

UTAH TRANSIT AUTHORITY POLICY

No. UTA.01.05

SUPPLEMENTAL DRUG AND ALCOHOL POLICY

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This policy describes UTA’s Drug and Alcohol program requirements that are in addition to FTA and FRA requirements.

1) Purpose

The purpose of this policy is to ensure worker fitness for duty and to protect employees, passengers, and the public from the adverse effects of Alcohol misuse and prohibited Drug use. Utah Transit Authority (UTA) is dedicated to providing safe, dependable, and reliable services to our passengers and to maintaining a safe, clean, healthy, and productive work environment for our employees. 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 prohibited Drugs. UTA also encourages employees to seek appropriate assistance when personal problems, including Alcohol or Drug dependency, adversely affect their ability to work.

UTA’s Drug and Alcohol program is divided into three separate documents:

- A. UTA - Federal Transit Administration Drug & Alcohol Policy
- B. UTA - Federal Railroad Administration Control of Alcohol and Drug Use Model Part 219 Railroad Compliance Plan
- C. UTA - Supplemental Drug & Alcohol Policy (This policy)

This policy requires an annual review and approval by the Board of Trustees.

Each policy/document describes unique but compatible requirements and together constitute UTA’s overall Drug and Alcohol policy. This policy does not impose requirements that are inconsistent with, contrary to, or frustrate FTA or FRA regulations.

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

2) Definitions

“Adulterated Specimen” means a specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of 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 Confirmation Test” means a subsequent test using an Evidential Breath Testing Device, following a screening test with a result of 0.02 or greater Alcohol Concentration.

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

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

Confirmed Alcohol Test “ means a second alcohol test performed after an initial test which resulted in an alcohol concentration of .02 or greater.

“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 or FRA.

“*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.

“*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) and Federal Railroad Administration (FRA).

“*Drug*” or “*Drugs*” means 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 C.F.R. 1300.11 through 1300.15.

“*Evidential Breath Testing Device*” or “*EBT*” means a device approved by the National Highway Traffic Safety Administration (NHTSA) 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.

“*FRA*” means the Federal Railroad Administration, an agency of the U.S. Department of Transportation.

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

“***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.

“*Non-Federal Test*” means a Drug and/or Alcohol test that is not mandated by DOT regulations but is conducted as per UTA policy.

“*Prescribed Drug*” means a Drug that has been legally prescribed by a physician or other health care professional for use during medical treatment. Marijuana remains a prohibited substance for Safety-Sensitive employees. For non-Safety-Sensitive employees, a medical cannabis card will be treated like any other prescription during the Drug test review process.

“*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, opiates, phencyclidine (PCP), marijuana (if the person is in a Safety-Sensitive role or if the person is in a non-Safety-Sensitive role and does not have a valid medical cannabis card), 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.

“*Safety-Sensitive Function*” means the functions defined as Safety-Sensitive in *UTA-FTA Policy* and *UTA-FRA Policy*.

“*Split Specimen*” means a part of the specimen that is retained unopened in a separate container, 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 Counselor or SAC*” means a person who evaluates employees who have violated a non-DOT Drug and Alcohol policy and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

“*Vehicle*” means any Vehicle driven by a UTA employee for UTA purposes.

“*UTA-FRA Policy*” means Utah Transit Authority’s Federal Railroad Administration Control of Alcohol and Drug Use Model Part 219 Railroad Compliance Plan.

“*UTA-FTA Policy*” means Utah Transit Authority’s Federal Transit Administration Drug and Alcohol Policy.

“*UTA Test*” means a Drug or Alcohol test required under UTA Policy and not required under FTA or FRA policy. Other terms include *UTA Drug Test* or *UTA Alcohol Test*.

3) Policy

A. Scope

This policy describes UTA’s Drug and Alcohol requirements that are in addition to the FTA and FRA Drug and Alcohol requirements as found in UTA-Federal Transit Administration Drug and Alcohol Policy (UTA-FTA Policy) and UTA- Federal Railroad Administration Control of Alcohol and Drug Use Policy (UTA-FRA Policy). It applies to all UTA employees and trainees 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. Visitors, vendors, and volunteers are expected to adhere to this policy as applicable. If found in violation of this policy, they will not be permitted to conduct UTA business and will be escorted from UTA facilities. UTA’s Contractor employees are further required by the terms of their contract to abide by the terms of the Policy or face contract termination for default and/or expulsion from UTA facilities.

1. Collective Bargaining Agreement

- a. To the extent permitted by law, Drug and Alcohol testing of bargaining unit employees is also governed by the current Collective Bargaining Agreement(s) and any Side Letter agreements thereto.

2. Safety-Sensitive Functions

- a. For Safety-Sensitive employees or Covered Employees, as defined by FTA and FRA, see UTA-FTA policy and UTA-FRA policy for FTA and FRA requirements.
- b. UTA has evaluated all 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 and the Human Resources department to determine if the new job requires employees to perform Safety-Sensitive Functions.

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 of employment. All employees are subject to urine Drug testing and breath Alcohol testing as provided herein.

1. The Drug-Free Workplace Act

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.

2. Refusal to Test

Any employee's refusal to take a UTA required Drug or Alcohol Test violates this policy. UTA will follow the same guidelines as found in UTA-FTA policy in determining when a refusal has occurred. Under UTA Policy, a refusal to take any required Drug or Alcohol test or any attempt to tamper with or otherwise falsify test results is reason for discharge.

Any employee who refuses to take a required Drug and/or Alcohol test, will be immediately removed from performing duties and employment will be terminated.

If an employee's Drug or Alcohol test is deemed a shy bladder or shy lung refusal, UTA will follow guidance outlined in 49 CFR Part 40. If a shy bladder or shy lung evaluation reflects a valid medical reason for the shy bladder/lung, the employee may be permitted to return to work unless a negative result is required. Otherwise, employment will be terminated.

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 their 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 behavior indicating possible Alcohol abuse may be subject to an intervention by UTA, which may include confrontation, Alcohol testing, referral to an SAC, and follow-up testing as recommended by the SAC.

The ingestion of Alcohol for eight hours following an accident by an employee involved in the accident is prohibited unless the employee has already performed a required Alcohol test or has been otherwise dismissed by the investigating supervisor.

2. Pre-duty Alcohol Use

Employees are not to consume Alcohol within five (5) hours of starting work. This does not, however, guarantee that an employee's system will be free of Alcohol after five 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 or unopened container of Alcohol at work (except for unopened UTA commemorative Alcoholic beverages present in UTA buildings), This includes during breaks and lunches. . Employees may not transport Alcohol in a UTA Vehicle or distribute, transact, or sell Alcohol while at work or while on UTA property.

Employees who find containers of Alcohol left by customers on UTA property (such as an operator who finds a container on a bus or train) will remove it from view of customers, dispose of the container as soon as practicable, and immediately report it to their immediate supervisor,

manager, or Transit Control Center (TCC). Failure to adhere to a requirement of this paragraph may result in the termination of employment.

4. Employees On Call

Employees may not use Alcohol during the hours that they are on call.

- a. An employee who is on call must acknowledge the use of Alcohol at the time they are called to report to duty and the inability to perform their job duties.
- b. An employee must take a UTA Alcohol test if the Employee has acknowledged the use of Alcohol but claims ability to perform their job Function.

D. Drug Use

1. Use of illegal Drugs is prohibited at all times. Prohibited Drugs under UTA Policy include but are not limited to:

- 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. 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.

3. 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. Covered employees must complete and submit a Medication Approval Form to UTA's DER within 7 days of returning to work while taking a taking prescription medications that carries a safety warning. Additional requirements for Covered Employees regarding UTA's medication reporting process are contained in UTA's - FTA Drug & Alcohol 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.

c. Medical Cannabis

Employees who do not perform safety sensitive functions fall under the provisions of the Utah Medical Cannabis Act, and thus approved medical use is allowed.

Employees who are approved for a medical cannabis card have the responsibility to understand and comply with all applicable provisions of the Act and are responsible for safely performing job duties. Should a non-safety sensitive employee be required to complete a drug test in accordance with this policy that produces a positive result for marijuana (cannabis), the employee will be required to demonstrate that they had a valid medical cannabis card at the time of the incident that triggered the drug test. This will be done by providing a Utah Department of Health & Human Services (DHHS) Release of Information Form to UTA's DER within 3 days of the test result which will allow DHHS to email UTA's DER a verification letter confirming whether the employee was a card holder at the time of the incident. Failure to provide such documentation as required, or not having an approved medical cannabis card at the time of the incident, will result in the consequences for positive tests as described in this policy.

E. General Matters

1. Uniforms

Employees may not enter bars, taverns, liquor stores or private clubs, or drink Alcohol in public while wearing a UTA uniform, employee badge or UTA branded clothing. Furthermore, employees may not be intoxicated or under the influence of a prohibited substance in public while wearing a UTA uniform, employee badge or UTA branded clothing.

2. Intoxication/Under the Influence at Work

Any time a supervisor or other UTA official possesses reasonable suspicion that an employee reporting for duty is 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, UTA Drug and Alcohol screens may 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, including time spent traveling to the location of the test or exam from the workplace.

- 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 UTA 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 employees regularly scheduled shift, except that no such compensation will be paid to an employee undergoing a 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 workstations.

5. Discovery of Illegal Drugs

Employee who discovers any illegal Drugs on UTA property, at any stops, platforms and/or on any company Vehicle must immediately contact UTA police.

6. Side Effects

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. Employees 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.

7. Previous Positive Test or Refusals

A Covered Employee or applicant who has previously failed or refused a DOT Drug and/or Alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan — including all follow-up testing — **meeting DOT requirements**. The entire treatment plan (including follow-up testing) must be completed before any applicant is considered for employment.

F. Testing Procedures

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 guidelines below in dealing with testing records for UTA Tests as well as FTA and FRA tests.

a. Testing Records

1. Drug and Alcohol test records will be kept in a secured area with controlled access.
2. 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 their Drug or Alcohol tests as permitted under federal regulations. UTA shall promptly provide the records requested by the employee in accordance with UTA's Records Department process. Access to an employee's records shall not be contingent upon UTA's receipt of payment for the production of those records.
3. UTA will 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 as permitted under federal regulations.
4. 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. Confirmation of Tests

An initial Drug screen will be conducted on each urine specimen. For those specimens that are positive, a confirmatory test will be performed. 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.

3. 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 Primary Specimen or "Specimen A" and (2) a Split Specimen or "Specimen B". All initial testing will take place on Specimen A. Specimen B is preserved to give the option to have the Split Specimen tested if needed.

In the event of a verified positive UTA Test result, or a verified adulterated or substituted result, the employee can request that the Split Specimen be tested at a second laboratory. Utah Transit Authority guarantees that the Split Specimen test will be conducted in a timely fashion. Such a request must be made by the employee 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.

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.

4. Alcohol Testing

UTA Tests for Alcohol Concentration 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 and the employee will be immediately removed from duty. See Section L. Treatment and Discipline for actions to be taken with a confirmed Alcohol Concentration of 0.02 or greater.

5. Medical Review Process

UTA will follow the same **MRO** review process for UTA Tests as is described in UTA-FTA Policy for FTA required tests.

6. Substance Abuse Referral

An SAC will evaluate employees who test positive for the presence of prohibited substances on a UTA Test or receive a confirmed alcohol test result between 0.02 - 0.039 on an FTA or FRA Alcohol test. UTA may also refer an employee to a SAC when issues related to substance abuse arise or are suspected.

The SAC will determine what assistance or training the employee needs in resolving problems associated with substance abuse or misuse. Assessment by a SAC does not shield an employee from disciplinary action nor guarantee reinstatement.

An employee who is allowed to return to duty must properly follow the rehabilitation program prescribed by the SAC. The employee must pass a UTA Return-to-Duty Drug and/or Alcohol Test as recommended by the SAC, 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 up to sixty (60) months, as determined by the SAC. The cost of any treatment or rehabilitation services not covered by the employee's health insurance carrier will be paid directly by the employee.

G. Reasons for Testing

1. Pre-Employment Testing

All applicants who receive a contingent offer of employment with UTA shall undergo urine Drug testing prior to beginning employment and no more than seventy-two (72) hours after the contingent offer is extended unless an exception is granted in writing by UTA's DER for extenuating circumstances. Applicants for non-Safety-Sensitive Functions will take a UTA Test. If UTA does not receive a verified negative Drug test result for an applicant who has received a

contingent offer, the offer will be rescinded, and the applicant may not be permitted to work for UTA.

- a. If a pre-employment Drug test is canceled, UTA will require the employee or applicant to take another pre-employment Drug test.

An applicant who fails or refuses any type of UTA Drug Test will be disqualified from employment for a period of 12 months. An applicant who has previously failed or refused a pre-employment UTA Drug test must provide UTA proof of having successfully completed a treatment plan with a substance abuse professional prior to further consideration for employment.

2. Reasonable Suspicion Testing

A Reasonable Suspicion 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 suspect 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 suspicion 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 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.

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. Reasonable Cause Testing

a. Operation of Non- Revenue Service Vehicles while on UTA Business

Any UTA employee, when operating their own or other non-revenue service vehicle on UTA business will be required to undergo a non-DOT Reasonable Cause 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.

b. Non-Vehicular Industrial Accidents

Employees will be required to undergo a non-DOT Reasonable Cause drug and alcohol test if they are involved in a non-vehicular industrial accident that does not meet the FRA Reasonable Cause requirements as outlined in 49 CFR 219.403 (see UTA-FRA Policy for FRA Reasonable Cause testing requirements) and results in:

1. Damage to property; or
2. Disabling damage to equipment; or
3. A person being immediately transported to receive medical treatment.

The responding supervisor or manager has reasonable cause to believe a policy, law, or rule violation may have played a role in the cause or severity of the accident. UTA shall test any employee whose performance could have contributed to the accident, as determined by the

responding supervisor or manager using the best information available at the time of the decision.

Employees will immediately report work-related injuries to the Workers' Compensation Administrator or to the employee's immediate or on-duty supervisor.

If an Alcohol test required by this section is not administered within two hours following the Reasonable Cause 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.

4. Post-Accident Testing

Employees will immediately report vehicular accidents to their supervisor. This includes accidents that occur when operating their own or other non-UTA vehicle while on UTA business. Except as required under the FTA or FRA regulations, an employee will not be required to undergo a Post-Accident Drug and Alcohol test.

An employee may be required to complete a Reasonable Suspicion or Reasonable Cause Drug and Alcohol Test after a work-related injury or vehicular accident (See Section G).

5. Return-to-Duty Testing

Where a return to work is allowed, an employee who has a verified positive Drug test result on a non-DOT-required test or has reached out for assistance through the Voluntary Rehabilitation Program outlined in this policy must be evaluated by a SAC, be released to duty, pass a non-DOT return-to-duty Drug and/or Alcohol test and sign a Return to Work Behavioral Agreement before returning to duty. 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, employees returning to work following an extended medical-related absence of two weeks or more may be required to submit to a physical exam. See the following fitness-for-duty testing section.

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 SAC. Employees returning to work after testing positive on a UTA Test will be required to undergo UTA follow-up tests. UTA follow-up tests may also be given in other situations when recommended by a health care professional or SAC.

H. Removal From Service

Employees who undergo an FTA or FRA required Post Accident, Reasonable Suspicion or Reasonable Cause, or UTA Reasonable Suspicion, Reasonable Cause, or Fitness-for-Duty Drug and/or Alcohol test will be removed from service until test results are received. Employees will be paid their regular pay while awaiting such results.

Employees who undergo FTA or FRA Random or FTA, FRA, or UTA Follow Up tests will be permitted to return to their normal duties upon completion of the test(s). Employees who undergo FTA, FRA, or UTA Return-to-Duty Drug and/or Alcohol tests will be permitted to return to work if the results of the tests are negative as outlined in Section J of this policy.

If the results of the test are non-negative, employees will be disciplined according to this Policy.

I. Voluntary Rehabilitation/Self-Referral

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 1). The Human Resources Department and/or the DER can also provide referral assistance. Employees may use available medical benefits and vacation, sick, and 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 will 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 SAC to ensure that they are complying with the rehabilitation.

J. Return-To-Work Behavioral Agreements

Employees who have tested positive for Drugs or Alcohol due to a UTA Test or are otherwise found to be in violation of this policy may be offered a second chance. Under circumstances in which a second chance is offered, employees 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 SAC.
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 SAC, including successful completion of any treatment program or substance abuse prevention class as applicable; to follow specified after-care requirements as defined by the SAC; and to submit continuing documentation to verify participation.
5. An agreement to complete a return-to-duty Drug and/or Alcohol test which must return a negative result.

After obtaining a statement of compliance with treatment from the SAC, the employee will be required to sign the return-to-work behavioral agreement and complete a return-to-duty Drug and/or Alcohol test that must return a negative result 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 will 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.

1. Negative Dilute Result

UTA will consider a UTA 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).

L. Treatment/Discipline

1. Consequences of Positive UTA Tests or Refusals

a. Positive UTA Alcohol Test

When a confirmed Alcohol test result of 0.02 or greater is received, the Employee involved must be immediately removed from performing job duties.

1. Level of 0.02 to 0.039

Following a BAC of 0.02 to 0.039, the employee will be immediately removed from duty without pay and will be required to follow the Return-to-Duty testing process as outlined in this policy.

2. Level of 0.04 or greater

Following a BAC of 0.04 or greater, an employee will be terminated, since a person with this level of Alcohol is under the influence and impaired.

b. Positive UTA Drug Test

Upon receipt of a verified positive UTA Drug test result, UTA will immediately remove the employee from duty. The employee will be placed on leave without pay for a minimum of 21-30 days and will be referred to an SAC for evaluation and assistance in dealing with the substance abuse issue. The SAC will evaluate the employee's situation and determine recommended education and/or treatment as well as an appropriate time for the employee to take a return-to-duty test after determining that the employee has successfully complied with prescribed education and/or treatment. Where a return to work is allowed, the Return-to-Work Behavioral Agreement process must be completed before returning to work. (See section J)

1. Second Positive Test

An employee who receives a second positive Drug or Alcohol test result, after a previous positive UTA Drug or Alcohol test is subject to immediate termination.

2. Refusal to Test

Any kind of refusal to take a required UTA Drug or Alcohol test will result in immediate removal from duties, referral to a qualified SAC and termination of employment.

c. Probationary Period


Upon receipt of a confirmed Alcohol test result of .02 or greater or a verified positive Drug test, an employee newly hired to the agency still within their probationary period is subject to immediate termination.

4) Cross-References.

- 49 C.F.R. Part 655 – Prevention of Alcohol Misuse and Prohibited Drug use in Transit Operations
- 49 C.F.R. Part 40 – Drug and Alcohol Regulations


- 41 U.S.C. 701 through 707 – Drug-Free Workplace Requirements for Federal Contractors
- 49 C.F.R. Part 219 – Control of Alcohol and Drug Use
- UTA.01.08 Records Management and Access
- UTA.01.18 Federal Transit Administration Drug & Alcohol
- UTA-Federal Railroad Administration Control of Alcohol and Drug Use Policy
- Collective Bargaining Agreement between UTA and ATU Local 382
- Collective Bargaining Agreement between UTA and Teamsters
- Utah Medical Cannabis Act

This UTA Policy was reviewed by UTA’s Chief Officers on 12/04/2024, approved by the Board of Trustees on _____ and approved by the Executive Director on _____. This policy takes effect on the latter date.

Signed by:

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 Ann Green-Barton, Chief People Officer
 Accountable Executive

 Jay Fox
 Executive Director

Approved as to form and content:

DocuSigned by:

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 Counsel for the Authority

History

Date	Action	Owner
11/25/2014	Revised – Corporate Policy 6.2.1 Drug and Alcohol Policy to reflect required FTA modifications	Chief People Officer
10/13/2021	Rescinds – Corporate Policy 6.2.1 Drug and Alcohol Policy	Chief People Officer
10/13/2021	Board Approved – UTA.01.05 Drug and Alcohol Policy	Chief People Officer
10/22/2021	Adopted – UTA.01.05 Drug and Alcohol	Chief People Officer
	Rescinds- Corporate Policy 6.2.1-1 – Addendum for FrontRunner Rail Services	
	Rescinds – UTA.01.05 Drug and Alcohol	Chief People Officer
	Board Approved – UTA.01.05 Drug and Alcohol	
	Adopted – UTA.01.05 Supplemental Drug and Alcohol	Chief People Officer

Exhibit 1

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 UTA's drug and alcohol program team:

Designated Employer Representative
Drug & Alcohol Program Manager
669 West 200 South, Salt Lake City UT 84101
Office Phone: (385) 299-6026
Email: DER@rideuta.com

2. Substance Abuse Professionals/Substance Abuse Counselors:

UTA's Employee Assistance Program (see SharePoint):
https://rideuta.sharepoint.com/sites/Human_Resources/SitePages/Employee-Assistance-Program.aspx

National Association for Alcoholism and Drug Abuse Counselors (NAADAC)
(Substance Abuse Professional Network)
1 □ 703 □ 741 □ 7686
<https://www.naadac.org/sap □ directory>

3. Other Treatment Programs:

- A) Public treatment agencies and information for Utah can be found at 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:
 - SAMHSA'S National Helpline: 1-800-662-HELP (4357). SAMHSA's National Helpline is a free, confidential, 24/7, 365-day-a-year treatment referral and information service (in English and Spanish) for individuals and families facing mental and/or substance use disorders.
 - Highland Ridge Hospital: (888) 986-3545. Operating 7 days a week, 24 hours per day, providing information, advice and referrals for any Alcohol or Drug problem.
 - Wasatch Crest Treatment: 800-385-3507. Adventure-based experimental therapy program that offers both gender-specific and mixed-gender care to those struggling with substance use disorders (SUDs).