility cannot be adequately secured, the collector will conduct a monitored collection. The monitor shall be the same gender as the employee, unless the monitor is a medical professional. The monitor will not watch the employee void into the collection container. However, if the monitor hears sounds or observes attempts to tamper with a specimen, an additional collection under direct observation will be ordered. If the employee declines to permit a collection authorized to be monitored, it is considered a refusal to test.

14.0 SPLIT SPECIMEN TESTING

After notification by the MRO of a positive drug test or refusal to test because of adulteration or substitution, the employee has 72 hours to request from the MRO (verbally or in writing) a test of the split specimen. It should be noted, however, that there is no split specimen testing authorized by the DOT for an invalid drug test result.

Following the employee's timely request, the MRO shall send a written request to the primary laboratory to forward the split specimen to a second DHHS-certified laboratory for testing without regard to the cut-off concentration. If the second laboratory fails to reconfirm the substance detected in the primary specimen or the adulterant identified, or if the split specimen is unavailable for testing, the test shall be canceled. The MRO shall report the cancellation and the reasons for it to the DOT, the Agency, and the employee. In the case of the split specimen being unavailable, the employee shall be directed, with no advance notice, to submit another specimen under direct observation.

All costs related to split specimen testing will be paid by the employee or the applicant. The individual shall be reimbursed if the second test invalidates the original test or if the test was canceled.

15.0 CONSEQUENCES / DISCIPLINE

Following a BrAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of their next regularly scheduled duty period (but for not less than eight hours) unless a retest results in the employee's alcohol concentration being less than 0.02.

Any safety-sensitive employee who has a verified positive drug test result, an alcohol concentration of 0.04 BrAC or above, or refuses to submit to a drug or alcohol test (including adulteration or substitution) shall be:

1. Immediately removed from safety-sensitive duty;
2. Referred to a SAP for evaluation, education or treatment

Under the Agency’s own authority, non-safety-sensitive employees also may be removed from duty, referred to a substance abuse counselor, and be subject to discipline, up to and including termination.

FTA regulations allow individual employers to determine the discipline to be imposed on employees who violate the DOT/FTA regulations or Agency policy. The Agency’s discipline policy is as follows:

- A. A first positive drug test result, test refusal, or alcohol test result of 0.04 BrAC or greater will result in immediate termination.**
- B. Other policy violations (e.g., failure to report the use of impairing medications, or failure to immediately report an accident) will subject the employee to disciplinary action, up to and including termination.**

16.0 REFERRAL EVALUATION AND TREATMENT

If an employee (including an applicant) tests positive for drugs or alcohol or refuses to submit to a test when required, the Agency shall advise the individual of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse and document such referral. He or she shall be given the name, address and phone number of Substance Abuse Professionals (SAPs) acceptable to the Agency and a list of community hot line numbers. **The individual will be responsible for any costs associated with the SAP evaluation and recommendation(s).**

17.0 VOLUNTARY REHABILITATION

SunLine employees are encouraged to voluntarily seek professional help directly from a substance abuse counselor before any substance use or dependence affects job performance. An employee who has a drug and/or alcohol abuse problem and has not been selected for testing or is not involved in a disciplinary proceeding may voluntarily refer himself or herself to a substance abuse counselor for evaluation and treatment recommendations. Confidentiality, job security and promotional opportunities will be protected. However, if the employee reports his or her substance abuse directly to an Agency employee or supervisor, instead of a substance abuse counselor directly, the Agency will require that a “Reasonable Suspicion” drug & breath alcohol test be immediately performed, in accordance with Section 11.2 of this Policy.

The employee may be eligible for sick leave, disability benefits, or vacation while undergoing rehabilitation or treatment. The cost of any treatment or rehabilitation services over and above those offered by the Agency will be the responsibility of the employee.

18.0 CONFIDENTIALITY AND ACCESS TO FACILITIES AND RECORDS

Employees have a right to examine their own drug and alcohol testing records, and have access to any pertinent data such as EBT calibration or drug testing laboratory certification. They also have a right to obtain a copy of their own drug and/or alcohol testing results by submitting a written request to any of the Designated Employer Representative identified In Section 7.0 of this policy.

The Agency will do everything possible to safeguard the confidentiality of drug and alcohol testing records and protect the privacy of the individuals tested. Individual test results or medical information will be released to third parties (e.g. previous employers, unions) only with the employee's specific written consent, or to those parties authorized by the DOT or FTA to receive such information without the employee's consent. Specific written consent applies only to a particular piece of information released to a particular person or organization at a particular time. Blanket releases are specifically prohibited by DOT.

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

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

Access to Agency facilities and drug and alcohol program records also must be provided, without the employee's consent to DOT or FTA agency representatives; the National Transportation Safety Board as part of an accident investigation; a Federal, State or local agency with regulatory authority over the Agency, or State or grantee required to certify FTA compliance with 49 CFR Parts 40 and 655. Except as outlined in DOT Section 40.355, and with the specific consent of the Agency, the Agency's TPA may receive and maintain records concerning the Agency's DOT drug and alcohol testing programs, without the employee's consent.

19.0 JOINT UNION-MANAGEMENT REVIEW ADVISORY COMMITTEE

- A. At the direction of Management, two representatives from the Union and two from Management, shall meet periodically to provide input regarding the Agency's Substance Abuse Program.**
- B. The purpose of this meeting is to provide a channel of communication whereby participants can give input and make recommendations to the General Manager regarding the Substance Abuse Policy.**

The consequences specified in Section 15.0 of the SunLine Transit Agency Drug and Alcohol Policy regarding a positive test or test refusal is not subject to arbitration.

SunLine Transit Agency

DATE: June 26, 2024 **DISCUSSION**

TO: Board Operations Committee

FROM: Bryan Valenzuela, Chief Safety Officer

RE: Regulation and Prohibition of Passenger Conduct Ordinance 2024-01

Background

SunLine Transit Agency (SunLine) is committed to offering dependable, efficient, and safe transportation services to the residents of Coachella Valley. To safeguard the well-being of its assets, passengers, and employees, SunLine proposes adopting Ordinance No. 2024-01 regulating passenger conduct.

Ordinance No. 2024-01 will provide the necessary tools to address proper passenger behavior on SunLine's property and on board of SunLine's vehicles; this will promote delivering quality service to our community and ensure the safety of transit customers and employees.

Ordinance No. 2024-01 establishes:

- Guidelines for conduct of transit passengers to ensure their safety and the safety of our employees.
- A process to suspend riding privileges of individuals who consistently violate the provisions of Ordinance No. 2024-01, proportionate to the offensive conduct.
- Rules regarding solicitation, demonstration, posting signs, and similar activity as well as commercial filming on SunLine property.

SunLine will implement a series of procedures to operationalize the Ordinance and will provide additional de-escalation and conflict resolution training to Staff.

Ordinance No. 2024-01 demonstrates SunLine's dedication to safety, making it an essential component of a secure transportation system.

Attachment:

- [Item 9a](#) – Regulation and Prohibition of Passenger Conduct Ordinance 2024-01

ORDINANCE NO. 2024-01

**AN URGENCY ORDINANCE OF SUNLINE TRANSIT AGENCY RELATING TO THE
REGULATION AND PROHIBITION OF PASSENGER CONDUCT**

WHEREAS, SunLine Transit Agency (STA) is dedicated to providing safe, dependable and efficient transportation services to passengers and the Coachella Valley community; and

WHEREAS, the County of Riverside and the Coachella Valley cities comprising the joint powers agency known as the STA desire to maintain and operate a safe, secured, efficient and effective public transportation system by establishing a passenger code of conduct; and

WHEREAS, behavior on transit property is governed by California Penal Code section 640 and California Public Utilities Code section 99580; and

WHEREAS, STA personnel and passengers on STA vehicles and at STA property have been subjected to threats of physical harm, disturbances of the peace, and other conduct antithetical to safe and peaceful public transportation; and

WHEREAS, this urgency ordinance is necessary to ensure that the STA may immediately regulate the conduct of all persons conduct who interact with STA property or its services provided and passengers and the public may be refused services or access to facilities as a result of unacceptable conduct as described herein; and

WHEREAS, STA has the authority to regulate and enforce passenger conduct. However, without a passenger code of conduct there is a substantial likelihood that STA will be unable to regulate passenger conduct, which may result in substantial harm, and a threat to public peace, health or safety; and

WHEREAS, STA desires to adopt this ordinance as an urgency ordinance, effective immediately, pursuant to Government Code sections 36934 and 36937.

NOW, THEREFORE, the Board of Directors of STA does ordain as follows:

SECTION 1: ADOPTION OF URGENCY ORDINANCE.

The above recitals are hereby adopted as true and correct and this this urgency ordinance is hereby adopted as attached hereto as Exhibit A.

SECTION 2: SEVERABILITY.

If any section, subsection, sentence, clause or phrase of the ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance of STA. The Board of Directors of STA hereby declares that it would have

passed this ordinance, and each section, subsection, clause, sentence or phrase thereof, irrespective of the fact that any one or more other sections, subsections, clauses, sentences, or phrases may be declared invalid or unconstitutional.

SECTION 3: URGENCY DECLARATION AND EFFECTIVE DATE.

STA finds and declares that the adoption and implementation of this ordinance is necessary to address the danger to public health, safety, and general welfare as set forth in the above recitals, and to immediately provide provisions to implement the Passenger Code of Conduct. The Board of Directors of STA therefore finds and determines that this ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption by four-fifths of the Board of Directors of STA.

SECTION 4: PUBLICATION.

The Clerk of the Board is authorized and directed to cause a summary of this ordinance to be published and posted in the manner required by Government Code section 36933(c)(1).

APPROVED AND ADOPTED by the Board of Directors of SunLine Transit Agency at a regular meeting held on ____ day of July, 2024.

Lisa Middleton
Chairperson of the Board

ATTEST:

Edith Hernandez
Clerk of the Board

APPROVED AS TO FORM:

Catherine Groves
General Counsel

EXHIBIT A

Section 1	Title
Section 2	Purpose
Section 3	Definitions
Section 4	Animals
Section 5	Removal from Vehicle(s), STA Property, and STA Facility
Section 6	Enforcement Procedures
Section 7	Suspension Procedure
Section 8	Non-Compliance with Suspension Order: Trespassing
Section 9	Electronic Surveillance
Section 10	Expressive Activity and Commercial Filming

Section 1 **Title**

This ordinance shall be known as the “Urgency Ordinance of Sunline Transit Agency regulating and prohibiting specified passenger conduct.”

Section 2 **Purpose**

STA is dedicated to providing safe, dependable and efficient transportation services to passengers and the Coachella Valley community. Behavior on transit property is governed by California Penal Code section 640 and California Public Utilities Code Section 99580. The purpose of this ordinance is to define a passenger code of conduct in order to maintain and operate a safe, secured, efficient and effective public transportation system. This ordinance also governs the conduct of all persons who interact with STA property or its services provided. Passengers and the public may be refused services or access to facilities as a result of unacceptable conduct as described herein.

Section 3 **Definitions**

As used in this Ordinance:

- A. “Fare Media” means the methods issued by or on behalf of STA for payment of fare, including passes, cards, transfers, vouchers and mobile ticketing.
- B. “Fare-Required Zone” means (1) the areas in any Vehicle behind the yellow line near the front of the bus, or (2) the areas where any sign indicates fares are required at or beyond the area.
- C. “Graffiti” means any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, painted, or affixed on the Agency facilities or vehicles.
- D. “Passenger” means a customer of service, and/or visitor to a STA Facility, STA

Property, and/or Vehicle.

- E. "Public Area" means portions of STA facilities that are open for public use for transit or transit related purposes.
- F. "Prohibited Conduct" means any conduct that does not demonstrate respect for safety and welfare of themselves and/or others and/or STA Representatives or that interferes with the orderly provision of STA Transportation Services, including, but not limited to, any of the following:
 - a. a violation of local, state or federal law;
 - b. stalking a passenger and/or STA Representative(s);
 - c. damaging and/or destruction of STA Property and/or STA Facility;
 - d. playing unreasonably loud sound equipment;
 - e. failing to comply with the warning of a STA Representative related to disturbing another person by loud or unreasonable noise;
 - f. physical or verbal mistreatment, including hitting, kicking, gestures, yelling, spitting, threats, intimidation, assaults, slurs, and cursing;
 - g. sexual harassment including the act of or threat of unwanted touching, comments, or gestures, of a sexual nature or because of their gender, sexual orientation, or gender expression or gender identity;
 - h. eating or drinking on Vehicle(s);
 - i. drinking alcoholic beverages or possessing open containers of alcoholic beverages;
 - j. bringing any bag(s) of open or empty aluminum cans, plastic or glass bottles, or any material that has an offensive odor or is leaking any fluids on Vehicle(s);
 - k. failing to wear shoes, a shirt and pants or shorts, or a dress in Vehicle(s), STA Property, and STA Facility;
 - l. wearing a mask, false whiskers, or any personal disguise (whether complete or partial) for the purpose of: (1) evading or escaping discovery, recognition, or identification in the commission of fare evasion and/or any public offense; and/or (2) concealment, flight, or escape, when charged with, arrested for, or convicted of, any public offense;
 - m. refusing to pay a proper fare with cash or accepted Fare Media, including, but not limited to, mobile ticketing;

- n. boarding a Vehicle, without proof of valid Fare Media or without having adequate fare ready and paying fare upon boarding a Vehicle;
- o. falsely representing oneself as eligible for a waiver or a special or reduced fare, obtaining Fare Media by making false or misleading representation;
- p. boarding a Vehicle through a rear door to avoid payment or entering a Vehicle in such a way to bypass or avoid any Fare-Required Zone and fare collection;
- q. refusing to be seated or holding on to a standee pole while the Vehicle is in motion or standing in front of the standee line near the driver's seat;
- r. using cellular phones and audible devices (e.g. portable radio, musical instruments, tape, CD player, TV, laptop, tablet, etc.), unless such equipment is used with head/earphones so that sound is limited to that person only, or with the volume muted. Cellular phones may not be used on speaker phone mode;
- s. causing sounds that are highly disruptive to other individuals on board STA vehicles, using STA facilities or services. For the purpose of this paragraph, "highly disruptive" means: abusive, indecent, profane or drunken conduct. This provision does not apply to persons who cannot comply with this paragraph as a result of a disability, age, or a medical condition;
- t. smoking, including the carrying of lit cigars, cigarettes, and pipes, and vaping or use of any electronic or other smoking device, on a Vehicle(s), STA Property, STA Facility, or outside designated smoking areas at STA Facility;
- u. using any controlled substance and/or paraphernalia in violation of State and Federal law on a Vehicle(s), STA Property, or STA Facility, or outside designated smoking areas at STA Facility.
- v. blocking an aisle and/or restricting the free movement of passengers on a Vehicle(s), STA Property, or STA Facility with a non-collapsible stroller, baby buggy, walker, cart, package, bag, and/or item that cannot be held in the lap of the passenger;
- w. hanging items on, or attaching to, a mobility device (i.e. wheelchair, scooter, or walker) in a manner that blocks the aisle, restricts the free movement of passengers, or failing to properly secure such items to such mobility device. Oxygen bottles or tanks required for medical purposes must be properly secured and sized for the mobility device and placed in a location that does not restrict a proper and safe securement of the device;
- x. bringing a bicycle on-board a Vehicle. Bicycles must be placed on STA bike

- racks prior to boarding a Vehicle. Such bicycles shall not have any items, including bags, hanging from the bicycles while on a STA vehicle bike rack;
- y. throwing any object from Vehicle(s) or extending any portion of the body through any window or door of a Vehicle(s) in a manner that may cause harm or injury;
 - z. engaging in vandalism, graffiti, destruction and/or damage to Vehicle(s), STA Property, and/or STA Facility;
 - aa. carrying an explosive, illegal weapon (i.e. firearms or sharp edge objects), acid, flammable liquid, or toxic or hazardous material in a Vehicle(s), STA Property, and/or STA Facility;
 - bb. engaging in unauthorized canvassing, selling, soliciting, or distributing any material on Vehicle(s), STA Property, and/or STA Facility;
 - cc. due to health and safety concerns, passengers who have bodily fluids, urine, feces, or blood on themselves or their clothing are prohibited from entering a Vehicle(s), STA Property, and/or STA Facility. This provision does not apply to persons who cannot comply with this paragraph as a result of a disability, age, or a medical condition;
 - dd. affixing or posting signs, stickers, buttons, advertisements, circulars, or other printed materials on Vehicle(s), STA Property, and/or STA Facility. Written permission must be obtained from STA Administrator prior to placing, posting, or displaying any posters, notices, advertisements, signs, or other written material on Vehicle(s), STA Property, and/or STA Facility;
 - ee. engaging in violence, threat(s), fighting, pushing, crowding, shoving, or initiating physical contact toward another passenger or STA Representative;
 - ff. opening or tampering with vehicle equipment, for example, emergency windows and doors, except during an emergency;
 - gg. expectorating upon a STA Facility or Vehicle;
 - hh. failing to yield seating reserved for an elderly or disabled person; and
 - ii. Skateboarding, roller skating, bicycle riding, or roller blading in an STA Facility, including a parking structure, or in an STA Vehicle. This prohibition shall not apply to an activity that is necessary for utilization of an STA Facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a bicycle or transporting a bicycle aboard an STA vehicle, if that activity is conducted with STA permission in a manner that does not interfere with the safety of the bicyclist or other patrons of STA.

- G. "STA" means the SunLine Transit Agency joint powers authority established by Riverside County and Coachella Valley cities charged with the duties, obligations and responsibilities to implement and enforce this Ordinance and any related ordinance and any regulations promulgated pursuant thereto as directed by the STA Board.
- H. "STA Facility" or "STA Facilities" means all STA Property and equipment of STA, including, inside and outside areas of STA Property, transit centers, bus stops, shelters, transfer points, signage, and Vehicles.
- I. "STA Property" means any real or personal property owned or controlled by STA and includes, but is not limited to, Vehicle(s), bus stops, buildings, and facilities owned, leased or operated by STA, and any Vehicle(s) operated under contract with STA.
- J. "STA Administrator" means the management level employee of STA designated by STA's CEO/General Manager to be responsible for administering and implementing this ordinance.
- K. "STA Representative" means any employee of STA.
- L. "Threat" means an expression or action showing intent to inflict harm. Giving signs or warnings of violence or the announcement of violence as a possibility.
- M. "Transportation Services" means services provided by a STA Representative using STA Property to transport passengers, including, but not limited to, a fixed route bus service, micro transit service, and paratransit service.
- N. "Vehicle(s)" means a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks, as defined in California Vehicle Code section 670, including, bus(es), shuttle(s), coach(es), car(s), van(s), and similar devices used for passenger conveyance.
- O. "Violence" means physical force employed to violate, damage, abuse, injure, or strike in any manner.

Section 4 Animals

- A. Designated service animals as defined in 49 Code of Federal Regulations Section 37.3 must always be under control of the passenger. Passengers may be asked by a STA Representative to describe the work or task the animal has been trained to perform. Service animals owners are responsible for any damage or injury caused by the animal. All other animals must be kept in a secure pet carrier that fits on the passenger's lap.
- B. Passengers are prohibited from denying seats to other passengers or blocking aisles due to animals or carriers.

- C. Passengers must promptly clean up animal waste from STA Property and/or STA Facility.

Section 5 Removal from Vehicle(s), STA Property, and STA Facility

- A. A person refusing to comply with the provisions of this ordinance or violating any provision of this ordinance, may be directed to leave Vehicle(s), STA Property, and/or STA Facilities by a STA Representative. If such person refuses to follow STA Representative(s) directions, the STA Representative(s) must contact the STA Administrator and local law enforcement and such person may be subject to arrest for trespassing.
- B. Any person engaging in Prohibited Conduct may be subject the following: (1) immediate removal of the violator from a Vehicle(s), STA Property, or STA Facility; (2) suspension of the violator’s use of a Vehicle(s), STA Property, or STA Facility; (3) criminal citation issued by local law enforcement.
- C. A person may not occupy or use a Vehicle(s), STA Property, and/or STA Facility except for the purpose of boarding, disembarking, or waiting for a Vehicle. Persons occupying a Vehicle(s), STA Property, and/or STA Facility may be required to identify the intended STA route and destination upon the request of an STA Representative. Persons who fail to identify the intended STA route or destination may be asked to leave the Vehicle(s), STA Property, and/or STA Facility. Persons merely loitering at an STA Facility may be asked to leave the STA Facility by an STA Representative. Persons refusing to leave upon a demand to leave consistent with this ordinance may be considered in violation of this ordinance and STA Representative(s) reserves the right to contact law enforcement for assistance with removing such persons.
- D. Persons may occupy STA Facilities while awaiting passengers on arriving Vehicle(s). Upon arrival of such passengers, such persons and passengers shall leave Agency Facilities promptly. STA Representative(s) may request such persons and such passengers to leave STA Facilities, and refusal to comply with such STA Representative(s) request may amount to a violation of this ordinance.

Section 6 Enforcement Procedures

Upon witnessing a potential violation of this ordinance, STA Representative(s) may take any of the following steps to enforce compliance, and submit an incident report to the STA Administrator:

- A. Warn the violator that further violations will be grounds for removal from the Vehicle(s), STA Property, and/or STA Facility, or may result in suspension under this ordinance.
- B. Stop the Vehicle until the conduct violating this ordinance stops, the violator has been removed from the Vehicle, or law enforcement assists in removing the

violator.

- C. Refuse to admit the violator onto a Vehicle or inside STA Property and/or STA Facility if the conduct violating this ordinance occurs as the violator is boarding the Vehicle or entering STA Property and/or STA Facility.
- D. Report the violator's conduct to law enforcement. All incidents requiring STA Representative to contact law enforcement will be submitted to the STA Administrator for further review to determine whether suspension from service is warranted.
- E. STA reserves the right to pursue all remedies at law, but not limited to, enlisting the services of local law enforcement, petitioning the Superior Court for a Temporary Restraining Order (TRO) and/or seeking a permanent injunction in appropriate cases.

Section 7 Suspension Procedure

- A. STA Representative(s) may recommend to the STA Administrator suspending a person from use of Vehicle(s), STA Property, and/or STA Facility following one or more violations of this ordinance. Length of suspension, including whether such suspension is permanent, will depend on the severity of the violation at STA's sole discretion.
- B. Prior to suspending any person from use of Vehicle(s), STA Property, STA Facility, and/or Transportation Services, the STA Administrator will issue, or cause to be issued, to such person, a written suspension notice. The notice shall indicate the reasons for the suspension, the time period of the suspension, and the Vehicle(s), STA Property, and/or STA Facility or Transportation Services subject to the suspension. Such written suspension notice shall also include the appeals procedure details set forth in Section 7.D. below.
- C. Initial Review of Suspension Notice:
 - a. Within twenty-one (21) days from issuance of suspension notice, the person may request administrative review of the suspension. Such request may be made by telephone or in writing by contacting the STA Administrator at (760) 343-3456 or STA Administrator c/o SunLine Transit Agency, 32-505 Harry Oliver Trail, Thousand Palms, California 92276. The request must include any statement, information, evidence, or documents the person desires the STA Administrator to consider.
 - b. Within seven (7) days from receiving the person's request for initial review, the STA Administrator shall issue a decision as to whether it is 1) imposing the original suspension; 2) modifying the original suspension; or 3) satisfied that the violation did not occur or that extenuating circumstances make dismissal of the suspension appropriate.

- c. The STA Administrator shall mail a notice of the result of the initial review to the person. If STA Administrator does not cancel the suspension, this notice will include a reason for not canceling the suspension, a notification that the person is entitled to request an appeal under this ordinance, and details regarding such appeal procedure.

D. Appeal Procedure:

- a. Following the administrative review procedure, if the STA Administrator does not cancel the suspension, the person receiving a notice of suspension as provided above may request an appeal, within sixty (60) days after the mailing of the STA's decision following its Initial Review in section 7.C. above, either (1) in person, (2) by sending a written request to the STA Administrator c/o SunLine Transit Agency, 32-505 Harry Oliver Trail, Thousand Palms, California 92276, or (3) by calling (760) 343-3456. The request should include any statement, information, evidence, or documents the person desires the hearing officer to consider.
- b. The appeal shall be conducted before a hearing officer designated by the CEO/General Manager. The hearing officer shall issue a written decision, no later than thirty (30) days after the hearing. Such decision will detail whether the suspension was canceled, modified, or upheld. The decision may be personally delivered to the person or sent by mail.

Section 8 Non-Compliance with Suspension Order: Trespassing

If an individual subject to a suspension order enters the specified Vehicle(s), STA Property, and/or STA Facility during the suspension period, law enforcement will be called, and the individual may be subject to arrest for trespassing.

Section 9 Electronic Surveillance

All Agency Vehicle(s) and STA Facility are equipped with electronic surveillance devices/cameras which are used to view accident, incidents, and complaints received from passengers.

Section 10 Expressive Activity and Commercial Filming

A. Expressive Activity

- a. No person shall conduct or participate in assemblies or demonstrations, display or post signs or banners, solicit funds, or distribute written pamphlets, flyers, petitions, or other materials (collectively "Expressive Activity") in or on any of the following areas: (1) any bus or van operated by or for STA, or (2) STA owned or occupied workshops, offices, maintenance facilities, garages, or any other areas that are not open to the public.
- b. Expressive Activity is authorized on other public property owned or

controlled by STA or in public areas surrounding STA buses or property so long as the Expressive Activity does not: (1) interfere with access or egress of passengers to and from vehicles, (2) interfere with the access or egress of vehicles to and from bus stops or STA property, (3) interfere with STA employees' conduct of their business, or (4) harass, threaten, or coerce any person.

- c. Any person or group that will conduct or participate in an Expressive Activity shall provide STA with at least 5 business days' notice voluntarily providing the name, address, and telephone number of the person or group, specifying the proposed Expressive Activity, the date and time of the activity and the number of participants. STA may impose conditions to avoid injury to persons or property or to assure the safe and orderly use of STA property. Such conditions may include limitations on the number of participants, the time and duration of the activity, the place of the activity, and safety and security issues involving the activity.
- d. Any person or organization conducting or participating in Expressive Activity will be responsible for the removal of all written material and cleanup of property used for the Expressive Activity. No written materials may be left unattended on STA controlled or owned property.
- e. No person other than STA personnel or agents may post flyers, pamphlets, posters, or any other materials in STA buses or bus shelters.
- f. Nothing in this Policy is intended to abrogate or limit a person or organization's ability to address the STA Board of Directors in public meetings.

B. Commercial Filming

- a. Filming and/or still photography, which does not include filming home videos or still photography by individuals solely for personal use, on STA property requires a filming permit, payment of a per diem filming fee, and reimbursement for actual costs incurred by STA due to the filming, including, but not limited to costs of any STA personnel required to monitor or assist in the filming activity. Requests to film on STA property will be considered by STA management on an individual basis.
- b. A filming permit will be issued to the eligible permittee upon approval of STA management and payment of the applicable per diem charge. STA management will determine the per diem charge applicable to permittee's project. Permittee must comply with insurance requirements and other conditions applicable to use of STA property, as set forth by STA management.

SunLine Transit Agency

DATE: June 26, 2024 **INFORMATION**

TO: Board Operations Committee

FROM: Bryan Valenzuela, Chief Safety Officer

RE: Workplace Violence Prevention Plan

Background

SunLine is dedicated to ensuring the safety and well-being of its employees. The agency is committed to providing a work environment that is free of violence or threats of violence and to safeguarding all employees and other workers who are under SunLine's control or direction. This includes directly supervising workers on the job to the extent that they are exposed to hazards specific to their worksite and job assignment.

On September 30, 2023, California Senate Bill 553 was signed into law, mandating that workplaces implement a Workplace Violence Prevention Plan (WVPP) by July 1, 2024, to adhere to California Labor Code section 6401.9.

The primary objective of the WVPP is to eliminate or prevent workplace violence, and where this is not possible, to reduce the safety risk to levels that are as low as reasonably practicable. Staff actively involved employees in the development of the WVPP and will continue to engage with employees in the implementation and continuous improvement of the WVPP. The WVPP:

- Establishes clear procedures for responding to, managing, and investigating incidents of workplace violence, ensuring timely and appropriate actions are taken.
- Requires comprehensive training and continuous education to all employees, enhancing their awareness and understanding of workplace violence risks and prevention strategies.
- Includes processes to stay abreast of emerging risks, changing environments, and feedback from employees and stakeholders related to workplace violence.
- Requires staff to prepare written records of workplace violence issues.

Staff has developed SunLine's WVPP, and the Agency will implement the WVPP on July 1, 2024, to comply with California Labor Code section 6401.9.

Attachment:

- [Item 10a](#) – SunLine Workplace Violence Prevention Plan – May 2024

SB-553
Cal. Lab. Code § 6401.9
Workplace Violence Prevention Plan



32-505 Harry Oliver Trail
Thousand Palms, California 92276-3501

Last Plan Review:

5/13/2024

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INTRODUCTION



“Peace is a daily, a weekly, a monthly process, gradually changing opinions, slowly eroding old barriers, quietly building new structures.”

John F. Kennedy



LEGISLATIVE COUNSEL’S DIGEST ON SENATE BILL 553

“Existing law, the California Occupational Safety and Health Act of 1973, imposes safety responsibilities on employers and employees. . . The act is enforced by the Division of Occupational Safety and Health within the Department of Industrial Relations, including the enforcement of standards adopted by the Occupational Safety and Health Standards Board. [SB 553] would require every applicable employer, to also establish, implement, and maintain, at all times in all of the employer’s facilities, a workplace violence prevention plan.”

CALIFORNIA SENATE LABOR COMMITTEE HEARING ON SENATE BILL 553

According to Senator Cortese, “Workplace violence incidents are becoming more prevalent across all different types of workplaces in California. The Occupational Safety and Health Administration (OSHA) has identified workplace violence as the second leading cause of fatal occupational injury at the workplace. On average, 1.3 million nonfatal violent crimes occur in the workplace annually, with female workers having higher rates than male workers of nonfatal injuries due to workplace violence resulting in days away from work. Over ten percent of the more than five thousand workplace fatalities that occurred in 2019 were caused by intentional violence.”

SUNLINE TRANSIT AGENCY ON SENATE BILL 553

Workplace violence is an increasingly concerning issue across various industries, including public transit, as evidenced by the FTA’s recent Proposed General Directive 24-1 regarding assaults on transit workers. In some cases, the perpetrators intentionally target public entities and their employees. It is difficult to forget the mass shootings at the Inland Regional Center in San Bernardino in December 2015 and the Virginia Beach Municipal Center in May 2019. At SunLine, we recognize the critical importance of taking proactive measures to protect employees from workplace violence.

National data indicates that incidents of workplace violence are not isolated events; according to the U.S. Bureau of Labor Statistics, there were 849 workplace violence-related fatalities in the United States in 2022 alone. Similarly, in 2020, there were 37,060 nonfatal workplace violence-related injuries. In total, workplace violence affects nearly 2 million American workers annually.

In the public transportation sector, employees face unique risks given the nature of their work, which often involves interaction with the public in varied and sometimes unpredictable environments.

California's commitment to workplace safety is reflected in Section 527.8 of the California Code of Civil Procedure, underscoring the importance of maintaining a secure environment for all employees. This legislation obligates employers to ensure their workplaces are safe and to take proactive measures against any credible threats of violence. Employers, including public agencies, can seek a Temporary Restraining Order ("TRO") and/or Workplace Violence Restraining Order ("WVRO") to protect their workforce under this section. For instance, a notable case in 2018 involved a city in Riverside County securing a WVRO against an individual after a physical assault on two female employees at a public library. Similarly, in 2019, a city in Los Angeles County was granted a WVRO against its City Clerk following multiple threats of violence directed at City Hall employees, demonstrating the legal tools available to address workplace violence proactively.

I. PROGRAM OBJECTIVES AND POLICY STATEMENT

SunLine is committed to ensuring the safety and well-being of its employees, to providing an environment free of violence or threats of violence and to safeguarding all employees and all other workers whom SunLine controls or directs and directly supervises on the job to the extent that workers are exposed to hazards specific to their worksite and job assignment.

SunLine prohibits and will not tolerate any form of workplace violence by any employee or third-party, including customers, clients, vendors, visitors, or others, either at the workplace, in or on SunLine property or at SunLine sponsored events.

This Workplace Violence Prevention Plan (“WVPP” or “Plan”) is intended to supplement the general Injury and Illness Prevention Program (“IIPP”) required by 8 CCR § 3203. This Plan is in effect at all times in all work areas and is intended to be specific to the hazards and corrective measures for each work area and operation.

The WVPP shall be available to employees, authorized employee organization representatives, and Cal/OSHA at all times.

SunLine shall provide all safeguards required by law and regulation, including provision of personal protective equipment and training at no cost to the employee, at a reasonable time and place for the employee, and during the employee's paid time.

The primary objective of the WVPP is to eliminate or prevent workplace violence, and where this is not possible, to reduce the safety risk to levels that are as low as reasonably practicable as follows:

- Provide a safe working environment by establishing and maintaining an effective WVPP.
- Actively involve employees in the development, implementation, and continuous improvement of the Plan.
- Establish clear procedures for responding to, managing, and investigating incidents of workplace violence, ensuring timely and appropriate actions are taken.
- Provide comprehensive training and continuous education to all employees, enhancing their awareness and understanding of workplace violence risks and prevention strategies.
- Stay abreast of emerging risks, changing environments, and feedback from employees and stakeholders related to workplace violence.
- Provide records of workplace violence in accordance with the Plan.

SunLine hereby authorizes and ensures the establishment, implementation, and maintenance of this Plan and the documents/forms within this Plan. SunLine is committed to a culture of safety and violence prevention. These policies and procedures will bring positive changes to the workflow, business operations, and overall health and safety of SunLine’s employees.

II. DEFINITIONS

1. Emergency: unanticipated circumstances that can be life threatening or pose a risk of significant injuries to employees or other persons.

2. Log: the Violent Incident Log required by this Plan.

3. Plan: this Workplace Violence Prevention Plan.

4. Threat of violence: any verbal or written statement, including, but not limited to, texts, electronic messages, social media messages, or other online posts, or any behavioral or physical conduct, that conveys an intent, or that is reasonably perceived to convey an intent, to cause physical harm or to place someone in fear of physical harm, and that serves no legitimate purpose.

5. Workplace violence: any act of violence or threat of violence that occurs in a place of employment, including, but not limited to, the following:

(i) the threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury.

(ii) an incident involving a threat or use of a firearm or other dangerous weapon, including the use of common objects as weapons, regardless of whether the employee sustains an injury.

6. Workplace violence types:

(i) **Type 1 violence:** workplace violence committed by a person who has no legitimate business at the worksite, including violent acts by anyone who enters the workplace or approaches employees with the intent to commit a crime.

(ii) **Type 2 violence:** workplace violence directed at employees by customers, clients, patients, students, inmates, or visitors.

(iii) **Type 3 violence:** workplace violence against an employee by a present or former employee, supervisor, or manager.

(iv) **Type 4 violence:** workplace violence committed in the workplace by a person who does not work there, but has or is known to have had a personal relationship with an employee.

7. Workplace violence exception: workplace violence does not include lawful acts of self-defense or defense of others.

8. Self-defense/defense of others: (1) you had a reasonable belief that force was necessary to protect yourself or another person from an imminent threat of danger, and (2) you used no more force than was necessary to defend against that danger.

9. Work practice controls: procedures and rules which are used to effectively reduce workplace violence hazards.

10. Engineering controls: an aspect of the built space or a device that removes a hazard from the workplace or creates a barrier between the employee and the hazard.

11. Environmental risk factors: factors in the facility or area in which services or operations are conducted that may contribute to the likelihood or severity of a workplace violence incident, including, but not limited to, risk factors associated with the specific task being performed, such as the collection of money.

III. LEGAL FRAMEWORK

A. CALIFORNIA LABOR CODE § 6401.9

Promulgated by the California Legislature, and signed into law by the Governor of California, Section 6401.9 creates the first general industry workplace violence prevention safety requirements in the United States.

B. TITLE 8 CCR § 3343

Currently under development by the Division of Occupational Safety and Health (DOSH), better known as Cal/OSHA, Section 3343 will represent general industry requirements for workplace violence prevention in California.

C. CALIFORNIA LABOR CODE § 6400-6401

Requires every employer to furnish a safe and healthful place of employment.

D. CALIFORNIA PENAL CODE § 241.3: ASSAULT ON A PUBLIC TRANSPORTATION PROVIDER

Prohibits the willful assault of any person on the property of, or on a motor vehicle of, a public transportation provider. This charge elevates simple assault to a more serious offense. Simple assault (PC 240) is the unlawful attempt, along with a present ability, to commit a violent injury on someone.

E. CALIFORNIA PENAL CODE § 243.3: BATTERY AGAINST TRANSPORTATION PERSONNEL OR A PASSENGER

Prohibits the willful and unlawful battery of a transit worker or passenger. This charge elevates simple battery to a more serious offense. Simple battery (PC 242) is any willful and unlawful use of force or violence upon the person of another.

F. CALIFORNIA PENAL CODE § 171(B)

Prohibits any person from bringing or possessing within any state or local public building firearms and other weapons as described in this section. Any person who brings or possesses any of these items is guilty of a public offense punishable by imprisonment in a county jail for not more than one year, or in the state prison.

G. CALIFORNIA CODE OF CIVIL PROCEDURE § 527.8 [UPDATE ON JANUARY 1, 2025]

Authorizes an employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, to seek a temporary restraining order and an order after hearing on behalf of the employee and, at the discretion of the court, any number of other employees at the workplace, and, if appropriate, other employees at other workplaces of the employer.

IV. EMPLOYEE ACCESS TO THE PLAN

An employer shall establish, implement, and maintain an effective workplace violence prevention plan. The plan shall be in writing and shall be available and easily accessible to employees, authorized employee representatives, and representatives of the division at all times..

(Cal. Lab. Code § 6401.9(c)(1)(A)-(B))

SunLine is committed to ensuring that all employees, or their designated representatives, are granted the right and opportunity to examine and receive copies of the Plan. To facilitate this, SunLine offers multiple access methods:

A. DIGITAL ACCESS

Employees can access the Plan on the company's internal server. Specifically, the Plan is located at [K:\Workplace Violence Prevention Plan](#). Here, a PDF version of the Plan, titled "Workplace Violence Prevention Plan," is available for download.

B. PHYSICAL ACCESS

Employees may request a physical copy of the Plan from any SunLine manager, supervisor or safety team member. Upon such a request, a printed copy of the Plan will be provided within five (5) business days. The first copy is provided free of charge. Should an employee or designated representative prefer an electronic copy, it can be provided upon agreement. SunLine reserves the right to charge a reasonable, non-discriminatory fee for any additional printed copies requested within one (1) year of a previous request, provided there have been no updates to the Plan since the last copy was issued.

Employees are informed about the Plan and the methods of accessing it during their safety orientation.

A recognized or certified collective bargaining agent will automatically be considered a designated representative for accessing the Plan.

V. RESPONSIBILITY

The plan shall include . . . names or job titles of the persons responsible for implementing the plan. If there are multiple persons responsible for the plan, their roles shall be clearly described.
(Cal. Lab. Code § 6401.9(c)(2)(A))

The Chief Safety Officer has the authority and responsibility for implementing and maintaining this Plan for SunLine. In the absence of the Chief Safety Officer, the person with authority and responsibility for implementation of this Plan is the immediate supervisor of affected employees.

Division heads, managers, supervisors, and employees will be accountable for implementation and maintenance of this program. Managers, supervisors and lead workers are responsible for implementing and maintaining the Plan in their areas of responsibility and will provide day-to-day program support, guidance, and training to the individual employees on SunLine’s Plan.

A copy of the Plan is available from each manager and supervisor and also available on SunLine’s internal server at: <K:\Workplace Violence Prevention Plan>. Please see the “Employee Access to the Plan” section for the procedure to obtain a physical copy of the Plan.

Responsible Persons	Job Title/Position	WVPP Responsibilities	Phone #	Email
Bryan Valenzuela	Chief Safety Officer	<ul style="list-style-type: none"> Incident Commander & SMS executive 	(760) 668-7743	bvalenzuela@sunline.org
Victor Duran	Super of Safety & Training	<ul style="list-style-type: none"> Training 	(760) 250-8545	vduran@sunline.org
Gilbert Lopez & Carissa Sanchez	Safety Manager & HR Manager/ EEO Officer	<ul style="list-style-type: none"> Response & Investigations 	(442) 241-6775 (760) 343-3456 xt. 1609	glopez@sunline.org csanchez@sunline.org
Eugene Wilson, Craig Stodolka & Jessi Perez	Safety Officer	<ul style="list-style-type: none"> Inspections & Log entry 	(760) 578-5585 (442) 370-1340 (442) 300-6372	ewilson@sunline.org cstodolka@sunline.org jperez@sunline.org
John Sowers	Safety Specialist	<ul style="list-style-type: none"> Regulatory compliance 	(562) 472-5234	jsowers@sunline.org

A. MANAGERS AND SUPERVISORS

Managers and supervisors are responsible for ensuring compliance with the provisions of the Plan. This responsibility includes:

1. informing employees of the policies and procedures set forth in our Plan;
2. taking all reported incidents of workplace violence seriously;
3. investigating all acts of violence, threats, and similar disruptive behavior in a timely fashion and taking the necessary actions;
4. providing feedback to employees regarding the outcome of their reports regarding violent or potentially violent incidents;
5. being cognizant of situations that have the potential to produce violent behavior and promptly addressing them with all concerned parties;
6. encouraging employees who show signs of stress or evidence of possible domestic violence to seek assistance, such as the Employee Assistance Program; and
7. assuring, where needed, that employees have time and opportunity to attend training (e.g., conflict resolution, stress management, etc.).

B. ALL EMPLOYEES

All employees are expected to act professionally, courteously, and responsibly at all times to ensure compliance with SunLine's zero-tolerance workplace violence policy. All employees are responsible for:

1. their own behavior by treating fellow employees, supervisors, and clients with dignity and respect;
2. recognizing and reporting potential trouble to your immediate superior;
3. promptly reporting any and all acts of workplace violence to appropriate authorities, including managers, supervisors, Safety Department, and 911;
4. cooperating fully with investigations into alleged workplace violence; and
5. being familiar with the service provided by the Employee Assistance Program.

C. SAFETY PERSONNEL

Safety personnel are responsible for the safety and well-being of all employees. This responsibility includes:

1. assisting, when appropriate, SunLine officials with threat assessment and response activities;
2. assisting, when appropriate, in assessing the physical and social environment for potential negative and positive stressors (e.g., space, lighting, temperature, and noise level);
3. preparing trend reports and other analyses of safety and health incident report data;
4. assisting in emergency preparedness activities; and
5. informing appropriate personnel about our ability to petition the court for a TRO and/or a WVRO on behalf of employees in the context of workplace safety, and providing employees with the option to decline to be named in the WVRO.

D. EMPLOYEE ASSISTANCE PROGRAM

The employee assistance program is responsible for:

1. providing consultation and guidance to supervisors in dealing with employees who exhibit performance or conduct problems;
2. providing problem assessment for employees experiencing personal problems on and off the job; and
3. providing short-term counseling and referral services to employees.

E. UNIONS AND THEIR REPRESENTATIVES

Unions and their representatives are responsible for:

1. supporting SunLine’s workplace violence policy and program;
2. being cognizant of situations that have the potential to produce violence and promptly addressing them with all concerned parties;
3. being sensitive to stress generated by the workplace and assisting employees in alleviating it;
4. encouraging employees who show signs of stress to obtain assistance, such as that offered by the Employee Assistance Program; and
5. advising employees, if they require, of the procedures for reporting violent behavior.

F. HUMAN RESOURCES

Human resources is responsible for:

1. assisting in assessing and investigating allegations of workplace violence raised by employees, supervisors, and/or managers, as requested;
2. providing technical expertise and consultation to help supervisors determine what course of administrative action is most appropriate in specific situations;
3. providing advice and counsel regarding personnel rules and regulations; and
4. offering training courses to assist employees to deal with situations which may lead to potential violence (e.g., conflict resolution, stress management, negotiation skills).
- 5.

VI. EMPLOYEE ACTIVE INVOLVEMENT

The plan shall include . . . effective procedures to obtain the active involvement of employees and authorized employee representatives in developing the plan, including, but not limited to, through their participation in (1) identifying, evaluating, and correcting workplace violence hazards, (2) designing and implementing training, and (3) reporting and investigating workplace violence incidents.

(Cal. Lab. Code § 6401.9(c)(2)(B))

SunLine encourages inherently valuable employee input regarding (i) how to prevent workplace violence in light of specific and varied work environments, (ii) what training would help employees feel more comfortable when thinking about potential workplace violence, (iii) facilitating reporting that is accessible and encouraged, and (iv) ensuring related investigations are thorough and fair.

SunLine’s Safety Committee (“Committee”) is comprised of an equal number of frontline employee representatives and management, and operates under the direction of the Chief Safety Officer, or designee, in conjunction with department heads, managers and supervisors.

The Committee shall obtain the active involvement of employees and their authorized employee organization representatives in developing and implementing the Plan. The Committee carries out this responsibility by the methods listed below:

1. Conducting Committee meetings that meet at least quarterly, and more often under exigent circumstances.
1. Posting Committee minutes in communication areas.
2. Preparing written records of workplace violence issues discussed, making copies of the records available to all affected employees, and maintaining the records on file.
3. Providing the proposed as well as approved versions of the Plan to employees and authorized their employee organization representatives at no cost and soliciting feedback from employees and their authorized employee organization representatives.
4. Recognizing and informing Committee members that the law intends for employees to be involved in creating the procedures that they will then follow.

Other general procedures to obtain active involvement of employees are as follows:

5. Developing safety incentive programs that encourage employees to take an active role in preventing and addressing workplace violence.
6. Encouraging active participation during any safety-related meeting. These meetings may involve brainstorming sessions, discussions of recent incidents, and reviews of safety rules and procedures.
7. Distributing surveys regarding the Plan and workplace violence at SunLine.
8. Interviewing employees regarding the Plan and/or violence at SunLine.
9. Maintaining a QR code where employees can anonymously provide suggestions, feedback, or concerns regarding the Plan and/or violence at SunLine.

VII. COORDINATION

The plan shall include . . . methods the employer will use to coordinate implementation of the plan with other employers, when applicable, to ensure that those employers and employees understand their respective roles, as provided in the plan. These methods shall ensure that all employees are provided the training required by subdivision (e) and that workplace violence incidents involving any employee are reported, investigated, and recorded.

(Cal. Lab. Code § 6401.9(c)(2)(C))

SunLine shall coordinate the implementation of the Plan with all other employers whose employees (“third-party employers/contracted vendors and/or employees”) work in SunLine’s facilities or operations. At a multiemployer worksite, SunLine shall ensure that if its employees experience a workplace violence incident, that SunLine shall record the information in its Violent Incident Log and shall also provide a copy of the relevant Violent Incident Log to the controlling employer.

SunLine may coordinate the implementation of the Plan with other employers by the following methods:

1. Prepare a list of third-party employers/contracted vendors at SunLine.
2. The Chief Safety Officer or designee is the point of contact for third-party employers/contracted vendors at SunLine regarding this Plan.
3. Provide all third-party employers/contracted vendors a copy of the relevant worksite Plan and obtain copies of each third-party employer’s/contracted vendor’s Plan.
4. Provide third-party employers/contracted vendors SunLine’s training materials.
5. Determine the appropriate training for third-party employees by their respective job duties, as provided in this Plan and determine which employer will provide the training.
6. The Chief Safety Officer or designee shall meet with an equivalent responsible person at third-party employers/contracted vendors when third-party employees are assigned to work at SunLine and discuss the Plan and the Plan of the third-party employer/contracted vendor. These meetings shall occur annually and following any workplace violence incident at any SunLine worksite where a third-party employer/contracted vendor operates.
7. Require all third-party employees to report all reportable incidents (as defined in this Plan) to the appropriate supervisor, manager, or other designated person, and participate in any investigations, as required by this Plan.

VIII. COMMUNICATION

The plan shall include . . . effective procedures to communicate with employees regarding workplace violence matters, including, but not limited to, both of the following: (i) how an employee can report a violent incident, threat, or other workplace violence concern to the employer or law enforcement without fear of reprisal, and (ii) how employee concerns will be investigated as part of the employer's responsibility in complying with subparagraph (I), and how employees will be informed of the results of the investigation and any corrective actions to be taken as part of the employer's responsibility in complying with subparagraph (J).

(Cal. Lab. Code § 6401.9(c)(2)(F))

SunLine recognizes that to maintain a safe, healthy and secure workplace, it must have open, two-way communication between all employees, including managers and supervisors, and other employers on all workplace safety, health and security issues. SunLine's communication procedures are designed to encourage and facilitate a continuous flow of information between management, employees and other employers regarding any suggestions, concerns or information relating to health, safety or security issues, without fear of reprisal and in a form that is readily understandable by all affected employees.

All employees may communicate suggestions, a violent incident, threat, concerns, or other information regarding workplace violence either directly to their supervisor or manager or in accordance with the "Reports of Workplace Violence" section of this Plan.

Employee concerns will be investigated in a timely manner. Employees and authorized employee organization representatives will be informed of the results of the investigation and any corrective actions to be taken, in accordance with the "Hazard Identification and Risk Assessment," "Safety Risk Mitigation," and "Investigations and Post-Incident Response" sections of this Plan.

SunLine's communication procedures include the following:

1. New employee orientation on workplace security policies, procedures, and work practices, including the Plan.
2. Posting of Safety Committee minutes in communication areas.
3. Conducting monthly safety meetings that may address security issues or workplace violence hazards.
4. Posting or distributing workplace safety and violence prevention information, including regarding any identified workplace violence hazards, via newsletters, publications, operations big screen,
5. Maintaining a safety reporting program, including a QR code, where employees can anonymously provide suggestions, feedback, or concerns regarding the Plan and/or violence at SunLine.

6. Distributing surveys regarding the Plan and workplace violence at SunLine.
7. Making the Plan available to all employees upon request at no cost.
8. Training and re-training programs, as provided in the Plan.
9. Updating relevant employees and/or employee organization representatives on the status of investigations and corrective actions through email, including the progress of investigations, the results of investigations, and any corrective actions taken, as appropriate and permissible under state law, including (without limitation) as permitted in light of employee privacy rights (i.e., focusing on general investigation processes, outcomes, and actions taken to improve safety and prevent future incidents).

IX. REPORTS OF WORKPLACE VIOLENCE

The plan shall include . . . effective procedures for the employer to accept and respond to reports of workplace violence, and to prohibit retaliation against an employee who makes such a report.
(Cal. Lab. Code § 6401.9(c)(2)(D))

No employee will be subject to any discipline, retaliation, or reprisal for reporting a concern regarding workplace violence, actual workplace violence, or any injury resulting from workplace violence to SunLine or law enforcement. Any employee, including any supervisor or manager, who retaliates against an employee for such reporting is subject to discipline, up to and including termination.

Any employees who report workplace violence and believe they are being subjected to discipline, retaliation or reprisal should report it to their supervisor, manager, Human Resources, or the Safety Department.

Employees may always obtain help from the individuals identified in the “Responsibility” section of this Plan.

A. RECOGNIZING SIGNS OF POTENTIAL WORKPLACE VIOLENCE

Please see Employee Awareness (Attachment B) for more details regarding warning signs. According to the U.S. Department of Homeland Security, indicators of potentially violent behavior may include one or more of the following:

1. Increased use of alcohol and/or illegal drugs
2. Unexplained increase in absenteeism, and/or vague physical complaints
3. Depression/withdrawal
4. Increased severe mood swings, and noticeably unstable or emotional responses
5. Increasing talks of problems at home
6. Increase in unsolicited comments about violence, firearms, and other dangerous weapons and violent crimes.

B. GENERAL EMPLOYEE REPORTING

SunLine requires all employees to report workplace violence—including threats of violence—directly to their immediate supervisor, manager, or the Safety Department. Call 911 first if immediate danger exists and it is safe to do so (e.g., armed intruder, protection of self or others). Any person receiving a report of workplace violence shall forward it to the Safety Department.

SunLine requires completion of a Violent Incident Report Form (Attachment A) when workplace violence occurs, which may be completed by the affected employee or the person receiving the report.

Depending on the nature of the incident and the content of any report made to law enforcement or SunLine, SunLine may provide an employee with counseling or training, as warranted, regarding appropriate circumstances to make a report of workplace violence.

Nothing in this policy shall prevent an employee from accessing their mobile or other communication devices to seek emergency assistance, assess the safety of an emergency situation, or communicate with a person to verify their safety.

Operations adheres to the following procedure immediately following a workplace violence incident:

C. OPERATORS

1. Call law enforcement if there is an immediate threat or danger to your personal safety or the safety of others (e.g., acts of violence or threats of violence aboard a bus or at a bus stop).
2. Notify dispatch.
3. Be prepared to report the circumstances of the incident and request the type of help needed (e.g., supervisor, police, paramedics, etc.).
4. Follow any instructions given by dispatch, supervisor or emergency responders.
5. Maintain control of the situation until first responders or management arrives.
6. Complete a Violent Incident Report Form (Attachment A).

D. FIELD SUPERVISORS

1. Be notified by the dispatcher immediately and sent to the scene.
2. Be in charge of the workplace violence scene to be certain all SunLine procedures are followed.
3. Remain in contact with dispatch to (a) ensure emergency services/police are summoned, depending on the circumstances, and (b) keep dispatch informed of the circumstances as they occur at the scene so the necessary employees and equipment can be made available.

E. DISPATCH

1. Immediately handle the scene, by radio or phone, to ensure complete medical attention or other emergency services are contacted, and that this information is relayed to the supervisor/driver at the scene.

2. Notify the Deputy Chief Transportation Officer, and follow the incident alert process.

F. DEPUTY CHIEF TRANSPORTATION OFFICER

- Assess the circumstances of the incident and make the determination of notifying the Chief Transportation Officer or other SunLine staff as warranted under the circumstances.

G. CHIEF TRANSPORTATION OFFICER

- Assume responsibility of notifying the Chief Safety Officer and CEO/GM or other SunLine staff as warranted under the circumstances.

Additionally, employees may submit safety feedback forms in designated collection boxes to inform management of potential workplace violence hazards. Below is a representation of the form, which includes a QR code for anonymous online reporting.



This form is for employees who wish to provide suggestions or report an unsafe workplace condition or practice.

Description of unsafe condition or practice:

Cause of other contributing practices:

Employee suggestion for improving safety:

Has this been reported to a supervisor? Yes No

Employee Name: (Optional)

Department:

Optional reporting at SunLine's online reporting portal: <https://app.industrysafe.com/SUNLINETRA/hazards/>  QR Code

Use of this form and other reports about unsafe conditions or practices are protected by law: It is illegal for an employer to act against employees for exercising their right to communicate safety problems.

The employer will investigate any reports or questions as required by the injury and illness Prevention Program Standard (8 CCR 3203) and advise the employee who provided the information, or the workers in the area it effects or results.

X. COMPLIANCE

*The plan shall include . . . effective procedures to ensure that supervisory and nonsupervisory employees comply with the plan in a manner consistent with paragraph (2) of subdivision (a) of Section 3203 of Title 8 of the California Code of Regulations.
(Cal. Lab. Code § 6401.9(c)(2)(E))*

SunLine is committed to ensuring that all safety and health policies and procedures involving workplace security, including this Plan, are communicated clearly and understood by all employees.

All employees are responsible for using safe work practices, for following all directives, policies and procedures, including this Plan, and for assisting in maintaining a safe and secure work environment. SunLine utilizes the following methods to ensure all employees comply with work

practices that are designed to make the workplace more secure, and do not engage in threats or physical actions which create a security hazard for others in the workplace:

1. Inform employees about the Plan policies and procedures through orientation, training, bulletin postings, lounge monitors, safety meetings, and Safety Committee meetings.
2. Making the Plan available to employees and their authorized employee organization representatives as set forth in the “Employee Access” section of this Plan.
3. Foster open, two-way communication with all employees regarding compliance concerns.
4. Evaluate the performance of all employees in complying with our workplace safety measures.
5. Recognize employees who perform work practices which promote a safe, violence-free workplace via our Safety Incentive Program.
6. Provide training or counseling to employees who need to improve work practices designed to ensure workplace safety.
7. Discipline employees for violations of procedures contained herein.
8. Follow established workplace safety directives, policies and procedures.
9. Periodic inspections of the worksite in accordance with the “Hazard Identification and Safety Risk Assessment” as well as “Safety Risk Mitigation” sections of this Plan.
10. Keep comprehensive records of training, non-compliance incidents, disciplinary actions, and program evaluations.

Disciplinary actions are based on infractions of SunLine’s rules and regulations that are necessary and proper for safe and efficient operations. Failure to follow this Plan, SunLine’s IIPP or any other applicable SunLine directives, policies or procedures is grounds for discipline, up to an including termination. Personnel whose safety record requires follow-up, additional training, or discipline, including discharge, are identified through the maintenance of records which indicate violations of safety rules and procedures.

XI. TRAINING

The plan shall include . . . procedures to develop and provide training material appropriate in content and vocabulary to the educational level, literacy, and language of employees. The employer shall provide effective training to employees . . . when the plan is first established, annually thereafter, when a new or previously unrecognized workplace violence hazard has been identified, and when changes are made to the plan. Additional training may be limited to addressing the new workplace violence hazard or changes to the plan.

(Cal. Lab. Code § 6401.9(c)(2)(H) & (e)(1)-(3))

SunLine is committed to ensuring that all employees have effective general and job-specific training on workplace security practices that address the workplace violence risks that employees may reasonably anticipate encountering in their jobs. In addition to the training

Continual training is administered through (1) safety meetings, (2) tailgate meetings, (3) special presentations or classes, (4) publications, (5) newsletters, and (6) coaching at work stations.

A. GENERAL WORKPLACE VIOLENCE/SECURITY TRAINING – ALL EMPLOYEES

1. How to obtain a copy of this Plan at no cost.
2. How to participate in the development and implementation of this Plan, as described in the “Employee Active Involvement” section.
3. The definitions and requirements as provided in this Plan.
4. Reporting workplace violence incidents or concerns to SunLine or law enforcement without fear of reprisal, as described in the “Communication” as well as “Reports of Workplace Violence” sections of this Plan.
5. The Violent Incident Log as described in the “Violent Incident Log” section.
6. How to obtain records pertaining to workplace violence (1) hazard identification and safety risk assessments, (2) safety risk mitigations, (3) training records, and (4) incident logs.
7. How to recognize workplace security hazards, including the risk factors associated with the four types of workplace violence.
8. Ways to defuse hostile or threatening situations.
9. Measures to summon others for assistance as well as routes of escape.
10. Post-event trauma counseling for employees desiring such assistance.
11. How SunLine can petition the court for a TRO and/or a WVRO on behalf of employees that are victims of violence or receive credible threats of violence from customers, coworkers, or companions.

In addition, employees may receive the following job-specific training regarding the different types of workplace violence, to the extent that such information was not already covered in other training:

B. TYPE I WORKPLACE VIOLENCE TRAINING

1. Crime awareness
2. Location and operation of silent alarms, if any
3. Communication procedures
4. Proper work practices for specific workplace activities, occupations, or assignments, such as working shifts at night or in isolation

C. TYPE II WORKPLACE VIOLENCE TRAINING

1. Self-protection
2. Dealing with angry, hostile or threatening individuals
3. Location, operation, care, and maintenance of alarm systems and other protective devices
4. Determination of when to use the "buddy system" or other assistance from coworkers.
5. Awareness of indicators that lead to violent acts by service recipients

D. TYPE III AND IV WORKPLACE VIOLENCE TRAINING

1. Employee Assistance Program
2. High stress times such as impending layoffs

3. Access to potential or improvised weapons such as scissors, tools, etc.
4. Managing with respect and consideration
5. Domestic violence involving spouse or former spouse/domestic partner at work

XII. HAZARD IDENTIFICATION AND SAFETY RISK ASSESSMENT

The plan shall include . . . procedures to identify and evaluate workplace violence hazards, including, but not limited to, scheduled periodic inspections to identify unsafe conditions and work practices and employee reports and concerns. Inspections shall be conducted when the plan is first established, after each workplace violence incident, and whenever the employer is made aware of a new or previously unrecognized hazard. The plan shall be in effect at all times and in all work areas and be specific to the hazards and corrective measures for each work area and operation.

(Cal. Lab. Code § 6401.9(c)(2)(I) & (c)(1)(B))

SunLine adheres to a rigorous safety risk management process, which includes safety hazard identification and safety risk assessment. Potential consequences of hazards possess safety risks of varying degrees of severity and likelihood. Safety risks are indexed using a risk assessment matrix, thereby establishing a prioritization system to address potential consequences of identified hazards with appropriate mitigation efforts. See section “Safety Risk Mitigation” for procedures to correct safety risks.

Records of workplace violence hazard identification and safety risk assessments shall be created and maintained for a minimum of five years. Please see the “Records” Section of this Plan.

Safety definitions related to safety risk management set forth in Part 673 of FTA regulations include the following:

A. DEFINITIONS

1. **Hazard:** any real or potential condition that can *CAUSE* injury, illness, or death; damage to or loss of facilities, equipment, rolling stock, or infrastructure of a public transportation system; or damage to the environment (e.g., unclear roadway signage, worn vehicle brake assembly, or narrow traffic lanes).
2. **Potential consequence:** the *EFFECT* of a hazard (e.g., worn brakes cause increased stopping distances, narrow traffic lanes cause an inability for buses to safely maneuver in their lanes).
3. **Safety risk severity:** the anticipated measurement of impact of a hazard’s worst reasonably foreseeable potential consequence (e.g., catastrophic, critical, marginal, negligible).
4. **Safety risk likelihood:** the likelihood of a potential consequence occurring, with the severity of the potential consequence serving as the key reference point (e.g., frequent, probable,

occasional, remote, improbable). This determination must take into account existing mitigations, and is often guided by historical data.

5. **Safety risk:** the composite of predicted severity and likelihood of a potential consequence of a hazard.
6. **Safety event:** an unexpected outcome resulting in injury or death; damage to or loss of the facilities, equipment, rolling stock, or infrastructure of a public transportation system; or damage to the environment (e.g., erratic vehicle speeds may lead to collisions, worn brakes lead to rear-end collisions, narrow lanes lead to mirror strikes).
7. **Near-miss:** a narrowly avoided safety event.
8. **Safety hazard identification:** the collection of data or other information to state the generic hazard(s) and identify potential consequences.
9. **Safety risk assessment:** the formal activity whereby a transit agency determines safety risk management priorities by establishing the significance or value of its safety risk, including how existing defenses could mitigate potential consequences. This assessment references a risk assessment matrix for indexing purposes.
10. **Safety risk mitigation:** methods to eliminate or reduce the severity and/or likelihood of a potential consequence of a hazard to an acceptable level.

B. HAZARD IDENTIFICATION

Workplace violence information gathered from the following sources is reviewed regularly by the Chief Safety Officer or designee to identify potential hazards:

1. Violent Incident Report Forms (Attachment A);
2. employee safety reporting;
3. periodic inspections;
4. alerts or notifications from the FTA or NTSB regarding industry hazards;
5. industry data;
6. observation of work practices;
7. evaluation of environmental risk factors; and
8. workplace violence investigations.

C. PERIODIC INSPECTIONS & WORKPLACE VIOLENCE RISK FACTORS

SunLine shall conduct inspections for workplace violence hazards on a periodic basis. Periodic inspections consist of identification and assessment of workplace security hazards, unsafe conditions and work practices, and employee reports and concerns. Hazards identified during the inspections must be documented. Refer to the “Responsibility” section to identify the personnel that may conduct periodic inspections utilizing our EHS platform, Vector Solutions.

Periodic inspections shall be conducted at a minimum as follows:

1. When this Plan is first established.
2. When SunLine is made aware of new or previously unrecognized workplace violence hazards.
3. After each workplace violence incident.
4. Whenever there is a report of workplace violence.
5. On a monthly basis.

SunLine may consider the following workplace violence risk factors while conducting safety risk management:

1. Lack of posting of emergency telephone numbers for law enforcement, fire, and medical services.
2. Lack of employee access to a telephone with an outside line.
3. Adequacy of workplace security systems, such as door locks, entry codes or badge readers, security windows, physical barriers and restraint systems.
4. The exterior and interior of the workplace for its attractiveness to criminals.
5. Employees working in locations isolated from other employees because their assignment requires them to work alone, in remote locations, during night or early morning hours, or where an assailant could prevent entry into the work area by responders or other employees.
6. Poor illumination or blocked visibility of areas where possible assailants may be present.
7. The need for surveillance measures, such as mirrors or cameras.
8. Lack of physical barriers between employees and persons at risk of committing workplace violence.
9. Access to and freedom of movement within the workplace by non-employees, including recently discharged employees or other persons with whom an employee is having a dispute.
10. Lack of effective escape routes.
11. Frequency and severity of threatening or hostile situations that may lead to violent acts by service recipients.
12. Failure to follow SunLine's communication procedures and processes in accordance with the "Communication" section of the Plan.
13. Lack of a designated safe area where employees can go to in an emergency.
14. Obstacles and impediments to accessing alarm systems.
15. Effectiveness of systems and procedures that warn others of actual or potential workplace violence danger or that summon assistance, including alarms, panic buttons, or code words/phrases.
16. Entryways where unauthorized entrance may occur, such as doors designated for staff entrance or emergency exits.
17. Procedures for reporting suspicious persons or activities.
18. The use of work practices such as the "buddy" system for specified emergency events.

D. SAFETY RISK ASSESSMENT

After a hazard is identified, a risk assessment matrix (as seen below) is used to quantify the associated risk based upon the likelihood and severity of the potential consequences caused by the hazard. For example, a potential consequence that is "probable" and "catastrophic" is indexed as "1B."

The severity and likelihood of a hazard is based upon the worst reasonably foreseeable potential consequence, and must take into account the effectiveness of any existing mitigations. Such a determination is guided by (1) quantitative historical data from the employee safety reporting program, industry, and inspections; and (2) qualitative subject matter expert opinion. The risk assessment process generally follows the following steps:

1. Assess the hazard’s consequences in terms of the likelihood of the consequences occurring.
2. Assess the hazard’s consequences in terms of their severity of impact of the consequences if they occur.
 - a. Steps one and two must consider current safety risk mitigations. What defenses are already in place? Consider any technology, training, or regulation in place.
3. Index safety risk based on this consequence likelihood and severity analysis.
4. Determine level of acceptability.

Risk Assessment Matrix		HAZARD CONSEQUENCE SEVERITY			
		1. Catastrophic Death or major system loss	2. Critical Severe harm or system damages	3. Marginal Minor harm or system damages	4. Negligible Limited to no harm/system damages
HAZARD CONSEQUENCE LIKELIHOOD	a. Frequent Likely to occur often	1B: High (Unacceptable)	2C: Serious (Undesirable)	3D: Medium (Acceptable w/ Review)	4E: Low (Acceptable w/o Review)
	b. Probable Will occur several times				
	c. Occasional Likely to occur sometime	3D: Medium (Acceptable w/ Review)	4E: Low (Acceptable w/o Review)		
	d. Remote Unlikely, but possible				
	e. Improbable Occurrence level at or near zero	Eliminated (no action needed)			
	f. Eliminated Incapable of occurrence				

XIII. SAFETY RISK MITIGATION

The plan shall include . . . procedures to correct workplace hazards identified and evaluated in subparagraph (I) in a timely manner . . . based on the severity of the hazard, when first observed or discovered. When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.

(Cal. Lab. Code § 6401.9(c)(2)(J) & 8 CCR § 3203(a)(6)(A)-(B))

SunLine shall inform affected employees regarding completed workplace violence investigations conducted pursuant to this Plan and the records of any corrective action taken in accordance with this and the “Communication” section.

SunLine mitigates identified risks in accordance with the assessed level of frequency and severity of potential consequences caused by hazards. Hazard consequences, which threaten the security of employees, shall be corrected based on severity when they are first observed or discovered. The following actions are taken depending on the level of associated risk:

Risk Resolution Requirements	
High (Unacceptable)	Corrected immediately after discovery
Serious (Undesirable)	Corrected w/in 24 hours after discovery
Medium (Acceptable w/ Review)	Reviewed and documented by management within 24 hours
Low (Acceptable w/o Review)	Discretionary review within 24 hours
Eliminated (Acceptable)	No action needed

SunLine shall use engineering and work practice controls to eliminate or minimize employee exposure to the identified hazards to the extent feasible. SunLine shall take measures to protect employees from imminent hazards immediately.

Almost all of transit mitigation strategies involve strengthening or developing new defenses. Transit safety risk defenses include technology (safety devices or systems), training, and regulation (policies, rules, or procedures).

Operational strategies for safety risk mitigation include the following:

1. **Avoid** hazard consequences by dead-lining bus(es), cancelling or delaying bus service, or rerouting buses.
2. **Reduce** likelihood or severity so that safety risk is as low as reasonably practicable by implementing slow zones, requiring specific certifications or PPE, and conducting site evaluations or inspections.
3. **Segregate** by limiting the exposure of people, assets or operations to hazard consequences by assigning difficult responsibilities to employees with specialized training, or implementing redundancies such as backup communication devices.

Generally, upon report of a hazard to an immediate supervisor, that supervisor reports the hazard to the Chief Safety Officer or designee. If a hazard is determined by the Chief Safety Officer or designee to fall within the Unacceptable or Undesirable category, they will notify the CEO/General Manager of the risk and mitigation plan. Additionally, depending on the context, the following may occur: (1) all individuals are removed from the immediate area, (2) buses are immediately evacuated, (3) affected work areas are immediately cordoned off, (4) appropriate authorities are notified, and (5) appropriate measures are taken to mitigate the hazard.

Workplace violence mitigation measures may include, as applicable, but shall not be limited to:

1. Making the workplace unattractive to criminals by maintaining lighting around and at the workplace.
2. Establishing code words or phrases for operators to covertly signal dispatch of a threat.
3. Posting of emergency telephone numbers for law enforcement, fire, and medical services.
4. Ensuring employees have access to a telephone with an outside line.
5. Providing functioning systems, such as door locks, violence windows, physical barriers, emergency alarms and other restraint systems.
6. Providing line of sight or other immediate communication in all areas where members of the public may be present. This may include removal of sight barriers, provision of surveillance systems or other sight aids such as mirrors, use of a buddy system, improving illumination, or other effective means.
7. Configuring facility spaces so that employee access to doors and alarm systems cannot be impeded by persons or obstacles.
8. Configuring facility spaces to control and limit freedom of movement within, the workplace by non-employees, including recently discharged employees or persons with whom an employee is having a dispute.
9. Ensuring adequate employee escape routes.

10. Filing Temporary Restraining Orders and/or Workplace Violence Restraining Orders on behalf of employees.
11. Providing training and re-training, including as provided in the “Training” section of this Plan.
12. Ensuring all employees report workplace violence concerns and incidents, including suspicious persons, activities, and packages, in accordance with the “Communication” and Reports of Workplace Violence” sections of this Plan.
13. Ensuring communication in accordance with the “Communication” section of this Plan.
14. Ensuring an appropriate response to workplace violence concerns and incidents, and other issues such as verbal abuse or property damage are reported to the appropriate supervisor or manager and resolved in accordance with this Plan.
15. Disciplining, as appropriate, employees for workplace violence incidents.

Records of workplace violence safety risk mitigations shall be created and maintained for a minimum of five years. Please see the “Records” Section of this Plan.

XIV. EMERGENCY RESPONSE

The plan shall include . . . effective procedures to respond to actual or potential workplace violence emergencies, including, but not limited to, all of the following: (i) effective means to alert employees of the presence, location, and nature of workplace violence emergencies, (ii) evacuation or sheltering plans that are appropriate and feasible for the worksite, and (iii) how to obtain help from staff assigned to respond to workplace violence emergencies, if any, security personnel, if any, and law enforcement.

(Cal. Lab. Code § 6401.9(c)(2)(G))

All employees are urged to read and fully understand SunLine’s Emergency Action Plan for comprehensive emergency procedures pertaining to all types of emergencies. Supervisors and managers must be willing to take action if a workplace violence emergency presents itself.

Depending on the situation, a Command Post (CP) may be established by the Incident Commander (IC), who may be the Chief Safety Officer, designated emergency personnel, or the individual present with the highest qualifications in terms of authority, knowledge, and skills necessary to manage the incident effectively. The Incident Commander has full authority to implement all levels of emergency response.

In the event of communication disruption, the Coachella Valley Disaster Radio can be utilized to contact the appropriate first responders. Use of the Coachella Valley Disaster Radio will be limited to the Incident Commander.

A. HOW TO GET HELP

The following emergency procedure applies to all employees, contractors, and visitors within all facilities and operational areas of SunLine, including but not limited to offices, transit vehicles, maintenance yards, and customer service areas:

1. Dial 911 first in the event of any immediate threat to life or property. Provide the 911 operator with as much information as possible, including the location (address and specific site details), nature of the incident, description/location of individuals involved, and any immediate medical concerns.
2. Operators notify SunLine dispatch.
3. Notify an immediate supervisor, manager or the Safety Department.
4. In the event of an emergency on campus, activate the nearest emergency pull station by pulling down the indicated handle.

Additionally, we have posted the following emergency telephone numbers near telephones, emergency notice boards, and other conspicuous locations for use when telephones are used to report emergencies:

Emergency Responder	Telephone Number
Riverside County Sheriff’s Department (Palm Desert Sheriff’s Station)	760-836-1600
Indio Police Department	760-391-4057
The Gas Co. Emergency	800-427-2200
Imperial Irrigation District (IID) Emergency	800-303-7756

B. EMERGENCY ALERTS

When a workplace violence emergency occurs (e.g., explosive threats, hostage situations, firearm threats, hazmat or chemical threats), employees should activate the nearest emergency pull station. Alarm pulls are located at the exits of most buildings. Activate the pull station by pulling down the indicated handle.

Division I (Thousand Palms) as well as Division II (Indio) Operations Communications Centers and Maintenance Shops have a remote unit that indicates which pull station was activated. Supervisors can then check the location to verify that an emergency exists, and make an announcement on the public address system with directions to either evacuate or shelter-in-place.

C. EVACUATION

Some emergencies require evacuation, while some require employees to stay indoors, or to stay in a safe area. Our emergency evacuation procedures are designed to respond to many potential

emergencies, depending on the degree of seriousness. If an evacuation is deemed necessary, the Incident Commander will decide the type of evacuation to implement from the following:

1. Immediate and total
2. Immediate and partial
3. Delayed and partial
4. Delayed and total

Emergency evacuation maps posted at exits and detailed in the Emergency Action Plan provide initial guidance, but always adapt your actions based on real-time assessments and instructions. If an announcement is made to evacuate, on-site employees must:

1. Remain calm, leave your belongings behind, and keep your hands visible to avoid misunderstandings and show you are not a threat.
2. Follow evacuation maps or the guidance provided by the Incident Commander, safety personnel, or emergency responders who will direct you to the safest evacuation route and assembly areas based on the current situation.
3. Participate in a head count once at a safe area, and await further instructions.

D. SHELTERING

Non-evacuation or shelter-in-place emergencies require employees to remain at their present location and stand-by for public announcement instructions from the Incident Commander or emergency personnel.

If there is structural damage, the Incident Commander will initiate the CERT task Force under Command Staff for deployment of damage assessment teams.

If anyone is injured or contaminated, the Incident Commander will activate rescue and first aid efforts.

A lockdown order will be implemented if one of the following emergencies occurs:

1. When notified to do so by local law enforcement, fire or other governmental agency.
2. When an armed individual has been identified within the grounds of the Sunline Transit Agency facility.
3. The report (sound) of a firearm being discharged can be heard.

Who issues the lockdown order:

1. The Chief Safety Officer or his/her designee.
2. The Chief Executive Officer/General Manager or his/her designee

When the order to “lockdown” is issued, employees should proceed to the nearest office, storage space or any available room that has the capability of locking the entrance door.

In the event of an “active shooter,” employees should leave the area only if the location of the active shooter is known and it is safe to do so. If the location of the active shooter is not known, the employee(s) should lock and barricade the door(s). Employees should avoid giving an active shooter any indication they are inside their place of refuge by hiding, remaining completely silent, and avoiding windows. Remain in your place of refuge until the “all clear” signal is given to not interfere with law enforcement operations or enter the path of danger—this may take several hours.

When interacting with law enforcement during an “active shooter” event, employees should react as follows:

1. Remain calm, and follow officers’ instructions.
2. Immediately raise hands and spread fingers—keep hands visible at all times.
3. Avoid making quick movements toward officers such as attempting to hold on to them.
4. Avoid pointing, screaming and/or yelling.
5. Do not stop to ask officers for help or direction when evacuating, just proceed in the direction from which officers are entering the premises.

XV. INVESTIGATIONS AND POST-INCIDENT RESPONSE

The plan shall include . . . procedures for post-incident response and investigation.
(Cal. Lab. Code § 6401.9(c)(2)(K))

SunLine must investigate workplace violence, concerns of workplace violence, and injuries from workplace violence, regardless of how they are reported or how SunLine becomes aware of them. SunLine shall promptly investigate and communicate with an employee regarding employee concerns of workplace violence and conduct investigations to prevent or respond to workplace violence. Investigations shall be a concerted effort primarily between the Safety Manager and the EEO Officer or their designees, as appropriate.

Investigative reports prepared in accordance with this Plan shall not contain information, such as a person’s name, address, electronic mail address, telephone number, social security number, or other information that, alone or in combination with other publicly available information, reveals the person’s identity.

The requirements and procedures of this section are in addition to those described elsewhere in this Plan and those which will be taken in accordance with SunLine’s policy regarding investigating misconduct and/or discipline. An investigation in accordance with those policies, and other applicable policies, may serve as an investigation under this Plan.

In the event an employee is injured or sought medical treatment, supervisors shall also comply with the appropriate procedures, including completing the required entries or forms, such as OSHA Log 300 or 300A, Cal/OSHA Form 301 Injury and Illness Incident Report, and/or California Department of Industrial Relations, Division of Workers’ Compensation Form DWC-1 (Workers’

Compensation Claim Form). Please also refer to the “Reports of Workplace Violence” section of this Plan. Should an injury qualify as a “serious” injury as defined by Title 8 CCR Section 330, SunLine must report the injury to Cal/OSHA if required by Title 8 CCR Section 342.

In the unfortunate event of a workplace violence incident at SunLine, our immediate priority is the safety and well-being of our employees, passengers, and the community we serve. This section outlines a comprehensive and systematic approach to managing the aftermath of such incidents. This approach is designed to ensure a prompt, coordinated, and effective response, aiming to mitigate the impact, support the affected individuals, and prevent future occurrences.

The success of our post-incident response and investigation efforts relies on the active participation of all employees, clear communication, and a strong commitment to creating a violence-free workplace. Procedures for investigating workplace violence incidents include:

H. RESPONSE

1. Visit the scene of the alleged incident as soon as possible.
2. Provide immediate medical care or first aid to employees who have been injured in the incident.
3. Take appropriate measures to contain the situation and prevent escalation. This may involve coordinating with law enforcement and emergency responders.

I. SUPPORT FOR AFFECTED EMPLOYEES

1. Refer affected individuals to the Employee Assistance Program for counseling and support services. See Additional Resources (Attachment C) as well as Domestic Violence (Attachment D) for more supportive resources.
2. Establish open lines of communication with affected employees and their families, offering continuous support and information on available resources.

J. INVESTIGATION

1. Complete the Violent Incident Report Form (Attachment A), if not already completed.
2. Inform affected employees how concerns will be investigated and how employees will be informed of the results of the investigations and any corrective action, in accordance with the “Communication,” “Hazard Identification and Safety Risk Assessment,” and “Safety Risk Mitigation” sections of this Plan.
3. Begin a thorough investigation as soon as it is safe to do so, led by the Safety Department in collaboration with Human Resources and legal.
4. Collect and document all relevant evidence, including affected employee and witness statements, physical evidence, and electronic data. Preserve the integrity of the scene until law enforcement officials have completed their investigation.
5. Determine the cause of the incident by considering the totality of the circumstances.

K. POST-INCIDENT REVIEW AND FOLLOW-UP

1. Conduct a post-incident debriefing as soon as possible after the incident with all employees, supervisors, and security involved in the incident. Offer an opportunity to discuss their experiences, express concerns, and receive information on support services.
2. Examine the workplace for factors associated with the incident, including any previous reports of inappropriate behavior by the perpetrator.
3. Review whether appropriate mitigation measures developed under the Plan, such as provision and use of alarms or other means of summoning assistance, and response by staff or law enforcement, were effectively implemented.
4. Identify any necessary actions to prevent future incidents, based on the findings of the investigation. This may include revising policies, enhancing security measures, or providing additional training to employees.
5. Record findings as well as any reports completed by law enforcement.
6. Complete entries in the Workplace Violence Incident Log on Vector Solutions.
7. Continuously monitor the well-being of affected individuals, providing ongoing support as needed.
8. Consider filing temporary restraining orders and/or workplace violence restraining orders on behalf of employees that are victims of violence or receive credible threats of violence.
9. Prepare a written report detailing the incident, the response, the findings of the investigation, and recommendations or actions taken to prevent future incidents.

L. **INFORMING EMPLOYEES**

To the extent not addressed in accordance with this section and the “Communication,” “Hazard Identification and Safety Risk Assessment,” and “Safety Risk Mitigation” sections of this Plan, SunLine may investigate and communicate with employees regarding their concerns by sending the employee via email a summary of (1) the employee’s concern, (2) the investigation, and (3) actions taken in response to the employee’s concern.

XVI. VIOLENT INCIDENT LOG

The employer shall record information in a violent incident log for every workplace violence incident.

(Cal. Lab. Code § 6401.9(d))

SunLine shall record information regarding incidents of workplace violence in the Violent Incident Log, which is located on our EHS management platform, Vector Solutions. The Log shall contain the information requested in the Log about all incidents, the post-incident response, and incident investigation.

SunLine shall prepare the Log based on information solicited from involved employees, including those who experienced the violent incident; on witness statements; and on the findings of investigations into workplace violence incidents. The Log shall not contain any elements of personally identifiable information, such as a person's name, address, electronic mail address,

telephone number, or Social Security number, or other information that, alone or in combination with other publicly available information, reveals any person's identity.

Workplace violence resulting in an injury requiring recording the information on OSHA Log 300 or 300A, Cal/OSHA Form 301 Injury and Illness Incident Report, and/or California Department of Industrial Relations, Division of Workers' Compensation Form DWC-1 (Workers' Compensation Claim Form) must also be recorded on those documents, in addition to the Violent Incident Log. All OSHA forms and logs are processed and stored in accordance with the applicable laws and regulations relating to those forms.

For multiemployer worksites, the employer or employers whose employees experienced the workplace violence incident shall record the information in the Violent Incident Log and shall provide a copy of that log to the controlling employer.

PLAN REVIEW

The plan shall include . . . procedures to review the effectiveness of the plan and revise the plan as needed.

(Cal. Lab. Code § 6401.9(c)(2)(L))

SunLine shall review and revise this Plan as provided below. SunLine shall review the Plan at least annually, when a deficiency is observed or becomes apparent, and after a workplace violence incident, and as needed at any other time.

Review and any revision, as needed, of the Plan shall consist of the following:

1. The Plan itself and the effectiveness of the Plan.
2. Procedures used to obtain the active involvement of employees and their authorized employee organization representatives in developing, implementing and reviewing the plan, as discussed in the "Employee Active Involvement" section.
3. Violent Incident Log.
4. Investigations of alleged hazardous conditions or employee concerns.
5. Investigations of workplace violence incidents.
6. The effectiveness of security systems, including alarms, emergency response plans, and security personnel, if applicable.
7. Records of hazard identification, safety risk assessment, and safety risk mitigation.

SunLine shall conduct the review required by this section by the following methods:

1. Providing the Plan and proposed revisions to the Plan to the Safety Committee before revisions are implemented and soliciting feedback from employees.
2. Maintaining a safety reporting program where employees can provide suggestions, feedback or concerns regarding the Plan and/or violence at SunLine.

SunLine shall communicate material revisions to the Plan, such as changes to procedures or contact information, to employees in accordance with the “Communication” section of this Plan.

XVII. RECORDS

The plan shall include . . . records of workplace violence . . .

(Cal. Lab. Code § 6401.9(f))

SunLine shall keep and maintain records as required by this Plan.

SunLine shall create training records, which shall include training dates, contents or a summary of the training sessions, names and qualifications of persons conducting the training, and names and job titles of all persons attending the training sessions, and maintain training records for a minimum of **one year**.

To the extent feasible, any associated written materials or presentations shall be kept with the relevant Training Attendance Log.

SunLine shall create and maintain the following records for a minimum of **five years**:

1. Hazard Identification, Safety Risk Assessment, and Safety Risk Mitigation.
2. Violent Incident Log.
3. Records of workplace violent incident investigations conducted pursuant to this Plan. Investigation records shall not contain personally identifiable information.

The following records shall be made available to employees and their authorized representatives, upon request and without cost, for examination and copying within 15 calendar days of a request: (1) Records of workplace violence hazard identification, safety risk assessment, and safety risk mitigation; (2) Training records; and (3) the Violent Incident Log. Any employee personally identifiable information shall not be released except as authorized by law. All records required by this Plan shall be made available to Cal-OSHA upon request and as required by law.

XVIII. REPORTING RESPONSIBILITIES

SunLine shall report work-connected fatalities and serious injuries as required by California Code of Regulations (CCR), Title 8, Section 342(a). SunLine will immediately report to Cal/OSHA any serious injury or illness (as defined by CCR, Title 8, Section 330(h)), or death (including any due to Workplace Violence) of an employee occurring in a place of employment

or in connection with any employment. Immediately means as soon as practically possible but not longer than eight (8) hours after the employer knows or with diligent inquiry would have known of the death or serious injury or illness. If the employer can demonstrate that exigent circumstances exist, the time frame for the report may be made no longer than 24 hours after the incident.

ACKNOWLEDGMENT OF RECEIPT

I have received a copy of SunLine’s Workplace Violence Prevention Plan (the “Plan”) and understand that it contains important information about SunLine’s workplace safety and security policies and about my rights, responsibilities, and obligations as an employee. I acknowledge that I have read, understand, and will adhere to the Plan and that I have familiarized myself with the material in the Plan. I understand that SunLine may change, rescind, delete, or add to any policies, benefits, and practices described in the Plan from time to time, at its sole and absolute discretion, with or without prior notice.

Date

Signature

Print Name

Employee ID Number (if applicable)

VIOLENT INCIDENT REPORT – ATTACHMENT A

Reporting Employee Name: _____

Name/Title/Contact of Person Completing Form: _____

<u>Date/Time</u>	<u>Incident Location</u>	<u>Incident Description</u>	<u>Violence Committed By?¹</u>
			(see footer for classification)

Type of Incident: (check all that apply)

- Physical attack without a weapon (e.g. biting, choking, grabbing, hair pulling, kicking, punching, slapping, pushing, pulling, scratching, spitting) Attack with weapon (e.g. gun, knife, other object) Threat of physical force or use of weapon or other object Sexual assault or threat (rape or attempted rape, physical display, or unwanted verbal or physical sexual contact) Verbal Harassment Animal Attack Other _____

Incident Locations: (check all that apply)

- Aboard Bus Bus Stop Operations Maintenance Admin Reception Learning Center Parts Parking Lot Fuel Station Other Shared Area Other Location

Incident Specifics: (check all that apply)

- Victim Performing Usual Job Duties Poor Lighting Rushed Working During Low Staffing Level High Crime Area Isolated/Alone Unable to Get Help/Assistance Working in Community Setting Working in Unfamiliar/New Location

Consequence Specifics: (check all that apply)

- Medical Treatment Provided Assistance Provided to Conclude Incident (detail in Incident Description) Security Contacted Law Enforcement Contacted Lost Time of Work Hours: _____ Actions Requested to Protect from Continuing Threat (if any):

¹ The perpetrator will be classified as: (1) customer or client; (2) family or friend of a customer; (3) stranger with criminal intent; (4) co-worker, supervisor or manager of victim, (5) partner or spouse, parent or relative of victim, or (6) other perpetrator.

EMPLOYEE AWARENESS INFORMATION – ATTACHMENT B

This attachment describes the different types of workplace violence and what can be done to prevent or minimize incidents of violence, threats, harassment intimidation, and other disruptive behavior. Additionally, all employees are encouraged to complete [FEMA's online independent study IS-906](#) to gain a better understanding of workplace security awareness.

DEFINITIONS

The California Legislature promulgated the definition of workplace violence under Section 6401.9 of the California Labor Code. For purposes of this policy and related procedures, SunLine will use the following four categories of workplace violence:

Type 1 – Workplace violence committed by a person who has no legitimate business at the worksite, and includes violent acts by anyone who enters the workplace or approaches workers with the intent to commit a crime.

Type 2 – Workplace violence directed at employees by customers, clients, patients, students, inmates, or visitors.

Type 3 – Workplace violence against an employee by a present or former employee, supervisor, or manager.

Type 4 – Workplace violence committed in the workplace by a person who does not work there, but has or is known to have had a personal relationship with an employee.

EXAMPLES OF WORKPLACE VIOLENCE

- ▶ Hitting or shoving an individual;
- ▶ Verbal harassment, directly or indirectly, in person or by phone;
- ▶ Threatening an individual or his/her family, friends, associates, or property with harm;
- ▶ The intentional destruction or threat of destruction of SunLine property;
- ▶ Harassing surveillance or stalking;
- ▶ The suggestion or intimation that violence is appropriate;
- ▶ Unauthorized possession or inappropriate use of firearms or weapons; and

PREVENTION: BEFORE AN INCIDENT HAPPENS



Know the warning signs. Research into incidents of workplace violence shows the presence of **several** of the following characteristics in the potentially violent individual. **Clearly, not everyone who exhibits one or more of these warning signs is potentially violent.**

Understanding these signs, recognizing them when they occur and acting on that knowledge and recognition are vital steps in heading off possible tragedy:



-  Making direct or veiled threats;
-  Intimidating, belligerent, harassing, bullying, or other inappropriate and aggressive behavior;
-  Numerous conflicts with supervisors and other employees;
-  Bringing a weapon to the workplace, brandishing a weapon in the workplace, making inappropriate references to guns, or fascination with weapons;
-  Statements showing fascination with incidents of workplace violence, statements indicating approval of the use of violence to resolve a problem, or statements indicating identification with perpetrators of workplace homicides;
-  Statements indicating desperation (over family, financial, and other personal problems) to the point of suicide;
-  Extreme changes in behavior.



TYPE 1 VIOLENCE WARNING SIGNS:

-  Purposeful Attitude. There are few warnings signs for a Type I incident. Usually, someone who is about to commit a robbery or some other violent act enters the premises looking very purposeful, knowing what they want to accomplish and where they must go to accomplish the act.
-  Lingerer/Stalker/Suspicious Person. Pay attention to anyone who may linger around the premises who seems to be checking out the building, the actions of employees, or the routine of the office.

- 🕒 Familiar Vehicle. Notice if someone has been driving around the building on several occasions casing out the area.



TYPE 2 WARNING SIGNS

- 🕒 Easily Irritated. Notice if the customer is showing signs of irritability or anger, or if their temper flares up easily when dealing with an employee or with another customer.
- 🕒 Combative Attitude. A combative customer may glare at another customer or an employee, use threatening remarks, or make physical gestures. This attitude may be caused by personal disagreements or gang-related issues.
- 🕒 Fatigue. Customers may become tired of waiting in long lines for long periods of time. They may show signs of fatigue, which will increase the possibility of an uneasy demeanor.
- 🕒 Anger. Just plain anger over transit in general where they may want to verbally express their discontent.



TYPE 3 AND/OR TYPE 4 WARNING SIGNS

- 🕒 Attendance Problems. Excessive sick leave or tardiness, leaving work early, peculiar or improbable excuses for absences, higher absentee rate than other employees, leaving the work site without notice.
- 🕒 Decreased Productivity. Be aware of any employee with a satisfactory performance record in the past whose work performance suddenly changes or deteriorates.
- 🕒 Inconsistent Work Patterns. Alternating periods of high and low productivity may indicate substance abuse or alcohol abuse. Monitor degrees of productivity to see if there is a pattern.
- 🕒 Poor Co-worker Relationships. Warning signs include belligerent behavior, overreaction to criticism, mood swings, verbal harassment of others.
- 🕒 Concentration Problems. A troubled employee is usually distracted and

often has difficulty recalling job instructions, project details, deadline requirements.

- 🕒 Safety Issues. Becoming more accident-prone is a clear indicator of stress.
- 🕒 Poor Health and Hygiene. Marked deterioration in personal grooming habits is a warning sign of internal conflict.
- 🕒 Unusual or Changed Behavior. This can include emotional outbursts, physical violence such as hitting a wall or a piece of equipment, inappropriate remarks or threats, delusional statements such as the end of the world, being spied on, secretive behavior.
- 🕒 Fascination with Guns or Weapons. Talks frequently about guns and obsessed with the power of guns.
- 🕒 Evidence of Possible Drug/Alcohol Abuse. Employee may act secretly around his personal workspace, meet other employees or visitors in remote areas, or take long lunches.
- 🕒 Evidence of Serious Stress in the Employee's Personal Life. Crying, excessive personal phone calls, bill collectors, recent separation or death of a loved one.
- 🕒 Continual Excuses/Blame. Inability to accept responsibility for even the most inconsequential errors.
- 🕒 Unshakable Depression. Demonstrates depressed behavior for long periods of time. Low energy, little enthusiasm, expresses cynicism or despair.

ACTIVE STAGE

Do's and Don'ts when confronted with potential violence:

When a potential or actual violent incident occurs, follow these do's and don'ts:

DO

- 🕒 Your best to stay calm;
- 🕒 Speak to the other person quietly and calmly;
- 🕒 Try to put some space between yourself and the perpetrator;

-  Create physical barriers of protection, using objects, movement and communication to stop the perpetrator;
-  Evacuate the area, if possible and safe to do so; or
-  Try to take cover, such as under a desk, if it is not possible to evacuate the area and you are not the immediate victim;
-  Notify your manager/supervisor when it is safe to do so;
-  Document conversations immediately, perpetrator's description, and what occurred, obtaining names and any identification (driver's license or registration), if possible;
-  If there is immediate danger, call for emergency assistance by dialing **(9) 9-1-1**, (dial outside access number first if applicable) and then notify the Safety Department;
-  If there is no immediate danger, report the incident to your supervisor/manager. Your supervisor/manager will then notify the Safety Department; and
-  Provide critical incident or personal counseling through the Employee Assistance Program (EAP). EAP provides an employee with free, easily accessible and confidential resource for addressing personal concerns.

DO NOT

-  Try to out shout the other person or make any aggressive moves toward him/her;
-  Argue with the perpetrator;
-  Use defensive sprays or weapons;
-  Fight with the perpetrator;
-  Chase the perpetrator; or

- 🕒 Try to break up or intervene in a violent act unless you are specially trained. Do not risk getting hurt yourself.

PREVENTIVE STAGE

Responsibilities: Managers/Supervisors

Managers and supervisors are accountable for recognizing a potentially threatening situation. Before a potential or actual violent incident occurs, managers and supervisors shall:

- 🕒 Foster a supportive, harmonious work environment. Mutual respect can help reduce harassment and hostility in the workplace;
- 🕒 Communicate openly and give employees support and recognition;
- 🕒 Train managers, supervisors and employees on how to resolve conflicts;
- 🕒 Develop skills in effective communications, team building and resolving disputes;
- 🕒 In the field, keep the building free of potential hiding places and maintain clear views of lobbies and work places; and
- 🕒 Know building ingress and egress, and geographical layout of the building.

Responsibilities: Employees

Support and comply with the workplace violence program by:

- 🕒 Understanding, supporting and complying with SunLine's Workplace Violence Prevention policy;
- 🕒 Reporting any witnessed threat, harassment, assault, intimidation, or activity which he/she feels could lead to violence, promptly to his/her immediate superior; i.e., supervisor, manager, chief, etc.; and
- 🕒 Recognizing and reporting potential trouble. This is not just the job of supervisors and managers. Case studies of workplace violence have found repeatedly that coworkers usually see the problem developing before management does.

ADDITIONAL RESOURCES – ATTACHMENT C

There are several places people can turn for help when they have, in some way, been involved with workplace violence. The following resources are merely a starting point:

Employee Assistance Program (EAP): The State of California provides access for all employees to EAP Counselors, who are specially trained and ready to deal with the most difficult of workplace related problems. EAP personnel are available to provide assistance 24 hours a day at 800-632-7422. Critical Incident Stress Debriefings are also available, for an additional fee, through the EAP; arrangements for the use of these specialized services should be made by management personnel.

Support Group: Sometimes talking with others who have shared the same experience is helpful in the healing process. If this is the case, consider joining a local support group. (For more information contact your county social services office.)

Clergy: Local clergy can be called upon for just about anything; rarely will any compensation be expected. Most often, Pastors, Ministers, Priests and Rabbis have received training to deal with even the most horrible of situations.

Information on Terrorism Prevention, Preparedness & Response: In addition to checking with your local police, fire and public health departments, the web sites and telephone information systems of the following state and federal agencies have guidance on a variety of possible terrorist acts that could affect your workplace:

California Office of Emergency Services (OES) has terrorism guidance, response plan information and a 24-hour hotline available.

Web address: www.oes.ca.gov

24-hour hotline: 800-550-5234

California Department of Health Services (DHS) has health information and guidance on bioterrorism.

Web address: www.dhs.ca.gov

At the federal level the **Federal Bureau of Investigation (FBI)** will provide the latest law enforcement recommendations on terrorism.

Web address: www.fbi.gov

DOMESTIC VIOLENCE – ATTACHMENT D

Shelter From the Storm is the only comprehensive domestic violence shelter and service provider in the Coachella Valley for victims of intimate partner domestic violence and their children. Shelter's Community Counseling Center provides one on one individual counseling and case management services. Shelter offers evening support groups on Tuesday and Wednesday. Appointments for services are preferred. Walk-ins welcome. Enrollment for support group required. Shelter intakes via 24 hour hotline (760) 328-7233.

Domestic violence occurs when a person in an intimate or familiar relationship is abused by the other person in that relationship. This abuse may be physical, but it can also be verbal, emotional, or sexual. The abuser often seeks to exert power or to isolate and control the victim by cutting off finances, friendships, and other means of support. Domestic violence can involve persons in a variety of relationships:

- Spouse or former spouse.
- Live-in partner or former partner.
- Dating, former dating or engagement relationship.
- A person with whom the victim has had a child.
- An elderly person who is abused by a grown child or other care giver.

It is important to recognize that violent incidents in the workplace may include acts of domestic violence. Often, co-workers and supervisors believe that domestic violence is something that is not their concern, but a private family matter that should not be brought to work. But the problem does spill over into the workplace. Domestic violence accounts for 27% of violent events in the workplace. If the victim has sought shelter or a restraining order, the workplace is frequently the place s/he can be found. It is not uncommon for the perpetrator to show up at the work site to carry out acts of violence against the partner or anyone trying to protect that person.

If it is known that an employee is being affected by domestic violence, whether or not the perpetrator has shown up at work, it is important to provide support and assistance. Not only is the person at risk for more and usually escalated violence, but it has an impact on the safety and productivity of the entire work force.

If you or a coworker are involved in an abusive relationship that is affecting work, or if you are concerned that a perpetrator may come to the workplace with a violent intent, tell the Safety Department.