



SunLine Transit Agency
June 20, 2018
11:30 a.m. – 12:00 p.m.

AMENDED AGENDA

Subsequent to the publication and posting of the agenda on Friday, June 15, item 8 was revised.

BOARD OPERATIONS COMMITTEE

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

In compliance with the Brown Act and Government Code Section 54957.5, agenda materials distributed 72 hours 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 the meeting at SunLine Transit Agency's Administration Building, 32505 Harry Oliver Trail, Thousand Palms, CA 92276 and on the Agency's website, 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 48 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. ROLL CALL**
- 3. PRESENTATIONS**
- 4. FINALIZATION OF AGENDA**
- 5. 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.

ITEM

RECOMMENDATION

- | | |
|--|--------------------------------|
| 6. COMMITTEE MEMBER COMMENTS | RECEIVE COMMENTS |
| 7. REVISED DRUG & ALCOHOL POLICY
NO. B-010394
(Staff: Vanessa Mora, Compliance Officer/Special Assistant
to the Chief Safety Officer) | APPROVE
(PAGE 3-27) |
| 8. COMMITTEE RESPONSIBILITIES
(Staff: Lauren Skiver, CEO/General Manager) | DISCUSSION
(PAGE 28) |
| 9. ADJOURN | |

SunLine Transit Agency

DATE: June 20, 2018 **ACTION**

TO: Board Operations Committee
Board of Directors

FROM: Vanessa Mora, Compliance Officer/Special Assistant to the Chief
Safety Officer

RE: [Revised Drug & Alcohol Policy No. B-010394](#)

Recommendation

Recommend that the Board of Directors approve the 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 the Department of Transportation's (DOT) recent update of 49 CFR Part 40 for drug and alcohol testing that took effect on January 1, 2018. Summarized below are the revisions made to the attached red-lined policy that reflect the updates required by the regulation.

1. Changes to the Drug Testing Panel
 - a. The DOT drug testing panel remains a "5-panel" drug test; however, the list of opioids for which are tested has been expanded from three (3) to seven (7) to include four (4) semi-synthetic opioids (Hydrocodone, Hydromorphone, Oxycodone, Oxymorphone)
2. Definitions
 - a. The term "DOT, the Department, DOT Agency" has been modified to encompass all DOT agencies
 - b. The term "Opiate" is replaced with the term "Opioid" in all posts of reference
 - c. The definition of "Alcohol Screening Device (ASD)" is modified to include reference to the list of approved devices listed on ODAPC's website
 - d. The definition of "Evidential Breath Testing Device (EBT)" is modified to include reference to ODAPC's website
 - e. The definition of "Substance Abuse Professional (SAP)" is modified to include reference to ODAPC's website

Additional changes made to the policy include:

1. Addition of language to allow CEO/General Manager to issue amendments that are required due to changes in Federal or State law and regulations
2. Definitions
 - a. Addition of Medical Prescriptions
 - b. Removal of Mass Transit Vehicles
 - c. Addition of Public Transportation Vehicles
3. Update contact information for SunLine Drug and Alcohol Program Manager
4. Update Prohibited Conduct/Behaviors
5. Addition of language regarding Non-Fatal Accidents
6. Removal of appendix page. Information was moved to appropriate locations throughout the policy
7. Revise policy name from “Alcohol & Drug Policy” to “Drug & Alcohol Policy”

Financial Impact

No financial impact.

~~ALCOHOL & DRUG & ALCOHOL~~ POLICY

1.0 POLICY STATEMENT

POLICY STATEMENT

SunLine Transit Agency (~~the 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.~~tive.~~

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 under DOT and FTA regulations, to include any future regulatory amendments.~~

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. A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath under DOT Part 40 and placed on the NHTSA's Conforming Products List.~~

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.

~~Mass Transit Vehicles: Vehicles used for mass 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 or unarmed security personnel.~~

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, an individual's confirmed positive test results together with the individual's medical history and any other relevant biomedical information.](#)

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 is equivalent to 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 Agency's SunLine's drug and alcohol-free program should be referred to: the following Designated Employer Representatives:

Title: Drug and Alcohol Program Manager
Compliance Officer

Address: 32505 Harry Oliver Trail
Thousand Palms, CA 92276

Telephone Number: (760) 343-3456

Fax Number: (760) 343-4547

Title: Jack Stevens, Drug & Alcohol Program Manager
Director of Human Resources

Elizabeth Lira, Designated Employer Representative
Human Resources Administrative Assistant

~~Ivanna Samokish, Alt. Designated Employer Representative Risk Department~~

~~Address: 35-505 Harry Oliver Trail
Thousand Palms, CA 92276
Telephone Number: (760) 343-3456~~

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 ~~be considered to be~~ a positive test result ~~and the employee will be subject to all the attendant consequences~~ 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.**

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9.0 DRUGS (OR THEIR METABOLITES) TESTED FOR

The agency will test for the following drugs ~~all drugs of abuse~~ 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 ~~entire~~ 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~~Any employee engaging in the~~ manufacture, distribution, sale, dispensation, possession, or use of prohibited controlled substances in the workplace. Under its own authority, Sunline Transit also prohibits such activities substances on Agency premises, in Agency vehicles, when the employee is in uniform whether on or off duty, or while on Agency business. ~~is a~~ 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*~~ **violation of this policy and will subject the employee to disciplinary process, up to and including termination. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.**

~~**Employees also are required to notify the Agency within five (5) days of any criminal drug statute conviction which occurs as the result of an incident which happened in the workplace or while on duty. Failure to notify the agency of such shall subject the employee to disciplinary action, up to and including termination.**~~

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 0.042 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 ~~D.O.T. regulated~~ candidates and ~~D.O.T. regulated~~ 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 ~~or circumstantial~~ 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 mass transit 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 mass transit 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 All surviving covered employees involved in or operating the transit vehicles **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. ~~(For 2010 the FTA random rates were 25% for drugs and 10% for alcohol).~~ 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, aAn 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 0.024 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

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 ly 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~~SAP~~, 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 ~~the SAP~~, 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 ~~the SAP~~ 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 ~~the SAP~~ 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 ~~for~~ a positive test or test refusal is not subject to arbitration.

Appendix

~~SunLine Transit Agency
Sunline Transit Agency—Policies & Procedures
July 18, 2006
Revised 05/23/12~~

~~Information Regarding
Drug and Alcohol Testing Procedure~~

~~SunLine Transit Agency supports a drug-free workplace and complies with Title 49 CFR Part 655 and Part 40 of the Department of Transportation regulations. The following provides information to employees regarding this regulation in order to assist in compliance:~~

~~DEFINITION:~~

~~**Drug and Alcohol Program Manager (DAPM):** SunLine Transit Agency Designated Employer Representative for drug and alcohol testing of Agency employees. SunLine Transit Agency Human Resources Director is currently assigned as the DAPM. The DAPM is responsible for managing the Substance Abuse Program and making sure the agency is compliant with FTA and DOT regulations.~~

~~**Designated Employee Representative (DER)**~~

~~**DOT:** Department of Transportation.~~

~~**FTA:** Federal Transit Administration.~~

~~**CCF:** Custody and Control Form.~~

~~**Drugs:** The drugs for which tests are required under FTA Regulations.~~

~~**Evidential Breath Test (EBT):** A device approved by the National Highway Traffic Safety Administration (NHTSA) for evidential testing of breath under DOT Part 40 and placed on the NHTSA's Conforming Products List.~~

SunLine Transit Agency

DATE: June 20, 2018 **DISCUSSION AND ACTION**
TO: Board Operations Committee
FROM: Lauren Skiver, CEO/General Manager
RE: Committee Responsibilities

Recommendation

Recommend that the Board Operations Committee discuss the election of officers and make a formal recommendation for Chairman of the Board and Vice-Chairman of the Board at the Board of Directors meeting.

Background

Upon review of the responsibilities set by the Board of Directors for the Board Operations Committee, it was noted that there are items that staff should be bringing before the members for feedback and direction. Specifically, the Board Operations Committee “serves as the nominating committee for Agency officer elections,” as outlined below. Therefore, in the next fiscal year, this will be corrected and the Committee will be the body that oversees the nominations for Chairman of the Board and Vice-Chairman of the Board.

Responsibilities for Board Operations Committee: (Three Board Members)

- Reviews Agency bylaws, policies and procedures
- Discusses Agency litigation
- Monitors State & Federal legislative efforts
- Serves as the nominating committee for Agency officer elections
- Participates in new Board Member orientations