

**DRUG AND ALCOHOL POLICY
FOR NON-SAFETY SENSITIVE EMPLOYEES**

**DATE: 10/28/02
REPLACES: 5/6/99
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**SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
DRUG AND ALCOHOL POLICY
FOR NON-SAFETY SENSITIVE EMPLOYEES**

I - PURPOSE

The purpose of this Policy is to promote a drug and alcohol free workplace; limit drug and alcohol related performance problems, accidents, and injuries; and to provide assistance towards rehabilitation for any employee who seeks VTA's help in overcoming addiction to, dependence on or problems with alcohol or drugs.

Employees are encouraged to make use of available resources for treatment of alcohol and substance abuse problems. An employee who may be experiencing the pressures and problems of substance abuse and/or related problems is urged to seek help through the Employee Assistance Program (EAP) and/or Substance Abuse Professional (SAP), or through VTA available medical plans.

It is the responsibility of employees to seek assistance from a substance abuse program before alcohol or drug problems lead to disciplinary action. Enrollment in a substance abuse assistance program will not be used against an employee in a disciplinary proceeding.

An employee who self refers and voluntarily participates in a drug or alcohol rehabilitation program will be allowed to use accrued sick leave and vacation time while participating in rehabilitation and treatment programs. Employees without accrued sick leave and vacation will be placed on unpaid leave of absence.

An employee who self refers and successfully participates in a drug or alcohol rehabilitation program will be subject to clearance by a Substance Abuse Professional, Return-to-Duty and Follow-Up testing.*

VTA will not accept drug or alcohol problems as an excuse for employees who do not seek help or do not correct drug or alcohol problems after referral and assistance, when the employee is being disciplined for attendance or other work related problems.

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Questions regarding self-referral may be directed to Jackie Adams, Substance Abuse Control Program Manager, at (408) 321-5822, to the employee's Supervisor, Superintendent, or Manager, or to the employee's union representative.

II - APPLICABILITY

Non-safety sensitive employees and contract employees are subject to reasonable suspicion testing for drugs and alcohol.

III - PROHIBITED SUBSTANCES

The following are prohibited in the work place.

A. Prohibited Substances

Marijuana
Amphetamines
Opiates
Cocaine
Phencyclidine (PCP)

B. Alcohol

On-duty use, intoxication, or impairment affecting job performance from food or beverages containing alcohol is prohibited.

C. Legal Drugs

The misuse of legal drugs while on duty is prohibited. The appropriate use of legally prescribed drugs and non-prescription drugs is not prohibited. A legally prescribed drug is a drug for which an individual has a prescription from a physician for use in the course of medical treatment.

An employee suspected of using alcohol or drugs in violation of this Policy shall be asked to submit to a test to determine the presence of any of the following: alcohol, marijuana, amphetamines, opiates, cocaine, phencyclidine (PCP). Standard levels for accurate detection established by FTA guidelines shall be used to determine whether a test is positive for the presence of prohibited substances.

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IV - PROHIBITED CONDUCT

The following conduct while on duty or on VTA property is prohibited: Intoxication or impairment affecting job performance; use or possession of alcoholic beverages; misuse of legal drugs; use, possession, manufacturing, trafficking, or distribution of controlled substances. Where criminal activity is suspected, law enforcement officials shall be notified.

V - REASONABLE SUSPICION TESTING

Referral for reasonable suspicion testing shall be made by supervisors on the basis of specific, objective facts and circumstances concerning the appearance, behavior, speech, or body odors of the employee. Observations must be documented. Supervisors shall receive at least two hours of training by an expert in reasonable suspicion determination, and drug abuse and alcohol misuse (one hour for alcohol and one hour for drugs).

Supervisors shall look for multiple indicators, as each indicator alone could be caused by something other than prohibited drug or alcohol use.

Examples of behaviors and physical signs consistent with drug and alcohol use which a supervisor may observe in order to make a reasonable suspicion determination are:

slurred speech; dulled mental processes; poor physical condition, such as staggering or lack of coordination; distinctive odors (such as alcohol or marijuana) on breath or clothes; slowed reaction rate; drowsiness; dilated or constricted pupils; glassy or red eyes; irritability; hyperexcitability; restlessness; rapid respirations; confusion; panic; talkativeness; profuse sweating; extreme mood swings; diminished concentration; loud arguing or fighting; inattentiveness.

Before making a reasonable suspicion referral, supervisors shall ask whether the employee is on medication, or if there is illness, injury, or a medical problem that could account for the above indicators. The supervisor shall ask the employee to submit to testing only when there is cause for reasonable suspicion.

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VI - TESTING PROCEDURES

A. General

Testing will be conducted in a manner which assures a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). Tests conducted are analytical testing of urine for prohibited drug use, or breath sample to detect alcohol.

B. Pay Status While Waiting for Results of a Reasonable Suspicion Test

When an employee submits to a reasonable suspicion test, time spent on testing, (including travel time, if any) and awaiting the test result is "paid time." An employee who is tested who is not allowed to return to work until the test results have been reviewed, and whose test is subsequently found to be negative by the MRO, will be on "paid time" during the waiting period.

**C. Employee Requested Additional Testing - 72 Hours
(Split Sample)**

Each sample will be split into a primary and a secondary sample. An employee who questions the results of a test may request that an additional test be conducted. The employee must pay for the secondary test if it is positive. A negative or canceled test will be paid for by VTA. This test shall be conducted at a different laboratory on the secondary sample that was provided at the time of the original sample.

The request for an additional test must be made within 72 hours of being informed by the Medical Review Officer (MRO) of test results. This option does not apply to breath alcohol testing.

If the analysis of the secondary specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the secondary specimen is unavailable or inadequate for testing, the MRO will cancel the test, declare it invalid, and report the cancellation and the reasons for it to the Substance Abuse Control Program Manager and the employee.

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D. Alcohol Breathalyzer Testing

Tests for alcohol concentration will be conducted with a National Highway Traffic Safety Administration (NHTSA) approved evidential breath testing device (EBT), operated by a trained Breath Alcohol Technician (BAT). A BAT is an employee who is trained to operate an approved Evidential Breath Testing device (EBT), and who has been certified in DOT Alcohol Testing Procedures, from a NHTSA or State approved course.

E. Medical Review Officer (MRO)

Drug testing results shall be evaluated by a Medical Review Officer (MRO), who is a designated licensed Medical Doctor (medical doctor or doctor of osteopathy) with knowledge of substance abuse disorders and appropriate medical training to evaluate and interpret drug test results. The MRO shall discuss the results with the employee to evaluate whether there is a medical explanation, including the use of legally prescribed medication, before making a determination of test results.

F. Submitting to Testing/Refusal to Submit

An employee who submits to a reasonable suspicion drug or alcohol test while on duty must provide written consent for the test and for the release of the results to VTA by the MRO. Failure to provide written consent or refusal to consent to testing shall be viewed by VTA as evidence that an employee is under the influence of drugs or alcohol.

If an employee engages in conduct that obstructs the testing process or creates reason to believe that a specimen has been altered, substituted, or adulterated for the purposes of affecting validity of a test, such conduct shall be viewed by VTA as evidence that the employee is under the influence of drugs or alcohol.

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VII - CONSEQUENCES OF VIOLATION OF THIS POLICY

An employee who engages in any of the following conduct while on duty or on VTA property is subject to discipline up to and including discharge: Intoxication or impairment affecting job performance; use or possession of alcoholic beverages; misuse of legal drugs; use, possession, manufacturing, trafficking, or distribution of controlled substances.

An employee who is referred for reasonable suspicion testing while on-duty who then tests positive for the presence of drugs or alcohol shall be subject to disciplinary action up to and including discharge, depending on the circumstances. A test confirming the presence of drugs or alcohol alone will not result in automatic disciplinary action of an employee, unless other corroborating evidence and considerations prove on-duty use, intoxication, or impairment affecting job performance.

While an employee may refuse to submit to a reasonable suspicion test, VTA shall view such refusal as evidence that an employee is under the influence of drugs or alcohol.

An employee who engages in conduct that obstructs the testing process or creates reason to believe that a specimen has been altered, substituted, or adulterated for the purposes of affecting validity of a test an employee will be subject to disciplinary action up to and including discharge.

Mitigating factors for any disciplinary action may include but are not limited to, the employee's employment record and years of service, circumstances of the offense, assessment of a substance abuse professional, and the employee's commitment to rehabilitation.

Appeal Rights

Employees have the right to appeal any discipline issued as a result of violation of this Policy through the grievance and arbitration procedures provided for in their Collective Bargaining Agreement or VTA's Personnel Policies and Procedures.

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VIII - CONTACT

Questions regarding this Policy or any other aspect of the Valley Transportation Authority Substance Abuse Control Program should be directed to the office of:

NAME: Jackie Adams, M.P.H.
TITLE: Manager, Substance Abuse Control Program
ADDRESS: Santa Clara Valley Transportation Authority
3331 N. First St., Bldg B
San Jose, CA 95134
PHONE: (408) 321-5822

XII - REVISIONS TO THE POLICY AND PROGRAM

This policy and program is subject to revision.

Signed by: _____
General Manager

Effective Date of this Policy is: 5/6/99

Date Adopted by VTA Board of Directors: 5/6/99

Replaces Policy dated: March 6, 1995