

RESOLUTION 2207

**APPROVING THE REVISING OF THE CENTRAL PENNSYLVANIA
TRANSPORTATION DRUG AND ALCOHOL POLICY**

WHEREAS, the Central Pennsylvania Transportation Authority wishes to amend its policy in order to promote safe operations and to comply with the requirements of Federal Law, 49 CFR Part 40, and 49 CFR Part 655, as amended; and,

WHEREAS, the Central Pennsylvania Transportation Authority wishes to have definitive rules and regulations; and,

WHEREAS, the Central Pennsylvania Transportation Authority updated its policy to reflect recommendations from a FTA review; and,

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Central Pennsylvania Transportation Authority that it amends the Drug and Alcohol policy.

**CERTIFICATION OF OFFICERS
OF
CENTRAL PENNSYLVANIA TRANSPORTATION AUTHORITY**

I certify that the foregoing is a sound and true copy of a resolution adopted at a legally convened meeting of the Central Pennsylvania Transportation Authority Board Members held on April 28, 2022.

Thomas Wilson
Secretary

attest:

Raymond Rosen
Chairman

Central Pennsylvania Transportation Authority (CPTA)

Drug and Alcohol Policy

Effective as of [April 28, 2022]

Adopted by: **Board of Directors**

Resolution Number: 2207

Date Adopted: [April 28, 2022]

Last Revised: [December 11, 2020]

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I. Policy Statement

The Central Pennsylvania Transportation Authority (CPTA) is dedicated to providing safe, dependable and economical transportation services to our passengers. We also recognize that our employees are our most valuable resource and it is our goal to provide a healthy, satisfying working environment, which promotes personal opportunities for growth. In meeting these goals, it is our policy to:

- Establish definitive rules and regulations.
- Provide increase awareness through training, education, and communication on the subject of drug and alcohol abuse.
- Commit the resources necessary to achieve and maintain a drug and alcohol free environment.
- Assure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthful manner.
- Create a workplace free from the adverse effects of drug and alcohol abuse.
- Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of prohibited drugs and alcohol while working or on the property of the employer.
- As much as possible, create a stress-free workplace. The employee also recognizes that he/she share in this responsibility in an attempt to create a stress-free work environment.
- Make an employee assistance program available to employees whose personal problems, including prohibited drugs or alcohol dependency, impair their ability to perform their duties.

2. Purpose of Policy

This policy complies with 49 CFR Part 655, as amended and 49 CFR Part 40, as amended. Copies of Parts 655 and 40 are available in the drug and alcohol program manager's office and can be found on the internet at the Federal Transit Administration (FTA) Drug and Alcohol Program website <http://transit-safety.fta.dot.gov/DrugAndAlcohol/>.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with 49 CFR Part 655.

Portions of this policy are not FTA-mandated, but reflect Central Pennsylvania Transportation Authority's policy. These additional provisions are identified by **bold text**.

In addition, DOT has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

All Central Pennsylvania Transportation Authority employees are subject to the provisions of the Drug-Free Workplace Act of 1988.

The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the covered workplace. This includes on Authority premises, in Authority vehicles, or while on Authority business. Any employee in engaging in this behavior will be subject to disciplinary action, up to, and including termination. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify the Authority no later than five days after such conviction. Any employee who fails to do so, shall be subject to disciplinary action, up to, and including termination.

3. Applicability

This policy applies to every person, an applicant or transferee, who performs or will perform a “safety-sensitive function” as defined in Part 655, section 655.4.

You are a covered employee if you perform any of the following:

- Operating a revenue service vehicle, in or out of revenue service
- Operating a non-revenue vehicle requiring a commercial driver’s license
- Controlling movement or dispatch of a revenue service vehicle
- Maintaining (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

See Attachment A for a list of covered positions by job title.

This policy also applies to non-safety sensitive employees, contract employees and contractors, when they are working on the property, or when performing any transit-related safety-sensitive or non-safety sensitive business.

4. Training

Every employee is required to undergo a minimum of 60 minutes of training on the Substance Abuse Policy as well as a minimum of **sixty (60) minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.**

This training is required as part of the initial orientation training schedule and no employee may perform any safety-sensitive duties until such time as these two training features have been completed and documented.

Employees who serve in a supervisory capacity over safety sensitive functions will undergo the same training as identified above and, in addition, **supervisors and/or other company officers authorized by**

the employer to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

Access to Records

The Authority affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. The testing lab will only release results of a test to the MRO. The MRO will only release test results to the Employee and Program manager. Test results will only be released with written permission from the employee except for the MRO, SAP or Program Manager (*See Voluntary Self-Referral section*).

5. Prohibited Behavior

Use of illegal drugs is prohibited at all times. Prohibited drugs include:

- marijuana
- cocaine
- phencyclidine (PCP)
- opioids
- amphetamines

All covered employees, and non-covered employees, are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater. Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of their next regularly scheduled duty period (but for not less than eight hours) unless a retest results in the employee's alcohol concentration being less than 0.02. The employees' election to participate in subsequent alcohol retesting will be at the sole expense of the employee.

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform his or her safety-sensitive function, he or she must take an alcohol test with a result of less than 0.02 prior to performance.

All covered employees are prohibited from consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

All covered employees required to take a post-accident test are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.

Please note, any falsification or suspected tampering with a sample will require that individual to undergo an observed collection. Verification of these actions will result in the employee's removal from duty and termination.

Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. **This request must be made to the Medical Review Officer (MRO) within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts beyond the control of the employee.** All costs for such testing are the responsibility of the employee. Should the employee not be able to afford the cost of a split specimen test, the Authority will cover the cost of the collection and testing. Those costs, however, will be reimbursed to the Authority, by the employee. Central Pennsylvania Transportation Authority guarantees that the split specimen test will be conducted in a timely fashion.

9. Test Refusals

As a covered employee, you have refused to test if you:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by Central Pennsylvania Transportation Authority.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
- (6) Fail or decline to take a second test as directed by the collector or Central Pennsylvania Transportation Authority for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or Central Pennsylvania Transportation Authority's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process (Examples: refuse to empty pockets or wash hands after being directed to do so by the collector, or behaving in a confrontational manner that disrupts the collection process).
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.

- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions referred to a SAP and terminated from employment.

10. Voluntary Self-Referral

Any employee who has a drug and/or alcohol abuse problem and has not been notified of the requirement to submit to reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to Human Resources, who will refer the individual to a substance abuse counselor for evaluation and treatment.

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function and will not be allowed to perform such function until successful completion of a prescribed rehabilitation program.

If an employee (safety-sensitive and non-safety sensitive) is allowed to return to duty, he/she must properly follow the rehabilitation program prescribed by the SAP. In addition, the employee must have negative return-to-duty drug and alcohol tests and be subject to unannounced follow-up testing for a period of one to five years. The cost of any treatment and rehabilitation services is the sole responsibility of the employee and will be paid directly by the employee or their insurance provider.

Employees will be allowed to take accumulated sick leave and any paid time off to participate in prescribed rehabilitation program.

II. Employee Assistance Program

It is our policy to make assistance available to employees who experience personal problems, including prohibited drug and alcohol abuse or dependency, which may impair job performance. Employees are encouraged to seek assistance in dealing with emotional, physical, or mental health problems, including prohibited drug or alcohol abuse or dependency. Confidential professional assistance, treatment planning, and rehabilitation services are available as needed.

Confidentiality and Protocol of test results

As per our contractual agreement with the third party administrator, any drug test results conducted under this Policy shall be released from the testing facility to the MRO only. The MRO will release the results only to the employee tested and the Program Manager. Breath Alcohol test results will only be released by the BAT to the employee, MRO, SAP or Program Manager. **Except as otherwise provided, the laboratory may not release or provide a specimen or a part of a specimen to a requesting party, without first obtaining written consent from ODAPC.** (40.331(f)) The employees' written permission is required to release any test information to anyone other than the SAP, MRO or Program Manager.

Except as required by law and as provided for under Parts 40.321 & 40.323, no employee records maintained under the Substance Abuse Policy will be released without the employees written request. A covered employee is entitled, upon written request, to obtain copies of any records maintained under the Substance Abuse Policy. That request will then become part of the employees' file. **Except as otherwise provided, a service agent or employer participating in the DOT drug or alcohol testing process is prohibited from releasing individual test results or medical information about an employee to third parties without the employee's specific written consent.** (40.321)

“Specific written consent” means a statement signed by the employee that he or she agrees to the release of a particular piece of information to a particular, explicitly identified, person or organization at a particular time. “Blanket releases,” in which an employee agrees to a release of a category of information (e.g., all test results) or to release information to a category of parties (e.g., other employers who are members of a consortium, companies to which the employee may apply for employment) are not permitted under this part. (40.321(b))

The employer may release information pertaining to an employee's drug or alcohol test without the employee's consent in certain legal proceedings. (40.323(a)) **These proceedings include a lawsuit (e.g., a wrongful discharge action), grievance (e.g., an arbitration concerning disciplinary action taken by the employer), or administrative proceeding (e.g., an unemployment compensation hearing) brought by, or on behalf of, an employee and resulting from a positive DOT drug or alcohol test.** (40.323(a)(1))

These proceedings also include a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information sought is relevant to the case and issues an order directing the employer to produce the information. (40.323(a)(2))

In such a proceeding, you may release the information to the decision maker in the proceeding (e.g., the court in a lawsuit). You may release the information only with a binding stipulation that the decision maker to whom it is released will make it available only to parties to the proceeding.
(40.323(b))

12. Prescription Drug Use

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to Lindsay Fitzpatrick and you will be required to provide documentation stating you are cleared to perform your safety-sensitive duties. The Authority reserves the right to remove the covered employee from safety-sensitive duties, until the documentation is received. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties. The misuse or abuse of legal drugs while performing transit business is prohibited.

Please refer to the Authority's Prescription Drug and OTC Medications Policy.

13. Contractors

Contractor organizations that have persons who provide FTA-defined sensitive safety functions for the Authority must adopt an anti-drug policy, which contains the same provisions as this policy with respect to prohibited conduct and chemical testing. No contractor employee who is in violation of those policy provisions may provide sensitive safety services.

Contractor personnel may, at the sole discretion of the Authority, participate in the Authority's chemical testing program, with results referred to the contractor's management for appropriate personnel action.

14. Contact Person

For questions about Central Pennsylvania Transportation Authority's anti-drug and alcohol misuse program, contact the Designated Employer Representative (DER) below:

Name: Lindsay Fitzpatrick

Title: Senior Human Resources Business Partner

Phone: 717-849-0707

Email: lfitzpatrick@rabbittransit.org

Substance Abuse Professional information:

SAP Referral Services LLC

7939 Honeygo Blvd. STE 200

Baltimore, MD 21236

410-668-8110 or 888-720-SAPS

**Other USDOT Qualified SAP's are available through SAP Referral Services. Should an employee wish to consult with an alternative USDOT Qualified SAP, please see the Designated Program Manager.*

Attachment A: Covered Positions

- Fixed-Route Operators
- Paratransit Operators
- Express Operators
- Mechanics
- Porters