

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE UTAH TRANSIT  
AUTHORITY ADOPTING THE REVISED CORPORATE POLICY 6.2.1- UTA DRUG  
AND ALCOHOL POLICY**

No. R2014-11-06

November 19, 2014

WHEREAS, the Utah Transit Authority (the "Authority") is a public transit district organized under the laws of the State of Utah and was created to transact and exercise all of the powers provided for in the Utah Limited Purpose Local Government Entities-Local Districts Act and the Utah Public Transit District Act; and

WHEREAS, the Board of Trustees desires to revise its Corporate Policy 6.2.1-UTA Drug and Alcohol Policy in keeping with the Board's philosophy to provide leadership and governance to the Authority; and

WHEREAS, the Authority desires to adopt a Revised Drug and Alcohol Policy, pursuant to recommendations from the Federal Transit Administration regarding the rules and procedures that the Authority will follow for the testing for drugs and alcohol in employees in safety-sensitive positions, for treatment and counseling of employees not in compliance, and the consequences to employees for noncompliance.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Utah Transit Authority:


1. That the Board of Trustees hereby amends Corporate Policy 6.2.1- UTA Drug and Alcohol Policy, a copy of which is attached to this Resolution as Exhibit A.
2. That the Drug and Alcohol Program Administrator provide written notice to every covered employee and to representatives of the employee organizations of the Authority's anti-drug and alcohol misuse policies and procedures pursuant to 49 CFR 655.17.
3. That the Drug and Alcohol Program Administrator is directed to make changes to the Policy Appendices from time to time to reflect changes in personnel and contract professionals in keeping with FTA guidelines, without further action of the Board. However, any such change shall be reported to the Board through a report to its Stakeholder Relations Committee by the Drug and Alcohol Program Administrator.
4. That this Policy stay in force and effect until rescinded, amended, or superseded by further action of the Board of Trustees.
5. That this Resolution supersedes resolutions R356, R357, R2005-10-02, R2010-06-03, and R2010-10-03.
6. That the Board of Trustees formally ratifies prior actions taken by the Authority, including those taken by the Executives and their staffs that were necessary or appropriate to update or modify the UTA Drug and Alcohol Policy.

7. That the corporate seal be attached hereto.

APPROVED AND ADOPTED this 19th day of November, 2014.

  
H. David Burton, Chair

ATTEST:

  
Robert K. Biles, Secretary/Treasurer


[SEAL]



CERTIFICATE

The undersigned duly qualified Chair of the Board of Trustees of the Utah Transit Authority certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Board of Trustees held on the 19th day of November, 2014.

  
\_\_\_\_\_  
H. David Burton, Chair

  
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Robert K. Biles, Secretary/Treasurer

APPROVED AS TO FORM

  
\_\_\_\_\_  
Keith Hawe  
Legal Counsel



**UTA Drug and Alcohol Policy  
No. 6.2.1**

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## Summary of UTA's Drug and Alcohol Policy

This reference is provided to summarize key aspects of UTA's Drug and Alcohol Policy, and to answer some common employee questions. Refer to the actual policy for additional important details.

### 1. What authority requires me to be tested?

All drug and alcohol tests are required under UTA policy. In addition, federal tests are required by federal regulations (by the Department of Transportation or the Federal Transit Administration) for employees covered by those rules.

### 2. What conduct is prohibited?

- a. Employees may not manufacture, distribute, dispense, sell, possess or use a controlled substance on UTA's premises or other work site.
- b. Prohibited drugs must not be used at any time. This includes illegal drugs, legal drugs that are misused, and prescription drugs not prescribed for the person using them. Any substance that causes mental or physical impairment, or raises concerns about an employee's ability to safely perform job functions must not be in the employee's system while working.
- c. Alcohol must not be used while working, including lunches or breaks, or within 5 hours of reporting to work.

### 3. How will I be tested?

A urine specimen is used to test for drugs. A breath sample is used to test for alcohol. The procedures used for all drug and alcohol tests will follow federal testing guidelines, which assure validity, privacy, and accuracy of results.

### 4. For what reasons can UTA require me to be tested?

Employees can be given a drug and/or alcohol test for the following reasons.

- a. Pre-Employment: All applicants must take and pass a drug test prior to beginning employment. Also, an employee who transfers from a job without any safety-sensitive functions into a job with a safety-sensitive function must pass a federal pre-employment drug test
- b. Reasonable Cause or Reasonable Suspicion: You may be given a drug and alcohol test any time a manager and/or supervisor has reason to believe, based on objective observations or information, that drug or alcohol use may be adversely affecting your job performance or that the policy has otherwise been violated. UTA may also inspect work areas and personal items brought on to UTA property if there is reason to suspect the policy has been violated.
- c. Post-Accident: Employees who perform safety-sensitive functions may be given a federal drug and alcohol test following an accident as defined by FTA rules. UTA may require any employee to be tested following an accident that is not covered by FTA rules.
- d. Random: Employees who perform safety-sensitive functions are subject to random drug and alcohol testing as set forth by FTA rules. Random selections are drawn by a computer program.
- e. Return-to-Duty: In many cases, UTA allows employees who previously tested positive on a required drug or alcohol test to keep their jobs after going through several steps. In these cases, employees must pass a return-to-duty drug and alcohol test before returning to work.

Per UTA policy, employees returning to work following an extended medical-related absence of 2 weeks or more may be required to submit to a physical exam, and may be given a drug and alcohol test if the examining physician sees a reason to test.

- f. Fitness-for-Duty: UTA may require you to submit to drug and alcohol testing as part of a physical exam when questions arise about your fitness and ability to do the job, and the examining physician sees a reason to test.

- g. Follow-up: Employees who have violated the policy in the past and have been allowed to return to work are subject to additional follow-up drug and alcohol tests, as recommended by a Substance Abuse Professional.

**5. What are the penalties for violating the policy?**

- a. UTA will terminate employment on the first occurrence for some violations. This includes but is not limited to:
  - i. The unlawful manufacture, distribution, dispensation, sale, possession or use of a controlled substance on UTA’s premises or other work site.
  - ii. Refusing to take a required test, which includes attempting to falsify or tamper with the testing process.
  - iii. Being intoxicated or under the influence of a prohibited substance while on duty or when reporting for duty. By definition in the policy, having an alcohol test level of 0.04 or above means a person is intoxicated.
- b. For other violations, such as having a confirmed alcohol test result between 0.02 and 0.039, or having a positive drug test without evidence of being under the influence on the job, employees can get a second chance. An employee in this situation will be suspended from duty, referred to a Substance Abuse Professional, must pass a return-to-duty test, and sign a return to work behavioral agreement before coming back to the job. Employees are then subject to additional follow-up drug and/or alcohol tests.

**6. Can I take prescription and over-the-counter drugs?**

Employees can use over-the-counter drugs as long as the warning labels and instructions on the drug are followed. You should not use an over-the-counter drug if it carries a safety warning, such as a statement that it might cause drowsiness, dizziness, or cautions not to drive or operate machinery while taking it. Employees must not use any medicine containing alcohol during working hours or within 5 hours of reporting to work – this is the same as any other form of alcohol.

Employees in a job with a safety-sensitive function (“covered employees”) may take properly prescribed medications that have been approved by their physician or other medical practitioner. These covered employees must report in writing to UTA any prescription medications which carry a safety warning. Covered employees must fill out a Medication Approval Form and have the prescribing medical professional sign it, indicating whether or not it is safe to work while taking the drug and if there are any time restrictions in using it. The form must be turned in to UTA within 7 days of taking the drug from the time the employee returns to work.

**UTAH TRANSIT AUTHORITY**  
**Drug and Alcohol Policy Statement**  
**No. 6.2.1**  
**Amended and Restated**

Throughout this policy: **Bold Type** in paragraphs indicates DOT and/or FTA requirements  
Regular Type in paragraphs indicates UTA policy

UTA's drug and alcohol policy has been adopted by the Board of Trustees.

**I. PURPOSE**

The purpose of this policy is to assure worker fitness for duty and to protect employees, passengers and the public from the adverse effects of alcohol misuse and prohibited drug use.

UTA is dedicated to providing safe, dependable and reliable services to our passengers and the public and to maintaining a safe, clean, healthy and productive workplace. Employees are our most valuable resource and it is our goal to provide a healthy, satisfying work environment that promotes opportunities for personal growth. To accomplish this, it is the policy of UTA to maintain a workplace free from the misuse or influence of alcohol and free from the unlawful manufacture, distribution, dispensing, possession or use of drugs, and to encourage employees to seek appropriate assistance when personal problems, including alcohol or drug dependency, adversely affect their ability to work.

Drug and alcohol testing is mandated for Covered Employees (see definitions) by the Federal Transit Administration (FTA) in 49 CFR Part 655, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," as amended. The U.S. Department of Transportation (DOT) has rules on how the testing should take place, set forth in 49 CFR Part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," as amended. In addition, UTA must comply with the federal Drug-Free Workplace Act as found in 41 USC sections 701 through 707, as well as 49 CFR Part 219. UTA will also abide by other applicable federal, state, and local drug or alcohol requirements. Drug and alcohol testing will be conducted in a fair and reasonable manner and in accordance with these rules.

As a condition of employment, employees are required to abide by the terms of this Drug and Alcohol Policy Statement. An employee who violates this policy is subject to discipline up to and including immediate termination of employment. If a physical exam or drug or alcohol test shows that an employee has violated this policy, that employee will be disciplined in accordance with this policy. Any employee may be required to undergo a scientific test for alcohol and drugs, and/or a physical examination when appropriate, at UTA's expense.

UTA intends to make good faith efforts to maintain a drug-free workplace through the implementation of this policy.

**II. DEFINITIONS**

As used in this policy, certain terms shall have the meanings set forth in this section, and the words are capitalized throughout this policy to indicate that they are defined terms.

"Accident" as defined by FTA means an occurrence associated with the operation of a vehicle, if as a result:

- (1) An individual dies; or
- (2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
- (3) With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or



other vehicle; or

- (4) With respect to an occurrence in which the mass transit vehicle involved is a rail car, trolley car, trolley bus, or vessel, the mass transit vehicle is removed from operation.

“Adulterated Specimen” means a specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

“Alcohol” means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol.

“Alcohol Concentration” means the amount of alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

“Alcohol Confirmation Test” means a subsequent test using an Evidential Breath Testing Device, following a screening test with a result of 0.02 or greater that provides quantitative data about the alcohol concentration.

“Alcohol Use” means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

“Cancelled Test” means a drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which DOT rules otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

“Collection Site” means a place selected by the employer where employees present themselves for the purpose of providing a urine specimen for a drug test and/or a breath specimen for an alcohol test.

“Collective Bargaining Agreement” means the negotiated agreement between UTA management and the union, or other written agreement related to drug testing as amended.

“Collector” means a person who instructs and assists employees at a Collection Site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the Custody and Control Form.

“Confirmation (or Confirmatory) Validity Test” means a second test performed on a urine specimen to further support a valid test result.

“Confirmed Drug Test” means a confirmation test result received by an MRO from a laboratory.

“Covered Employee” means a person, including an applicant, trainee, or transferee, who performs or will perform a Safety-Sensitive Function as defined by FTA.

“Designated Employer Representative” or “DER” means an employee authorized by the employer to take immediate action to remove employees or cause them to be removed from Safety Sensitive duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with DOT requirements.

“Dilute Specimen” means a specimen with creatinine and specific gravity values that are lower than expected for human urine.

“Disabling Damage” (see post-accident testing) means damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

- (1) Disabling Damage includes: Damage to a motor vehicle where the vehicle could have been driven, but would have been further damaged if so driven.
- (2) Disabling Damage does NOT include:
  - (i) Damage to a motor vehicle that can be remedied temporarily at the scene of the accident without special tools or parts;

- (ii) Tire disablement without other damage even if no spare tire is available;
- (iii) Headlamp or tail light damage; or
- (iv) Damage to turn signals, horn, or a windshield wiper which makes the vehicle inoperable.

“DOT” or “DOT agency” means the U.S. Department of Transportation and any of its associated agencies including, but not limited to, the Federal Transit Administration (FTA). These terms include any designee of a DOT agency.

“Drug” or “Drugs” means and includes any substance recognized as a drug in the United States Pharmacopeia, the National Formulary, the Homeopathic Pharmacopeia, the Utah Controlled Substances Act (Title 58, Chapter 37, Utah Code Annotated, 1953, as amended), or other drug compendia or update, supplement or amendment to any of those compendia, and controlled substances referred to in 21 U.S.C. §802(6), Schedule I or II, the possession of which is unlawful under 21 U.S.C. Chapter 13, and controlled substances referred to in 21 U.S.C. §812, Schedules I-V, and as further defined by 21 CFR 1300.11 through 1300.15.

“Evidential Breath Testing Device” or “EBT” means a device approved by the National Highway Traffic Safety Administration for the evidential testing of breath at the .02 and .04 alcohol concentrations, placed on NHTSA’s Conforming Products List (CPL) for “Evidential Breath Measurement Devices” and identified on the CPL as conforming with the model specifications available from NHTSA’s Traffic Safety Program.

“FTA” means the Federal Transit Administration, an agency of the U.S. Department of Transportation.

“Invalid Drug Test” means the result of a drug test for a urine specimen that contains an unidentified adulterant or an unidentified interfering substance, has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result.

“Medical Review Officer” or “MRO” means a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer’s drug testing program and evaluating medical explanations for certain drug test results.

“Performing (a Safety-Sensitive Function)” means a Covered Employee is actually performing, ready to perform, or immediately available to perform a Safety-Sensitive Function.

“Prescribed Drug” means a drug that has been legally prescribed by a physician or other health care professional for use in the course of medical treatment. Marijuana is not considered a prescribed drug and remains an illegal substance (see “Prohibited Drugs”).

“Primary Specimen” means the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The Primary Specimen is distinguished from the Split Specimen.

“Prohibited Drugs” include, but are not limited to: amphetamines, barbiturates, benzodiazepines, cocaine, marijuana, opiates, phencyclidine (PCP), and propoxyphene (if the person does not have a valid prescription). “Prohibited Drugs” also include over-the-counter drugs or medications which are misused or abused, and prescription drugs that are not prescribed for the person using them, or which are illegally obtained. Federal law supersedes state drug laws, and marijuana regardless if obtained legally or prescribed remains an illegal substance (Class I controlled substance), and therefore all UTA employees regardless of their job title are prohibited from using marijuana for any purpose, for any reason, and at all times including when not on company time. UTA will not accept the use of medical or legally obtained marijuana as a legitimate explanation for a positive test. UTA’s Medical Review Officer (MRO) will automatically verify such test as a positive test.

“Revenue Service Vehicle” means a vehicle, such as a bus or rail car, which is used for public transit and a person pays a fare to ride on it.

“Safety-Sensitive Function” means any of the following duties, when performed by employees, trainees, supervisors, volunteers, or contractors of UTA:

- (1) Operating a Revenue Service Vehicle, including when not in revenue service;

- (2) Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
- (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.

“Split Specimen” means a part of the urine specimen in a separate container that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the Primary Specimen or a verified adulterated or substituted test result.

“Substance Abuse Professional” or “SAP” means a person who evaluates employees who have violated a DOT or UTA drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

“Vehicle” means a bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A mass transit vehicle is a vehicle used for mass transportation or for ancillary services.

### III. POLICY

#### A) Scope

This policy applies to all UTA employees and trainees, and includes visitors, vendors, volunteers, temporary employees and contractors, when on UTA property or when performing any UTA related business, including those performing Safety-Sensitive Functions, whether on or off UTA property. It also includes off-site lunch periods or breaks when an employee is scheduled to return to work. Violators of this policy will not be permitted to conduct UTA business, and will or may be terminated.

##### 1) Collective Bargaining Agreement

To the extent permitted by law, drug and alcohol testing of bargaining unit employees is also governed by the current Collective Bargaining Agreement and any Side Letter agreements thereto.

##### 2) Covered Employees

**Employees who perform a Safety-Sensitive Function (see definitions) are covered by DOT and FTA regulations requiring specific testing as described in this policy.**

UTA has evaluated all the jobs in the organization and determined which jobs may require employees to perform Safety-Sensitive Functions. Any new job classifications developed will be analyzed by UTA's DER (see definitions) and the Human Resources department to determine if the new job requires employees to perform Safety-Sensitive Functions. A list of UTA job titles that have been determined to require employees to perform Safety-Sensitive Functions is attached as EXHIBIT 1.

EXHIBIT 2 contains a comparison of FTA vs. UTA requirements for drug and alcohol testing.

#### B) Compliance

Compliance with this policy is a condition of employment for all UTA employees, and violation will result in disciplinary action up to and including termination. Willing compliance is expected and appreciated from all employees. All employees are subject to urine drug testing and breath alcohol testing as provided herein. Compliance with a request for testing is mandatory, and anyone who provides false information in connection with a test or attempts to falsify test results through tampering, contamination, or substitution will be terminated.

1) **Refusal to Test**

Any employee's refusal to take a required test violates this policy. UTA will follow FTA's guidelines in determining when a refusal has occurred. **A refusal to take a test required by FTA constitutes a violation of FTA regulations. A Covered Employee who refuses to take a non-DOT test or to sign a non-DOT form has not refused to take a DOT test.** Under UTA policy, a refusal to take any required drug or alcohol test or any attempt to falsify test results is reason for discharge.

**All employees will be considered to have refused to take a drug test if they:**

- a) **Fail to appear for any test (except for pre-employment tests) within a reasonable time**
- b) **Fail to remain at the testing site until the testing process is complete;**
- c) **Fail to provide a sufficient urine specimen or breath sample without a valid medical explanation;**
- d) **In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen;**
- e) **Fail or decline to take a second test the UTA representative or Collector has directed you to take;**
- f) **Fail to undergo a medical examination or evaluation as directed by the MRO or by UTA's DER as part of the "shy bladder" procedures of Part 40;**
- g) **Fail to sign the certification at Step 2 of the Alcohol Testing Form;**
- h) **Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the Collector, or behave in a confrontational way that disrupts the collection process); or**
- i) **Have an adulterated or substituted test result verified by an MRO.**
- j) **For an observed collection, fail to follow the observers instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine the presence of any type of prosthetic or other device that could be used to interfere with the collection process;**
- k) **Possesses or wear a prosthetic or other device that could be used to interfere with the collection process;**
- l) **Admit to the collector or MRO that he or she adulterated or substituted the specimen.**

**A refusal to take a test required by FTA will be considered by the FTA as a verified positive test. If a Covered Employee refuses to submit to a drug or alcohol test required by FTA, the Covered Employee must cease performing all Safety-Sensitive Functions. UTA staff will advise the employee of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the name and telephone numbers of SAPs and counseling and treatment programs.**

C) **Alcohol Use**

1) **On-Duty Employees**

Employees may not consume alcohol while on duty. No employee should report for duty or remain on duty when his/her ability to perform assigned functions is adversely affected by alcohol. Employees who report to work and are tested with alcohol levels of 0.02 or greater will be removed from service and disciplined in accordance with this policy.

An employee exhibiting behaviors indicating possible alcohol abuse may be subject to an intervention by UTA, which may include confrontation, alcohol testing, referral to a SAP, and follow-up testing as recommended by the SAP.

**The ingestion of alcohol for 8 hours following an accident by a Covered Employee involved in the accident is prohibited unless the Covered Employee has already performed a post-accident alcohol test. (Refer to Part H, Section 3 in this policy regarding post-accident testing.)**

See EXHIBIT 3 in this policy for information regarding the signs and symptoms of an alcohol problem and the effects of alcohol misuse on an individual's health, work, and personal life.

2) **Pre-duty Alcohol Use**

Employees are not to consume alcohol within five (5) hours of starting work.<sup>1</sup> This does not, however, guarantee that an employee's system will be free of alcohol after 5 hours of cessation of drinking. The employee is still accountable for using alcohol responsibly, and reporting to work free from the influence of alcohol.

3) **Possession of Alcohol**

Employees may not possess an open container of alcohol at work (including breaks and lunches) or on UTA property. Unopened containers must not be brought into the work site. Employees may not transport alcohol in a UTA vehicle or distribute, transact or sell alcohol while at work or while on UTA property. Failure to adhere to a requirement of this paragraph may result in the termination of employment.

4) **Covered Employees On Call**

**Covered Employees may not use alcohol during the hours that they are on call.**

- a) **A Covered Employee who is on call has the opportunity to acknowledge the use of alcohol at the time he or she is called to report to duty and the inability to perform his or her Safety-Sensitive Function.**
- b) **The Covered Employee must take an alcohol test, if the Covered Employee has acknowledged the use of alcohol, but claims ability to perform his or her Safety-Sensitive Function.**

D) **Drug Use**

1) **Prohibited Substances**

Prohibited substances include:

- a) Prohibited Drugs (see definitions)
- b) Legal drugs that are misused
- c) Prescription Drugs not prescribed for the person using them
- d) Any substance that causes mental or physical impairment on the job, or raises concerns about an employee's ability to safely perform job functions

2) **Prohibited Behavior**

Pursuant to the Drug-Free Workplace Act, the unlawful manufacture, distribution, dispensation, sale, possession or use of a controlled substance is prohibited on UTA's property or other work site. Any employee violating this provision will be immediately terminated and reported to law enforcement officials.

3) **Notifying UTA of Criminal Drug Conviction**

As a condition of employment and pursuant to the Drug-Free Workplace Act, if an employee is convicted of a criminal drug offense occurring in the workplace, the employee is required to report it to UTA no later than 5 days after such conviction. Employees convicted of drug-related offenses that arise in the workplace will be terminated from employment.

UTA is required, within 10 days after receiving notice of an employee's conviction of drug-related offense, to notify any agency with which UTA has a federal procurement contract, and any agency which has provided a federal grant under which UTA is operating, performing work, or having work performed. UTA must also take appropriate personnel action against such an employee. To comply with the Drug-Free Workplace Act, disciplinary action must be taken within 30 calendar days after receiving notice of the employee's conviction.

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<sup>1</sup> Note: Under FTA regulations, Covered Employees are prohibited from using alcohol within 4 hours of starting work. UTA has set the additional hour through this corporate policy and through negotiated agreement with the union.

**4) Legal Drugs**

The appropriate use of legally prescribed drugs and over-the-counter medications is acceptable. However, when using any medication, the directions and warning label must be followed, especially where mental functioning, motor skills, or judgment may be adversely affected.

**a) Prescribed Drugs**

All prescriptions must be administered properly and issued in the employee's name by a licensed health care professional. It is the employee's responsibility to follow the dosing instructions correctly. Additional requirements for Covered Employees regarding UTA's medication reporting process are contained in Part IV of this policy.

**b) Over-The-Counter Drugs**

Employees may use over-the-counter drugs while working, provided the employee follows the instructions and warning labels, and the drug does not have the potential for impacting performance or safety (when used as directed under normal conditions). Employees who experience any performance-altering side effects should discontinue using the medication and consult their personal medical advisors to see if an alternate medication can safely be used. Employees who engage in a hazardous activity, such as driving or working around equipment, with an over-the-counter drug in their system which affects performance, judgment, or safety, are subject to discipline, including termination, under this policy.

**E) General Matters****1) Uniforms**

Employees may not enter bars, taverns, liquor stores and private clubs, or drink alcohol in public while wearing a UTA uniform.

**2) Intoxication/Under the Influence**

Any time a supervisor or other UTA official sees reason to suspect an employee reporting for duty of being intoxicated or under the influence of a prohibited substance or otherwise not fit for duty, the employee will be suspended from job duties pending an investigation and verification of condition. An employee found to be under the influence while working will be removed from duty and will be subject to termination.

**3) Pay for Time and Transportation**

Except for pre-employment and return-to-duty tests, drug and alcohol screens will be conducted just before, during or immediately after an employee's regular work period. Employees who are on active duty will be paid for time spent in taking the test or exam, including time spent traveling to the location of the test or exam from the work place.

- a) UTA will pay for the costs of transportation if the testing is conducted at a place other than the work site. Employees may be reimbursed for personal vehicle mileage for this purpose.
- b) In accordance with the Collective Bargaining Agreement, UTA will provide for transportation to the residence of a bargaining unit employee who, as a result of drug or alcohol testing conducted after the end of the employee's regularly scheduled shift, does not otherwise have transportation home.
- c) UTA will compensate an employee at the employee's regular rate of pay, including applicable overtime required by law, for time spent traveling to and from a UTA-designated drug and alcohol testing site if such travel is required before or after the employee's regularly scheduled shift, except that no such compensation will be paid to an employee undergoing return-to-duty testing following a positive test result.

**4) Employer's Right to Inspection**

UTA reserves the right to inspect all personal property brought onto the Authority's premises upon reasonable suspicion of violation of this drug and alcohol policy, based on facts, circumstances, evidence, physical signs and symptoms or a pattern of performance or behavior that would cause a supervisor or

manager to conclude that an employee may be intoxicated, has diminished ability, or may be under the influence of a prohibited substance. This property includes vehicles, packages, briefcases, backpacks, purses, bags and wallets. In addition, the Authority may inspect the contents of lockers, storage areas, file cabinets, desks, and work stations. Refer also to section H part 2 of this policy regarding reasonable suspicion or reasonable cause testing.

**5) Discovery of Illegal Drugs/Alcohol**

Employee who discover any illegal drugs on UTA property, at any stops, platforms and/or on any company vehicle must immediately contact UTA police. The discovery of any alcohol must be discarded into a trash receptacle and be immediately reported to their immediate supervisor, manager or dispatcher.

**6) Side Effects**

Covered Employees and any employees using a support service vehicle who experience performance altering side effects or who do not feel fit for duty, regardless of previous approvals, must consult their personal health care professional and immediately refrain from performing hazardous activities, including driving and working with machinery. Covered Employees and any employee's using a support service vehicle should inform their supervisor, managers or dispatcher that they do not feel fit for duty, and may be excused for this reason until the issue is resolved.

**F) Treatment**

Employees may be required to undergo treatment for substance abuse when such abuse is suspected of causing problems at work, or when UTA has other reasons to believe there is a substance abuse issue. In such cases, successful completion of rehabilitation will be a requirement of continued employment. UTA may also require the employee to sign a return-to-work behavioral agreement and submit to follow-up testing as recommended by the Substance Abuse Professional.

**G) Testing Procedures**

**Urine drug testing and breath testing for alcohol will be conducted as outlined in this policy, or as required by federal regulations. Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and will use techniques, equipment, and laboratory facilities that have been approved by the U.S. Department of Health and Human Services (HHS). All testing will be conducted in accordance with 49 CFR Part 40, as amended, a copy of which is available upon request from UTA's DER (see EXHIBIT 5 for this person's name and contact information). Non-federal tests done according to UTA policy will follow the DOT guidelines where possible for consistency and reliability.**

**1) Confidentiality**

UTA affirms the need to protect individual dignity, privacy, and confidentiality through the testing process. Therefore, UTA will only release test records and results to those authorized to receive such information. UTA will follow the FTA guidelines below in dealing with testing records for UTA tests as well as FTA tests.

**a) Testing Records**

- (i) Drug and alcohol test records will be kept in a secured area with controlled access. Records will be retained at least as long as is required by 49 CFR Part 655 as amended.**
- (ii) Employees are entitled, upon written request, to obtain copies of any records pertaining to the employee's use of prohibited drugs or misuse of alcohol, including any records pertaining to his or her drug or alcohol tests. UTA shall provide promptly the records requested by the employee. Access to an employee's records shall not be contingent upon UTA's receipt of payment for the production of those records.**
- (iii) UTA shall release information regarding an employee's record as directed by the specific, written consent of the employee authorizing release of the information to an identified person.**
- (iv) In a grievance, hearing, lawsuit, or other action involving the employee, UTA may release**

relevant information to the decision-maker, and to those who need to know the information to assist with the case. Such information may also be released to representatives from state or federal agencies when required.

2) **Collection Process**

UTA will take the required steps under DOT rules to protect the security and integrity of the samples collected, and to ensure the test results are attributed to the correct employee. For all urine drug and breath alcohol tests, UTA will follow the procedures set forth in 49 CFR Part 40, as amended.

3) **Drugs Subject to Testing**

The drugs or classes of drugs that will be tested for under DOT are:

- A) Marijuana
- B) Cocaine
- C) Opiates (including codeine, heroin, and morphine)
- D) Amphetamines (including methamphetamine)
- E) Phencyclidine (PCP)

Refer to EXHIBIT 4 for facts and information about the effects and dangers of these drugs.

Under UTA policy, additional drugs may be tested for on UTA tests, including but not limited to barbiturates, benzodiazepines, propoxyphene, methadone and other opiates.

4) **Confirmation of Tests**

**An initial drug screen will be conducted on each urine specimen. For those specimens that are positive, a confirmatory Gas Chromatography /Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40 as amended, and the MRO determines that there is no medical condition which would give a false positive test.** For drugs not specified in 49 CFR Part 40, a UTA drug test will be considered positive if the amounts present are above the minimum thresholds established by the applicable government agency or by UTA, and the MRO determines that the test is a verified positive test.

5) **Split Sample Testing**

All urine samples will be collected using the Split Specimen method of drug testing, in which the employee's urine sample will be split into two bottles: (1) a 30 ml Primary Specimen, or "Specimen A", and (2) a 15 ml Split Specimen, or "Specimen B". All initial testing will take place on Specimen A. Specimen B is preserved to give the option to have a second test conducted should the test of the first sample yield a positive result.

**An employee initially testing positive for drugs shall be given the opportunity to have the Split Sample that was provided at the same time as the original sample tested at a different HHS-certified laboratory acceptable to UTA. Such a request must be made in writing or verbally to the MRO within 72 hours of the time the MRO provides the notification to the employee that the test is verified positive, adulterated or substituted. The second laboratory is only required to run a confirmatory test for the specific substance which appeared in the Primary Specimen. If the Split Specimen reveals no measurable presence of the drug in question, the former positive test will be cancelled.**

In accordance with Utah state law, the cost for Split Specimen testing will be divided equally between the employee and UTA. **However, the employee is not required to pay for the test from his or her own funds before the test takes place.** UTA will seek reimbursement for the employee's portion of the cost of the test. If the Split Specimen test invalidates the original test, UTA will pay the full cost of the Split Specimen test.

**The method of collecting, storing, and testing the Split Specimen will be consistent with the procedures set forth in 49 CFR Part 40, as amended.**



6) **Alcohol Testing**

Tests for alcohol concentration will be conducted utilizing an Evidential Breath-Testing Device (see definitions). Tests will be performed by a trained Breath Alcohol Technician.

A screening test will be given first. If the initial test indicates an alcohol concentration of 0.02 or greater, a second Alcohol Confirmation Test will be performed after a waiting period of at least 15 minutes but not more than 30 minutes. Per UTA policy, an employee who has a confirmed alcohol concentration of 0.02 or greater will be considered to have a positive alcohol test and is in violation of this policy.

7) **Medical Review Process**

The MRO (see definitions) must determine whether there is a legitimate medical explanation for confirmed positive, adulterated, substituted, and invalid drug test results from the laboratory. UTA will use MROs who meet the qualifications specified in DOT rules. UTA and union leaders have agreed to jointly select the MRO to be used during the term of the Collective Bargaining Agreement.

If a drug test result is positive, the MRO must contact the employee directly on a confidential basis, to determine whether the employee wants to discuss the test result. Employees shall have the opportunity to give any information they consider relevant to the MRO, including identification of currently or recently used prescription or nonprescription drugs, medical history, or other relevant information. The employee has the burden of proof that there is a legitimate medical explanation. The MRO shall discuss information relevant to the test and shall inform the employee how to request a split sample test within 72 hours. Requests made after 72 hours will only be accepted if the delay was due to verifiable facts of a situation that was beyond the employee's control.

The MRO may verify a test result as a positive or refusal to test, as applicable, if neither the MRO nor the DER at UTA, after making and documenting all reasonable efforts, has been able to contact the employee within ten days of the date on which the MRO receives the confirmed test result from the laboratory.

8) **Substance Abuse Referral**

A SAP (see definitions) will evaluate employees who test positive for the presence of prohibited substances, whether from a DOT or a UTA test. UTA may also refer an employee to a SAP when issues related to substance abuse arise or are suspected.

UTA will use SAPs who meet the qualifications specified in DOT rules. The SAP will determine what assistance or training the employee needs in resolving problems associated with substance abuse or misuse. Assessment by a SAP does not shield an employee from disciplinary action nor guarantee reinstatement. Consult the Test Results section (K) of this policy to determine the penalty for violation.

An employee who is allowed to return to duty must properly follow the rehabilitation program prescribed by the SAP. The employee must pass a return-to-duty drug and alcohol test, sign a return-to-work behavioral agreement as outlined in section J of this policy, and be subject to unannounced follow-up tests for a period of one to five years, as determined by the SAP. The cost of any treatment or rehabilitation services not covered by the employee's health insurance carrier will be paid directly by the employee.

Employees will be allowed to take available sick or personal leave and vacation leave to participate in a prescribed rehabilitation program.

H) **Reasons for Testing**

1) **Pre-Employment Testing**

All applicants receiving a contingent offer of employment with UTA shall undergo urine drug testing (no

alcohol test) prior to beginning employment. **Applicants for jobs with a Safety-Sensitive Function will take a DOT test**; other applicants will take a UTA test. **UTA must receive a verified negative drug test result prior to employment or before a Covered Employee or applicant is allowed to perform a Safety-Sensitive Function for the first time.**

- a) **An employee who transfers from a job with no Safety-Sensitive Functions into a job having a Safety-Sensitive Function must also take a DOT pre-employment drug test, and UTA must receive a verified negative result before the person can begin Safety-Sensitive Functions.**
- b) **If a pre-employment drug test is canceled, UTA will require the Covered Employee or applicant to take another pre-employment drug test to get a verified negative result.**
- c) **When a Covered Employee or applicant has not performed a Safety-Sensitive Function for 90 consecutive calendar days, regardless of the reason, and the employee has not been in UTA's random selection pool during that time, UTA shall ensure that the employee or applicant takes a pre-employment drug test with a verified negative result before beginning or returning to performing Safety-Sensitive Functions.**

An applicant who fails the drug test will be disqualified from employment for a period of two years. Evidence of the absence of drug or alcohol dependency from a SAP and a negative drug test will be required prior to further consideration for employment. **When a Covered Employee or applicant has previously failed or refused a pre-employment drug test administered under this part, the employee or applicant must provide UTA proof of having successfully completed a referral, evaluation and treatment plan.**

## 2) Reasonable Cause and Reasonable Suspicion Testing

All employees are subject to an evaluation, which may include appropriate urine drug and/or breath alcohol testing, when there is reason to believe that drug or alcohol use is adversely affecting job performance or that this policy has otherwise been violated. A reasonable cause referral for testing is a UTA test which can be conducted on any employee, and will be made on the basis of facts, circumstances, evidence, physical signs and symptoms or a pattern of performance or behavior that would cause a supervisor or manager to conclude that an employee may be intoxicated, has diminished ability, or may be under the influence of a prohibited substance. For Covered Employees, a UTA reasonable cause test can be conducted when the "reasonable suspicion" definition under FTA is not met, but there are long-term or other indications of possible drug use or alcohol misuse.

**A reasonable suspicion test is an FTA drug and/or alcohol test conducted on a Covered Employee when UTA has reasonable suspicion to believe that the Covered Employee has used a prohibited drug and/or engaged in alcohol misuse. This determination shall be based on specific, contemporaneous (immediate), articulable observations concerning the appearance, behavior, speech, or body odors of the Covered Employee. A supervisor or other UTA official who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations.**

**FTA alcohol testing is authorized under this section only if the required observations are made during, just preceding, or just after the period of the workday that the Covered Employee is required to be in compliance with this part. UTA may direct a Covered Employee to undergo reasonable suspicion testing for alcohol only while the employee is performing Safety-Sensitive Functions; just before the employee is to perform Safety-Sensitive Functions; or just after the employee has ceased performing such functions.**

**If an alcohol test required by this section is not administered within two hours following the reasonable suspicion determination, the UTA official shall prepare and maintain on file a record stating the reasons why the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the determination, the UTA official shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.**

### 3) **Post-Accident Testing**

Refer to the definitions section of this policy for FTA's definition of an Accident.

#### a) **Fatal Accidents**

**For Covered Employees, UTA shall conduct an FTA drug and alcohol test as soon as practicable following an Accident involving the loss of human life on each surviving Covered Employee operating the mass transit vehicle at the time of the Accident. UTA shall also test any other Covered Employee whose performance could have contributed to the Accident, as determined by UTA using the best information available at the time of the decision.**

Under UTA policy, employees may be required to undergo a UTA drug and alcohol test if they are involved in an accident with a UTA vehicle which results in a fatality, regardless of whether or not the vehicle is in revenue service. This includes all employees whose performance could have contributed to the accident.

#### b) **Non-Fatal Accidents**

**For Covered Employees, as soon as practicable following an Accident not involving the loss of human life in which a mass transit vehicle is involved, UTA shall perform an FTA drug and alcohol test on each Covered Employee operating the mass transit vehicle at the time of the Accident unless UTA determines, using the best information available at the time of the decision, that the Covered Employee's performance can be completely discounted as a contributing factor to the Accident. UTA shall also perform a drug and alcohol test on any other Covered Employee whose performance could have contributed to the Accident, as determined by UTA using the best information available at the time of the decision.**

- (1) **If an alcohol test required by this section is not administered within two (2) hours following the Accident, UTA shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight (8) hours following the Accident, UTA will cease attempts to administer an alcohol test, will update the two-hour written report and maintain the record. Records shall be submitted to FTA upon request of the Administrator.**
- (2) **UTA will ensure that a Covered Employee required to be drug tested under this section is tested as soon as practicable but within 32 hours of the Accident.**
- (3) **A Covered Employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the supervisor or UTA representative of his or her location if he or she leaves the scene of the Accident prior to submission to such test, may be deemed by UTA to have refused to submit to testing.**
- (4) **The decision not to administer a drug and/or alcohol test under this section shall be based on UTA's determination, using the best available information at the time of the determination, that the employee's performance could not have contributed to the Accident. Such a decision must be documented in detail, including the decision-making process used to reach the decision not to test.**
- (5) **Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an Accident or to prohibit a Covered Employee from leaving the scene of an Accident for the period necessary to obtain assistance in responding to the Accident or to obtain necessary emergency medical care.**

Any employee will be required to take a UTA drug and alcohol test after any accident or incident that does not meet the FTA Accident definition where, in the estimation of the investigating supervisor, there are circumstances that would give reason to test. Examples of such circumstances are:

1. a violation of defensive driving rules or training;
2. a violation of motor vehicle laws or rules; or
3. a violation of a standard operating procedure or work rule relating to the operation of a UTA vehicle.

Except as required under the FTA regulations, an employee will not be required to undergo a drug and alcohol test in the event of an incident involving injury to a third person that occurs while a transit

vehicle is stopped nor an incident involving injury to a third person that occurs away from, and does not involve any contact with, a transit vehicle.

c) **Operation of Non-UTA Vehicles on UTA Business**

Any UTA employee, when operating their own or other non-UTA vehicle on UTA business will be required to take a UTA drug and alcohol test as soon as practicable following any accident or incident in which:

1. An individual dies; or
2. An individual is injured and immediately receives medical treatment away from the scene of the accident; or
3. One or more vehicles is damaged and is transported away from the scene by a tow truck or other vehicle.

UTA employees will immediately report accidents to their supervisor. The employee's direct supervisor or designee will authorize the drug and alcohol test.

d) **Non-Vehicular Industrial Accident Testing**

Employees will be required to undergo UTA post-accident drug and alcohol testing if they are involved in a non-vehicular industrial accident that involves a person receiving medical treatment for a work-related injury at a medical facility authorized by UTA.

- (i) Employees are expected to immediately report the work-related injury to the Workers' Compensation Administrator or to the employee's immediate or on-duty supervisor.
- (ii) When the employee does immediately report such an industrial accident, UTA will conduct testing as follows:
  - (a) UTA will ensure that the employee is tested for alcohol as soon as practicable within eight hours after the person reported the accident; and
  - (b) UTA will test the employee for drugs as soon as practicable within 32 hours after the employee reported the accident.

4) **Random Testing**

**Covered Employees are subject to random drug and alcohol testing. The minimum annual percentage rate for random drug and alcohol testing shall be determined by the FTA, who may change the rates based on violation rates for the entire industry.** The current rate of testing is noted in EXHIBIT 5 at the end of this policy.

- a) **The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, using a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each Covered Employee shall have an equal chance of being tested each time selections are made. UTA management or other personnel have no discretion as to who is selected or notified to proceed for testing.**
- b) **UTA shall randomly select a sufficient number of Covered Employees for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rates for random drug and alcohol testing determined by the FTA.**
- c) **UTA shall ensure that random drug and alcohol tests conducted are unannounced, unpredictable, and immediate. The dates for administering random tests will be spread reasonably throughout the calendar year. Random testing will be conducted at all times of day when Safety-Sensitive Functions are performed.**
- d) **UTA requires that each Covered Employee who is notified of selection for random drug or random alcohol testing proceed to the test site immediately. If the employee is performing a Safety-Sensitive Function at the time of the notification, UTA shall ensure that the employee ceases to perform the Safety-Sensitive Function and proceeds to the testing site immediately.**
- e) **A Covered Employee shall only be randomly tested for alcohol misuse while the employee is performing Safety-Sensitive Functions; just before the employee is to perform Safety-Sensitive Functions; or just after the employee has ceased performing such functions. A Covered Employee may be randomly tested for prohibited drug use anytime while on duty.**

### 5) **Return-to-Duty Testing**

**A Covered Employee who has a verified positive drug test result on a DOT-required test must be evaluated by the SAP, be released to duty, and pass a DOT return-to-duty drug and/or alcohol test before returning to perform Safety-Sensitive Functions. In accordance with Part 40 as amended, return-to-duty drug tests done when returning after a previous positive test must be collected under direct observation.** An employee who has a confirmed alcohol test result of 0.02 to 0.039 will follow the same process, but will be required to pass a non-DOT return-to-duty alcohol test, per UTA policy.

Any employee who previously tested positive on a UTA-required drug or alcohol test must be evaluated and released to duty by the SAP and pass a UTA return-to-duty test before returning to work.

Per UTA policy, employees returning to work following an extended medical-related absence of two weeks or more may be required to submit to a physical exam. Refer to the section that follows on fitness-for-duty testing.

### 6) **Fitness-for-Duty Testing**

In accordance with the Collective Bargaining Agreement, and per UTA policy, UTA may require an employee to submit to a physical examination by a physician selected and paid by UTA. If UTA requires a fitness-for-duty examination pursuant to the Collective Bargaining Agreement or when questions about fitness arise, UTA may also require the employee to submit to drug and alcohol testing if:

- a) the physician has reason to believe that the employee should be tested for drugs or alcohol; or
- b) the physician cannot conclude that a physical reason unrelated to drugs or alcohol caused, or is causing, the concern that led to the fitness for duty examination.

However, if UTA requires a fitness-for-duty examination, UTA will not also require the employee to submit to drug and alcohol testing if the physician concludes that the reason for the concern that led to the fitness for duty examination is a physical impairment unrelated to drugs or alcohol.

### 7) **Follow-up Testing**

Employees who have properly complied with the return-to-work process will be required to undergo follow-up drug and/or alcohol testing as specified by the SAP for the period of their return-to-work behavioral agreement. Employees returning to work after having a positive UTA test will receive UTA follow-up tests. UTA follow-up tests may also be given in other situations when recommended by a health care professional or SAP.

**Covered Employees returning to work after having a positive FTA test will receive FTA follow-up tests. UTA will not allow a Covered Employee to continue to perform Safety-Sensitive Functions unless follow-up testing is conducted as directed by the SAP, for a period of 12 months up to 60 months, with at least six follow-up tests within the first 12 months. UTA will schedule follow-up tests so that they are unannounced with no discernable pattern as to their timing, and ensure that the employee is given no advance notice. In accordance with Part 40 as amended, all follow-up drug tests must be collected under direct observation.**

### I) **Voluntary Rehabilitation**

Employees who have a substance abuse or dependency problem may ask for assistance from UTA in overcoming these problems, or may contact UTA's Employee Assistance Program directly for confidential help (see EXHIBIT 5). The Human Resources Department and/or the Drug Testing Administrator can also provide referral assistance. Employees may use available medical benefits and sick or personal leave as required for an approved program of treatment. Employees may also be granted a medical leave of absence if necessary.

Employees will not be disciplined for taking steps toward rehabilitation if they come forward before a disciplinary issue arises, or before being notified of a pending drug or alcohol test. Self-reporting just after being notified of a test does not release an employee from the responsibility of taking the test, and it also does

not qualify as voluntary rehabilitation. Employees who do come forward must, however, commit to resolving the problem. Employees may be required to take a leave of absence if there is a question about their ability to work safely and productively. Supervisors should participate, as appropriate, in the employee's rehabilitation efforts. Employees may use their health insurance or the Employee Assistance Program for rehabilitation. The employee must pay for other programs or counselors. Upon returning to work, employees may be required to enter into a return-to-work behavioral agreement as defined in Section J and may be subject to follow-up testing as recommended by the SAP to ensure that they are complying with the rehabilitation.

#### **J) Return-To-Work Behavioral Agreements**

Employees who have tested positive for drugs or alcohol or are otherwise found to be in violation of this policy will be required to sign a return-to-work behavioral agreement as a condition of reinstatement. The agreement will at a minimum include, but is not limited to:

- 1) An agreement to refrain from using any prohibited substances in violation of UTA policy.
- 2) An agreement to submit to unannounced follow-up testing for a period of 12 months to 60 months, as determined by the SAP.
- 3) An agreement to have no future positive tests, whether for drugs or alcohol.
- 4) An agreement to abide by the treatment recommendations made by the SAP, including successful completion of any treatment program or substance abuse prevention class as applicable; to follow specified after-care requirements as defined by the SAP; and to submit continuing documentation to verify participation.
- 5) An agreement that a subsequent positive test will constitute notice of the employee's resignation from UTA

After obtaining a statement of compliance with treatment from the SAP and passing a return-to-duty drug and/or alcohol test, the employee will be required to sign the return-to-work behavioral agreement before coming back to work.

Violation of the return-to-work behavioral agreement is cause for termination.

#### **K) Test Results**

Any result below minimum test thresholds for drug testing or concentration levels under 0.02 for alcohol testing shall be considered a negative test result.

Results of drug tests that show an initial laboratory positive for prescribed drugs that are properly used will be verified by the MRO and reported to UTA as negative.

Any employee with a confirmed positive drug test result, as certified by the MRO, or a confirmed positive alcohol test shall immediately be removed from duty. Where a return to work is allowed, employees who have completed their new hire probationary period will be able to return to work once the required steps have been followed.

##### **Negative Dilute Result**

UTA will consider a drug test result that is negative but dilute to be a valid negative test result and will not require a recollection. **However, an immediate recollection under direct observation will be conducted if directed by the MRO (i.e., because the creatinine concentration of the specimen was equal to or greater than 2mg/dL, but less than or equal to 5 mg/dL).**

##### **1) Consequences of Positive Tests or Refusals**

###### **a) Positive Alcohol Test**

Per UTA policy, a positive breath alcohol test means an Alcohol Confirmation Test with a level of 0.02 or greater. **Per FTA rules, when a confirmed alcohol test result of 0.02 or greater is received, the Covered Employee involved must be temporarily removed from performing Safety-Sensitive Functions.**

###### **(i) Level of 0.02 to 0.039**

Under UTA policy, the employee will be immediately removed from duty without pay, provided there is no evidence of intoxication, use or diminished ability while on the job. Requirements to return to work include passing an evaluation by an SAP, signing a return-to-work behavioral agreement, and **completing an alcohol test with a concentration measuring less than 0.02.**

(ii) **Level of 0.04 or greater**

Under UTA policy, an employee with a confirmed alcohol test at 0.04 or greater will be terminated, since a person with this level of alcohol is under the influence and impaired. **The employee will still be referred to an SAP for evaluation and assistance in dealing with the substance abuse issue.**

b) **Positive Drug Test**

**Upon receipt of a verified positive DOT drug test result, UTA will immediately remove the Covered Employee involved from performing Safety-Sensitive Functions.** Under UTA policy, employees who test positive on UTA tests will also be removed from duty. For all positive drug tests where a return to work is allowed, requirements for returning include referral to the SAP for evaluation, completing any treatment program that may be recommended, completing a negative return-to-duty drug and/or alcohol test, and signing a return-to-work behavioral agreement.

(1) **Marijuana**

An employee with a positive drug test for marijuana will be removed from duty and placed on a leave without pay for a period up to 30 calendar days. The SAP will evaluate the employee's situation and determine an appropriate time for the employee to take a return-to-duty test. If results of the return-to-duty test show marijuana in an amount greater than the initial positive test, the employee will be terminated. If the result of the return-to-duty test is positive for marijuana, but the amount is less than the original positive test, then the employee will be allowed to wait for a period not greater than 30 days and submit to another return-to-duty test.

(2) **Prohibited Drug Other Than Marijuana**

An employee with a positive drug test for any Prohibited Drug other than marijuana will receive a suspension without pay for 21 calendar days.

(3) **Second Positive Test**

An employee who has a second positive drug or alcohol test, after a previous positive drug or alcohol test, is subject to immediate termination.

(4) **Refusal to Test**

Any kind of refusal to take a required drug or alcohol test will result in termination of employment. Refer to section B of this policy regarding compliance with testing.

#### IV. **ADDITIONAL REQUIREMENTS FOR COVERED EMPLOYEES – MEDICATION REPORTING**

The following policies apply to Covered Employees. See EXHIBIT 1 for a list of UTA job titles requiring Safety-Sensitive Functions, which are Covered Employees.

The FTA and UTA share concerns about the potential safety risks associated with the use of prescription and over-the-counter medications by employees who perform Safety-Sensitive Functions, since use of these medications has been found to have contributed to some serious accidents in the transit industry. Therefore, in the interest of protecting employees and others, UTA requires that Covered Employees must not work while under the influence of any medication, whether or not prescribed, that adversely affects their ability to do their assigned jobs. This includes medications that affect the mental, motor or judgmental faculties to the extent that they cannot be taken without risk of injury to any person or damage to any property. Refer to Section D, part 4 of this policy for guidelines on using over-the-counter medications.

**A) Use of Prescribed Drugs**

A Covered Employee may take properly prescribed medications that have been approved by the employee's physician or other medical practitioner, to ensure that the job duties can be performed safely. Covered Employees must make sure that any prescribed drug or any combination of drugs being taken will not adversely impact their job performance.

**1) Reporting Prescribed Drugs Which Carry a Safety Warning**

This policy requires that actively working Covered Employees using prescribed medications must have those medications approved by the prescribing medical professional and reported in writing to UTA, if the medication carries a safety warning indicating the possibility of impaired functioning.

- ◆ Safety warnings include, but are not limited to, statements that the medication may cause drowsiness, dizziness, may impair cognitive or mental abilities, or cautions against driving or operating machinery while taking the drug.

Therefore, any prescribed medication for which either the prescribing medical professional OR the pharmacy indicates it carries a safety warning **MUST** be approved by the prescribing professional, **AND** reported in writing to UTA using the Medication Approval Form (MAF).

To make sure a drug's safety warning is not overlooked, as well as ensuring that the use of prescribed medications will not pose a safety risk to themselves, other employees, or the general public, it is the responsibility of every Covered Employee, at the time a new prescription is being received, to:

- Inform the prescribing medical professional of the basic safety-sensitive job duties at UTA; and
- Ask the prescribing medical professional if the drug has a warning which might impact the ability to safely perform these job duties.

**a) How to Report a Medication**

To report a medication, the Covered Employee's health care practitioner (a licensed professional familiar with the employee's medical history and job duties) must read, complete and sign a Medication Approval Form (MAF). Employees can obtain a Medication Approval Form from the Human Resources department or from Division Office Coordinators to make this report. The prescribing professional must note on the form whether there are any restrictions on how much time should elapse between when the employee takes the drug and when the Safety-Sensitive Functions can be performed, as well as how long the prescription lasts.

When reporting prescribed drugs, all other prescribed drugs being taken at the same time must also be approved and reported so that the prescribing medical practitioner can be aware of possible drug interactions.

Covered Employees are encouraged to bring a copy of the MAF with them when they visit their medical providers to expedite this process. The MAF must be returned to the Human Resources department within 7 days from the date the Covered Employee returns to work while taking the medication. Forms may be hand-delivered, mailed or faxed to the Human Resources department. As long as the prescribing medical professional has verbally informed the Covered Employee that he/she is able to perform Safety-Sensitive Functions while taking the medication, the Covered Employee may work during that 7-day period while waiting for the form to be sent by the health care practitioner.

**b) Penalties**

A Covered Employee who fails to submit a required Medication Approval Form to UTA within 7 days of returning to work will be relieved from duty without pay. The employee may return to work upon submission of a properly completed MAF.

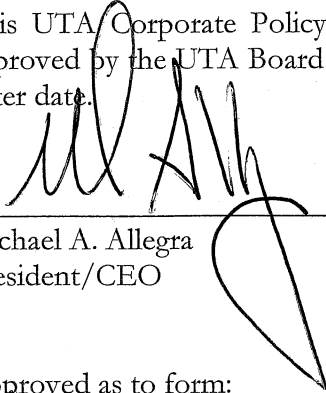
If the Covered Employee's use of a prescription or over-the-counter drug has endangered the employee, other employees or the public, has contributed to an accident, or if the employee has been found to have made a serious or repeated violation of these medication reporting procedures, the employee may be subject to discipline, including termination, under this policy.



**B) Confidentiality of Forms and Verification**


Medication Approval Forms will be kept in the employee's confidential medical file in the Human Resources department and may be verified by UTA's medical advisors. If the Covered Employee's prescribing medical professional and UTA's medical advisor differ regarding use of a medication, UTA will work with the prescribing medical professional and the Authority's medical advisor to resolve the disagreement.

This UTA Corporate Policy was reviewed and approved by Corporate Staff on ~~10/28/2014~~ and approved by the UTA Board of Trustees on this 25<sup>th</sup> day of Nov., 2014 and shall take effect on the latter date.



Michael A. Allegra  
President/CEO

Approved as to form:



Counsel for UTA

Revision History	
Drug and Alcohol Policy	Revised to reflect required FTA modifications

## **EXHIBIT 1**

### **UTA Job Titles Which Require Safety-Sensitive Functions**

**Administration and Technology:**

Maintenance Training Specialists  
 Manager of Technology Support Facility  
 Electronic Communications Tech  
 Bus Operations Training Administrator  
 Fleet Engineering Technicians  
 Service Plan Development Specialist  
 Vehicle Procurement Commissioning Administrator - Bus

**Bus Maintenance:**

Master Journeyists  
 Journeyists  
 Master Technicians  
 Transit Vehicle Technicians  
 Maintenance/Technician Apprentice  
 Service Employees  
 Coach Cleaners (those who operate a Revenue Service Vehicle)  
 Bus Vehicle Maintenance Supervisors

**Body Shop:**

Journeyists  
 Class A Mechanic  
 Body Shop Helper  
 Maintenance/Technician Apprentice  
 Support Service Employees  
 Technical Support Supervisors

**Bus Operations:**

All Bus Operators and Trainees  
 Bus Operations Supervisors  
 Downtown Operations Supervisor  
 Flextrans Radio Control Coordinators  
 Transit Communications Supervisors  
 Transit Communications Dispatchers  
 Manager of Transit Communications Center  
 Manager of Service Delivery  
 Special Services General Manager

**Facilities Maintenance:**

Facilities Helper  
 Facilities Maintenance Technician/Apprentice  
 Class A Mechanic – Facilities  
 Facilities Journeyist  
 Maintenance Road Crew  
 Facilities Service Employee  
 Facilities Equipment Repair Technician

**Rail Service:**

Light Rail Vehicle Operators and Trainees  
 Rail Operations Supervisors  
 Rail Service Employees  
 Electromechanics  
 Rail Maintenance Workers  
 Rail Maintenance Supervisors  
 Maintenance of Way Supervisors

Light Rail Vehicle Maintenance Supervisors  
Rail Fleet Control Supervisor  
Manager of Rail Operations  
Deputy General Manager Rail System Infrastructure  
Manager of Right of Way Assets  
Manager of Rail Systems  
Manager Rail Vehicle Maintenance  
Technical Services Supervisor  
Assistant Manager of Rail Operations  
Rail Maintenance Training Specialist

**Public Safety:**

Transit Police Officers (All)  
Sergeant  
Lieutenant  
Captain  
Public Safety Manager

Note: Other job titles may be added or deleted as new jobs are developed or current jobs are reevaluated. A person, including an applicant, trainee, or transferee, who performs or will perform a Safety-Sensitive Function as defined by FTA is a "Covered Employee" even if their job title is not currently in the above list.

**EXHIBIT 2****FTA Drug & Alcohol Requirements Compared to UTA Requirements**

<b>FTA REQUIREMENTS</b> <b>Applies to Covered Employees</b>	<b>UTA REQUIREMENTS</b> <b>Can apply to all employees</b>		
<b>PRE-EMPLOYMENT</b> <ul style="list-style-type: none"> <li>➤ After conditional offer for jobs having Safety-Sensitive Functions (drug test only)</li> <li>➤ Employee transferring from job with no Safety-Sensitive Functions to one that does (drug test only)</li> <li>➤ Haven't worked or been in random pool for 90 days</li> </ul>	<b>PRE-EMPLOYMENT</b> <ul style="list-style-type: none"> <li>➤ For all jobs having no Safety-Sensitive Functions</li> <li>➤ After conditional offer (drug test only)</li> </ul>		
<b>RANDOM</b> <ul style="list-style-type: none"> <li>➤ Minimum annual rate determined by FTA</li> </ul>			
<b>POST ACCIDENT</b> <ul style="list-style-type: none"> <li>➤ Fatality</li> <li>➤ Road surface vehicle with disabling damage towed from scene</li> <li>➤ Person transported for medical treatment away from scene</li> <li>➤ Rail vehicle removed from service</li> </ul>	<b>POST ACCIDENT/INJURY</b> <ul style="list-style-type: none"> <li>➤ After a non-FTA accident where there are circumstances that give reason to test, such as violation of defensive driving rules or standard operating procedures</li> <li>➤ After a non-vehicular industrial injury requiring treatment at a medical facility</li> </ul>		
<b>REASONABLE SUSPICION</b> <ul style="list-style-type: none"> <li>➤ As defined in FTA regulations (based on specific, contemporaneous, articulable observations)</li> </ul>	<b>REASONABLE CAUSE</b> <ul style="list-style-type: none"> <li>➤ Allowed under UTA policy (can be based on longer term observations)</li> </ul>		
<b>RETURN-TO-DUTY</b> <ul style="list-style-type: none"> <li>➤ Following a positive FTA drug/alcohol test.</li> </ul>	<b>RETURN-TO-DUTY</b> <ul style="list-style-type: none"> <li>➤ Following a positive UTA drug/alcohol test</li> <li>➤ In conjunction with a RTD or fitness-for-duty medical exam (for illness-related absence of 2 weeks or more) if the physician has reason to believe drug and/or alcohol testing is needed</li> </ul>		
	<b>FITNESS FOR DUTY</b> <ul style="list-style-type: none"> <li>➤ When questions about fitness arise, and the physician cannot find a physical reason for the concern or sees reason to test.</li> </ul>		
	<b>PRESCRIPTION MEDICATIONS</b> Covered Employees must submit a Medication Approval Form for drugs carrying a safety warning, signed by the prescribing medical practitioner, within 7 days.		
<b>FOLLOW-UP</b> <ul style="list-style-type: none"> <li>➤ After returning to work following a positive FTA drug and/or alcohol test</li> <li>➤ Can last from 12 months to 60 months</li> </ul>	<b>FOLLOW-UP</b> <ul style="list-style-type: none"> <li>➤ After returning to work following a positive UTA drug and/or alcohol test</li> <li>➤ Can last from 12 months to 60 months</li> </ul>		
<b>PANEL OF DRUGS TESTED</b> <ol style="list-style-type: none"> <li>1. Amphetamines (including Amphetamine, Methamphetamine, MDMA, MDA, MDEA)</li> <li>2. Cocaine</li> <li>3. Marijuana (THC)</li> <li>4. Opiates (including Codeine, 6-AM (Heroin), and Morphine)</li> <li>5. Phencyclidine (PCP)</li> </ol>	<b>PANEL OF DRUGS TESTED</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <ol style="list-style-type: none"> <li>1. Amphetamines (including Amphetamine, Methamphetamine, MDMA, MDA, MDEA)</li> <li>2. Cocaine</li> <li>3. Marijuana (THC)</li> <li>4. Opiates (including Codeine, 6-A (Heroin), Morphine)</li> <li>5. Phencyclidine (PCP)</li> </ol> </td> <td style="width: 50%; vertical-align: top;"> <ol style="list-style-type: none"> <li>6. Barbiturates</li> <li>7. Benzodiazepines</li> <li>8. Propoxyphene</li> <li>9. Methadone &amp; Other Opiates (Other drugs may be added)</li> </ol> </td> </tr> </table>	<ol style="list-style-type: none"> <li>1. Amphetamines (including Amphetamine, Methamphetamine, MDMA, MDA, MDEA)</li> <li>2. Cocaine</li> <li>3. Marijuana (THC)</li> <li>4. Opiates (including Codeine, 6-A (Heroin), Morphine)</li> <li>5. Phencyclidine (PCP)</li> </ol>	<ol style="list-style-type: none"> <li>6. Barbiturates</li> <li>7. Benzodiazepines</li> <li>8. Propoxyphene</li> <li>9. Methadone &amp; Other Opiates (Other drugs may be added)</li> </ol>
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## EXHIBIT 2 Continued Cutoff Concentrations

All cutoff concentrations are expressed in nanograms per milliliter (ng/mL). The table follows:

Initial test analyte	Initial test cutoff concentration	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites .....	50 ng/mL .....	THCA <sup>1</sup> .....	15 ng/mL.
Cocaine metabolites .....	150 ng/mL .....	Benzoyllecgonine .....	100 ng/mL.
Opiate metabolites .....	2000 ng/mL .....	Codeine .....	2000 ng/mL.
Codeine/Morphine <sup>2</sup> .....	2000 ng/mL .....	Morphine .....	2000 ng/mL.
6-Acetylmorphine .....	10 ng/mL .....	6-Acetylmorphine .....	10 ng/mL.
Phencyclidine .....	25 ng/mL .....	Phencyclidine .....	25 ng/mL.
Amphetamines <sup>3</sup> .....	500 ng/mL .....	Amphetamine .....	250 ng/mL.
AMP/MAMP <sup>4</sup> .....	500 ng/mL .....	Methamphetamine <sup>5</sup> .....	250 ng/mL.
MDMA <sup>6</sup> .....	500 ng/mL .....	MDMA .....	250 ng/mL.
		MDA <sup>7</sup> .....	250 ng/mL.
		MDEA <sup>8</sup> .....	250 ng/mL.

<sup>1</sup> Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

<sup>2</sup> Morphine is the target analyte for codeine/morphine testing.

<sup>3</sup> Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff.

<sup>4</sup> Methamphetamine is the target analyte for amphetamine/methamphetamine testing.

<sup>5</sup> To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL.

<sup>6</sup> Methylenedioxyamphetamine (MDMA).

<sup>7</sup> Methylenedioxyamphetamine (MDA).

<sup>8</sup> Methylenedioxyethylamphetamine (MDEA).

### **EXHIBIT 3**

#### **Alcohol Facts and Information**

This information is provided for employee education and awareness.

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. 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 processes
- 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:

- Dependency (up to 10% of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed “alcoholic”)
- Fatal liver diseases such as cirrhosis of the liver
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- Decreased sexual functioning
- Kidney disease
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Increased risk of miscarriage, premature birth, fetal alcohol syndrome and birth defects (up to 54% of all birth defects are alcohol related).
- Ulcers
- Blackouts or memory loss lasting from a few minutes to one or more days.

#### **Workplace Issues**

- It takes about one hour to one and ½ hours for the average person (≈150 pounds) to process one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is six times more likely to have an accident than a sober person.

SOURCE: FTA Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit, Appendix F

## **EXHIBIT 4**

### **Drug Facts and Information**

This information is provided for employee education and awareness.

#### **General Drug Facts**

For all the drugs listed here, there are the additional dangers of:

**Addiction:** Prolonged use of a drug results in psychological and/or physical dependence.

**Tolerance:** With continued use, larger and larger doses of a drug are needed to achieve the same effect.

**Withdrawal:** When regular users stop using drugs, they often experience severe withdrawal symptoms which include loss of appetite, anxiety, nausea, increased heart rate, trembling, abdominal cramps, convulsions, an intense craving for the drug, and possible death. Withdrawal should be medically supervised.

#### **Amphetamine Facts**

Amphetamines are central nervous system stimulants that speed up the mind and body.

**Drug and Street Names:** Amphetamines include drugs such as Dexedrine, Biphedamine, Ritalin, Preludin, and Methedrine (speed, uppers, bennies, dexies, black beauties, and pep pills).

**Appearance:** Amphetamines come in the form of capsules, pills, or tablets.

**How Taken:** Amphetamines can be swallowed, injected, or inhaled.

**Other Forms:** Methamphetamine (ice, crank, crystal, meth, chalk) is a stimulant and a derivative of amphetamines. It has similar effects on the central nervous system, but enters the brain much more quickly than other amphetamines and is therefore highly addictive.

#### **Effects:**

- ◆ Produces feelings of alertness and euphoria
- ◆ Increases heart rate and blood pressure
- ◆ Dilates the pupils
- ◆ Decreases appetite
- ◆ Enables the user to go without sleep for relatively long periods of time
- ◆ Causes distorted thinking

#### **Dangers:**

- ◆ Dizziness, headaches, blurred vision, and sweating
- ◆ Loss of coordination, tremors, convulsions, and physical collapse
- ◆ Anorexia and malnutrition resulting from decreased appetite
- ◆ Sudden blood pressure increases from injections resulting in fever, stroke, or heart failure.
- ◆ Nervousness, irritability, and drastic mood swings
- ◆ Hallucinations, paranoia, physical collapse, and brain deterioration; overdose or continued heavy use can be fatal.

#### **Cocaine Facts**

Cocaine is a powerful stimulant of the central nervous system.

**Street Names:** Coke, blow, snow, nose candy, toot, flake

**Appearance:** Cocaine is a white crystalline powder which is sometimes “cut” or diluted with other substances such as sugar.

**How Taken:** Cocaine is usually sniffed or snorted through a tube or straw off of a smooth surface such as glass or a mirror. It is often divided with a razor blade into smaller “lines”.

**Other Forms:**

*Crack* (rock) is a purified form of cocaine which is processed into tiny chips or chunks. Crack is smoked by inhaling the vapors that are given off when the drug is heated. Crack is extremely addictive.

*Freebase* is formed by heating pure cocaine, separating it from its salt base. Mixing and smoking powdered cocaine with ether and sodium bicarbonate is called “freebasing”. Freebasing causes a fast, intense high that can produce significant dependence.

**Effects:**

- ◆ Produces brief but intense feelings of euphoria and competence
- ◆ Stimulates the central nervous system
- ◆ Increases pulse, blood pressure, body temperature, and respiratory rate
- ◆ Dilates the pupils
- ◆ Causes extreme excitability and anxiety
- ◆ Produces sleeplessness and chronic fatigue

**Dangers:**

- ◆ Bleeding and other damage to nasal passages
- ◆ Paranoid psychosis, hallucinations, and other mental abnormalities
- ◆ Impaired driving ability
- ◆ Death cause by heart or respiratory failure

**Marijuana Facts**

People use marijuana for the mildly tranquilizing, mood altering and perception altering effects. THC is the active ingredient.

**Street Names:** Pot, dope, grass, weed, ganja, doobie, reefer, Mary Jane, Sinesemilla

**Appearance:** Prepared marijuana is dried, greenish-brown, chopped, and resembles ground oregano.

**How Taken:** Marijuana is usually smoked in hand-rolled cigarettes, or “joints”. It also can be smoked in pipes and “bongs,” or ingested in foods.

**Other Forms:**

*Hashish*, the dark-brown resin from the top of the hemp plant, has significantly higher levels of THC, and is often compressed into a variety of forms such as cakes or pills.

*Hashish Oil*, a dark brown liquid extracted from marijuana, is often dropped onto commercial cigarettes which are then smoked.

**Effects:**

- ◆ Euphoric feeling; increased sense of well-being
- ◆ Lack of motivation
- ◆ Lowered inhibitions; talkativeness
- ◆ Dry mouth and throat
- ◆ Increase appetite – “munchies”
- ◆ Impaired coordination, concentration, and memory
- ◆ Increased heart rate

**Dangers:**

- ◆ Deteriorating performance at work or school
- ◆ “Burn out” involving muddled thinking, acute frustration, depression, and isolation
- ◆ Impaired sexual development and fertility, including production of abnormal sperm and menstrual irregularities
- ◆ Damage to the lungs and pulmonary system (one marijuana joint is equal to approximately 25 commercial cigarettes in this regard)



- ◆ Hallucinations and paranoia when used in high doses
- ◆ Increased risk to safety and health as a result of impaired judgment and motor abilities

### **Opiates (Narcotics) Facts**

Opiates (also called narcotics) are drugs that alleviate pain, depress body functions, and when taken in large doses, cause a strong euphoric feeling.

**Drug & Street Names:** Opiates generally fall into one of 3 categories:

*Heroin* (smack, junk, brown sugar, dope, horse, skunk)

*Morphine* (mud, M, dope, morpho)

*Codeine* (schoolboy, coties)

**Appearance:** Heroin is a powder which varies in color from white to dark brown. Morphine can be packaged in the form of white crystals, tablets, or an injectable liquid. Codeine may be a dark liquid varying in thickness, or may come in the form of capsules or tablets.

**How taken:** Heroin can be injected (“mainlining”), snorted, or smoked. Codeine and morphine are usually injected or taken orally.

**Other Forms:** Opioids, synthetic substitutes for opiates, are not chemically derived from opium but have similar effects. They include Darvon, Demerol, Meperidine, and Methadone.

#### **Effects:**

- ◆ Short-lived state of euphoria, followed by drowsiness
- ◆ Slowed heart rate, breathing, and brain activity
- ◆ Depressed appetite, thirst, reflexes, and sexual desire
- ◆ Increased tolerance for pain

#### **Dangers:**

- ◆ AIDS, blood poisoning, and hepatitis as the result of drug injections using unsterilized or shared needles
- ◆ Death resulting from the injection of impure heroin
- ◆ Death resulting from an unexpectedly high purity of the drug
- ◆ Convulsions, coma, or death from overdose

### **Phencyclidine (PCP) Facts**

PCP is a hallucinogen, which distorts a person’s sensations, thinking, emotions, and perceptions. The potential for accidents and overdose is high due to the extreme mental effects combined with the anesthetic effect on the body.

**Street Names:** Angel dust, rocket fuel, animal tranquilizer, zombie, crystal joints, and love

**Appearance:** PCP may be prepared as a white crystalline powder or in clear liquid form.

**How taken:** PCP can be sprinkled on parsley or marijuana (krystal joints) and eaten or smoked. Commercial cigarettes can be dipped into liquid PCP.

#### **Effects and Dangers:**

- ◆ Disorientation, confusion, and memory loss
- ◆ Highly unpredictable and sometimes bizarre or even violent behavior
- ◆ Extreme agitation
- ◆ Impaired driving ability
- ◆ Increased tolerance for pain
- ◆ Mental changes resembling schizophrenia, severe depression, and loss of learning abilities

Source: “Guide to Dangerous Drugs,” Institute for a Drug-Free Workplace

## **EXHIBIT 5**

### **Resources and Information**

1. **UTA's Designated Employer Representative:**  
Any questions regarding this policy or any other aspect of UTA's drug-free and alcohol-free workplace programs should be directed to the following UTA employee, or his successor:  
  

Tory Bair, Drug and Alcohol Program and Project Administrator  
669 West 200 South, Salt Lake City UT 84101  
Office Phone: (801) 287-2026      Cell Phone: (801) 856-0589
  
2. **Medical Review Officer:**  
  

Dr. Paul D. Teynor  
WorkforceQA  
1430 South Main Street  
Salt Lake City, UT 84115  
Phone: (801) 486-5400
  
3. **Substance Abuse Professionals:**  
Blomquist-Hale Consulting Group, Inc. (UTA's Employee Assistance Program providers)  
860 East 4500 South, #202  
Salt Lake City, UT 84107  
  - In the Salt Lake area, call 801-262-9619
  - In the Ogden area, call 801-392-6833 OR 800-395-7850
  - In the Orem/Provo area, call 801-225-9222 OR 800-723-9330
  - OR for emergencies, day or night, seven days a week, call 1-800-926-9619
  
4. **Other Treatment Programs:**
  - A) Public treatment agencies and information for Utah can be found at [www.hsdsa.utah.gov](http://www.hsdsa.utah.gov).
  - B) Another resource is the U.S. Department of Health and Human Services treatment facility locator at <http://findtreatment.samhsa.gov/>. This site provides contact information for substance abuse treatment programs by state and city.
  - C) Some community resources include:
    - **Crisis Line: 1-800-821-HELP.** Operating 7 days a week, 24 hours per day, providing information, advice and referrals for any alcohol or drug problem. Operated by Highland Ridge Hospital.
  
5. **Random Testing Levels** (subject to FTA Administrator adjustments):  
UTA will complete at least the number of random tests equivalent to the following number of Covered Employees annually:

Drug Tests:	25%
Alcohol Tests:	10%

**Utah Transit Authority  
Drug and Alcohol Policy  
Addendum for FrontRunner Rail Services**

The Federal Railroad Administration (FRA) has specific requirements in 49 CFR 219 for employees covered by those rules in the operation and maintenance of trains, therefore this Addendum to the UTA Drug and Alcohol policy will apply to those employees working in UTA's FrontRunner Rail Services.

**Prohibition on Abuse of Controlled Substances (49 CFR 219.102)**

No employee who performs covered service may use a controlled substance at any time, whether on duty or off duty, except as permitted by 49 CFR 219.103.

**Voluntary Referral**

UTA's policy is designed to encourage and facilitate the identification of those covered employees who abuse alcohol or drugs as a part of a treatable condition and to ensure that such employees are provided the opportunity to obtain counseling or treatment before those problems manifest themselves in detected violations. Refer to UTA's voluntary referral section in the UTA Drug and Alcohol Policy.

A covered employee who is affected by an alcohol or drug use problem may maintain an employment relationship with UTA if, before the employee is charged with conduct deemed by UTA sufficient to warrant dismissal, the employee seeks assistance through UTA for the employee's alcohol or drug use problem or is referred for such assistance by another employee or by a representative of the employee's collective bargaining unit. UTA may also accept referrals from other sources, including supervisory employees, when information is received that raises concerns about possible substance abuse.

UTA will, to the extent necessary for treatment and rehabilitation, grant the employee a leave of absence for the period necessary to complete primary treatment and establish control over the employee's alcohol or drug problem. A leave of absence of not less than 45 days will be allowed, if necessary for the purpose of meeting initial treatment needs. The employee will be returned to service on the recommendation of the Substance Abuse Professional. Approval to return to service will not be unreasonably withheld.

UTA will treat the referral and subsequent handling, including counseling and treatment, as confidential and will only disclose information to those who have a need to know it.

**Testing Process**

Whenever a breath or body fluid test is required of an employee under this part, UTA will provide clear, unequivocal written notice that the test is being required under FRA regulations, and of the basis upon which the test is required (e.g., reasonable suspicion, violation of a specified operating/safety rule, random selection, follow-up, etc.). This will be accomplished by completion of the DOT alcohol or drug testing form indicating the basis of the test prior to providing a copy to the employee.

## **Educational Materials**

UTA will provide educational materials that explain the requirements of this part, and UTA's policies and procedures with respect to meeting those requirements. UTA will ensure that a copy of these materials is distributed to each covered employee prior to the start of alcohol testing under the railroad's alcohol misuse prevention program and to each person subsequently hired for or transferred to a covered position.

## **Contact Information**

The identity of the person designated by UTA to answer employee questions about the policy and materials is listed in Exhibit 5 of the UTA Drug and Alcohol Policy.

The names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs is also listed in Exhibit 5 of the UTA Drug and Alcohol Policy.

## **Covered Employees**

The classes or crafts of employees who are subject to the provisions of this part are as follows.

“Covered employee” means a person who has been assigned to perform service subject to the hours of service laws (49 U.S.C. Ch. 211) during a duty tour, whether or not the person has performed or is currently performing such service, and any person who performs such service. (An employee is not “covered” within the meaning of this part exclusively by reason of being an employee for purposes of 49 U.S.C. 21106.) For the purposes of pre-employment testing only, the term “covered employee” includes a person applying to perform covered service.

The UTA FrontRunner jobs that will be covered are:

- Train Operator
- Controller
- Line and Signal Technician

“Co-worker” means another employee of the railroad, including a working supervisor directly associated with a yard or train crew, such as a conductor or yard foreman, but not including any other railroad supervisor, special agent, or officer.

## **Training (49 CFR 219.11)**

Each supervisor responsible for covered employees (except a working supervisor within the definition of co-worker under this part) must be trained in the signs and symptoms of alcohol and drug influence, intoxication and misuse consistent with a program of instruction to be made available for inspection upon demand by FRA. Such a program shall, at a minimum, provide information concerning the acute behavioral and apparent physiological effects of alcohol and the major drug groups on the controlled substances list. The program shall also provide training on the qualifying criteria for post-accident testing, and the role of the supervisor in post-accident collections. The duration of such training will not be less than 3 hours.

## **Hearing Rights**

If the employee denies that the test result is valid evidence of alcohol or drug use prohibited by this part, the employee may demand and will be provided an opportunity for a prompt post-suspension hearing before a presiding officer other than the charging official. This hearing may be consolidated with any disciplinary hearing arising from the same accident or incident (or conduct directly related thereto), but the presiding officer must make separate findings as to compliance with §§219.101 and 219.102.

The hearing must be convened within the period specified in the applicable collective bargaining agreement.

### **Testing Period**

The period of the work day the covered employee is required to be in compliance with this part is that period when the employee is on duty and is required to perform or is available to perform covered service.

### **I. Post-Accident Toxicological Testing (49 CFR 219.201)**

- a) **List of events.** Except as provided in paragraph (b) of this section, post-accident toxicological tests must be conducted after any event that involves one or more of the circumstances described in paragraphs (a)(1) through (4) of this section:
- 1) **Major train accident.** Any train accident (i.e., a rail equipment accident involving damage in excess of the current reporting threshold) that involves one or more of the following:
    - i. A fatality;
    - ii. A release of hazardous material lading from railroad equipment accompanied by—
      1. An evacuation; or
      2. A reportable injury resulting from the hazardous material release (e.g., from fire, explosion, inhalation, or skin contact with the material); or
    - iii. Damage to railroad property of \$1,000,000 or more.
  - 2) **Impact accident.** An impact accident (i.e., a rail equipment accident defined as an “impact accident” in §219.5) that involves damage in excess of the current reporting threshold, resulting in—
    - i. A reportable injury; or
    - ii. Damage to railroad property of \$150,000 or more.
  - 3) **Fatal train incident.** Any train incident that involves a fatality to any on-duty railroad employee involved in the movement of on-track equipment.
  - 4) **Passenger train accident.** Reportable injury to any person in a train accident (i.e., a rail equipment accident involving damage in excess of the current reporting threshold) involving a passenger train.
- b) **Exceptions.** No test may be required in the case of a collision between railroad rolling stock and a motor vehicle or other highway conveyance at a rail/highway grade crossing. No test may be required in the case of an accident/incident the cause and severity of which are wholly attributable to a natural cause (e.g., flood, tornado, or other natural disaster) or to

vandalism or trespasser(s), as determined on the basis of objective and documented facts by the railroad representative responding to the scene.

**c) Good faith determinations.**

- 1) The UTA railroad representative responding to the scene of the accident/incident must determine whether the accident/incident falls within the requirements of paragraph (a) of this section or is within the exceptions described in paragraph (b) of this section. The UTA railroad representative will make reasonable inquiry into the facts as necessary and exercise good faith judgment to make such determinations, considering the need to obtain specimens as soon as practical
  - 2) The railroad representative making the determinations required by this section may not be a person directly involved in the accident/incident. This section does not prohibit consultation between the responding railroad representative and higher level railroad officials; however, the responding railroad representative must make the factual determinations required by this section.
  - 3) Upon specific request made to the railroad by the Associate Administrator for Safety, FRA (or the Associate Administrator's delegate), the railroad must provide a report describing any decision by a person other than the responding railroad representative with respect to whether an accident/incident qualifies for testing. This report must be affirmed by the decision maker and must be provided to FRA within 72 hours of the request. The report must include the facts reported by the responding railroad representative, the basis upon which the testing decision was made, and the person making the decision.
  - 4) Any estimates of railroad property damage made by persons not at the scene must be based on descriptions of specific physical damage provided by the on-scene railroad representative.
  - 5) In the case of an accident involving passenger equipment, a host railroad may rely upon the damage estimates provided by the passenger railroad (whether present on scene or not) in making the decision whether testing is required, subject to the same requirement that visible physical damage be specifically described.
- d) UTA will not require an employee to provide blood or urine specimens under the authority or procedures of this subject unless UTA has made the determinations required by this section, based upon reasonable inquiry and good faith judgment. A railroad does not act in excess of its authority under this subpart if its representative has made such reasonable inquiry and exercised such good faith judgment, but it is later determined, after investigation, that one or more of the conditions thought to have required testing were not, in fact, present. However, this section does not excuse the railroad for any error arising from a mistake of law (e.g., application of testing criteria other than those contained in this part).
- e) A railroad is not in violation of this subpart if its representative has made such reasonable inquiry and exercised such good faith judgment but nevertheless errs in determining that post-accident testing is not required.
- f) An accident/incident with respect to which the railroad has made reasonable inquiry and exercised good faith judgment in determining the facts necessary to apply the criteria

contained in paragraph (a) of this section is deemed a qualifying event for purposes of specimen analysis, reporting, and other purposes.

- g) In the event specimens are collected following an event determined by FRA not to be a qualifying event within the meaning of this section, FRA directs its designated laboratory to destroy any specimen material submitted and to refrain from disclosing to any person the results of any analysis conducted.

## **II. Reasonable Suspicion / Reasonable Cause** (49 CFR 219.300)

UTA may require any covered employee, as a condition of employment in covered service, to cooperate in breath or body fluid testing, or both, to determine compliance. This authority is limited to testing after observations or events that occur during duty hours (including any period of overtime or emergency service).

### **For Cause Testing** (49 CFR 219.301)

In addition to reasonable suspicion as described in §219.300, the following circumstances constitute cause for the administration of drug and alcohol tests under this section:

- a) **Accident/incident.** The employee has been involved in an accident or incident reportable under rule Part 225, and a supervisory employee of UTA has a reasonable belief, based on specific, articulable facts, that the employee's acts or omissions contributed to the occurrence or severity of the accident or incident; or
- b) **Rule violation.** The employee has been directly involved in one of the following operating rule violations or errors:
  - a. Noncompliance with a train order, track warrant, timetable, signal indication, special instruction or other direction with respect to movement of a train that involves—
    - i. Occupancy of a block or other segment of track to which entry was not authorized;
    - ii. Failure to clear a track to permit opposing or following movement to pass;
    - iii. Moving across a railroad crossing at grade without authorization; or
    - iv. Passing an absolute restrictive signal or passing a restrictive signal without stopping (if required);
  - b. Failure to protect a train as required by a rule consistent with §218.37 of the FRA rule (including failure to protect a train that is fouling an adjacent track, where required by the railroad's rules);
  - c. Operation of a train at a speed that exceeds the maximum authorized speed by at least ten (10) miles per hour or by fifty percent (50%) of such maximum authorized speed, whichever is less;
  - d. Alignment of a switch in violation of a railroad rule, failure to align a switch as required for movement, operation of a switch under a train, or unauthorized running through a switch;
  - e. Failure to apply or stop short of derail as required;
  - f. Failure to secure a hand brake or failure to secure sufficient hand brakes, as required;
  - g. Entering a crossover before both switches are lined for movement; or

- h. In the case of a person performing a dispatching function or block operator function, issuance of a train order or establishment of a route that fails to provide proper protection for a train.

### **III. Other Testing Reasons**

UTA covered employees working in FrontRunner will be subject to the other types of testing as outlined in the UTA Drug and Alcohol Policy, to include pre-employment, random, return-to-duty, and follow-up testing.

#### **Penalties for Violation**

The penalties listed in the UTA Drug and Alcohol Policy will also apply to alcohol concentration or drug testing levels in the blood if a blood sample was used. All UTA disciplinary actions will be the same as listed in the UTA Drug and Alcohol Policy.

#### **Co-worker Report**

In accordance with FRA rules (219.401), this policy is designed to foster employee participation in preventing violations of this rule and encourage co-worker participation in the direct enforcement of this policy. Therefore, all FrontRunner Rail Services employees are encouraged to report any suspicions or information that indicates possible substance abuse problems. This report should be made immediately to any supervisor on duty at the time the information becomes known.

- a) Employment relationship. A covered employee may maintain an employment relationship with UTA following an alleged first offense under this part of the alcohol and drug rules, subject to the conditions and procedures contained in this section.
- b) General conditions and procedures.
  - a. The alleged violation must come to the attention of UTA as a result of a report by a co-worker that the employee was apparently unsafe to work with or was, or appeared to be, in violation of this part of UTA's alcohol and drug rules.
  - b. If the UTA representative determines that the employee is in violation, UTA will immediately remove the employee from service in accordance with its existing policies and procedures.
  - c. The employee must elect to waive investigation on the rule charge and must contact the Substance Abuse Professional (SAP) within a reasonable period (within at least 3 days).
  - d. The SAP must schedule necessary interviews with the employee and complete an evaluation within 10 calendar days of the date on which the employee contacts the professional with a request for evaluation under the policy, unless it becomes necessary to refer the employee for further evaluation. In each case, all necessary evaluations must be completed within 20 days of the date on which the employee contacts the professional.



- c) When treatment is required. If the SAP determines that the employee is affected by psychological or chemical dependence on alcohol or a drug or by another identifiable and treatable mental or physical disorder involving the abuse of alcohol or drugs as a primary manifestation, the following conditions and procedures apply:
- a. UTA will, to the extent necessary for treatment and rehabilitation, grant the employee a leave of absence from the railroad for the period necessary to complete primary treatment and establish control over the employee's alcohol or drug problem. A leave of absence of not less than 45 days will be allowed if necessary for the purpose of meeting initial treatment needs.
  - b. The employee must agree to undertake and successfully complete a course of treatment deemed acceptable by the SAP.
  - c. UTA will promptly return the employee to service, on recommendation of the SAP, when the employee has established control over the substance abuse problem. Return to service may also be conditioned on successful completion of a return-to-service medical examination. Approval to return to service will not be unreasonably withheld.
  - d. Following return to service, the employee, as a further condition on withholding of discipline, may, as necessary, be required to participate in a reasonable program of follow-up treatment for a period not to exceed 60 months from the date the employee was originally withdrawn from service.
- d) When treatment is not required. If the SAP determines that the employee is not affected by an identifiable and treatable mental or physical disorder:
- a. The railroad must return the employee to service within 5 days after completion of the evaluation.
  - b. During or following the out-of-service period, UTA may require the employee to participate in a program of education and training concerning the effects of alcohol and drugs on occupational or transportation safety.
- e) Follow-up tests. UTA may conduct return-to-service and/or follow-up tests (as described in §219.104) of an employee who waives investigation and is determined to be ready to return to service under this section.

**PAPERWORK REDUCTION ACT NOTICE (as required by 5 CFR 1320.21)**

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Title 18, USC Section 1001, makes it a criminal offense subject to a maximum fine of \$10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

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