

**THE UNIFIED GOVERNMENT OF ATHENS-CLARKE COUNTY
COMMISSION AGENDA ITEM**

SUBJECT: Revised Transit Substance Abuse Policy

DATE: July 14, 2021

REVENUES: NA

EXPENSES: NA

ANNUAL:

CAPITAL:

OTHER:

FUNDING SOURCE: NA

COMMISSION ACTION REQUESTED ON: August 3, 2021

PURPOSE:

To request that the Mayor and Commission (M&C) approve updates to the Transit System Substance Abuse Policy, as noted in **Attachment #1**, to maintain compliance with the United States Department of Transportation (U.S.DOT) Workplace Drug and Alcohol Testing Programs.

HISTORY:

1. In 1994, the United States Congress mandated drug and alcohol testing regulations that have specific and detailed requirements for Public Transit system employees.
2. On February 15, 1994, the Unified Government of Athens-Clarke County (ACCGov) Mayor and Commission adopted a Drug and Alcohol Policy for ACCGov for all employees.
3. On May 6, 1997, September 3, 2002, February 2, 2008, November 7, 2012, April 5, 2016, and January 23, 2017, the USDOT issued a Notice of Proposed Rulemaking (NPRM) for 49 CFR Part 40. 49 CFR Part 40 is the regulation that mandates drug and alcohol testing for the United States Department of Transportation (USDOT) and USDOT Agencies (i.e., FTA, FMCSA, FAA, etc.). On November 13, 2017, the USDOT published a final rule with all final revisions to 49 CFR Part 40. The final rule can be accessed on the [USDOT – Office of Drug and Alcohol Policy and Compliance website](#).
4. On May 1, 2018, Athens-Clarke County Mayor and Commission approved revisions to the Athens Transit System Substance Abuse Policy based upon changes to the federally mandated Transportation Workplace Drug and Alcohol Testing Programs.

5. On April 1, 2021, the Federal Transit Administration produced regulation updates written by the U.S. Department of Transportation, which are federally mandated requirements for Transportation Workplace Drug and Alcohol Testing.

FACTS & ISSUES:

1. The Federal Register 49CFR, Parts 653, 654, and 655 Final Rule and Part 40 of the Transportation Workplace Drug and Alcohol Testing Programs requires all transit systems to be in compliance with the federally mandated programs in order for the transit system to continue to receive federal and state operating and capital funding assistance. If 5307 sub-recipients fail to present proof of policy during a triennial review, this is reported as a finding and can lead to loss of federal funding. The Transit System Substance Abuse Policy with changes can be found as **Attachment #1**. The sections of the policy with Federally mandated changes for 2021 include the following:

- **Sec. 4.3 Alcohol** - The use of beverages containing alcohol or substances including any medication mouthwash, food, candy or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited. The concentration of alcohol is expressed in terms of alcohol per 210 liters of breath as measured by an evidential breath-testing device.
- **Sec 5.3 Alcohol Use** - No covered employee should report for duty or remain on duty when his/her breath alcohol concentration is equal to or greater than 0.04, regardless of when the alcohol was consumed. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until Employee meets FTA stated levels in policy.

No covered employee shall use alcohol while on duty, in uniform, while performing safety sensitive functions, or just before or just after performing a safety- sensitive function. No covered employee shall consume alcohol within four hours of reporting for duty, or during the hours that they are on call to perform a safety-sensitive duty.

- **Section 5.4 Compliance with Testing Requirements** - All safety sensitive employees shall be subject to urine drug testing and breath alcohol testing as a condition of employment. Any covered employee who refuses to comply with a request for testing shall be immediately removed from duty and their employment terminated.

A positive test for drugs or a refusal to test as described in Section 5.4 of the policy by a covered employee may be grounds for immediate termination. In the event that Athens-Clarke County Transit is required by legal authorities to reinstate the covered employee, Athens-Clarke County Transit will comply with all mandated Return-to-Duty testing set forth herein, and as required by 49 CFR Part 40, as amended.

A drug test can be performed any time a safety sensitive employee is on duty. A random, reasonable suspicion, or follow-up alcohol test can only be performed when the safety sensitive employee is actually performing a safety sensitive duty, just before, or immediately after the performance of a safety sensitive duty.

2. These recommendations support the following Mayor and Commission Strategic Commitments, Directions, and Actions:
 - Transportation Mobility and Connectivity
 - Safe and Prepared Community

OPTIONS:

1. Mayor and Commission approve updates to the Transit System Substance Abuse Policy, as noted in **Attachment #1**, to maintain compliance with the United States Department of Transportation (U.S.DOT) Workplace Drug and Alcohol Testing Programs.
2. Mayor and Commission deny updates to the Transit System Substance Abuse Policy, as noted in **Attachment #1**, to maintain compliance with the United States Department of Transportation (U.S.DOT) Workplace Drug and Alcohol Testing Programs.
3. Mayor and Commission defined option.

DEPARTMENT RECOMMENDED ACTION: Option # 1

DEPARTMENT: Transit
Prepared by: Patricia Hale

Patricia Hale

Patricia Hale
Interim Transit Director

7/13/2021

Date:

ADMINISTRATIVE COMMENTS:

ADMINISTRATIVE RECOMMENDATION: Option # 1



Manager

July 15, 2021

Date:

ATTACHMENTS:

Attachment #1: Athens-Clarke County Transit Department Substance Abuse Policy GDOT Revisions

**ATHENS-CLARKE COUNTY TRANSIT SYSTEM
SUBSTANCE ABUSE POLICY
June 15, 2021**

1.0 POLICY

The Athens-Clarke County Transit System (hereinafter referred as the “Transit Department”) is dedicated to providing safe, dependable, and economical transportation services to our transit system passengers. Transit Department employees are a most valuable resource and it is our goal to provide a healthy, satisfying work environment which promotes personal opportunities for growth. In meeting these goals, it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession or use of controlled substances; and (4) encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

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 risk posed by the misuse of alcohol and abuse of prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandate urine drug testing and breath alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (DOT) has also published 49 CFR Part 40, as amended, that set standards for the collection and testing of urine and breath specimens. In addition, the Federal government published 49CFR Part 29, “The Drug-Free Workplace Act of 1988,” which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. This policy incorporates those requirements for safety- sensitive employees and others when so noted. Any provisions set forth in this policy that are included under the sole authority of Transit Department and are not provided under the authority of the above named Federal regulations are underlined. Any tests conducted under the sole authority of Athens Public Transit will be performed on NON-USDOT forms and will be separate from USDOT testing in all respects.

3.0 APPLICABILITY

This policy applies to all safety-sensitive paid part-time employees, contract employees, volunteers (who receive remuneration in excess of expenses incurred while performing a covered activity or are required to hold a CDL to operate a vehicle) and contractors when they are on transit property or when performing any transit-related safety-sensitive. Transit Department employees that do not perform safety-sensitive functions are also covered under this policy under the sole authority of Transit Department. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work.

Visitors, vendors, volunteers and contractor employees conducting safety-sensitive functions are governed by this policy while on transit premises and will not be permitted to conduct transit business if found to be in violation of this policy.

A safety-sensitive function is any duty related to the operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), dispatch/controlling the movement of a revenue service vehicle, maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, and operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License. A list of safety-sensitive positions is attached.

4.0 PROHIBITED SUBSTANCES

"Prohibited substances" addressed by this policy include the following:

4.1 Illegally Used Controlled Substances or Drugs

The use of any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), as further defined by 21 CFR 13008.11 through 1300.15 is prohibited at all times unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), cocaine, hydrocodone, hydromorphone, oxycodone, and oxymorphone, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

4.2 Legal Drugs

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance, which carries a warning label that indicates that mental functioning, motor skills or judgement may be adversely affected, must be reported to a transit system supervisor. In addition, the employee must obtain a written release from the attending physician releasing the person to perform their job duties any time they obtain a performance-altering prescription.

A legally prescribed drug means that the individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing transit business is prohibited.

4.3 Alcohol

The use of beverages containing alcohol or substances including any medication mouthwash, food, candy or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited. ~~such that alcohol is present in the body while performing transit business is prohibited.~~ The concentration of alcohol is expressed in terms of alcohol per 210 liters of breath as measured by an evidential breath-testing device.

5.0 PROHIBITED CONDUCT

5.1 Manufacture, Trafficking, Possession and Use

Transit department employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession or use of prohibited substances on transit authority premises, in transit vehicles, in uniform or while on transit authority business. Employees who violate this provision will be discharged. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

5.2 Impairment

Any safety-sensitive or non-safety-sensitive employee who is reasonably suspected of being impaired or not fit for duty shall be immediately suspended from job duties with pay pending investigation.

Employees found to be under the influence of a prohibited substance or who fail to pass a drug or alcohol test shall be immediately removed from duty and subject to termination. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance at or above the minimum thresholds defined in 49 CFR Part 40, as amended, or the individual refused to take a required test as described in policy Section 5.4.

5.3 Alcohol Use

No covered employee should report for duty or remain on duty when his/her breath alcohol concentration is ~~greater than 0.02~~ equal to or greater than 0.04, regardless of when the alcohol was consumed. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:

- i. The employee's alcohol concentration measures less than 0.02; or
- ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.

No covered employee shall use alcohol while on duty, in uniform, while performing safety sensitive functions, or just before or just after performing a safety- sensitive function. No covered employee shall consume alcohol within four hours of reporting for duty, or during the hours that they are on call to perform a safety-sensitive duty. Violation of these provisions is prohibited and punishable by termination. No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

If an on-call covered employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report to duty. The covered employee will subsequently be relieved of their on-call responsibilities.

5.4 Compliance with Testing Requirements

All safety sensitive employees shall be subject to urine drug testing and breath alcohol testing as a condition of employment. Any covered employee who refuses to comply with a request for testing shall be immediately removed from duty and their employment terminated. Any covered employee shall not consume alcohol while on duty, in uniform, while performing safety-sensitive functions, or just before or immediately after performing a safety-sensitive function. No covered employee shall consume alcohol within four hours of reporting for duty, or during the hours that they are on call to perform a safety-sensitive duty. Violation of these provisions is prohibited and punishable by termination. Any covered employee who is suspected by the collector during the specimen collection process of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an immediate observed second collection. Verification of these actions will result in the employee's immediate removal from duty and termination of employment.

~~Actions considered a refusal to take a test include: Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer; A refusal to test is defined as the following:~~

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
- (2) Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fails to attempt to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen
- (5) Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
- (6) Fails or declines to take a second test the employer or collector has directed you to take
- (7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures
- (8) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
- (9) If the MRO reports that there is verified adulterated or substituted test result
- (10) Failure or refusal to sign Step 2 of the alcohol testing form
- (11) Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process
- (12) Possess or wear a prosthetic or other device that could be used to interfere with the collection process
- (13) Admit to the collector or MRO that you adulterated or substituted the specimen.
- (14) Fail to remain readily available for testing following an accident

A drug test can be performed any time a safety sensitive employee is on duty. A random, or reasonable suspicion, or follow-up alcohol test can only be performed when the safety sensitive employee is actually performing a safety sensitive duty, just before, or immediately after the performance of a safety sensitive duty.

5.5 Treatment Requirements

All employees are encouraged voluntarily to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with transit system requirements for treatment, after care, or return to duty shall be subject to termination. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program. The provisions of this paragraph 5.5 apply to employees who voluntarily seek treatment prior to notification for a drug or alcohol test. Any employee with a positive test result will be subject to termination.

5.6 Notifying the Transit System of Criminal Drug Conviction

All employees are required to notify the transit department of any criminal drug statute conviction or arrest for a violation occurring in the workplace within five days after such conviction . Failure to comply with this provision shall result in disciplinary action, up to and including termination.

5.7 Proper Application of the Policy

The transit department 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.

6.0 TESTING PROCEDURES

Analytical urine drug testing and breathe testing for alcohol may be conducted when circumstances warrant or as required by DOT/FTA regulations. All safety-sensitive employees shall be subject to testing for pre-employment, for reasonable suspicion, and following a post-accident as defined in policy Sections 6.2, 6.3 and 6.4. Those employees who perform safety sensitive functions as defined in the attachment to this policy shall also be subject to testing on a random, unannounced basis as defined in policy Section 6.5.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment and laboratory facilities, which have been approved by the U.S. Department of Health and Human Service (DHHS). All testing will be conducted consistent with the procedures put forth in 49 CFR Part 40, as amended.

The five drugs that will be tested for in a urine specimen include marijuana, cocaine, opioids, amphetamines and phencyclidine. All urine specimen drug testing will be conducted at a DHHS-

certified laboratory. An initial drug screen will be conducted on each urine specimen. For those specimens with non-negative initial drug screen results, ~~confirmatory Gas-Chromatography/Mass Spectrometry (GC/MS) testing~~ a confirmatory test is conducted, consistent with 49 CFR Part 40, as amended. The test result will be considered positive if the amount(s) present are at or above the minimum thresholds established in 49 CFR 40.87. In instances where suspicion exists that an employee is abusing a substance other than the five drugs listed above, Transit Department reserves the right to test for additional drugs under its own authority using standard laboratory testing protocols. This additional drug testing will not be conducted on any specimen collected using DOT/FTA testing authority as prohibited by 49 CFR 40.85.

All covered employees who voluntarily submit to a rehabilitation program prior to testing positive on a drug or alcohol test will be tested using non-DOT testing forms prior to returning to duty following completion of the substance abuse counselor's recommended treatment program. Non-DOT follow-up testing will also be conducted following the employee's return to duty for a period of one to five years with at least six tests performed during the first year.

Breath alcohol testing will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved testing device operated by a trained breath alcohol technician (BAT). If the initial test indicates a breath alcohol concentration equal to or greater than 0.02, a second confirmatory test will be performed. The confirmatory test will be performed using an NHTSA-approved evidential breath testing device (EBT) operated by a trained BAT. A safety-sensitive or non-safety-sensitive employee who has a confirmatory breath alcohol concentration equal to or greater than 0.02 but less than 0.04 will be immediately removed from his or her position for a minimum of 8 hours or until the start of his or her next scheduled shift, whichever is greater. A confirmatory breath alcohol concentration equal to or greater than 0.04 will be considered a positive alcohol test in violation of this policy and a violation of the requirements set forth in 49 CFR Part 655 for safety-sensitive employees, subject to the consequences set forth in this policy.

Any covered employee with a confirmatory breath alcohol test result of equal to or greater than 0.04, an MRO verified positive drug test result (~~above the minimum thresholds defined in 49 CFR 40.87~~), and/or has refused to take a required test, as described in paragraph 5.4 of this policy, will be immediately removed from his/her position, informed of educational and rehabilitation programs available and referred to a list of USDOT qualified Substance Abuse Professional (SAPs) for assessment. A positive drug and/or alcohol test will result in termination. The cost of any treatment or rehabilitation services will be paid directly by the employee.

The Transit Department affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process.

Consistent with the requirements in 49 CFR 40.67, an immediate urine specimen collection will be conducted under direct observation (by a person of the same gender) with no advance notice if:

- (1) The DHHS-certified laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Athens-Clarke County that there was no adequate medical explanation for the result.

- (2) The MRO reports to Athens-Clarke County that the original positive, adulterated, or substituted test result had to be canceled because the test of the split specimen could not be performed.
- (3) The MRO directs Athens-Clarke County to conduct a recollection under direct observation because the creatinine concentration of the initial specimen collected was equal to or greater than 2 mg/dL but less than or equal to 5 mg/dL;
- (4) The collector must immediately conduct a collection under direct observation if:
 - The original specimen appeared to have been tampered with;
 - The collector observes materials brought to the collection site by the donor or the donor's conduct clearly indicates an attempt to tamper with a specimen; or
 - The temperature of the original specimen is outside the acceptable range of 90-100 degrees °F.
- (5) Transit Department may direct an employee to provide a urine specimen under direct observation for non-DOT return-to-duty and follow-up drug tests.

6.1 Employee Requested Testing

Any covered employee or applicant who questions the results of an MRO verified positive, adulterated, or substituted drug test result may request that the split sample be tested at a second DHHS certified testing laboratory. This test must be conducted on the split sample (the original specimen was separated into two bottles – the primary sample and the split sample). Athens-Clarke County and Transit Department System will seek to be reimbursed from the employee for all costs of such testing unless the result of the split sample test invalidates the result of the original test. The method of collecting, storing and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted by the MRO if the delay was due to documentable facts that were beyond the control of the employee.

6.2 Pre-Employment Testing

All applicants to safety-sensitive positions shall undergo urine drug testing immediately following the conditional offer of employment or prior to transfer into a safety-sensitive position. If any employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days or more, regardless of reason, and the employee had been removed from the transit system's random testing selection pool during that time period, a pre-employment drug test is required. An MRO-verified negative result must be obtained prior to the ~~offer of employment to~~ the performance of any safety-sensitive work. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.

If a pre-employment test is canceled, Transit Department will require the applicants to take and pass another pre-employment drug test.

Any individual who either fails or refuses a DOT required pre-employment test must provide evidence of successfully completing a SAP referral and evaluation, and treatment/education compliant with the requirements in 49 CFR Parts 40 and 655 prior to further consideration for employment. The cost for the assessment and any subsequent treatment will be the sole responsibility of the individual.

6.3 Reasonable Suspicion Testing

All covered employees may be subject to a fitness for duty evaluation and urine and/or breathe testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. Reasonable suspicion alcohol testing is only permissible just before an employee performs safety-sensitive duties, during that performance, or just after an employee has performed covered safety sensitive duties. A reasonable suspicion referral for testing will be made based on documented specific, contemporaneous and articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors trained to detect the signs and symptoms of drug abuse and alcohol misuse and conclude that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited ~~substance abuse~~ drug use or alcohol misuse. All non safety-sensitive employees covered under the sole authority of Athens Transit System will also be subject to non-USDOT reasonable suspicion testing procedures modeled off the provisions in 49 CFR Part 40.

Examples of reasonable suspicion include, but are not limited to, the following:

1. ~~Physical signs and symptoms consistent with prohibited substance use or alcohol misuse which includes specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of an employee.~~
2. ~~Evidence of the manufacture, distribution, dispensing, possession or use of controlled substances, drugs, alcohol or other prohibited substance.~~
3. ~~Fights (to mean physical contact), assaults and flagrant disregard or violations of established safety, security or other operation procedures.~~

6.4 Post-Accident Testing

~~FATAL ACCIDENTS- All safety-sensitive employees will be required to undergo urine drug and breath alcohol testing if they are involved in an accident with a Transit Department vehicle (regardless of whether or not the vehicle is in revenue service) that results in a fatality. This includes any surviving safety sensitive employee that was operating the vehicle and any other employee whose performance could have contributed to the accident. In addition, post-accident drug and alcohol testing will be conducted if an individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or one or more vehicles incurs disabling damage.~~

~~NON-FATAL ACCIDENTS - A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:~~

- a) ~~The accident results in injuries requiring immediate medical treatment away from the~~

scene, unless the covered employee can be completely discounted as a contributing factor to the accident.

- b) One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident

For non-fatal accidents, drug and alcohol testing will be conducted on all covered employees operating the public transit vehicle unless their performance can be completely discounted as a contributing factor based on the best information available at the time of the decision, and all other covered employees whose performance could have contributed to the accident, as determined by Transit Department using the best information available at the time of the decision to test.

Following an accident, a safety-sensitive employee will be tested as soon as possible, but not to exceed eight hours for alcohol testing and 32 hours for drug testing. Any safety sensitive employee involved in an accident must refrain from consuming alcohol for eight hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first. Any safety-sensitive employee who leaves the scene of the accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test and their employment terminated. ~~Employees tested under this provision will include any covered employee whose performance could have contributed to the accident.~~

Accident testing is stayed while employee assists in the resolution of the accident or receive s medical attention following the accident.

The Transit Department will make every effort to complete breath alcohol testing within 2 hours of the accident. If alcohol testing cannot be completed within 2 hours, a report must be maintained that documents the reason for the testing delay. If alcohol testing cannot be accomplished within 8 hours of the accident, all attempts to obtain a specimen must cease and the documentation on the testing delay must be updated. If drug testing cannot be accomplished within 32 hours of the accident, all attempts to obtain a specimen must cease and the documentation on the test failure updated.

Whenever any employee of Transit Department has been involved in an accident, or receives an injury that does not meet the federal thresholds described above, NON-DOT alcohol and drug testing shall be conducted within eight (8) hours of the accident or incident when:

- (a) There is vehicle/equipment damage or bodily injury occurring on public roadways; or
- (b) There is a fatality; or
- (c) Driver is cited with a traffic violation; or
- (d) When an employee sustains a work-related injury requiring medical treatment.

Testing for Athens Transit System employees will be completed on non-DOT forms.

6.5 Random Testing

Employees in safety-sensitive positions will be subject to random, unannounced and unpredictable drug and alcohol testing. The selection of safety-sensitive employees for random drug and alcohol testing will be made using a scientifically valid method that ensures that each

covered employee has an equal chance of being selected for testing each time selections are made. Random testing will be conducted throughout the calendar year and at all times of the day when safety-sensitive functions are performed. Once an employee is notified of their selection for random testing, he/she must proceed to the testing site immediately. The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/erandom-testing-rates>.

6.6 Return-to-Duty Testing

A positive test for drugs or a refusal to test as describe in Section 5.4 by a covered employee may be grounds for immediate termination. In the event that the Athens-Clarke County Transit is required by legal authorities to reinstate the covered employee, the Athens-Clarke County Transit will comply with all mandated Return-to-Duty testing set forth herein, and as required by 49 CFR Part 40, as amended.

All safety-sensitive and non-safety-sensitive employees who previously voluntarily entered into a Rehabilitation Program as set forth in Paragraph 5.5 must test negative on a drug or alcohol test (below 0.02 for alcohol) on a return-to-duty test and be evaluated and released to duty by the Substance Abuse Professional before returning to work. Testing in this section is conducted by Athens-Clarke County Transit authority using non-DOT testing forms. Random alcohol tests can only be conducted just before, during, or just after the performance of a safety-sensitive duty. Random drug tests can be conducted at any time the employee is on duty.

6.7 Follow-Up Testing

A positive test for alcohol or a refusal to test as describe in Section 5.4 by a covered employee will be grounds for immediate termination. In the event that the Athens-Clarke County Transit is required by legal authorities to reinstate the covered employee, the Athens-Clarke County Transit will comply with all mandated Follow-up testing set forth herein, and as required by 49 CFR part 40, as amended .

Safety-sensitive and non-safety-sensitive employees who previously voluntarily entered into a prescribed rehabilitation program will be required to undergo frequent, unannounced NON-DOT urine and/or breath testing following their return to duty. The follow-up-testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. Testing in this section is conducted by Athens-Clarke County Transit Department using non-DOT testing forms. Follow-up testing (beyond the minimum) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery process. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

6.8 Dilute Negative Policy

A negative dilute specimen is a specimen with creatinine and specific gravity values that are lower than expected for human urine. As permitted in 49 CFR 40.197, Transit Department will not perform a second test on any applicant/employee with a negative dilute (dilute level greater than 5 mg/dL) drug test result, unless directed to do so by the MRO. If the employee declines to take the second observed test as directed, it will be considered a test refusal.

6.9 Information Disclosure

1. The Transit Department shall release information regarding a covered employee's record as directed by specific, written consent from the employee authorizing release of the information to an identified person.
2. A covered employee is entitled, upon written request, to obtain copies of any records pertaining to his/her use of prohibited substances, including any records pertaining to test results.
3. The Transit Department may disclose information that is required to be maintained to the decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the employee tested arising from the results of the drug/alcohol test.
4. When requested by the National Transportation Safety Board as part of an accident investigation, the Transit Department shall disclose information related to its administration of drug and alcohol tests following the accident investigation.
5. Records shall be made available to subsequent employers upon receipt of written request from the covered employee.
6. The Transit Department shall disclose data for its drug and alcohol testing program and any other information pertaining to its anti-drug program, when requested by the Secretary of Transportation or any DOT agency with regulatory authority over the Transit Department.
7. Records will be released if requested by a Federal, state, or local safety agency with regulatory authority over the employer or any of its employees.
8. Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
9. To be considered for employment, all applicants will be asked to give written release to Athens-Clarke County Transit Department for a background check of the applicant's previous DOT covered employer over the past two years. The information requested will include:
 - (1) Alcohol test results of 0.04 or higher alcohol concentration.
 - (2) Verified positive drug tests.
 - (3) Refusals to be tested (including verified adulterated or substituted drug test results).
 - (4) Other violations of DOT agency drug and alcohol testing regulations.

- (5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-tests).

7.0 CONSEQUENCES OF A FAILED OR REFUSED TEST

All employees who have a verified positive drug test, an alcohol test of 0.04 or above, tests result for the presence of illegal drugs and/or alcohol above the minimum thresholds set forth above, or who have refused to test, will be terminated. Immediately after receiving notice from a medical review officer (MRO) of a positive drug test result, or from a BAT of a positive alcohol test result, or of a refusal to test, the DER will ensure that the employee is removed from all safety-sensitive duty and ceases performing any safety-sensitive functions. No employee who violates this policy will be given a second chance.

Any covered employee who refuses to test, tests positive for the presence of illegal drugs and/or alcohol at or above the minimum thresholds set forth above in 49 CFR Part 40 and 49 CFR Part 655, as amended, will be referred for evaluation by a Substance Abuse Professional (SAP) qualified in the 49 CFR Part 40 and 49 CFR Part 655 requirements. A SAP is a licensed physician, (M.D. or D.O.) a licensed or certified psychologist, social worker, employee assistance professional, state-licensed marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at www.transportation.gov/odapc/sap) with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders. The SAP will evaluate each employee to determine what assistance (treatment and/or education) the employee needs in resolving problems associated with prohibited drug use or alcohol misuse. Any cost of treatment will be paid solely by the employee.

Employees who voluntarily submit to rehabilitation program prior to testing positive on a drug or alcohol test will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program. The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider.

8.0 RE-ENTRY CONTRACTS

Employees who re-enter the workforce after voluntarily submitting to a rehabilitation program prior to testing positive on a drug or alcohol test must agree to a re-entry contract. That contract may include (but is not limited to):

1. A release to work statement from the counseling professional.
2. A negative test for drugs and/or alcohol.
3. An agreement to unannounced frequent follow-up testing for a period of one to five years with at least six tests performed the first year.
4. A statement of work-related behaviors.
5. An agreement to follow specified after care requirements with the understanding that violation of the re-entry contract is grounds for termination. In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process

described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

9.0 EMPLOYEE AND SUPERVISOR TRAINING

All safety sensitive employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use in personal health, safety, and the work environment. The training must also include manifestations and behavioral cues that may indicate prohibited drug use.

Supervisors will also receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

Information on the signs, symptoms, health effects and consequences of alcohol misuse is presented in Attachment 2 of this policy.

10.0 APPLICATION OF THE POLICY

The Athens-Clarke County Transit Department 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 actions, up to and including termination.

11.0 GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40, §40.149 paragraph (a) (5) and paragraph (c) for a positive test or test refusal are not subject to arbitration.

12.0 POLICY MODIFICATION

The Athens-Clarke County Transit Department reserves the right to modify this policy at any time as changes in regulations or law occur.

13.0 SYSTEM CONTACT

Any questions regarding this policy or any other aspect of the drug free and alcohol free transit program should contact the following transit system representatives:

Program Manager:

Name: Jeff Hale
Title: Human Resources Director
Address: 375 Satula Avenue

Athens, GA 30601
Phone: (706) 613-3090 ext.1104
Fax: (706) 613-3118

Medical Review Officers:

Name: Brian G. Forrester, M.D., M.P.H.
 Piedmont Regional First Care
Address: 485 Hwy 29 North
 Athens, GA 30601
Phone: (706) 353-6000
Fax: (706) 353-0856

Name: Kelly Middleton Mackey, M.D.
 Piedmont Regional First Care
Address: 485 Hwy 29 North
 Athens, GA 30601
Phone: (706) 353-6000
Fax: (706) 353-0856

Employee Assistance Program:

Name: UNUM
Phone: 1-800-854-1446
Website: www.lifebalance.net; user id and password: *lifebalance*

Substance Abuse Professional:

Name: Cheran Bodry-Stone	Name: James Flanigan
Business: Family Counseling Services	Business: Flanigan's Counseling and Evaluation Services
Address: 1435 Oglethorpe Avenue Athens, GA 30606	Address: 700 Sunset Drive, Ste 202 Athens, GA 30606
Phone: (706) 549-7755	Phone: (706) 353-8188
Fax: (706) 549-0428	

ATHENS TRANSIT
Safety-Sensitive Functions

TRANSIT DIRECTOR
 TRANSIT ROUTE SUPERVISORS

SUPERINTENDENT OF OPERATIONS
SUPERINTENDENT OF MAINTENANCE
REVENUE VEHICLE OPERATORS
REVENUE VEHICLE AND EQUIPMENT MAINTENANCE
REVENUE VEHICLE CONTROL/DISPATCH

Alcohol Fact Sheet

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

Signs and Symptoms of Use

- Dulled mental process
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stuporous condition
- Slowed reaction rate
- Slurred speech

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

Health Effects

The chronic consumption of alcohol (average of three servings per day of beer [12 ounces], whiskey [1 ounce], or wine [6 ounce glass]) over time may result in the following health hazards:

- Decreased sexual functioning
- Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed "Alcoholic")
- Fatal liver diseases
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast and malignant melanoma
- Kidney disease
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (up to 54 percent of all birth defects are alcohol related)

Social Issues

- Two-Thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.

- Two-thirds of all Americans will be involved in an alcohol-related vehicular collision during their lifetimes.
- The rate of separation and divorce in families with alcohol dependency problem is 7 times the average.
- Forty percent of family court cases are alcohol problem related.
- Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

The Annual Toll

- 24,000 people will die on the highway due to the legally impaired driver
- 12,000 more will die on the highway due to the alcohol-affected driver
- 15,800 will die in non-highway collisions
- 30,000 will die due to alcohol-caused liver disease
- 10,000 will die due to alcohol-induced brain disease or suicide
- Up to another 125,000 will die due to alcohol-related conditions or accidents

Workplace Issues

- It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgement can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.