



**CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

**LONDON N. BREED
MAYOR**

Sent via Electronic Mail

March 7, 2024

NOTICE OF CIVIL SERVICE COMMISSION MEETING

Zhekun Chen



SUBJECT: REQUEST FOR A HEARING BY ZHEKUN CHEN TRANSIT OPERATOR (9163) ON THEIR FUTURE EMPLOYMENT RESTRICTIONS WITH THE CITY AND COUNTY OF SAN FRANCISCO.

Dear Zhekun Chen:

The above matter will be considered by the Civil Service Commission at a hybrid meeting (in-person and virtual) in Room 400, City Hall, 1 Dr. Goodlett Place, San Francisco, California 94102 and through Cisco WebEx to be held on **March 18, 2024, at 2:00 p.m.** You will receive a separate email invite from a Civil Service Commission staff member to join and participate in the meeting.

The agenda will be posted for your review on the Civil Service Commission's website at www.sf.gov/CivilService under "Meetings" no later than end of day on Wednesday, March 13, 2024. Please refer to the attached Notice for procedural and other information about Commission hearings. A copy of the department's staff report on your appeal is attached to this email.

In the event that you wish to submit any additional documents in support of your appeal, please submit **one hardcopy 3-hole punch, double-sided and numbered at the bottom of each page to the CSC Office at 25 Van Ness Ave., Suite 720 and email a PDF version to the Civil Service Commission's email at civilservice@sfgov.org by 5:00 p.m. on Tuesday, March 12, 2024**, please be sure to redact your submission for any confidential or sensitive information that is not relevant to your appeal (e.g., home addresses, home or cellular phone numbers, social security numbers, dates of birth, etc.), as it will be considered a public document.

Attendance by you or an authorized representative is recommended. **You will have up to 10 minutes for your presentation unless your time is extended by the Commission.** Should you or a representative not attend, the Commission will rule on the information previously submitted and any testimony provided at its meeting. Where applicable, the Commission has the authority to uphold, increase, reduce, or modify any restrictions recommended by the department. All calendared items will be heard and resolved at this time unless good reasons are presented for a continuance.

You may contact me at (628) 652-1100 or at Sandra.Eng@sfgov.org if you have any questions.

CIVIL SERVICE COMMISSION

SANDRA ENG
Executive Officer

Attachment

Cc: Jeffrey Tumlin, Municipal Transportation Agency
Kimberly Ackerman, Municipal Transportation Agency
Effrosyni Baskouta, Municipal Transportation Agency
Shana, Dines, Municipal Transportation Agency
David Garcia, Municipal Transportation Agency
Aleta Washington-Williams, Municipal Transportation Agency
Romika Williams, Municipal Transportation Agency
Commission File
Commissioners' Binder
Chron

NOTICE OF COMMISSION HEARING POLICIES AND PROCEDURES

A. Commission Office

The Civil Service Commission office is located at, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. The telephone number is (628) 652-1100. The fax number is (628) 652-1109. The email address is civilservice@sfgov.org and the web address is www.sfgov.org/civilservice/. Office hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday.

B. Policy Requiring Written Reports

It is the policy of the Civil Service Commission that except for appeals filed under Civil Service Commission Rule 111A Position-Based Testing, all items appearing on its agenda be supported by a written report prepared by Commission or departmental staff. All documents referred to in any Agenda Document are posted adjacent to the Agenda, or if more than one (1) page in length, available for public inspection and copying at the Civil Service Commission office. Reports from City and County personnel supporting agenda items are submitted in accordance with the procedures established by the Executive Officer. Reports not submitted according to procedures, in the format and quantity required, and by the deadline, will not be calendared.

C. Policy on Written Submissions by Appellants

All written material submitted by appellants to be considered by the Commission in support of an agenda item shall be submitted to the Commission office, no later than 5:00 p.m. on the fourth (4th) business day preceding the Commission meeting for which the item is calendared (ordinarily, on Tuesday). An original copy on 8 1/2-inch X 11 inch paper, three-hole punched on left margin, and page numbered in the bottom center margin, shall be provided. Written material submitted for the Commission's review becomes part of a public record and shall be open for public inspection.

D. Policy on Materials being Considered by the Commission

Copies of all staff reports and materials being considered by the Civil Service Commission are available for public view 72 hours prior to the Civil Service Commission meeting on the Civil Service Commission's website at <https://sf.gov/civilservice> and in its office located at 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. If any materials related to an item on this agenda have been distributed to the Civil Service Commission after distribution of the agenda packet, those materials will be available for public inspection at the Civil Service Commission's during normal office hours (8:00 a.m. to 5:00 p.m. Monday through Friday).

E. Policy and Procedure for Hearings to be Scheduled after 5:00 p.m. and Requests for Postponement

A request to hear an item after 5:00 p.m. should be directed to the Executive Officer as soon as possible following the receipt of notification of an upcoming hearing. Requests may be made by telephone at (628) 652-1100 and confirmed in writing or by fax at (628) 652-1109.

A request for a postponement (continuance) to delay an item to another meeting may be directed to the Commission Executive Officer by telephone or in writing. Before acting, the Executive Officer may refer certain requests to another City official for recommendation. Telephone requests must be confirmed in writing prior to the meeting. Immediately following the "Announcement of Changes" portion of the agenda at the beginning of the meeting, the Commission will consider a request for a postponement that has been previously denied. Appeals filed under Civil Service Commission Rule 111A Position-Based Testing shall be considered on the date it is calendared for hearing except under extraordinary circumstances and upon mutual agreement between the appellant and the Department of Human Resources.

F. Policy and Procedure on Hearing Items Out of Order

Requests to hear items out of order are to be directed to the Commission President at the beginning of the agenda. The President will rule on each request. Such requests may be granted with mutual agreement among the affected parties.

G. Procedure for Commission Hearings

All Commission hearings on disputed matters shall conform to the following procedures: The Commission reserves the right to question each party during its presentation and, in its discretion, to modify any time allocations and requirements.

If a matter is severed from the *Consent Agenda* or the *Ratification Agenda*, presentation by the opponent will be for a maximum time limit of five (5) minutes and response by the departmental representative for a maximum time limit of five (5) minutes. Requests by the public to sever items from the [*Consent Agenda* or] *Ratification Agenda* must be provided with justification for the record.

For items on the *Regular Agenda*, presentation by the departmental representative for a maximum time of five (5) minutes and response by the opponent for a maximum time limit of five (5) minutes.

For items on the *Separations Agenda*, presentation by the department followed by the employee or employee's representative shall be for a maximum time limit of ten (10) minutes for each party unless extended by the Commission.

Each presentation shall conform to the following:

1. Opening summary of case (brief overview);
2. Discussion of evidence;
3. Corroborating witnesses, if necessary; and
4. Closing remarks.

The Commission may allocate five (5) minutes for each side to rebut evidence presented by the other side.

H. Policy on Audio Recording of Commission Meetings

As provided in the San Francisco Sunshine Ordinance, all Commission meetings are audio recorded in digital form. These audio recordings of open sessions are available starting on the day after the Commission meeting on the Civil Service Commission website at www.sfgov.org/civilservice/.

I. Speaking before the Civil Service Commission

Speaker cards are not required. The Commission will take in-person public comment on all items appearing on the agenda at the time the item is heard. The Commission will take public comment on matters not on the Agenda, but within the jurisdiction of the Commission during the "Requests to Speak" portion of the regular meeting. Maximum time will be three (3) minutes. A subsequent comment after the three (3) minute period is limited to one (1) minute. The timer shall be in operation during public comment. Upon any specific request by a Commissioner, time may be extended. People who have received an accommodation due to a disability (as described below) may provide their public comments remotely. The Commission will also allow public comment from members of the public who choose to participate remotely. It is possible that the Commission may experience technical challenges that interfere with the ability of members of the public to participate in the meeting remotely. If that happens, the Commission will attempt to correct the problem, but may continue the hearing so long as people attending in-person are able to observe and offer public comment.

J. Public Comment and Due Process

During general public comment, members of the public sometimes wish to address the Civil Service Commission regarding matters that may come before the Commission in its capacity as an adjudicative body. The Commission does not restrict this use of general public comment. To protect the due process rights of parties to its adjudicative proceedings, however, the Commission will not consider, in connection with any adjudicative proceeding, statements made during general public comment. If members of the public have information that they believe to be relevant to a matter that will come before the Commission in its adjudicative capacity, they may wish to address the Commission during the public comment portion of that adjudicative proceeding. The Commission will not consider public comment in connection with an adjudicative proceeding without providing the parties an opportunity to respond.

K. Policy on use of Cell Phones, Pagers and Similar Sound-Producing Electronic Devices at and During Public Meetings

The ringing and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Information on Disability Access

The Civil Service Commission normally meets in Room 400 (Fourth Floor) City Hall, 1 Dr. Carlton B. Goodlett Place. However, meetings not held in this room are conducted in the Civic Center area. City Hall is wheelchair accessible. The closest accessible BART station is the Civic Center, located 2 ½ blocks from City Hall. Accessible MUNI lines serving City Hall are 47 Van Ness Avenue, 9 San Bruno and 71 Haight/Noriega, as well as the METRO stations at Van Ness and Market and at Civic Center. For more information about MUNI accessible services, call (415) 923-6142. Accessible curbside parking has been designated at points in the vicinity of City Hall adjacent to Grove Street and Van Ness Avenue.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week. For American Sign Language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact the Commission office to make arrangements for the accommodation. Late requests will be honored, if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our ADA coordinator at (628) 652-1100 or email civilservice@sfgov.org to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Know your Rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, or to obtain a free copy of the Sunshine Ordinance, contact Victor Young, Administrator of the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102-4689 at (415) 554-7724, by fax: (415) 554-7854, by e-mail: soft@sfgov.org, or on the City's website at www.sfgov.org/bdsupvrs/sunshine.

San Francisco Lobbyist Ordinance

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (San Francisco Campaign and Governmental Conduct Code Section 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 25 Van Ness Ave., Suite 220, San Francisco, CA 94102, telephone (415) 252-3100, fax (415) 252-3112 and web site <https://sfethics.org/>.



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

CIVIL SERVICE COMMISSION REPORT TRANSMITTAL (FORM 22MTA) Applicable to Municipal Transportation Agency Service-Critical Classes

Refer to Civil Service Commission Procedure for Staff - Submission of
Written Reports MTA for Instructions on completing and processing this Form

1. Civil Service Commission Register Number: 0259 - 23 - 7
2. For Civil Service Commission Meeting of: March 18, 2024
3. Check One:

Ratification Agenda	_____
Consent Agenda	_____
Regular Agenda	X
4. Subject: Request by Zhekun Chen re: Restrictions on Future Employability
5. Recommendation: Accept the report, deny the appeal and approve proposed restrictions, and cancel any current examination and eligibility status.
6. Report prepared by: Effrosyni Baskouta Telephone number: 415-646-4885
7. Notifications: **(Attach a list of the person(s) to be notified in the format described in IV. Commission Report Format -A**
8. Reviewed and approved for Civil Service Commission Agenda:

 Municipal Transportation Agency Director: Ackerman, Kimberly
 Kimberly W. Ackerman, Chief People Officer, SFMTA
 Date: March 5, 2024
9. Submit the original time-stamped copy of this form and person(s) to be notified (see Item 7 above) along with the required copies of the report to:


**Executive Officer
Civil Service Commission
25 Van Ness Avenue, Suite 720
San Francisco, CA 94102**

10. Receipt-stamp this form in the ACSC RECEIPT STAMP box to the right using the time-stamp in the CSC Office.

<u>CSC RECEIPT STAMP</u>

Attachment

NOTIFICATIONS

Zhekun Chen


Jeffrey Tumlin -Director of Transportation
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San Francisco, CA 94103
Email: Jeffery.Tumlin@sfmta.com

Kimberly W. Ackerman – Chief People Officer, SFMTA Human Resources
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London Breed, Mayor

Amanda Eaken, Chair
Stephanie Cajina, Vice Chair
Steve Heminger, Director
Dominica Henderson, Director

Fiona Hinze, Director
Lydia So, Director
Janet Tarlov, Director

Jeffrey Tumlin, Director of Transportation

MEMORANDUM

Date: March 18, 2024

To: The Civil Service Commission

Through: Kimberly W. Ackerman
Chief People Officer, SFMTA

From: David Garcia, Labor Relations Manager, SFMTA 

Subject: Appeal of Future Employability Restrictions by Zhekun Chen – Probationary 9163
Transit Operator (Register No. 0259-23-7)

BACKGROUND

The San Francisco Municipal Transit Agency (SFMTA) maintains a substance abuse program (SAP) to comply with the U.S. Department of Transportation's (DOT) Regulations. See the United States Code of Federal regulations at, 49 CFR Part 40, and 655. These regulations require the SFMTA's Substance Abuse Program (SAP) to conform with the DOT's drug and alcohol testing requirements. For compliance with its SAP, SFMTA subjects covered employees to unannounced random drug and alcohol testing in accordance with FDA regulations. Random testing is unpredictable and spread reasonably throughout the calendar year. SFMTA removes employees from performing safety sensitive functions whenever they receive a positive drug test result.

The SFMTA hired Zhekun Chen (Appellant) as a Permanent Civil Service (PCS) Transit Operator (Job Code 9163) on June 12, 2023. During his probation, the Appellant received a positive drug test result on October 26, 2023. SFMTA removed him from performing safety sensitive functions and released him from his probation effective November 3, 2023.

As a routine practice, the SFMTA imposes a twenty-four-month future work restriction whenever it releases employees from probation for having a positive test result. The Appellant's positive test result on October 26, 2023, was a positive drug test that occurred during his probationary period scheduled to end on December 11, 2023.

SFMTA issued a Notice of Release from Probationary Appointment to the Appellant. The SFMTA considers the Appellant's release as "disciplinary" and restricts his future employability for twenty-four months. Specifically, future employment is subject to the review and approval of the Department of Human Resources Director after satisfactory completion of two years of verifiable work experience outside of City and County of San Francisco services. The Appellant must

participate in an appropriate substance abuse program and receive a release to work from a certified substance abuse professional for any safety sensitive positions. His current examination and eligibility status are cancelled. **EXHIBIT A.**

On December 28, 2023, the Appellant sent a request for appeal to the Civil Service Commission. The Appellant cited “accidental consumption” as the reason for appealing his proposed future employment restrictions. See Appeal to the Civil Service Commission, December 28, 2023 (Register No. 0259-23-7; Form CSC-12). **EXHIBIT B.** The Appellant appeals the SFMTA’s “Future Employability Recommendation” for the position of Transit Operator (Job Code 9163). In accordance with the Civil Service Rules, the SFMTA submits this staff report for the Commission’s consideration.

ISSUES

Is it reasonable to preclude the Appellant from safety sensitive positions for twenty-four months?

Is it reasonable to cancel current examinations and eligibility status for safety-sensitive positions?

AUTHORITY AND STANDARDS

San Francisco City Charter, Article 8A, The Municipal Transportation Agency. **EXHIBIT C.**

Article 8A, in pertinent part, requires the SFMTA to hold employees accountable for safe operation of the transit system. The article requires the SFMTA be accountable for passenger, public and employee safety and security. See Article 8A, Section 8A.103 2 (d)(1).

Memorandum of Understanding between San Francisco Municipal transportation Agency and Transport Worker’s Union, Local 250-A (9163) Article 19, section 227:

[t]” The Executive Director/CEO or designee may release or discipline an Operator during the Operator’s probationary period without cause, and such decisions shall not be subject to the grievance procedure in Article 22.”

The SFMTA’s probationary periods are governed by the Civil Service Commission Rule 417 series. **EXHIBIT D.** A release from probationary based on disciplinary reasons requires the SFMTA to determine the employee’s future employability under the Civil Service Rules’ 417 series.

Sec. 417.1 Requirement for a Probationary Period

417.1.1 Any person appointed to a permanent civil service position shall serve a probationary period.

417.1.2 Nothing in these provisions is intended to infringe upon or restrict the authority of an appointing officer in releasing a probationary employee as provided in these Rules.

Sec. 417.2 Definition of Probationary Period

417.2.1 The probationary period is defined as the final and most important phase of the selection process and is to be used for evaluating the performance of an employee in the position to which appointed; and

417.2.2 A period of regularly scheduled hours worked, excluding any time off for leave, vacation, other types of time off (not including legal holidays), or overtime.

Sec. 417.9 Release of Employee During the Probationary Period

417.9.1 An employee may be released by the MTA Director of Transportation/Designee at any time during the probationary period upon written notice to the employee.

417.9.2 If a probationary employee is released for disciplinary reasons, a determination of the employee's future employability shall be made as provided in this section.

The decision on future employability reached through the procedures established under these Rules shall be final and shall not be subject to reconsideration.

The Appellant must comply with all the rules contained in the San Francisco Municipal Railway Rules and Instructions Handbook (**EXHIBIT E**) as set forth below in pertinent part:

Rule 2.1.3 – All employees will be held accountable for compliance with all rules in the San Francisco Municipal Railway Rules Instruction Handbook.

Rule 2.1.5 – Violation of any rule in this Rules and Instructions Handbook is sufficient cause for disciplinary action up to and including dismissal.

Rule 2.1.7 – Adherence to these rules is essential to safety, and safety is the primary importance in the performance of duties.

Rule 2.11.1 – All Safety-Sensitive employees are subject to the provisions of the Railway's Substance Abuse Policy and Procedures Handbook and must adhere strictly to its provisions.

Rule 2.13.1 - Violation of any of the following rules will be sufficient cause for charges for disciplinary action involving suspension or, if appropriate, dismissal. Inattention to Duty; Substance Abuse.

Rule 2.14.1 – Employees must comply with the laws, ordinances, and regulations of the state of California and the City and County of San Francisco.

Rule 2.14.2 – Employees shall be familiar with and obey all such laws, ordinances, and regulations applicable to their responsibilities, including the signing of traffic citations.

Rule 422.1.3 – The employee has the right to a hearing before the Civil Service Commission provided that a request for a hearing is made in writing and is received by the Executive Officer within twenty (20) calendar days from the date of termination of appointment or from the date of mailing of the Notice of Termination whichever is later. In the event the 20th day falls on a non-business day, the deadline shall be extended to the close of business of the first business day following the 20th day.

Under CSC Memorandum No. 2014-10 Policy & Guidelines re: Future Employment Restrictions, the Commission does not determine if the negative release itself was appropriate. The Commission's role is to determine if the proposed restriction on future employment is appropriate (i.e., whether the circumstances surrounding the individual's negative separation merits a restriction of his or her future employment with the City/department; and whether the scope, duration, and type of restriction itself is appropriate under the circumstances.)

The Appellant must comply with the rules contained in the Substance Abuse Program (SAP) Policies and Procedures Handbook. **EXHIBIT F**. In pertinent part, these rules include:

SAP Section 7.0 – Prohibited Drug Use and Alcohol Use

7.1 Prohibited Drugs

FTA regulations specifically prohibit the use of the following illegal drugs and drug metabolites: marijuana, amphetamines, methylenedioxyamphetamines, opioids, and cocaine.

7.3 Legally Prescribed and Over-The-Counter Drugs

Legally prescribed drugs include those drugs approved and authorized for the employee by a physician for use during medical treatment. For prescription drugs, the physician must issue a written prescription that clearly indicates the employee's name, drug type, and proper dosage.

SAP Section 9.0 – Testing for Prohibited Substances

9.5– Consequences of a Non-negative Test Result

Any covered employee who has a positive drug test as verified by the MRO¹ or who refuses to submit to a test will be removed from safety-sensitive functions immediately, evaluated by a Substance Abuse Professional, and informed of educational and rehabilitation resources.

FINDINGS

On October 26, 2023, the Appellant was administered a “Random” urine drug test. The drug test was positive as reported by [REDACTED] on November 1, 2023. **EXHIBIT G**– Notification Packet of Positive Drug Test).

On November 1, 2023, the SFTMA Substance Abuse Program Manager Beverly Tilson notified the Appellant about his positive urine drug test. **Id.**

On November 1, 2023, the SFMTA Substance Abuse Program Manager Beverly Tilson notified the Appellant’s Division Manager, Aleta Washington- Williams, about a positive test resulting from a “Random Test” taken on October 26, 2023. **Id.**

On November 1, 2023, Division Manager Aleta Washington – Williams removed the Appellant from performing his safety-sensitive work functions because of the Appellant’s positive drug test. The Division Manager notified the Appellant that he was being considered for termination. Aleta directed the Appellant to contact the SFMTA Substance Abuse Program Manager for assistance with any substance abuse issues. The Appellant’s last regular workday was November 1, 2023. **Id.**

On December 21, 2023, the SFMTA released the Appellant from his probationary position. The separation effective date is November 3, 2023. **EXHIBIT A**

On December 28, 2023, the Appellant submitted an appeal request to the Civil Service Commission.

On January 8, 2024, the Appellant submitted an email to Civil Service Commission. His email states in pertinent part, “[...] I’m not addicted to any drugs including Marijuana [sic] but have experienced a situation where I tested positive for marijuana due to accidental intake.” The Appellant included a copy of the Substance Abuse Program Guidelines and highlighted excerpts of Exhibit C-1 and Exhibit D. **EXHIBIT I**

DISCUSSION AND ANALYSIS

The SFMTA hired the Appellant on June 12, 2023, as a PCS 9163 Transit Operator.

¹ Medical Review Officer (MRO): 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.

On October 26, 2023, the appellant was subject to a random drug test under SFMTA’s substance abuse policy. Consistent with its practice, the SFMTA terminates probationary employees for having a positive test during their probation. The SFMTA imposes a 24-month future work restriction consistent with its usual practice whenever a probationary employee receives a positive drug test. It is reasonable to preclude the Appellant from safety sensitive positions for twenty-four months because the SFMTA consistently recommends a 24-month future employability restriction whenever it separates an employee for testing positive under a “Random” test.

It is reasonable to cancel the Appellant’s current examinations and eligibility status for safety-sensitive positions because the SFMTA consistently recommends this action whenever an employee tests positive under a “Random” test. The Federal Transit Administration (FTA) does not consider accidental intake as a mitigating circumstance or justification for a positive test result.

The Appellant’s twenty-four-month restrictions against future employability should commence from the Appellant’s last day of probationary employment on November 2, 2023.

The Appellant’s future employability with the SFMTA or the City and County of San Francisco should include the following restrictions:

- 1) Cancel current examination and eligibility status.
- 2) Future employment subject to the review and approval of the Department of Human Resources Director after satisfactory completion of two years of verifiable experience outside of the City and County of San Francisco Services.
- 3) Must participate in an appropriate substance abuse program and receive a release to work from a certified substance abuse professional for any safety sensitive positions.

CONCLUSION

Based on the information provided to Employee and Labor Relations, we conclude the Appellant tested positive for a prohibited drug and should be precluded from future employment for twenty-four months. A twenty-four-month restriction is the SFMTA’s standard for all positive drug or alcohol tests.

RECOMMENDATION

Accept the report, deny the appeal, and approve the future employability restrictions.

Attachments:

- Exhibit A: Notice of Probationary Release
Exhibit B: Notice of Appeal, 2023 – Register No: 0259-23-7

Exhibit C: City Charter Article 8A
Exhibit D: Civil Service Rule Series 417
Exhibit E: Rules and Instructions Handbook
Exhibit F: Substance Abuse Policy
Exhibit G: Notification Packet of Positive drug Test
Exhibit H: Appellant's Appointment Summary
Exhibit I: Email from the Appellant

EXHIBIT A



London Breed, Mayor

Amanda Eaken, Chair
Stephanie Cajina, Vice Chair
Steve Heminger, Director
Dominica Henderson, Director

Fiona Hinze, Director
Lydia So, Director
Manny Yekutieli, Director

Jeffrey Tumlin, Director of Transportation

Via U.S. Certified and First-Class Mail 9589 0710 5270 0713 1850 84

Via E-Mail [Redacted]

December 21, 2023

Zhekun Chen
[Redacted]

Re: Notice of Release from Permanent Probationary Appointment
Transit Operator (9163)

Dear Zhekun Chen,

In accordance with San Francisco Municipal Transportation Agency (SFMTA), Civil Service Commission (CSC) Rule 417.9 - Release of Employee during the Probationary Period, you are hereby notified that you are being released from your probationary appointment as a 9163 Transit Operator effective November 3, 2023.

The SFMTA is recommending to the Civil Service Commission that your future employment be restricted as follows:

- Cancel any current examination and eligibility status.
- Future employment subject to the review and approval of the Department of Human Resources Director after satisfactory completion of two years of verifiable work experience outside of City and County of San Francisco services.
- Must participate in an appropriate substance abuse program and receive a release to work from a certified substance abuse professional for any safety sensitive positions.

If you have any questions regarding this matter, please contact HR-ELR@sfmta.com

Sincerely,

[Redacted Signature]

Shana Dines
Employee & Labor Relations Manager

Attachments: Separation Report, Notice & Report on Probationary Status and Notice of Release from Probationary Appointment



cc:

[Redacted]

HR-ELR
Personnel File



SEPARATION REPORT

INSTRUCTIONS: Please complete the Separation Report to:

1. Document internal departmental processes. Please do not send to DHR.
2. Document that the employee separation is not a complete separation from City service, Separation Report must be completed by the sending department and submitted to the receiving department to be attached to the AP ESR.
3. To process a layoff. Please send to the DHR layoff coordinator.
4. To administer a settlement agreement involving the separation of the employee-submit documentation to your Client Services Representative. (Reference TER_RZA)*

Date of Request: December 21, 2023

Department Contact: HR-ELR Email: hr-elr@sfmta.com Phone: (415) 701-5050

SECTION I: PERSONAL AND JOB INFORMATION

Name (Last, First, M.I.): Zhekun Chen Employee I.D.: [REDACTED]

Job Code: 9163 Job Title: Transit Operator

Position Number: [REDACTED] Hourly Rate: [REDACTED] Step: 1 Effective Date: 11/03/2023

Empl. Class: PCS Work Schedule: Full-Time

Is the employee serving a probationary period at the time of the separation? Yes No

Is this a complete separation from City and County Service? Yes No

If no, continuing in:

Department Code: (Select One) Status: _____ Job Code: _____ Effective Date: _____

Is employee granted leave pursuant to Civil Service Rule 120.31? Yes No

If no, is employee a transfer? No Yes, type of Transfer: (Select One)

SECTION II: SEPARATION INFORMATION

Resignation

Satisfactory Services (TER_RSS)

Unsatisfactory Services (TER_RUS)
(Form DHR 1-13 must be on file)

By the appointee: I hereby freely and voluntarily resign from the above position. I request approval of this resignation as of the effective date with the full understanding that once approved, I may acquire another position in this class only as provided in the rules of the Civil Service Commission (see employee copy and CSC Rules 114&119).

Employee Signature _____

Date _____

Lay-off

Involuntary Leave (PCS_LIL) Elective Involuntary Leave (PCS_EIL)

Involuntary Lay-off (PCS_LIO) Voluntary Lay-off (PCS_LVO)

(PV & EX Only): (Select One)

Reason for lay-off: (Select One)

Employee acknowledges receipt of the DHR information leaflet.

Employee Signature _____

Date _____

SEPARATION REPORT

DEPARTMENT USE ONLY

Termination

Settlement Agreement (TER RZA)
*(Separation Report and Settlement Agreement must be forwarded to Client Services Rep.)

Release from appointment:

Release from probation:

Dismissal:

Terminated for cause (TFC) (TPV,NCS, & Exempts only)

Automatic Resignation (ARS)

Never Reported to Work (DSH)

Death of an employee (DEA)

Other (Specify): _____

Retirement:

DEPARTMENT CERTIFICATION

The Appointing Officer/Authorized Designee named below hereby certifies that the information provided on this Separation Report is accurate, complete, and in compliance with applicable CCSF rules and policies.



Appointing Officer/Authorized Designee Signature

415.646.4801

Telephone

Name/Title: Shana Dines, SFMTA Manager Employee Labor Relations

Department Number: 68 Department Name: SFMTA Human Resources

Personnel File Forwarded? Yes No

Forwarded to:

Department: _____ Contact: _____

DHR USE ONLY

Action Pending? Yes No

Analyst Name

Telephone

SR Ref Number: _____

Holdover Canvass: _____

Reference Number used for layoff actions: _____



NOTICE OF RELEASE FROM PROBATIONARY APPOINTMENT

Mailing Date 12/21/2023

Name Zhekun Chen
Address [REDACTED]
City [REDACTED]
State CA Zip [REDACTED]

Department/Division MTA
Type of Appointment: PCS
 Entrance Probationary
 Promotive Probationary

This notice is to inform you that effective 11/03/2023, you are released from your appointment in Class 9163, Title Transit Operator.

The following checked item applies (check only one):

- A. Non-Disciplinary Release: The decision of the Appointing Officer is final. There are no restrictions on your future employment with the City and County of San Francisco.
- B. Disciplinary Release (see documents attached): Should you elect to appeal the recommendation(s), follow the procedures. You may request a hearing before the Civil Service Commission on your future employability with the City and County of San Francisco. The Civil Service Commission has the authority to modify employment restrictions or impose additional restrictions on your future employability. However, the Commission CANNOT reverse the department's decision to release you from your employment.
- C. Automatic Reversion (Non-Disciplinary Release): You have automatic rights of reversion to the previous class from which promoted; if necessary, displacements in the former class shall occur. You will revert to the class from which promoted: Class _____, Title _____

You may request a hearing for review of any restrictions on your future employability (when box B above is checked) with the Civil Service Commission within twenty (20) calendar days of the mailing date of this notice or from the date of release, whichever is later. The request must be submitted in writing to the Executive Officer, Civil Service Commission, 25 Van Ness, Suite 720, San Francisco, CA 94102 by 01/11/2024. Requests received after this date will not be considered and your right to a hearing will be forfeited. If you do not request a hearing, the Human Resources Director will take final administrative action and the restriction(s) recommended, if any, will be in effect.

The items checked below are the recommendations made by your department on your future employability for positions covered by the San Francisco civil service system:

<input type="checkbox"/>	No restrictions on future employability.	<input checked="" type="checkbox"/>	Cancel any current examination and eligibility status.
<input type="checkbox"/>	No future employment with this department.	<input type="checkbox"/>	No future employment with the City and County of San Francisco.
<input checked="" type="checkbox"/>	Future employment subject to the review and approval of the Human Resources Director after satisfactory completion of <u>two</u> year(s) experience outside the City and County service.		
<input checked="" type="checkbox"/>	Other (specify): Must participate in an appropriate substance abuse program and receive a release to work from a certified substance abuse professional for any safety sensitive positions.		

If this matter is subject to the Code of Civil Procedures (CCP) Section 1094.5, the time by which judicial review must be sought is set forth in CCP Section 1094.6

MUST BE COMPLETED BY DEPARTMENT:

Rank: [REDACTED] List# [REDACTED]
SSN: [REDACTED]
Employee Organization Local 250-A, TWU
METHOD OF SERVICE:
Certified Mail Hand Delivered _____
Certified Mail # 9589 0710 5270 0713 1850 84
Attachment(s)
DHR 1-14 (8/00)

SIGNATURE OF APPOINTING OFFICER

Shana Dines
NAME
Employee & Labor Relations Manager
TITLE

ADDITIONAL INFORMATION FOLLOWING RELEASE

1. This document serves as the official notice of your release to you, the Civil Service Commission, and the Department of Human Resources. You will be removed from the eligible list from which you were appointed.
2. If this is a Disciplinary Release (box B is checked) and you request a hearing within the time limits, you are entitled to:
 - a) Representation by an attorney or authorized representative of the employee's own choice.
 - b) Notification of date, time and place of hearing at a reasonable time in advance.
 - c) Inspection by the employee's attorney or authorized representative of those records and materials in the Civil Service Commission which relate to the separation.
3. The decision of the Civil Service Commission is final and not subject to reconsideration.
4. In the absence of a timely request for a hearing as provided above, no later request for a hearing will be considered.

NOTICE OF RELEASE FROM PROBATIONARY APPOINTMENT

Instructions for completing Form DHR 1-14

Refer to Civil Service Commission Rule 117 - Probationary Period

Use this form for a Probationary Employee when:

Probation began on or after March 16, 1998 and performance does not meet the standards for passing probation in the class.

Complete the information on the top section of the form: Name, Address, City, State, Zip, Mailing Date, Department/Division, and Type of Appointment. Type of Appointment: Entrance Probationary if the employee was certified from an entrance (E) list or certified from a combined promotive and entrance (CPE) list but did not advance to the position from another permanent appointment. Promotive Probationary if the employee was certified from a promotive (P) or combined promotive and entrance (CPE) list and advanced to the position from another permanent appointment.

In the first sentence enter the effective date of the release. This date must be before COB (close of business) on the last day of probation. Use the form Report of Probationary Status (DHR 6-37) to calculate end date of probation. Enter the Class Number and Title of the employee's position.

Check one box, A, B or C, to indicate the type of release:

A - Non-Disciplinary Release for entrance probationary employee.

B - Disciplinary Release for either entrance or promotive probationary employee in cases when release is for misconduct.

C - Automatic Reversion (Non-Disciplinary) for promotive probationary employee who does not meet standards of the current class. For box C, also enter the Class Number and Title of previous appointment.

If you have checked box B - Disciplinary Release:

- 1) Indicate the date by which the appeal must be filed in the space provided. Count twenty (20) calendar days from the mailing date of the notice or the effective date of release, whichever is later. When counting the days, count the day after the mailing date as the first day of the twenty (20) calendar days.
- 2) Indicate the recommended restrictions on future employability by checking the appropriate boxes. If you check the box requiring outside work experience, you must also type in the number of years. Attach a copy of all separation-related letters and supporting documentation.

Complete the information on the bottom section of the form: Rank, List#, SSN, and Employee Organization. Check the Method of Service used.

The Appointing Officer must sign the form. Type in the name and title of the Appointing Officer.

Make two copies of the form. Send a copy to DHR, Certification Unit; and retain a copy in the Employee Personnel File. Send the original to the employee.



City and County of San Francisco
NOTICE AND REPORT OF PROBATIONARY STATUS

CAP#: 7041

Part I: Notice of Probationary Status at Time of Appointment

Complete at time of appointment

Original: Personnel File
Copy: Employee

Chen Last Name, Zhekun First Name, 68 / SFMTA Department/Division, 9163 Job Code, Transit Operator Title, TWU 250A Employee Organization/Union

Congratulations on your Permanent Civil Service (PCS) appointment!

You are now serving your probationary period, which is used to evaluate your performance on the job. It is the final and most important phase of the selection process. During your probationary period, you may be released by your appointing officer at any time in accordance with Civil Service Rule 117 - Probationary Period.

Duration of the Probationary Period (per MOU or Ordinance): 6 months

Did the employee received credit for prior service?: No

If yes, provide dates: from to Total time credited: days

Provide justification for credit (cite Civil Service Rule Section or MOU Section):

Probationary Period Begin Date: 6/12/2023

Expected Probationary Period End Date: 12/11/2023 COB
(Probation begins on the employee's start work date in PCS status, not the certification date)

Voluntary Resumption of the Probationary Period. To be used only as specifically authorized by Civil Service Rule 117.8.

Employee has previously completed probation for this job code in this department, and is voluntarily resuming a probation period not to exceed six (6) months.

Resumed Probationary Period Begin Date:

Expected Resumed Probationary Period End Date:

Please sign below acknowledging that you understand this notice and have received a copy of it.

Employee

Zhekun Chen

Signature and Date (06/02/23)

Department Head/Designee

Valerie Coleman

Printed Name and Date (6/2/2023)

Signature and Date



**City and County of San Francisco
NOTICE AND REPORT OF PROBATIONARY STATUS**

CAP#:

Part II: Report of Probationary Period Adjustment

Original: Personnel File
Copy: Employee

Complete prior to the Expected Probationary Period End Date identified above

- No adjustment of the probationary period is required.
- Employee's probationary period is adjusted as follows:

Adjustment Worksheet		
If the probationary period was adjusted, please check the reason(s), provide the number of hours, and total the number of working days of extension.		
Check	Reason for Extension	Number of Hours
<input type="checkbox"/>	Vacation & Floating Holidays	
<input type="checkbox"/>	Administrative Leave	
<input type="checkbox"/>	Compensatory Time Used	
<input type="checkbox"/>	Authorized Leave	
<input type="checkbox"/>	Unauthorized Absence	
<input type="checkbox"/>	Disciplinary Suspension	
<input type="checkbox"/>	Sick Leave with or without pay	
<input type="checkbox"/>	Other (Provide detailed explanation):	
Total Hours:		
Total Days of Adjustment:		

Probationary Period Begin Date:

Adjusted Probationary Period End Date:

Please sign below acknowledging that you understand this notice and have received a copy of it.

Employee

Department Head/Designee

Zhekun Chen

Printed Name

Printed Name

Signature and Date

Signature and Date



**City and County of San Francisco
NOTICE AND REPORT OF PROBATIONARY STATUS**

CAP#:

Part III: Report of Extension of Probationary Period

Complete prior to the Expected or Adjusted Probationary End Date

Original: Personnel File
Copies: Employee, Union, DHR-Client Services

- Employee's probation has been extended. Please check all boxes that apply to the extension:
 - Change in employee's supervisor during probationary period and current supervisor has not had adequate time to evaluate the employee's work
 - Inability to fully assess employee's performance based on change in duties (e.g., added requirement for employee to obtain training in new protocol) during the original probationary period or because some duties are cyclical in nature
 - Performance-related deficiencies that can be corrected with additional training within reasonable timeline
 - More time is needed to obtain required license(s) and or certificate(s) (may be extended for no more than twelve months pursuant to Civil Service Rule 117.4). Describe the license(s) and/ or certificate(s):
 - Other special circumstances. Describe in detail:

Probationary Period Begin Date:

Adjusted Probationary Period End Date:

Probationary extensions require additional signatures. Please refer to the applicable MOU for guidance.

Employee

Department Head / Designee

Union

Zhekun Chen

Printed Name

Printed Name

Printed Name

Signature and Date

Signature and Date

Signature and Date



City and County of San Francisco
NOTICE AND REPORT OF PROBATIONARY STATUS

Part IV: Report of Release from Probationary Appointment

Original: Personnel File
Copies: Employee, DHR-Client Services

Complete *prior to the Expected or Adjusted Probationary Period End Date*

- Employee is released during the probationary period effective: 11/03/2023
Department must complete a Notice of Release from Probationary Appointment (DHR Form 1-14)

Department Head/Designee:

**Shana Dines, Employee & Labor Relations,
Manager**

Printed Name

[Redacted Signature]

December 21, 2023

Signature and Date

Part V: Report of Successful Completion of Probationary Period

Original: Personnel File
Copies: Employee

Complete *on the Expected or Adjusted Probationary Period End Date*

- Employee successfully completed probation. Completion Date:

Department Head/Designee

Printed Name

Signature and Date



NOTICE OF FUTURE EMPLOYMENT RESTRICTIONS

Zhekun Chen
 Employee Name

 Street Address

 City State Zip

12/21/2023
 Mailing Date

 MTA

 Department/Division

 PCS

 Type of Appointment

This notice is to inform you that a future employment restriction is being imposed along with your separation action, or with the action of automatic resignation, reported to the Department of Human Resources separating you from your position in Class 9163, Title Transit Operator, effective 11/03/2023, for the reasons outlined in the attached document(s).

The items checked below are the restrictions made by the department on your future employability for positions covered by the San Francisco civil service system:

<input type="checkbox"/> No Restrictions on Employment <input type="checkbox"/> Permanent Restriction <input checked="" type="checkbox"/> Conditional Restriction	<input checked="" type="checkbox"/> Citywide <input type="checkbox"/> Department(s): _____ <input type="checkbox"/> DOT/SAPP <input type="checkbox"/> Job Code(s): _____ <input checked="" type="checkbox"/> Cancel Current Examination & Eligibility Status
---	--

Conditional restrictions may be lifted by proving you have satisfactorily met the following requirements:

Requirement Type	Description:	Level of Measurement:	Measurement Value:
CER: Certification			
EXP: Work Experience			
LIC: Licensure			
SAP: Substance Abuse Program	•Must participate in an appropriate substance abuse program and receive release to work from	2 years	2 years
Other:	Future employment subject to the review and approval of the Human Resources Director after a	2 years	2 years

In addition to the noted conditional restrictions, you are also restricted from specific attributes of a job class and/or department until you satisfactorily prove you meet the requirements to lift the restriction(s) as noted below:

Future Employment Restrictions	Description:	Level of Measurement:	Measurement Value:
001: Vehicle/Heavy Machinery			
002: Vulnerable Populations			
003: Face to Face Contact w/Public			
004: Contact w/Animals			
005: Signing/Approving City Docs			
006: Financial Instruments			
007: Confidential/Privileged Information			
008: IT Infrastructure			
009: Means of Entry to Living Spaces			
010: Pharmaceutical/Drug Inventory			
011: CDC Defined Toxins			
012: Weapons/Explosives			
013: City Property Valued > \$100			

You may request a hearing before the Civil Service Commission on your future employability with the City and County of San Francisco. The Civil Service Commission has the authority to remove restrictions or impose additional restrictions on your future employability. You may request a hearing for review of any restrictions on your future employability with the Civil Service Commission within 20 calendar days of the mailing date of this notice or from the date of separation, whichever is later. The request must be submitted in writing to the Executive Officer, Civil Service Commission, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102 by 01/11/2024. Requests received after this date will not be considered and your right to a hearing will be forfeited. If you do not request a hearing or file an appeal, the Human Resources Director will take final administrative action to confirm the restriction(s) in effect on the date of separation (Note: Future Employment Restriction(s) effective immediately).

If this matter is subject to the Code of Civil Procedures (CCP) Section 1094.5, the time by which judicial review must be sought is set forth in CCP Section 1094.6. (SEE BELOW)

List #: ██████	Rank #: ██████	<input type="checkbox"/> Pending	<input checked="" type="checkbox"/> Final	Status of Action
DSW: ██████		████████████████████		
Emp Organization: <u>Local 250-TWU</u>		SIGNATURE		
METHOD OF SERVICE:		Shana Dines		
<input type="checkbox"/> Hand Delivered		NAME		
<input checked="" type="checkbox"/> Certified Mail	<u>9589 0710 5270 0713 1850 84</u>	Sr. Manager, Employee & Labor Relations		
		TITLE		

INFORMATION FOR FORMER EMPLOYEE FOLLOWING SEPARATION

1. This document serves as an official notice of future employment restrictions imposed with the Notice of Automatic Resignation from Employment to the former employee or with a Separation Action that is subject to the provisions of a collective bargaining agreement, to the Civil Service Commission, and the Department of Human Resources.
2. A separated employee may request a hearing before the Civil Service Commission only for review of any restrictions on their future employability with the City and County of San Francisco.
3. Such appeals or requests for hearing must be in writing and received from the employee or the employee’s representative by the date specified on this notice, or within twenty (20) calendar days from the mailing date of this notice, or the effective date of the separation, whichever is later. The request must be submitted to the Executive Officer, Civil Service Commission, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102.
4. An employee who requests a hearing within the time limits is entitled to:
 - a. Representation by an attorney or authorized representative of the employee's own choice.
 - b. Notification of date, time, and place of hearing at a reasonable time in advance.
 - c. Inspection by the employee’s attorney or authorized representative of those records and materials on file with the Civil Service Commission which relate to the restrictions on future employability.
5. Any interested party may request that the hearing be continued or postponed.
6. The decision of the Civil Service Commission is final and not subject to reconsideration.
7. In the absence of a timely request for a hearing as provided above, no later request for a hearing will be considered.

DEPARTMENT INSTRUCTIONS FOR COMPLETING FORM DHR 1-13E

- Refer to related provisions of appropriate collective bargaining agreements
- Refer to CSC Rule 122, Article VI: Absence From Duty Without Leave (Misc)
- Refer to CSC Rule 222, Article IV: Absence From Duty Without Leave (UPPD)
- Refer to CSC Rule 322, Article VI: Absence From Duty Without Leave (UPFD)

Use this form when:

The appointing officer or Human Resources Director has taken action of automatic resignation on an employee on the basis of abandonment of position, regardless of employment status; and/or the separation action is subject to the provisions of the collective bargaining agreement.

Complete the information on the top section of the form: Name, Address, City, State, Zip, Mailing Date, Department/Division, Type of Appointment, Type of Separation.

In the first paragraph of the notice, enter the Class Number, Title and effective date of the separation.

If there are no restrictions imposed with the separation, the box “*no restrictions on future employability*,” must be checked to indicate this action, and attach applicable documents, e.g., a settlement agreement.

Indicate the restrictions on future employability by checking the appropriate boxes. If the restrictions are conditional, you must complete the section on the requirements needed to lift the restrictions, including the level of measurement (entry, journey, etc.) and values (length of time in months, years, etc.) of the requirements.

If Future Employment Restrictions are included, complete that section including details on the requirements needed to lift the restrictions. Attach a copy of all separation-related letters and supporting documentation. Documentation must provide justification and the rationale for the imposed restrictions.

The separated employee may request a hearing for review of any restrictions on future employability. Indicate the date by which the appeal must be filed in the space provided. Consistent with the separation action, count twenty (20), or thirty (30), calendar days from the mailing date of the notice or the effective date of release, whichever is applicable. When counting the days, count the day after the mailing date as the first day.

Complete the information on the bottom section of the form: Rank, List#, DSW#, and Employee Organization. Check the method of service used and tracking # if applicable.

Indicate status of action:

- Select “Pending” if Notice of Future Employment Restrictions is subject to the provisions of a collective bargaining agreement
- Select “Final” if the status is not subject to the provisions of a collective bargaining agreement, or to update a previously reported “Pending” action.

Type in the name and title of the appointing officer. The appointing officer must sign the form.

Send the *original* Notice of Future Employment Restrictions along with the *original* Notice of Automatic Resignation from Employment (DHR 1-48a) to the employee. Make two sets of copies of the notices; send one set of *copy* to DHR - Client Services along with the *original* Separation Report (DHR Form 1-67); and retain the other set of *copy* in the Official Employee Personnel Folder.

Reminder: Imposed restrictions on future employability are effective immediately, and must be reported to DHR – Client Services concurrent with the departmental notice to separate the employee. This will enable timely and appropriate updates to DHR systems and other dependent programs, such as exams, adoptions of eligible lists, citywide recruitments, and certifications/referrals.

EXHIBIT B



CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED
MAYOR

NOTICE OF RECEIPT OF APPEAL

DATE: December 29, 2023

REGISTER NO.: 0259-23-7

APPELLANT: ZHEKUN CHEN

Jeffrey Tumlin
Director of Transportation
Municipal Transportation Agency
1 South Van Ness Avenue, 7th Floor
San Francisco, CA 94103

Dear Jeffrey Tumlin:

The Civil Service Commission has received the attached letter from Zhekun Chen, requesting a hearing on their future employment restrictions with the City and County of San Francisco. Your review and action are required.

If this matter is not timely or appropriate, please submit CSC Form 13 "Action Request on Pending Appeal/Request," with supporting information and documentation to my attention by email at civilservice@sfgov.org. CSC Form 13 is available on the Civil Service Commission's website at www.sf.gov/CivilService on the "File an action request for a Civil Service Commission hearing page."

In the event that Zhekun Chen's appeal is timely and appropriate, the department is required to submit a staff report in response to the appeal within sixty (60) days so that the matter may be resolved in a timely manner. Accordingly, **the staff report is due no later than 11 a.m. on March 7, 2024**, so that it may be heard by the Civil Service Commission at its meeting on March 18, 2024. If you will be unable to transmit the staff report by the March 7th deadline, or if required departmental representatives will not be available to attend the March 18th meeting, please notify me by use of CSC Form 13 as soon as possible, with information regarding the reason for the postponement and a proposed alternate submission and/or hearing date.

Appellant: Zhekun Chen
December 29, 2023
Page 2

You may contact me at Sandra.Eng@sfgov.org or (628) 652-1100 if you have any questions. For more information regarding staff report requirements, meeting procedures or future meeting dates, please visit the Commission's website at www.sf.gov/CivilService.

Sincerely,

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG
Executive Officer

Attachment

Cc: Kimberly Ackerman, Municipal Transportation Agency
Shana, Dines, Municipal Transportation Agency
Romika Williams, Municipal Transportation Agency



**CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

**LONDON N. BREED
MAYOR**

Sent via Email

December 29, 2023

Zhekun Chen
[REDACTED]

Subject: Register No. 0259-23-7: Requesting a Hearing on their Future Employment Restrictions with the City and County of San Francisco.

Dear Zhekun Chen:

This is in response to your appeal submitted to the Civil Service Commission on December 28, 2023, requesting a hearing on your future employment restrictions with the City and County of San Francisco. Your appeal has been forwarded to the Municipal Transportation Agency for investigation and response to the Civil Service Commission.

If your appeal is timely and appropriate, the department will submit its staff report on this matter to the Civil Service Commission in the near future to request that it be scheduled for a hearing. The Civil Service Commission generally meets on the 1st and 3rd Mondays of each month. You will receive notice of the meeting and the department's staff report on your appeal two Fridays before the hearing date via email, as you have requested on your appeal form.

The Civil Service Commission has the authority to remove restrictions or impose additional restrictions on your future employability. However, the Commission CANNOT reverse the department's decision to terminate your employment. In the meantime, you may wish to compile any additional information you would like to submit to the Commission in support of your position. The deadline for receipt in the Commission office of any additional information you may wish to submit is 5:00 p.m. on the Tuesday preceding the meeting date by email to civilservice@sfgov.org. Please be sure to redact your submission for any confidential or sensitive information (e.g., home addresses, home or cellular phone numbers, social security numbers, dates of birth, etc.), as it will be considered a public document.

You may contact me by email at Sandra.Eng@sfgov.org or by phone at (628) 652-1100 if you have any questions. You may also access the Civil Service Commission's meeting calendar, and information regarding staff reports and meeting procedures, on the Commission's website at www.sf.gov/CivilService.

Sincerely,

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG
Executive Officer



CIVIL SERVICE COMMISSION
City and County of San Francisco
 25 Van Ness Avenue, Suite 720
 San Francisco, California 94102-6033
 Executive Officer
 (628) 652-1100

CSC Register No.
 - 23 - 7

To: J. Tumlin

CC: K. Ackerman
 R. Williams
 S. Dines

APPEAL TO THE CIVIL SERVICE COMMISSION

INSTRUCTIONS:

Submit an original copy of this form to the Executive Officer of the Civil Service Commission at the address above **within the designated number of days** following the postmarked mailing date or email date (whichever is applicable) of the Department of Human Resources' or Municipal Transportation Agency's notification to the appellant. The appellant's/authorized representative's original signature is required. **(E-mail is not accepted.)** It is recommended that you include all relevant information and documentation in support of your appeal.

TYPE OF APPEAL: (Check One)

- Examination Matters (by close of business on 5th working day)
- Employee Compensation Matters (by close of business on 7th working day) - Limited application
- Personal Service Contracts (Posting Period)
- Other Matters (i.e., Human Resources Director/Executive Officer Action) (30 Calendar days)
- Future Employability Recommendations (See Notice to Employee)

"During the Shelter Order dated March 17, 2020, we are accepting appeals by email at civilservice@sfgov.org"

ZHEKUN CMTAN

Full Name of Appellant	Work Address	Work Telephone
9163	SFMTA	
Job Code	Title	Department
	Transit Operator	
Residence Address	City	State
		Zip
Full Name of Authorized Representative (if any)	Telephone Number of Representative (including Area Code)	

NOTE: If this is deemed to be a timely and appealable matter, the department will submit a staff report to the Civil Service Commission to request that it be scheduled for hearing. You will be notified approximately one week in advance of the hearing date, at which time you will be able to pick up a copy of the department's staff report at the Commission's Office. If you would prefer Commission staff to email you a copy of the meeting notice and staff report, please provide your email address below.

Email: [Redacted]

RECEIVED
 2023 DEC 28 16:39:06
 EXECUTIVE OFFICER
 CIVIL SERVICE COMMISSION
 SAN FRANCISCO

COMPLETE THE BASIS OF THIS APPEAL ON THE REVERSE SIDE. (Use additional page(s) if necessary)

Does the basis of this appeal include new information not previously presented in the appeal to the Human Resources Director? If so, please specify.	Check One: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
---	--

[Redacted Signature]

Original Signature of Appellant or Authorized Representative

12/28/23

Date

CSC-12 (5/2021) Date Received by Civil Service Commission: _____

State the basis of this appeal in detail. For more information about appeal rights and deadlines, please review the Civil Service Rules located on the Civil Service Commission's website at www.sfgov.org/CivilService.

Request for a hearing by zhekun chen probationary 9163 transit operator on their future employment restriction with the municipal transportation agency.



London Breed, Mayor

Amanda Eaken, Chair
Stephanie Cajina, Vice Chair
Steve Heminger, Director
Dominica Henderson, Director

Fiona Hinze, Director
Lydia So, Director
Manny Yekutieli, Director

Jeffrey Tumlin, Director of Transportation

Via U.S. Certified and First-Class Mail 9589 0710 5270 0713 1850 84

Via E-Mail [Redacted]

December 21, 2023

Zhekun Chen

[Redacted]

Re: Notice of Release from Permanent Probationary Appointment
Transit Operator (9163)

Dear Zhekun Chen,

In accordance with San Francisco Municipal Transportation Agency (SFMTA), Civil Service Commission (CSC) Rule 417.9 - Release of Employee during the Probationary Period, you are hereby notified that you are being released from your probationary appointment as a 9163 Transit Operator effective November 3, 2023.

The SFMTA is recommending to the Civil Service Commission that your future employment be restricted as follows:

- Cancel any current examination and eligibility status.
- Future employment subject to the review and approval of the Department of Human Resources Director after satisfactory completion of two years of verifiable work experience outside of City and County of San Francisco services.
- Must participate in an appropriate substance abuse program and receive a release to work from a certified substance abuse professional for any safety sensitive positions.

If you have any questions regarding this matter, please contact HR-ELR@sfmta.com

Sincerely,

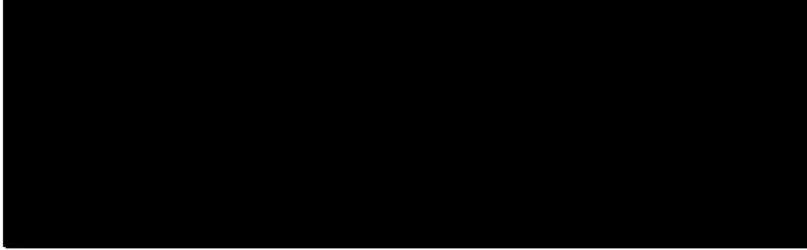
[Redacted Signature]

Shana Dines
Employee & Labor Relations Manager

Attachments: Separation Report, Notice & Report on Probationary Status and Notice of Release from Probationary Appointment



cc:





SEPARATION REPORT

INSTRUCTIONS: Please complete the Separation Report to:

- 1. Document internal departmental processes. Please do not send to DHR.
- 2. Document that the employee separation is not a complete separation from City service, Separation Report must be completed by the sending department and submitted to the receiving department to be attached to the AP ESR.
- 3. To process a layoff. Please send to the DHR layoff coordinator.
- 4. To administer a settlement agreement involving the separation of the employee-submit documentation to your Client Services Representative. (Reference TER_RZA)*

Date of Request: December 21, 2023

Department Contact: HR-ELR Email: hr-elr@sfmta.com Phone: (415) 701-5050

SECTION I: PERSONAL AND JOB INFORMATION

Name (Last, First, M.I.): Zhekun Chen Employee I.D. [REDACTED]

Job Code: 9163 Job Title: Transit Operator

Position Number: [REDACTED] Hourly Rate: [REDACTED] Step: 1 Effective Date: 11/03/2023

Empl. Class: PCS Work Schedule: Full-Time

Is the employee serving a probationary period at the time of the separation? Yes No

Is this a complete separation from City and County Service? Yes No

If no, continuing in: Department Code: (Select One) Status: _____ Job Code: _____ Effective Date: _____

Is employee granted leave pursuant to Civil Service Rule 120.31? Yes No

If no, is employee a transfer? No Yes, type of Transfer: (Select One)

SECTION II: SEPARATION INFORMATION

- Resignation
 - Satisfactory Services (TER_RSS)
 - Unsatisfactory Services (TER_RUS) (Form DHR 1-13 must be on file)

By the appointee: I hereby freely and voluntarily resign from the above position. I request approval of this resignation as of the effective date with the full understanding that once approved, I may acquire another position in this class only as provided in the rules of the Civil Service Commission (see employee copy and CSC Rules 114&119).

Employee Signature _____ Date _____

- Lay-off
 - Involuntary Leave (PCS_LIL) Elective Involuntary Leave (PCS_EIL)
 - Involuntary Lay-off (PCS_LIO) Voluntary Lay-off (PCS_LVO)
 - (PV & EX Only): (Select One)

Reason for lay-off: (Select One)

Employee acknowledges receipt of the DHR information leaflet.

Employee Signature _____ Date _____

SEPARATION REPORT

DEPARTMENT USE ONLY

Termination

Settlement Agreement (TER_RZA)
*(Separation Report and Settlement Agreement must be forwarded to Client Services Rep.)

Release from appointment: (Select One) _____

Release from probation: Disciplinary _____

Dismissal: (Select One) _____

Terminated for cause (TFC) (TPV, NCS, & Exempts only)

Automatic Resignation (ARS)

Never Reported to Work (DSH)

Death of an employee (DEA)

Other (Specify): _____

Retirement: (Select One) _____

DEPARTMENT CERTIFICATION

The Appointing Officer/Authorized Designee named below hereby certifies that the information provided on this Separation Report is accurate, complete, and in compliance with applicable CCSF rules and policies.



Appointing Officer/Authorized Designee Signature

415.646.4801

Telephone

Name/Title: Shana Dines, SFMTA Manager Employee Labor Relations

Department Number: 68 Department Name: SFMTA Human Resources

Personnel File Forwarded? Yes No

Forwarded to:

Department: _____ Contact: _____

DHR USE ONLY

Action Pending? Yes No

Analyst Name

Telephone

SR Ref Number: _____ Holdover Canvass: _____

Reference Number used for layoff actions: _____



NOTICE OF RELEASE FROM PROBATIONARY APPOINTMENT

Mailing Date 12/21/2023

Name Zhekun Chen Department/Division MTA
 Address [REDACTED] Type of Appointment: PCS
 City [REDACTED] Entrance Probationary
 State [REDACTED] Zip [REDACTED] Promotive Probationary

This notice is to inform you that effective 11/03/2023, you are released from your appointment in Class 9163,
 Title Transit Operator

The following checked item applies (check only one):

- A. Non-Disciplinary Release: The decision of the Appointing Officer is final. There are no restrictions on your future employment with the City and County of San Francisco.
- B. Disciplinary Release (see documents attached): Should you elect to appeal the recommendation(s), follow the procedures. You may request a hearing before the Civil Service Commission on your future employability with the City and County of San Francisco. The Civil Service Commission has the authority to modify employment restrictions or impose additional restrictions on your future employability. However, the Commission CANNOT reverse the department's decision to release you from your employment.
- C. Automatic Reversion (Non-Disciplinary Release): You have automatic rights of reversion to the previous class from which promoted; if necessary, displacements in the former class shall occur. You will revert to the class from which promoted: Class _____, Title _____

You may request a hearing for review of any restrictions on your future employability (when box B above is checked) with the Civil Service Commission within twenty (20) calendar days of the mailing date of this notice or from the date of release, whichever is later. The request must be submitted in writing to the Executive Officer, Civil Service Commission, 25 Van Ness, Suite 720, San Francisco, CA 94102 by 01/11/2024. Requests received after this date will not be considered and your right to a hearing will be forfeited. If you do not request a hearing, the Human Resources Director will take final administrative action and the restriction(s) recommended, if any, will be in effect.

The items checked below are the recommendations made by your department on your future employability for positions covered by the San Francisco civil service system:

<input type="checkbox"/> No restrictions on future employability.	<input checked="" type="checkbox"/> Cancel any current examination and eligibility status.
<input type="checkbox"/> No future employment with this department.	<input type="checkbox"/> No future employment with the City and County of San Francisco.
<input checked="" type="checkbox"/> Future employment subject to the review and approval of the Human Resources Director after satisfactory completion of <u>two</u> year(s) experience outside the City and County service.	
<input checked="" type="checkbox"/> Other (specify): Must participate in an appropriate substance abuse program and receive a release to work from a certified substance abuse professional for any safety sensitive positions.	

If this matter is subject to the Code of Civil Procedures (CCP) Section 1094.5, the time by which judicial review must be sought is set forth in CCP Section 1094.6

MUST BE COMPLETED BY DEPARTMENT:

Rank: [REDACTED] List# [REDACTED]
 SSN: [REDACTED]
 Employee Organization Local 250-A, TWU
 METHOD OF SERVICE:
 Certified Mail Hand Delivered _____
 Certified Mail # 9589 0710 5270 0713 1850 84
 Attachment(s)
 DHR 1-14 (8/00)

[REDACTED]
 SIGNATURE OF APPOINTING OFFICER
Shana Dines
 NAME
Employee & Labor Relations Manager
 TITLE

ADDITIONAL INFORMATION FOLLOWING RELEASE

1. This document serves as the official notice of your release to you, the Civil Service Commission, and the Department of Human Resources. You will be removed from the eligible list from which you were appointed.
2. If this is a Disciplinary Release (box B is checked) and you request a hearing within the time limits, you are entitled to:
 - a) Representation by an attorney or authorized representative of the employee's own choice.
 - b) Notification of date, time and place of hearing at a reasonable time in advance.
 - c) Inspection by the employee's attorney or authorized representative of those records and materials in the Civil Service Commission which relate to the separation.
3. The decision of the Civil Service Commission is final and not subject to reconsideration.
4. In the absence of a timely request for a hearing as provided above, no later request for a hearing will be considered.

NOTICE OF RELEASE FROM PROBATIONARY APPOINTMENT

Instructions for completing Form DHR 1-14

Refer to Civil Service Commission Rule 117 - Probationary Period

Use this form for a Probationary Employee when:

Probation began on or after March 16, 1998 and performance does not meet the standards for passing probation in the class.

Complete the information on the top section of the form: Name, Address, City, State, Zip, Mailing Date, Department/Division, and Type of Appointment. Type of Appointment: Entrance Probationary if the employee was certified from an entrance (E) list or certified from a combined promotive and entrance (CPE) list but did not advance to the position from another permanent appointment. Promotive Probationary if the employee was certified from a promotive (P) or combined promotive and entrance (CPE) list and advanced to the position from another permanent appointment.

In the first sentence enter the effective date of the release. This date must be before COB (close of business) on the last day of probation. Use the form Report of Probationary Status (DHR 6-37) to calculate end date of probation. Enter the Class Number and Title of the employee's position.

Check one box, A, B or C, to indicate the type of release:

A - Non-Disciplinary Release for entrance probationary employee.

B - Disciplinary Release for either entrance or promotive probationary employee in cases when release is for misconduct.

C - Automatic Reversion (Non-Disciplinary) for promotive probationary employee who does not meet standards of the current class. For box C, also enter the Class Number and Title of previous appointment.

If you have checked box B - Disciplinary Release:

- 1) Indicate the date by which the appeal must be filed in the space provided. Count twenty (20) calendar days from the mailing date of the notice or the effective date of release, whichever is later. When counting the days, count the day after the mailing date as the first day of the twenty (20) calendar days.
- 2) Indicate the recommended restrictions on future employability by checking the appropriate boxes. If you check the box requiring outside work experience, you must also type in the number of years. Attach a copy of all separation-related letters and supporting documentation.

Complete the information on the bottom section of the form: Rank, List#, SSN, and Employee Organization. Check the Method of Service used.

The Appointing Officer must sign the form. Type in the name and title of the Appointing Officer.

Make two copies of the form. Send a copy to DHR, Certification Unit; and retain a copy in the Employee Personnel File. Send the original to the employee.



**City and County of San Francisco
NOTICE AND REPORT OF PROBATIONARY STATUS**

CAP#: 7041

Part I: Notice of Probationary Status at Time of Appointment
Complete at time of appointment Original: Personnel File
Copy: Employee

Chen	Zhekun	68 / SFMTA
Last Name	First Name	Department/Division
9163	Transit Operator	TWU 250A
Job Code	Title	Employee Organization/Union

Congratulations on your Permanent Civil Service (PCS) appointment!

You are now serving your probationary period, which is used to evaluate your performance on the job. It is the final and most important phase of the selection process. During your probationary period, you may be released by your appointing officer at any time in accordance with Civil Service Rule 117 – Probationary Period. The duration of your probationary period is governed by provisions in the Memorandum of Understanding (MOU) or ordinance covering your job code. Extensions of your probationary period are governed by Civil Service Rules and provisions in the MOU or ordinance covering your job code. Please refer to your human resources representative if you have any questions.

Duration of the Probationary Period (per MOU or Ordinance): 6 months

Did the employee received credit for prior service?: No

If yes, provide dates: from _____ to _____ Total time credited: _____ days

Provide justification for credit (cite Civil Service Rule Section or MOU Section):

Probationary Period Begin Date: 6/12/2023

Expected Probationary Period End Date: 12/11/2023 COB
(Probation begins on the employee's start work date in PCS status, not the certification date)

Voluntary Resumption of the Probationary Period. To be used only as specifically authorized by Civil Service Rule 117.8.

Employee has previously completed probation for this job code in this department, and is voluntarily resuming a probation period not to exceed six (6) months.

Resumed Probationary Period Begin Date:

Expected Resumed Probationary Period End Date:

Please sign below acknowledging that you understand this notice and have received a copy of it.

Employee
Zhekun Chen
Printed Name

Signature and Date
06/02/23

Department Head/Designee
Valerie Coleman
Printed Name

Signature and Date
6/2/2023



**City and County of San Francisco
NOTICE AND REPORT OF PROBATIONARY STATUS**

CAP#:

Part II: Report of Probationary Period Adjustment

Complete prior to the Expected Probationary Period End Date identified above

Original: Personnel File
Copy: Employee

- No adjustment of the probationary period is required.
- Employee's probationary period is adjusted as follows:

Adjustment Worksheet		
If the probationary period was adjusted, please check the reason(s), provide the number of hours, and total the number of working days of extension.		
Check	Reason for Extension	Number of Hours
<input type="checkbox"/>	Vacation & Floating Holidays	
<input type="checkbox"/>	Administrative Leave	
<input type="checkbox"/>	Compensatory Time Used	
<input type="checkbox"/>	Authorized Leave	
<input type="checkbox"/>	Unauthorized Absence	
<input type="checkbox"/>	Disciplinary Suspension	
<input type="checkbox"/>	Sick Leave with or without pay	
<input type="checkbox"/>	Other (Provide detailed explanation):	
Total Hours:		
Total Days of Adjustment:		

Probationary Period Begin Date:

Adjusted Probationary Period End Date:

Please sign below acknowledging that you understand this notice and have received a copy of it.

Employee

Zhekun Chen

Printed Name

Department Head/Designee

Printed Name

Signature and Date

Signature and Date



**City and County of San Francisco
NOTICE AND REPORT OF PROBATIONARY STATUS**

CAP#:

Part III: Report of Extension of Probationary Period

Complete prior to the Expected or Adjusted Probationary End Date

Original: Personnel File
Copies: Employee, Union, DHR-Client Services

- Employee's probation has been extended. Please check all boxes that apply to the extension:
 - Change in employee's supervisor during probationary period and current supervisor has not had adequate time to evaluate the employee's work
 - Inability to fully assess employee's performance based on change in duties (e.g., added requirement for employee to obtain training in new protocol) during the original probationary period or because some duties are cyclical in nature
 - Performance-related deficiencies that can be corrected with additional training within reasonable timeline
 - More time is needed to obtain required license(s) and or certificate(s) (may be extended for no more than twelve months pursuant to Civil Service Rule 117.4). Describe the license(s) and/ or certificate(s):
 - Other special circumstances. Describe in detail:

Probationary Period Begin Date:

Adjusted Probationary Period End Date:

Probationary extensions require additional signatures. Please refer to the applicable MOU for guidance.

Employee	Department Head / Designee	Union
<u>Zhekun Chen</u>	_____	_____
Printed Name	Printed Name	Printed Name
_____	_____	_____
Signature and Date	Signature and Date	Signature and Date



City and County of San Francisco
NOTICE AND REPORT OF PROBATIONARY STATUS

Part IV: Report of Release from Probationary Appointment

Original: Personnel File
Copies: Employee, DHR-Client Services

Complete prior to the Expected or Adjusted Probationary Period End Date

- Employee is released during the probationary period effective: 11/03/2023
Department must complete a Notice of Release from Probationary Appointment (DHR Form 1-14)

Department Head/Designee:

**Shana Dines, Employee & Labor Relations,
Manager**

Printed Name

[Redacted Signature]

December 21, 2023

Signature and Date

Part V: Report of Successful Completion of Probationary Period

Original: Personnel File
Copies: Employee

Complete on the Expected or Adjusted Probationary Period End Date

- Employee successfully completed probation. Completion Date:

Department Head/Designee

Printed Name

Signature and Date



NOTICE OF FUTURE EMPLOYMENT RESTRICTIONS

Zhekun Chen
 Employee Name

 Street Address

 City State Zip

12/21/2023
 Mailing Date

 MTA
 Department/Division

 PCS
 Type of Appointment

This notice is to inform you that a future employment restriction is being imposed along with your separation action, or with the action of automatic resignation, reported to the Department of Human Resources separating you from your position in Class 9163, Title Transit Operator, effective 11/03/2023, for the reasons outlined in the attached document(s).

The items checked below are the restrictions made by the department on your future employability for positions covered by the San Francisco civil service system:

<input type="checkbox"/> No Restrictions on Employment <input type="checkbox"/> Permanent Restriction <input checked="" type="checkbox"/> Conditional Restriction	<input checked="" type="checkbox"/> Citywide <input type="checkbox"/> Department(s): _____ <input type="checkbox"/> DOT/SAPP <input type="checkbox"/> Job Code(s): _____ <input checked="" type="checkbox"/> Cancel Current Examination & Eligibility Status
---	--

Conditional restrictions may be lifted by proving you have satisfactorily met the following requirements:

Requirement Type	Description:	Level of Measurement:	Measurement Value:
CER: Certification			
EXP: Work Experience			
LIC: Licensure			
SAP: Substance Abuse Program	•Must participate in an appropriate substance abuse program and receive release to work from	2	Years
Other:	Future employment subject to the review and approval of the Human Resources Director after sa	2	Years

In addition to the noted conditional restrictions, you are also restricted from specific attributes of a job class and/or department until you satisfactorily prove you meet the requirements to lift the restriction(s) as noted below:

Future Employment Restrictions	Description:	Level of Measurement:	Measurement Value:
001: Vehicle/Heavy Machinery			
002: Vulnerable Populations			
003: Face to Face Contact w/Public			
004: Contact w/Animals			
005: Signing/Approving City Docs			
006: Financial Instruments			
007: Confidential/Privileged Information			
008: IT Infrastructure			
009: Means of Entry to Living Spaces			
010: Pharmaceutical/Drug Inventory			
011: CDC Defined Toxins			
012: Weapons/Explosives			
013: City Property Valued > \$100			

You may request a hearing before the Civil Service Commission on your future employability with the City and County of San Francisco. The Civil Service Commission has the authority to remove restrictions or impose additional restrictions on your future employability. You may request a hearing for review of any restrictions on your future employability with the Civil Service Commission within 20 calendar days of the mailing date of this notice or from the date of separation, whichever is later. The request must be submitted in writing to the Executive Officer, Civil Service Commission, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102 by 01/11/2024. Requests received after this date will not be considered and your right to a hearing will be forfeited. If you do not request a hearing or file an appeal, the Human Resources Director will take final administrative action to confirm the restriction(s) in effect on the date of separation (Note: Future Employment Restriction(s) effective immediately).

If this matter is subject to the Code of Civil Procedures (CCP) Section 1094.5, the time by which judicial review must be sought is set forth in CCP Section 1094.6. (SEE BELOW)

List #: ██████	Rank #: ██████	<input type="checkbox"/> Pending	<input checked="" type="checkbox"/> Final	Status of Action
DSW: ██████		████████████████████		
Emp Organization: <u>Local 250-TWU</u>		SIGNATURE		
METHOD OF SERVICE:		<u>Shana Dines</u>		
<input type="checkbox"/> Hand Delivered		NAME		
<input checked="" type="checkbox"/> Certified Mail	<u>9589 0710 5270 0713 1850 84</u>	<u>Sr. Manager, Employee & Labor Relations</u>		
		TITLE		

INFORMATION FOR FORMER EMPLOYEE FOLLOWING SEPARATION

1. This document serves as an official notice of future employment restrictions imposed with the Notice of Automatic Resignation from Employment to the former employee or with a Separation Action that is subject to the provisions of a collective bargaining agreement, to the Civil Service Commission, and the Department of Human Resources.
2. A separated employee may request a hearing before the Civil Service Commission only for review of any restrictions on their future employability with the City and County of San Francisco.
3. Such appeals or requests for hearing must be in writing and received from the employee or the employee's representative by the date specified on this notice, or within twenty (20) calendar days from the mailing date of this notice, or the effective date of the separation, whichever is later. The request must be submitted to the Executive Officer, Civil Service Commission, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102.
4. An employee who requests a hearing within the time limits is entitled to:
 - a. Representation by an attorney or authorized representative of the employee's own choice.
 - b. Notification of date, time, and place of hearing at a reasonable time in advance.
 - c. Inspection by the employee's attorney or authorized representative of those records and materials on file with the Civil Service Commission which relate to the restrictions on future employability.
5. Any interested party may request that the hearing be continued or postponed.
6. The decision of the Civil Service Commission is final and not subject to reconsideration.
7. In the absence of a timely request for a hearing as provided above, no later request for a hearing will be considered.

DEPARTMENT INSTRUCTIONS FOR COMPLETING FORM DHR 1-13E

- Refer to related provisions of appropriate collective bargaining agreements
- Refer to CSC Rule 122, Article VI: Absence From Duty Without Leave (Misc)
- Refer to CSC Rule 222, Article IV: Absence From Duty Without Leave (UPPD)
- Refer to CSC Rule 322, Article VI: Absence From Duty Without Leave (UPFD)

Use this form when:

The appointing officer or Human Resources Director has taken action of automatic resignation on an employee on the basis of abandonment of position, regardless of employment status; and/or the separation action is subject to the provisions of the collective bargaining agreement.

Complete the information on the top section of the form: Name, Address, City, State, Zip, Mailing Date, Department/Division, Type of Appointment, Type of Separation.

In the first paragraph of the notice, enter the Class Number, Title and effective date of the separation.

If there are no restrictions imposed with the separation, the box *"no restrictions on future employability,"* must be checked to indicate this action, and attach applicable documents, e.g., a settlement agreement.

Indicate the restrictions on future employability by checking the appropriate boxes. If the restrictions are conditional, you must complete the section on the requirements needed to lift the restrictions, including the level of measurement (entry, journey, etc.) and values (length of time in months, years, etc.) of the requirements.

If Future Employment Restrictions are included, complete that section including details on the requirements needed to lift the restrictions. Attach a copy of all separation-related letters and supporting documentation. Documentation must provide justification and the rationale for the imposed restrictions.

The separated employee may request a hearing for review of any restrictions on future employability. Indicate the date by which the appeal must be filed in the space provided. Consistent with the separation action, count twenty (20), or thirty (30), calendar days from the mailing date of the notice or the effective date of release, whichever is applicable. When counting the days, count the day after the mailing date as the first day.

Complete the information on the bottom section of the form: Rank, List#, DSW#, and Employee Organization. Check the method of service used and tracking # if applicable.

Indicate status of action:

- Select "Pending" if Notice of Future Employment Restrictions is subject to the provisions of a collective bargaining agreement
- Select "Final" if the status is not subject to the provisions of a collective bargaining agreement, or to update a previously reported "Pending" action.

Type in the name and title of the appointing officer. The appointing officer must sign the form.

Send the *original* Notice of Future Employment Restrictions along with the *original* Notice of Automatic Resignation from Employment (DHR 1-48a) to the employee. Make two sets of copies of the notices; send one set of *copy* to DHR - Client Services along with the *original* Separation Report (DHR Form 1-67); and retain the other set of *copy* in the Official Employee Personnel Folder.

Reminder: Imposed restrictions on future employability are effective immediately, and must be reported to DHR – Client Services concurrent with the departmental notice to separate the employee. This will enable timely and appropriate updates to DHR systems and other dependent programs, such as exams, adoptions of eligible lists, citywide recruitments, and certifications/referrals.

EXHIBIT C

San Francisco Charter

ARTICLE VIIIA: THE MUNICIPAL TRANSPORTATION AGENCY

- Sec. 8A.100. Preamble.
- Sec. 8A.101. Municipal Transportation Agency.
- Sec. 8A.102. Governance and Duties.
- Sec. 8A.103. Service Standards and Accountability.
- Sec. 8A.104. Personnel and Merit System.
- Sec. 8A.105. Municipal Transportation Fund.
- Sec. 8A.106. Budget.
- Sec. 8A.107. Municipal Transportation Quality Review.
- Sec. 8A.108. Fare Changes and Route Abandonments.
- Sec. 8A.109. Additional Sources of Revenue.
- Sec. 8A.110. Planning and Zoning.
- Sec. 8A.111. Citizens' Advisory Council.
- Sec. 8A.112. Parking and Traffic.
- Sec. 8A.113. Parking and Traffic; Governance.
- Sec. 8A.114. Cable Cars.
- Sec. 8A.115. Transit-First Policy.

SEC. 8A.100. PREAMBLE.

(a) An effective, efficient, and safe transportation system is vital for San Francisco to achieve its goals for quality of life, environmental sustainability, public health, social justice, and economic growth. The Municipal Transportation Agency must manage San Francisco's transportation system which includes automobile, freight, transit, bicycle, and pedestrian networks to help the City meet those goals. Through this measure, the voters seek to provide the Municipal Transportation Agency with improved resources and expanded independence and authority in order to create a transportation system that is

among the best in the world.

(b) This article requires the Municipal Transportation Agency to develop clear, meaningful and quantifiable measures of its performance and goals and to regularly publicize those standards. This article also recognizes that the workers of the Municipal Transportation Agency are vital to the success of the Agency and to achieving the improvements voters seek. Therefore, it authorizes incentives for excellence and requires accountability for both managers and employees.

(c) Specifically, San Francisco residents require:

1. Reliable, safe, timely, frequent, and convenient transit service to all neighborhoods;
2. A reduction in breakdowns, delays, over-crowding, preventable accidents;
3. Clean and comfortable transit vehicles and stations, operated by competent, courteous, and well trained employees;
4. Support and accommodation of the special transportation needs of the elderly and the disabled;
5. Protection from crime and inappropriate passenger behavior on the Municipal Railway;
6. Responsive, efficient, and accountable management;
7. Roads that are not gridlocked with congestion;
8. A safe and comprehensive network of bicycle lanes;
9. A safe and inviting environment for pedestrians;
10. Efficient movement of goods and deliveries;
11. A transportation sector that promotes environmental sustainability and does not contribute to global warming; and
12. A well-managed and well-coordinated transportation system that contributes to a livable urban environment.

Through this measure, the voters seek to provide the transportation system with the resources, independence and focus necessary to achieve these goals.

(d) The voters find that one of the impediments to achieving these goals in the past has been that responsibility for transportation has been diffused throughout City government. Accordingly, this Article places within the Municipal Transportation Agency the powers and duties relating to transit now vested in other departments, boards, and commissions of the City and County. This Article further requires that, to the extent other City and County agencies provide services to the Municipal Transportation Agency, those departments must give the highest priority to the delivery of such services.

(e) At the same time, this Article is intended to ensure sufficient oversight of the Municipal Transportation Agency by, among other things, preserving the role of the City's Controller as to

financial matters, the City Attorney as to legal matters, and the Civil Service Commission, as to merit system issues. In addition, this Article requires that outside audits be performed to ensure that required service levels are obtained with a minimum of waste.

(f) Finally, this Article is intended to strengthen the Municipal Transportation Agency's authority to: 1) manage its employees; 2) establish efficient and economical work rules and work practices that maximize the Agency's responsiveness to public needs; and 3) protect the Agency's right to select, train, promote, demote, discipline, layoff and terminate employees, managers, and supervisors based upon the highest standards of customer service, efficiency and competency.

(g) The effective management of traffic flow and parking are vital to the operation of the Municipal Railway. Congestion on city streets causes delays in transit operations. Therefore, the Municipal Transportation Agency must manage parking and traffic flow to ensure that transit vehicles move through City streets safely and efficiently.

(h) In addition, the residents of San Francisco require that the Agency: 1) value and protect the safety of pedestrians and bicyclists; 2) reduce congestion and air pollution through efficient use of the streets; and 3) protect the City's economic health by giving priority to commercial deliveries and access to local businesses.

(i) The voters find that reducing the carbon emissions from San Francisco's transit sector is fundamental to the City's health and wellbeing and shall be among the Agency's policy priorities. Because the Agency has significant influence on San Francisco's transportation sector, which is responsible for fully half of the carbon emissions produced within the City, the voters direct the Agency to develop and implement strategies for substantially reducing those emissions. The voters further affirm the goals of the City's Climate Action Plan.

(j) This Article shall be interpreted and applied in conformance with the above goals.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

SEC. 8A.101. MUNICIPAL TRANSPORTATION AGENCY.

(a) There shall be a Municipal Transportation Agency. The Agency shall include a Board of Directors and a Director of Transportation. The Agency shall include the Municipal Railway and the former Department of Parking and Traffic, as well as any other departments, bureaus or operating divisions hereafter created or placed under the Agency. There shall also be a Citizens Advisory Committee to assist the Agency.

(b) The Board of Supervisors shall have the power, by ordinance, to abolish the Taxi Commission created in Section 4.133, and to transfer the powers and duties of that commission to the Agency under the direction of the Director of Transportation or his or her designee. In order to fully integrate taxi-related functions into the Agency should such a transfer occur, the Agency shall have the same exclusive authority over taxi-related functions and taxi-related fares, fees, charges, budgets, and personnel that it has over the Municipal Railway and parking and traffic fares, fees, charges, budgets, and personnel. Once adopted, Agency regulations shall thereafter supercede all previously-adopted ordinances governing motor vehicles for hire that conflict with or duplicate such regulations.

(c) Any transfer of functions occurring as a result of the above provisions shall not adversely affect the status, position, compensation, or pension or retirement rights and privileges of any civil service

employees who engaged in the performance of a function or duty transferred to another office, agency, or department pursuant to this measure.

(d) Except as expressly provided in this Article, the Agency shall comply with all of the restrictions and requirements imposed by the ordinances of general application of the City and County, including ordinances prohibiting discrimination of any kind in employment and contracting, such as Administrative Code Chapters 12B et seq., as amended from time to time. The Agency shall be solely responsible for the administration and enforcement of such requirements.

(e) The Agency may contract with existing City and County departments to carry out any of its powers and duties. Any such contract shall establish performance standards for the department providing the services to the Agency, including measurable standards for the quality, timeliness, and cost of the services provided. All City and County departments must give the highest priority to the delivery of such services to the Agency.

(f) The Agency may not exercise any powers and duties of the Controller or the City Attorney and shall contract with the Controller and the City Attorney for the exercise of such powers and duties.

(Added November 1999; amended by Proposition A, approved 11/6/2007)

Editor's Note:

The Board of Supervisors exercised the power granted under division (b) of this section and abolished the Taxi Commission and transferred its functions, powers, and duties to the Municipal Transportation Agency. See Police Code Art. 16, Sec. 1075.1.

SEC. 8A.102. GOVERNANCE AND DUTIES.

(a) The Agency shall be governed by a board of seven directors appointed by the Mayor and conformed after public hearing by the Board of Supervisors. All initial appointments must be made by the Mayor and submitted to the Board of Supervisors for confirmation no later than February 1, 2000. The Board of Supervisors shall act on those initial appointments no later than March 1, 2000 or those appointments shall be deemed confirmed.

At least four of the directors must be regular riders of the Municipal Railway, and must continue to be regular riders during their terms. The directors must possess significant knowledge of, or professional experience in, one or more of the fields of government, finance, or labor relations. At least two of the directors must possess significant knowledge of, or professional experience in, the field of public transportation. During their terms, all directors shall be required to ride the Municipal Railway on the average once a week.

Directors shall serve four-year terms, provided, however, that two of the initial appointees shall serve for terms ending March 1, 2004, two for terms ending March 1, 2003, two for terms ending March 1, 2002, and one for a term ending March 1, 2001. Initial terms shall be designated by the Mayor. No person may serve more than three terms as a director. A director may be removed only for cause pursuant to Article XV. The directors shall annually elect a chair. The chair shall serve as chair at the pleasure of the directors. Directors shall receive reasonable compensation for attending meetings of the Agency which shall not exceed the average of the two highest compensations paid to the members of any board or commission with authority over a transit system in the nine Bay Area counties.

(b) The Agency shall:

1. Have exclusive authority over the acquisition, construction, management, supervision, maintenance, extension, operation, use, and control of all property, as well as the real, personal, and financial assets of the Agency; and have exclusive authority over contracting, leasing, and purchasing by the Agency, provided that any Agency contract for outside services shall be subject to Charter Sections 10.104(12) and 10.104(15) and that the Agency may not transfer ownership of any of the real property of the City and County without approval from the Board of Directors and the Board of Supervisors;
2. Have exclusive authority to enter into such arrangements and agreements for the joint, coordinated, or common use with any other public entity owning or having jurisdiction over rights-of-way, tracks, structures, subways, tunnels, stations, terminals, depots, maintenance facilities, and transit electrical power facilities;
3. Have exclusive authority to make such arrangements as it deems proper to provide for the exchange of transfer privileges, and through-ticketing arrangements, and such arrangements shall not constitute a fare change subject to the requirements of Sections 8A.106 and 8A.108;
4. Notwithstanding any restrictions on contracting authority set forth in the Administrative Code, have exclusive authority to enter into agreements for the distribution of transit fare media and media for the use of parking meters or other individual parking services;
5. Have exclusive authority to arrange with other transit agencies for bulk fare purchases, provided that if passenger fares increase as a result of such purchases, the increase shall be subject to review by the Board of Supervisors pursuant to Sections 8A.106 and 8A.108;
6. Notwithstanding Section 2.109, and except as provided in Sections 8A.106 and 8A.108, have exclusive authority to fix the fares charged by the Municipal Railway, rates for off-street and on-street parking, and all other, rates, fees, fines, penalties and charges for services provided or functions performed by the Agency;
7. Notwithstanding any provision of the San Francisco Municipal Code (except requirements administered by the Department of Public Works governing excavation, street design and official grade) have exclusive authority to adopt regulations that control the flow and direction of motor vehicle, bicycle and pedestrian traffic, including regulations that limit the use of certain streets or traffic lanes to categories of vehicles and that limit the speed of traffic; and to design, select, locate, install, operate, maintain and remove all official traffic control devices, signs, roadway features and pavement markings that control the flow of traffic with respect to streets and highways within City jurisdiction, provided that:
 - (i) Notwithstanding the authority established in subsection 7, the Board of Supervisors may by ordinance establish procedures by which the public may seek Board of Supervisors review of any Agency decision with regard to the installation or removal of a stop sign or the creation or elimination of a bicycle lane. In any such review, the Agency's decision shall stand unless the Board of Supervisors reverses the decision of the Agency not later than 60 days after submission of a request to the Board of Supervisors.
 - (ii) Nothing in this subsection 7 shall modify the authority of ISCOTT, or any successor body, over the temporary use or occupancy of public streets, or the authority of the Board of Supervisors to hear appeals regarding the temporary use or occupancy of public streets.
 - (iii) Nothing in subsection 7 shall modify the power of the Board of Supervisors to establish

civil offenses, infractions and misdemeanors.

(iv) Notwithstanding the authority established in subsection 7, to the extent state law contemplates that Agency action authorized by subsection 7 be effectuated by ordinance, such action shall be effectuated by resolution of the Board of Directors and shall be subject to referendum in accordance with Article 14, and, if a referendum petition contains the requisite number of signatures, the Board of Supervisors shall have the power to reconsider or repeal the action as provided in Article 14.

8. Have exclusive authority to adopt regulations limiting parking, stopping, standing or loading as provided by state law and to establish parking privileges and locations subject to such privileges for categories of people or vehicles as provided by state law; to establish parking meter zones, to set parking rates, and to select, install, locate and maintain systems and equipment for payment of parking fees, provided that:

(i) Notwithstanding the authority established in subsection 8, the Board of Supervisors may by ordinance establish procedures by which the public may seek Board of Supervisors review of any Agency decision with regard to the creation or elimination of any preferential parking zone, the creation or elimination of any parking meter zone, the adoption of any limitation on the time period for which a vehicle may be parked, or reservation of any parking space for persons with a disability that qualifies for parking privileges under state law. In any review of a decision of the Agency pursuant to this section, the Agency's decision shall stand unless the Board of Supervisors reverses the decision of the Agency not later than 60 days after submission of a request to the Board of Supervisors.

(ii) Nothing in subsection 8 shall modify the power of the Board of Supervisors to establish civil offenses, infractions and misdemeanors.

(iii) Notwithstanding the authority established in subsection 8, to the extent state law contemplates that any Agency action authorized by subsection 8 be effectuated by ordinance, such action shall be effectuated by resolution of the Board of Directors and, if a referendum petition contains the requisite number of signatures, shall be subject to referendum in accordance with Article 14, and the Board of Supervisors shall have the power to reconsider or repeal the action as provided in Article 14.

9. Have exclusive authority to establish policies regarding and procure goods and services for the enforcement of regulations limiting parking, stopping, standing or loading and the collection of parking-related revenues and, along with the Police Department, have authority to enforce parking, stopping, standing or loading regulations;

10. Be responsible for chairing the Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT) or any successor body;

11. Be responsible for cooperating with and assisting the Police Department in the promotion of traffic safety; studying and responding to complaints related to street design, traffic control devices, roadway features and pavement markings; collecting compiling and analyzing traffic data and traffic accident data and planning improvements to improve the safety of the City's roadways; and conducting traffic research and planning;

12. Have exclusive authority to apply for, accept, and expend state, federal, or other public or private grant funds for Agency purposes;

13. To the maximum extent permitted by law, with the concurrence of the Board of

Supervisors, and notwithstanding the requirements and limitations of Sections 9.107, 9.108, and 9.109, have authority without further voter approval to incur debt for Agency purposes and to issue or cause to be issued bonds, notes, certificates of indebtedness, commercial paper, financing leases, certificates of participation or any other debt instruments. Upon recommendation from the Board of Directors, the Board of Supervisors may authorize the Agency to incur on behalf of the City such debt or other obligations provided: 1) the Controller first certifies that sufficient unencumbered balances are expected to be available in the proper fund to meet all payments under such obligations as they become due; and 2) any debt obligation, if secured, is secured by revenues or assets under the jurisdiction of the Agency.

14. Have the authority to conduct investigations into any matter within its jurisdiction through the power of inquiry, including the power to hold public hearings and take testimony, and to take such action as may be necessary to act upon its findings; and

15. Exercise such other powers and duties as shall be prescribed by ordinance of the Board of Supervisors.

(c) The Agency's Board of Directors shall:

1. Appoint a Director of Transportation, who shall serve at the pleasure of the Board. The Director of Transportation shall be employed pursuant to an individual contract. His or her compensation shall be comparable to the compensation of the chief executive officers of the public transportation systems in the United States which the Board of Directors, after an independent survey, determine most closely resemble the Agency in size, mission, and complexity. In addition, the Board of Directors shall provide an incentive compensation plan consistent with the requirements of Section 8A.104(k) under which a portion of the Director's compensation is based on achievement of service standards adopted by the Board of Directors.

2. Appoint an executive secretary who shall be responsible for administering the affairs of the Board of Directors and who shall serve at the pleasure of the Board.

3. In addition to any training that may be required by City, State or federal law, attend a minimum of four hours of training in each calendar year, provided by the City Attorney and the Controller regarding the legal and financial responsibilities of the Board and the Agency.

(d) The Director of Transportation shall appoint all subordinate personnel of the Agency, including deputy directors. The deputy directors shall serve at the pleasure of the Director of Transportation.

(e) Upon recommendation of the City Attorney and the approval of the Board of Directors, the City Attorney may compromise, settle, or dismiss any litigation, legal proceedings, claims, demands or grievances which may be pending for or on behalf of, or against the Agency relative to any matter or property solely under the Agency's jurisdiction. Unlitigated claims or demands against the Agency shall be handled as set forth in Charter Section 6.102. Any payment pursuant to the compromise, settlement, or dismissal of such litigation, legal proceedings, claims, demands, or grievances, unless otherwise specified by the Board of Supervisors, shall be made from the Municipal Transportation Fund.

(f) The Agency's Board of Directors, and its individual members, shall deal with administrative matters solely through the Director of Transportation or his or her designees. Any dictation, suggestion, or interference by a director in the administrative affairs of the Agency, other than through the Director of Transportation or his or her designees, shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the Board of Directors' powers of hearing and inquiry as provided in this Section.

(g) Notwithstanding any provision of Chapter 6 or 21 of the Administrative Code establishing any threshold amount for exercise of executive authority to execute contracts, or any successor provision of the San Francisco Municipal Code, the Agency's Board of Directors may adopt threshold amounts under which the Director of Transportation and his or her designees may approve contracts.

(h) Except provided in this Article, the Agency shall be subject to the provisions of this Charter applicable to boards, commissions, and departments of the City and County, including Sections 2.114, 3.105, 4.101, 4.103, 4.104, 4.113, 6.102, 9.118, 16.100, and A8.346. Sections 4.102, 4.126, and 4.132 shall not be applicable to the Agency.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

SEC. 8A.103. SERVICE STANDARDS AND ACCOUNTABILITY.

(a) The Municipal Railway shall provide a level of service measured in service hours which is not less than that provided under the schedule of service published in the April 1996 timetable, although not necessarily in that configuration.

(b) By July 1 of each year, the Agency shall adopt mile-stones toward achievement of the goals specified in subsections (c) and (d). Milestones shall be adopted for each mode of transportation of the Municipal Railway, and for the Municipal Railway as a whole, with the goal of full achievement of the standards set in subsection (c).

(c) The standards for the Agency with respect to the services provided by the Municipal Railway shall include the following minimum standards for on-time performance and service delivery:

1. On-time performance: at least 85 percent of vehicles must run on-time, where a vehicle is considered on-time if it is no more than one minute early or four minutes late as measured against a published schedule that includes time points; and

2. Service delivery: 98.5 percent of scheduled service hours must be delivered, and at least 98.5 percent of scheduled vehicles must begin service at the scheduled time.

(d) The Board of Directors shall adopt Agency rules setting additional measurable standards for system reliability, system performance, staffing performance, and customer service, including:

1. Passenger, public, and employee safety and security;
2. Coverage of neighborhoods and equitable distribution of service;
3. Level of crowding;
4. Frequency and mitigation of accidents and breakdowns;
5. Improvements in travel time, taking into account adequate recovery and lay-over times for operators;
6. Vehicle cleanliness, including absence of graffiti;

7. Quality and responsiveness of customer service;
8. Employee satisfaction;
9. Effectiveness of the preventive maintenance program; and
10. Frequency and accuracy of communications to the public.

11. The Agency's duties related to parking and traffic functions and any other functions that may be added to the Agency's responsibilities.

(e) The Board of Directors shall adopt Agency rules setting forth the methods by which performance shall be measured with respect to each standard established pursuant to subsections (c) or (d) above in accordance with industry best practices to enhance the Agency's ability to compare its performance to that of other comparable transit systems. The Agency shall regularly publish reports documenting the Agency's performance for each standard. Each performance report shall note any changes in the rules governing the methods by which performance is measured so as to inform interpretation of performance trends over time. Nothing herein shall prohibit the Agency from using additional performance measures.

(f) The Agency shall issue a Climate Action Plan to the Board of Supervisors and the Commission on the Environment by January 1, 2009, and every two years thereafter. The plan shall describe measures taken and progress made toward the goal of reducing greenhouse gas emissions from San Francisco's transportation sector to 80% of 1990 levels by 2012 and shall further address progress toward the following goals:

1. Zero greenhouse gas emissions for Municipal Railway transit vehicles;
2. Lowering energy consumption in Agency facilities and by non-transit vehicles;
3. Maximizing waste reduction in Agency operations;
4. Increasing transit trips and reducing private vehicle trips within the City;
5. Increasing the use of bicycling and walking as alternate forms of transportation; and
6. Improving regional transit connections to reduce private vehicle use by commuters.

No later than January 1, 2010, and no less than every ten years thereafter, the Board of Supervisors shall adopt legislation setting goals for reducing greenhouse gas emissions from San Francisco's transportation sector, and other climate action measures set forth above, for periods after 2012.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

SEC. 8A.104. PERSONNEL AND MERIT SYSTEM.

(a) The Agency shall establish its own personnel/labor relations office. The Director of Transportation shall appoint a personnel/labor relations manager, who shall serve at the pleasure of the

Director of Transportation and shall establish regular meetings with labor to discuss issues within the scope of representation on terms to be determined through collective bargaining.

(b) Except as otherwise provided in this Section, the Agency shall be governed by the rules of the civil service system administered by the City and appeals provided in civil service rules shall be heard by the City's Civil Service Commission. Unless otherwise agreed by the Agency and affected employee organizations, appeals to the Civil Service Commission shall include only those matters within the jurisdiction of the Civil Service Commission which establish, implement, and regulate the civil service merit system as listed in Section A8.409-3.

(c) Effective July 1, 2000, except for the administration of health services, the Agency shall assume all powers and duties vested in the Department of Human Resources and the Director of Human Resources under Articles X and XI of this Charter in connection with job classifications within the Agency performing "service-critical" functions. Except for the matters set forth in subsection (f), the Department of Human Resources and the Director of Human Resources shall maintain all powers and duties under Articles X and XI as to all other Agency employees.

(d) On or before April 15, 2000, the Agency shall designate "service-critical" classifications and functions for all existing classifications used by the Municipal Railway; provided, however, that employees in classifications designated as "service-critical" shall continue to be covered by any Citywide collective bargaining agreement covering their classifications until the expiration of that agreement.

(e) For purposes of this Article, "service-critical" functions are:

1. Operating a transit vehicle, whether or not in revenue service;
2. Controlling dispatch of, or movement of, or access to, a transit vehicle;
3. Maintaining a transit vehicle or equipment used in transit service, including both preventive maintenance and overhaul of equipment and systems, including system-related infrastructure;
4. Regularly providing information services to the public or handling complaints; and
5. Supervising or managing employees performing functions enumerated above.

The Agency shall consult with affected employee organizations before designating particular job classifications as performing "service-critical" functions. If an employee organization disagrees with the Agency's designation of a particular job classification as "service-critical" pursuant to the above standards, the organization may, within seven days of the Agency's decision, request immediate arbitration. The arbitrator shall be chosen pursuant to the procedures for the selection of arbitrators contained in the memorandum of understanding of the affected employee organization. The arbitrator shall determine only whether the Agency's designation is reasonable based on the above standards. The arbitrator's decision shall be final and binding.

The Agency may designate functions other than those listed above, and the job classifications performing those additional functions, as "service-critical," subject to the consultation and arbitration provisions of this Section. In deciding a dispute over such a designation, the arbitrator shall decide whether the job functions of the designated classes relate directly to achievement of the goals and milestones adopted pursuant to Section 8A.103 and are comparable to the above categories in the extent

to which they are critical to service.

(f) In addition, the Agency shall, with respect to all Agency employees, succeed to the powers and duties of the Director of Human Resources under Article X to review and resolve allegations of discrimination, as defined in Article XVII, against employees or job applicants, or allegations of nepotism or other prohibited forms of favoritism. To the extent resolution of a discrimination complaint or request for accommodation involves matters or employees beyond the Agency's jurisdiction, the Agency shall coordinate with and be subject to applicable determinations of the Director of Human Resources.

(g) The Agency shall be responsible for creating and, as appropriate, modifying Agency bargaining units for classifications designated by the Agency as "service-critical" and shall establish policies and procedures pursuant to Government Code sections 3507 and 3507.1 for creation and modification of such bargaining units. When the Agency creates or modifies a bargaining unit, employees in existing classifications placed in such bargaining unit shall continue to be represented by their current employee organizations.

(h) The Agency may create new classifications of Agency employees. Such classifications shall be subject to the civil service provisions of the Charter unless exempted pursuant to Section 10.104, or subsection (i).

(i) The Agency may create new classifications and positions in those classifications exempt from the civil service system for managerial employees in MTA bargaining units M and EM in addition to those exempt positions provided in Section 10.104; provided, however, that the total number of such exempt managerial positions within the Agency shall not exceed 2.75 percent of the Agency's total workforce, exclusive of the exempt positions provided in Section 10.104. This provision shall not be utilized to eliminate personnel holding existing permanent civil service managerial positions on November 2, 1999.

Persons serving in exempt managerial positions shall serve at the pleasure of the Director of Transportation. Such exempt management employees, to the extent they request placement in a bargaining unit, shall not be placed in the same bargaining units as non-exempt employees of the Agency.

(j) The Civil Service Commission shall annually review both exempt and non-exempt classifications of the Agency to ensure compliance with the provisions of subsections (h) and (i).

(k) Upon the expiration of labor contracts negotiated by the Department of Human Resources and approved by the Board of Supervisors, and except for retirement benefits, the wages, hours, working conditions, and benefits of the employees in classifications within the Municipal Railway designated by the Agency as "service-critical" shall be fixed by the Agency after meeting and conferring as required by the laws of the State of California and this Charter, including Sections A8.346, A8.404 and A8.409. These agreements shall utilize, and shall not alter or interfere with, the health plans established by the City's Health Service Board; provided, however, that the Agency may contribute toward defraying the cost of employees' health premiums. For any job classification that exists both as a "service-critical" classification in the Agency and elsewhere in City service, the base wage rate negotiated by the Agency for that classification shall not be less than the wage rate set in the Citywide memorandum of understanding for that classification.

(l) Notwithstanding subsection (k), the Agency may, in its sole discretion, utilize the City's collective bargaining agreements with any employee organization representing less than 10 percent of

the Agency's workforce.

(m) In addition to the base pay established in collective bargaining agreements, agreements negotiated by the Agency relating to compensation for Agency managers and employees in classifications designated by the Agency as "service-critical" may provide incentive bonuses based upon the achievement of the service standards in Section 8A.103(c) and other standards and milestones adopted pursuant to Section 8A.103. Such agreements may also provide for additional incentives based on other standards established by the Board of Directors, including incentives to improve attendance. The Board of Directors may also establish a program under which a component of the compensation paid to the Director of Transportation and I exempt managers is based upon the achievement of service standards adopted by the Board of Directors. Notwithstanding any other provision of Article 8A, all such incentive programs shall be at the sole discretion of the Agency Board of Directors, subject to any bargaining obligation imposed by state law.

(n) For employees whose wages, hours and terms and conditions of employment are set by the Agency, the Agency shall exercise all powers of the City and County, the Board of Supervisors, the Mayor, and the Director of Human Resources under Sections A8.404 and A8.409. The mediation/arbitration board set forth in Section A8.409-4 shall consider the following additional factors when making a determination in any impasse proceeding involving the Agency: the interests and welfare of transit riders, residents, and other members of the public; the Agency's ability to meet the costs of the decision of the arbitration board without materially reducing service or requiring that the Agency raise fares in a manner inconsistent with Section 8A.108(b); and the Agency's ability to efficiently and effectively tailor work hours and schedules for transit system employees to the public demand for transit service. Notwithstanding the timelines described in Section A8.409-4, to be effective the beginning of the next succeeding fiscal year, all collective bargaining agreements must be submitted to the Board of Directors no later than June 15 for final adoption on or before June 30.

(o) The voters find that for transit system employees whose wages, hours and terms and conditions of employment are set by the Agency, the Agency's discretion in establishing and adjusting scheduling, deployment, assignment, staffing, sign ups, and the use and number of part-time transit system personnel based upon service needs is essential to the effective, efficient, and reliable operation of the transit system. In any mediation/arbitration proceeding under Section 8.409-4 with an employee organization representing transit system employees, the employee organization shall have the burden of proving that any restrictions proposed on the Agency's ability to exercise broad discretion with respect to these matters are justified. To meet this burden, the employee organization must prove by clear and convincing evidence that the justification for such restrictions outweighs the public's interest in effective, efficient, and reliable transit service and is consistent with best practices. The mediation/arbitration board shall not treat the provisions of MOUs for transit system employees adopted prior to the effective date of this provision as precedential in establishing the terms of a successor agreement. The mediation/arbitration board's jurisdiction shall be limited to matters within the mandatory scope of bargaining under state law.

(p) The voters find that unscheduled employee absences adversely affect customer service. Accordingly, not later than January 1, 2001, the agency shall create a comprehensive plan for the reduction of unscheduled absences. In addition, the Agency shall take all legally permitted steps to eliminate unexcused absences. Neither the Agency nor an arbitrator shall have authority to approve or award any memorandum of understanding or other binding agreement which restricts the authority of the Agency to administer appropriate discipline for unexcused absences.

(q) In addition, the voters find that Agency service has been impaired by the existence of side-letters and reliance on "past practices" that have been treated as binding or precedential but have not

been expressly authorized by the Board of Directors or the Director of Transportation, and have not been and are not subject to public scrutiny. Accordingly, for employees whose wages, hours and terms and conditions of employment are set by the Agency, no side-letter or practice within the scope of bargaining may be deemed binding or precedential by the Agency or any arbitrator unless the side-letter or practice has been approved in writing by the Director of Transportation or, where appropriate, by the Board of Directors upon the recommendation of the Director of Transportation and appended to the MOU of the affected employee organization or organizations subject to the procedures set out in this charter. No MOU or arbitration award approved or issued after the November 2010 general election shall provide or require that work rules or past practices remain unchanged during the life of the MOU, unless the specific work rules or past practices are explicitly set forth in the MOU. All side-letters shall expire no later than the expiration date of the MOU.

(r) Before adopting any tentative agreement with an employee organization covering matters within the scope of representation, the Agency shall, at a duly noticed public meeting, disclose in writing the contents of such tentative agreement, a detailed analysis of the proposed agreement, a comparison of the differences between the agreement reached and the prior agreement, an analysis of all costs for each year of the term of such agreement, and whether funds are available to cover these costs. Such tentative agreement between the Agency and employee organization shall not be approved by the Agency until 15 calendar days after the above disclosures have been made.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007; Proposition G, Approved 11/2/2010)

SEC. 8A.105. MUNICIPAL TRANSPORTATION FUND.

(a) There is hereby established a fund to provide a predictable, stable, and adequate level of funding for the Agency, which shall be called the Municipal Transportation Fund. The fund shall be maintained separate and apart from all other City and County funds. Monies therein shall be appropriated, expended, or used by the Agency solely and exclusively for the operation including, without limitation, capital improvements, management, supervision, maintenance, extension, and day-to-day operation of the Agency, including any division subsequently created or incorporated into the Agency and performing transportation-related functions. Monies in the Fund may not be used for any other purposes than those identified in this Section.

(b) Beginning with the fiscal year 2000-2001 and in each fiscal year thereafter, there is hereby set aside to the Municipal Transportation Fund the following:

1. An amount (the "Base Amount") which shall be no less than the amount of all appropriations from the General Fund, including all supplemental appropriations, for the fiscal year 1998-1999 or the fiscal year 1999-2000, whichever is higher (the "Base Year"), adjusted as provided in subsection (c), below, for (1) the Municipal Railway; and (2) all other City and County commissions, departments and agencies providing services to the Municipal Railway, including the Department of Human Resources and the Purchasing Department, for the provision of those services. The Base Amount for the Department of Parking and Traffic and the Parking Authority shall be established in the same fashion but using fiscal years 2000-2001 and 2001-2002 for the services being incorporated into the Agency.

2. Subject to the limitations and exclusions in Sections 4.113, the revenues of the Municipal Railway, and, upon their incorporation into the Agency, the revenues of the Department of Parking and Traffic, and the Parking Authority; and

3. All other funds received by the City and County from any source, including state and federal

sources, for the support of the Agency .

(c) The Base Amount shall initially be determined by the Controller. Adjustments to the Base Amount shall be made as follows:

1. The Base Amount shall be adjusted for each year after fiscal year 2000-2001 by the Controller based on calculations consistent from year to year, by the percentage increase or decrease in aggregate City and County discretionary revenues. In determining aggregate City and County discretionary revenues, the Controller shall only include revenues received by the City which are unrestricted and may be used at the option of the Mayor and the Board of Supervisors for any lawful City purpose. Errors in the Controller's estimate of discretionary revenues for a fiscal year shall be corrected by adjustment in the next year's estimate.

2. An adjustment shall also be made for any increases in General Fund appropriations to the Agency in subsequent years to provide continuing services not provided in the Base Year, but excluding additional appropriations for one-time expenditures such as capital expenditures or litigation judgments and settlements.

(d) The Treasurer shall set aside and maintain the amounts required to be set aside by this Section, together with any interest earned thereon, in the Municipal Transportation Fund, and any amounts unspent or uncommitted at the end of any fiscal year shall be carried forward, together with interest thereon, to the next fiscal year for the purposes specified in this Article.

(e) It is the policy of the City and County of San Francisco to use parking-related revenues to support public transit. To that end, the following parking-related revenues deposited in the Transportation Fund shall be used to support the capital and operating expenses arising from the Agency's transit functions:

1. Revenues from parking meters, except those amounts collected from parking meters operated by the Recreation and Park Department and the Port Commission and except to the extent that they are required by law to be dedicated to other traffic regulation and control functions;

2. Revenues from off-street parking facilities under the jurisdiction of the Agency (excluding facilities owned by the Parking Authority), including facilities leased to private owners and non-profit corporations, except those amounts generated from any parking on or below any land or facilities under the jurisdiction of the Recreation and Park Department and except those amounts obligated by contract executed before 1993 to pay debt service;

3. Revenues from fines, forfeited bail, or penalties for parking violations, except those amounts to be credited to the courthouse construction fund as provided in Administrative Code Section 10.117-35.

(f) In addition, there is hereby set aside from the general revenues of the City and County and deposited in the Transportation Fund to support the Agency's transit services an amount equivalent to 80 percent of the revenues received from the City's tax on occupation of parking spaces. Additional amounts appropriated as a result of this subsection after July 1, 2008 which were not previously available to support transit service shall be used exclusively to:

1. support implementation of the transit service improvements recommended by the Transit Effectiveness Project or any subsequent system-wide route and service evaluation, with first priority

given to the hiring of full time on-going staff and expansion of training for Agency employees, supervisors and managers; and

2. support the creation of a Labor-Management Implementation and Service Improvement Committee consisting of the Director of Transportation and a designated representative of each union representing Agency employees. This committee shall meet quarterly to discuss implementation of this Section and ongoing system challenges.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

SEC. 8A.106. BUDGET.

The Agency shall be subject to the provisions of Article IX of this Charter except:

(a) No later than May 1 of each even-numbered year, after professional review, public hearing and after receiving the recommendations of the Citizens' Advisory Council, the Agency shall submit its proposed budget with annual appropriation detail in a form approved by the Controller for each of the next two fiscal years to the Mayor and the Board of Supervisors for their review and consideration. The Agency shall propose a budget that is balanced without the need for additional funds over the Base Amount, but may include fare increases and decreases, and reductions or abandonment of service. The Mayor shall submit the budget to the Board of Supervisors, without change. Should the Agency request additional general fund support over the Base Amount, it shall submit an augmentation request for those funds in the standard budget process and subject to normal budgetary review and amendment under the general provisions of Article IX.

(b) At the time the budget is adopted, the Agency shall certify that the budget is adequate in all respects to make substantial progress towards meeting the performance standards established pursuant to Section 8A.103 for the fiscal year covered by the budget.

(c) No later than August 1, the Board of Supervisors may allow the Agency's budget to take effect without any action on its part or it may reject but not modify the Agency's budget by a seven-elevenths' vote. Any fare change, route abandonment, or revenue measure proposed in the budget shall be considered accepted unless rejected by a seven-elevenths' vote on the entire budget. Should the Board reject the budget, it shall make additional interim appropriations to the Agency from the Municipal Transportation Fund sufficient to permit the Agency to maintain all operations through the extended interim period until a budget is adopted. Any request for appropriation of General Fund revenues in excess of the Base Amount shall be approved, modified, or rejected under the general provisions of Article IX.

(d) No later than May 1 of each odd-numbered year, the Agency shall submit any budget amendment that may be required to increase appropriations over those approved in the two year budget or as may be required by law, provided that such budget amendment shall establish a detailed plan with appropriation detail only for those anticipated revenues and expenditures exceeding those approved in the two year budget or as otherwise required by law. The Agency may submit to the Board of Supervisors such additional budget amendments or modifications during the term of the budget, including but not limited to amendments reflecting fare changes, route abandonments and revenue measures, as may be required in the discretion of the Agency. The Board of Supervisors may allow any budget amendment to take effect without any action on its part or it may reject but not modify the budget amendment by a seven-elevenths' vote taken within 30 days after its submission to the Board of Supervisors.

(e) Notwithstanding any other provisions of this Charter or requirements of the Annual Salary Ordinance, the Controller may authorize the Agency to move funds within its budget and hire personnel without specific Controller approval so long as the Agency's periodic and verifiable projections of spending by the Agency show the Controller that the Agency's spending will be within the approved budget. However, should the projections show that the Agency spending is likely to exceed its budget, the Controller may impose appropriate controls in his or her discretion to keep the Agency within budget.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

SEC. 8A.107. MUNICIPAL TRANSPORTATION QUALITY REVIEW.

(a) The Agency shall biennially contract with a nationally recognized management or transportation consulting firm with offices in the City and County for an independent review of the quality of its operations. The contract shall be competitively bid and approved by the Controller and Board of Supervisors. The review shall contain:

1. A detailed analysis of the extent to which the Agency has met the goals, objectives, and performance standards it is required to adopt under Section 8A.103, and the extent to which the Agency is expected to meet those goals, objectives, and performance standards in the two fiscal years for which the review is submitted, and independent verification of the Agency's reported performance under the performance measures adopted pursuant to Section 4 of this measure; and

2. Such recommendations for improvement in the operation of the Agency as the firm conducting the review deems appropriate.

(b) The results of the review shall be presented promptly to the Citizens' Advisory Council, the Agency, the Board of Supervisors, and the Mayor by the reviewing firm; and the Citizens' Advisory Council, the Agency, and the Board of Supervisors shall each promptly hold at least one public hearing thereon.

(Added November 1999)

SEC. 8A.108. FARE CHANGES AND ROUTE ABANDONMENTS.

(a) Except as otherwise provided in this Section, any proposed change in fares or route abandonments shall be submitted to the Board of Supervisors as part of the Agency's budget or as a budget amendment under Section 8A.106, and may be rejected at that time by a seven-elevenths vote of the Board on the budget or budget amendment. Any changes in fares or route abandonments proposed by the Agency specifically to implement a program of service changes identified in a system-wide strategic route and service evaluation such as the Transit Effectiveness Project may only be rejected by a single seven-elevenths' vote of the Board of Supervisors on the budget or budget amendment.

(b) The Agency shall base any proposed change in Municipal Railway fares on the following criteria:

1. The Municipal Railway's need for additional funds for operations and capital improvements

and optimal maintenance of assets.

2. The extent to which the increase is necessary to meet the goals, objectives, and performance standards previously established by the Agency pursuant to Section 8A.103.

3. The extent to which the Agency has diligently sought other sources of funding for the operations and capital improvements of the Municipal Railway.

4. The need to keep Municipal Railway fares low to encourage maximum patronage.

5. The need to increase fares gradually over time to keep pace with inflation and avoid large fare increases after extended periods without a fare increase.

(c) For purposes of this Article, a "route abandonment" shall mean the permanent termination of service along a particular line or service corridor where no reasonably comparable substitute service is offered. If the Agency proposes to abandon a route at any time other than as part of the budget process as provided in Section 8A.106, it shall first submit the proposal to the Board of Supervisors. The Board of Supervisors may, after a noticed public hearing, reject the proposed route abandonment by a seven-elevenths vote of its members taken within 30 days after the proposal is submitted by the Agency.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

SEC. 8A.109. ADDITIONAL SOURCES OF REVENUE.

(a) To the extent allowed by law, the Board of Supervisors may, by ordinance, dedicate to the Agency revenues from sources such as gas taxes, motor vehicle licensing taxes or other available motor vehicle-related revenue sources.

(b) The Mayor, the Board of Supervisors, and the Agency diligently shall seek to develop new sources of funding for the Agency's operations, including sources of funding dedicated to the support of such operations, which can be used to supplement or replace that portion of the Municipal Transportation Fund consisting of appropriations from the General Fund of the City and County. Unless prohibited by preemptive state law, the Agency may submit any proposal for increased or reallocated funding to support all or a portion of the operations of the Agency, including, without limitation, a tax or special assessment directly to the electorate for approval, or to the owners of property or businesses to be specially assessed, or to any other persons or entities whose approval may be legally required, without the further approval of the Mayor or the Board of Supervisors. The Agency shall be authorized to conduct any necessary studies in connection with considering, developing, or proposing such revenue sources.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

SEC. 8A.110. PLANNING AND ZONING.

The planning and zoning provisions of this Charter and the Planning Code, as they may be amended from time to time, shall apply to all real property owned or leased by the Agency but shall not impede the Agency's exclusive authority to set rates and other charges pursuant to Section 8A.102(b)(5).

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

SEC. 8A.111. CITIZENS' ADVISORY COUNCIL.

The Agency shall establish a Citizens' Advisory Council of fifteen members which shall consist of one person appointed by each member of the Board of Supervisors and four members appointed by the Mayor. Each member must be a resident of the City and County. No fewer than ten members of the Council must be regular riders of the Municipal Rail-way. At least two members must use the Municipal Railway's paratransit system, and at least three of the members must be senior citizens over the age of 60. The membership of the Council shall be reflective of the diversity and neighborhoods of the City and County. The Council may provide recommendations to the Agency with respect to any matter within the jurisdiction of the Agency and shall be allowed to present reports to the Agency's board of directors. The members of the Council shall be appointed to four-year terms and shall serve at the pleasure of their appointing power. Staggered terms for the initial appointees to the Council shall be determined by lot.

(Added November 1999)

SEC. 8A.112. PARKING AND TRAFFIC

(a) The Municipal Transportation Agency Board of Directors shall succeed to all powers and duties of the former Parking and Traffic Commission, including the power of members to serve ex officio as members of the Parking Authority Commission under Section 32657 of the Streets and Highways Code. The chair of the Agency's board of directors shall designate annually the directors to serve as members of the Parking Authority Commission. Any person may serve concurrently as a member of the Agency's board of directors and as a member of the Parking Authority Commission. It is the policy of the City and County that the Agency exercise all powers vested by State law in the Parking Authority.

(b) It shall be City policy that the offices of Director of Transportation and Parking Authority Executive Director are not incompatible offices, and the Director of Transportation may serve ex officio as Parking Authority Executive Director, but shall not receive any additional compensation for that service.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

SEC. 8A.113. PARKING AND TRAFFIC; GOVERNANCE.

(a) The Agency shall be responsible for management of parking and traffic functions within the City, so as to:

1. Provide priority to transit services in the utilization of streets, particularly during commute hours while maintaining the safety of passengers, pedestrians, cyclists and motorists;
2. Facilitate the design and operation of City streets to enhance alternative forms of transit, such as pedestrian, bicycle, and pooled or group transit (including taxis);
3. Propose and implement street and traffic changes that gives the highest priority to public safety and to impacts on public transit, pedestrians, commercial delivery vehicles, and bicycles;

4. Integrate modern information and traffic-calming techniques to promote safer streets and promote usage of public transit;
5. Develop a safe, interconnected bicycle circulation network; and
6. Ensure that parking policies and facilities contribute to the long term financial health of the Agency.

(b) It shall be City policy that the Agency manage the Parking Authority so that it does not acquire or construct new or expanded parking facilities unless the Agency finds that the costs resulting from such acquisition, construction, or expansion and the operation of such facilities will not reduce the level of funding to the Municipal Railway from parking and garage revenues under Section 16.110 to an amount less than that provided for fiscal year 1999-2000, as adjusted by the Controller for inflation; further provided that it shall be City policy that before approving the acquisition, construction or expansion of a parking garage, the Agency's Board of Directors shall make a finding that the operation of the garage will advance or be consistent with the City's Transit First Policy.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

SEC. 8A.114. CABLE CARS.

In the conduct of the public transportation system there shall be maintained and operated cable car lines as follows:

1. A line commencing at Powell and Market Streets; thence along Powell Street to Jackson Street; thence along Jackson Street to Mason Street; thence along Mason Street to Columbus Avenue; thence along Columbus Avenue to Taylor Street; thence along Taylor Street to a terminal at Bay Street; returning from Bay and Taylor Streets along Taylor Street to Columbus Avenue; thence along Columbus Avenue to Mason Street; thence along Mason Street to Washington Street; thence along Washington Street to Powell Street; and thence along Powell Street to Market Street, the point of commencement.
2. A line commencing at Powell and Market Streets; thence along Powell Street to Jackson Street; thence along Jackson Street to Hyde Street; thence along Hyde Street to a terminal at Beach; returning from Beach and Hyde Streets along Hyde Street to Washington Street; thence along Washington Street to Powell Street; thence along Powell Street to Market Street, the point of commencement.
3. A line commencing at Market and California; thence along California Street to a terminal at Van Ness Avenue; returning from Van Ness Avenue along California Street to Market Street, the point of commencement.

To fully effectuate the intent of this section, these lines shall be maintained and operated at the normal levels of scheduling and service in effect on July 1, 1971; provided, however, that nothing herein contained shall prevent the increasing of the levels of scheduling and service.

(Amended by Proposition A, Approved 11/6/2007)

Editor's Note:

Formerly Sec. 16.100.

SEC. 8A.115. TRANSIT-FIRST POLICY.

(a) The following principles shall constitute the City and County's transit-first policy and shall be incorporated into the General Plan of the City and County. All officers, boards, commissions, and departments shall implement these principles in conducting the City and County's affairs:

1. To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods.
2. Public transit, including taxis and vanpools, is an economically and environmentally sound alternative to transportation by individual automobiles. Within San Francisco, travel by public transit, by bicycle and on foot must be an attractive alternative to travel by private automobile.
3. Decisions regarding the use of limited public street and sidewalk space shall encourage the use of public rights of way by pedestrians, bicyclists, and public transit, and shall strive to reduce traffic and improve public health and safety.
4. Transit priority improvements, such as designated transit lanes and streets and improved signalization, shall be made to expedite the movement of public transit vehicles (including taxis and vanpools) and to improve pedestrian safety.
5. Pedestrian areas shall be enhanced wherever possible to improve the safety and comfort of pedestrians and to encourage travel by foot.
6. Bicycling shall be promoted by encouraging safe streets for riding, convenient access to transit, bicycle lanes, and secure bicycle parking.
7. Parking policies for areas well served by public transit shall be designed to encourage travel by public transit and alternative transportation.
8. New transportation investment should be allocated to meet the demand for public transit generated by new public and private commercial and residential developments.
9. The ability of the City and County to reduce traffic congestion depends on the adequacy of regional public transportation. The City and County shall promote the use of regional mass transit and the continued development of an integrated, reliable, regional public transportation system.
10. The City and County shall encourage innovative solutions to meet public transportation needs wherever possible and where the provision of such service will not adversely affect the service provided by the Municipal Railway.

(b) The City may not require or permit off-street parking spaces for any privately-owned structure or use in excess of the number that City law would have allowed for the structure or use on July 1, 2007 unless the additional spaces are approved by a four-fifths vote of the Board of Supervisors. The Board of Supervisors may reduce the maximum parking required or permitted by this section.

(Amended by Proposition A, Approved 11/6/2007)

Editor's Note:

Formerly Sec. 16.102.

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EXHIBIT D

Rule 417

Probationary Period

Applicability: Rule 417 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

Sec. 417.1 **Requirement for a Probationary Period**

Sec. 417.2 **Definition of Probationary Period**

Sec. 417.3 **Appointments Subject to the Probationary Period**

Sec. 417.4 **Extension of the Probationary Period to Obtain License or Certificate**

Sec. 417.5 **Credit for Probationary Period**

Sec. 417.6 **Successive Probationary Appointment**

Sec. 417.7 **Report of Completion of Probationary Period**

Sec. 417.8 **Voluntary Resumption of the Probationary Period**

Sec. 417.9 **Release of Employee During the Probationary Period**

Rule 417

Probationary Period

Applicability: Rule 417 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

Sec. 417.1 Requirement for a Probationary Period

417.1.1 An person appointed to a permanent civil service position shall serve a probationary period.

417.1.2 Nothing in these provisions is intended to infringe upon or restrict the authority of an appointing officer in releasing a probationary employee as provided in these Rules.

Sec. 417.2 Definition of Probationary Period

417.2.1 The probationary period is defined as the final and most important phase of the selection process and is to be used for evaluating the performance of an employee in the position to which appointed; and

417.2.2 A period of regularly scheduled hours worked, excluding any time off for leave, vacation, other types of time off (not including legal holidays), or overtime.

Sec. 417.3 Appointments Subject to the Probationary Period

A probationary period is required for all of the following types of permanent appointments:

417.3.1 Appointment from an eligible list;

417.3.2 Appointment following layoff or involuntary leave when the appointment is to a class and/or department other than the one from which laid off, or when a probationary period has not been previously served in the class and department;

417.3.3 Appointments by transfer to a position in the same class in another department, status transfer under the status rights of Americans With Disabilities Act provisions of these Rules, or technological transfer;

417.3.4 Reappointment of resignees;

417.3.5 Reinstatement at the request of the employee to a permanent position in a former class in a department other than a department in which the probationary period had been completed in this former class;

Sec. 417.3 **Appointments Subject to the Probationary Period (cont.)**

- 417.3.6** Advancement from a part-time position to a full-time position except if the employee had previously served a probationary period in a full-time position in the same class in the same department;
- 417.3.7** Reversion by a promotive probationary employee to a position in a former class in which the probationary period has been completed, except if the employee has previously served a probationary period in the same department in that class.

Sec. 417.4 **Extension of the Probationary Period to Obtain License or Certificate**

The MTA Director of Transportation (appointing officer) may extend the probationary period of a probationary appointee for up to a maximum of twelve (12) calendar months in order to allow the employee time in which to obtain required licenses and/or certificates.

Sec. 417.5 **Credit for Probationary Period**

- 417.5.1** Time served while on leave of absence to serve under exempt, temporary civil service, or provisional appointment within MTA in another class during the probationary period may be counted toward the completion of the probationary period for the class from which leave was granted. Records shall be maintained and placed in the employee's personnel file.
- 417.5.2** The MTA Director of Transportation/Designee may credit as probationary time served, an employee's prior full-time service in a permanent position in the same class, excluding probationary time. Such credits shall not exceed one-half (1/2) of the required length of the probationary period.
- 417.5.3** The MTA Director of Transportation/Designee may credit periods of limited-term transfer toward the completion of the probationary period as provided in the transfer provisions of these Rules.

Sec. 417.6 **Successive Probationary Appointment**

With the approval of the MTA Director of Transportation/Designee, and with the concurrence of the employee, the employee's probationary period may be renewed. The MTA Director of Transportation/Designee shall establish the administrative process and procedures for accomplishing such successive probationary appointments.

Sec. 417.7 **Report of Completion of Probationary Period**

The MTA Director of Transportation/Designee shall notify the appointee upon completion of an appointee's probationary period.

Sec. 417.8 **Voluntary Resumption of the Probationary Period**

417.8.1 When agreed upon by the MTA Director of Transportation/Designee and an employee, a permanent employee past the probationary period may voluntarily agree to serve a new probationary period in lieu of the department dismissing the employee.

417.8.2 The duration of the resumed probationary period shall not exceed six (6) calendar months.

417.8.3 During this resumed probationary period, should the employee fail to abide by the terms and conditions of the probationary period set by the department, subsequent action may be taken.

417.8.4 This resumed probationary period is subject to all terms and conditions of a probationary period as provided elsewhere in these Rules.

Sec. 417.9 **Release of Employee During the Probationary Period****417.9.1** **Authority and procedures for release of probationary employee.**

1) An employee may be released by the MTA Director of Transportation/Designee at any time during the probationary period upon written notice to the employee.

2) Consistent with these Rules and subject to the approval of the Commission, the MTA Director of Transportation/Designee shall establish and promulgate procedures for administering and processing the release of probationary employees.

417.9.2 **Release of probationary employee for disciplinary reasons.**

1) If the release of a probationary employee is for disciplinary reasons, a determination of the employee's future employability shall be as provided in this section.

2) The decision on future employability reached through the procedures established under these Rules shall be final and shall not be subject to reconsideration.

Sec. 417.9 **Release of Employee During the Probationary Period (cont.)**

417.9.2 Release of probationary employee for disciplinary reasons. (cont.)

3) The Executive Officer shall establish and promulgate the administrative process and procedures including the time frame for filing requests for future employability hearings.

417.9.3 Reversion to Former Class - Released Promotive Probationary Employee.

1) Except if the release is for disciplinary reasons and subject to approval of the MTA Director of Transportation/Designee, an employee released during a promotive probationary period shall revert to a position in the class from which promoted. If necessary, displacements in the former class shall occur.

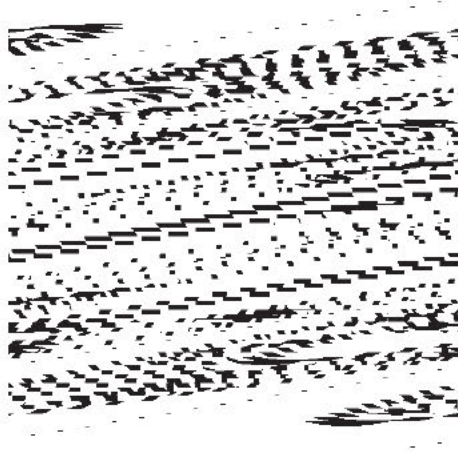
2) Except for reasons beyond the control of the Commission or the MTA Director of Transportation/Designee, reversion of a released promotive probationary employee shall be accomplished not later than thirty (30) days from the effective date of the employee's release.

3) The MTA Director of Transportation/Designee shall establish and promulgate the administrative process and procedures for the reversion of a released promotive probationary employee.

EXHIBIT E

San Francisco Municipal Railway

Rules and Instructions Handbook



**SAN FRANCISCO MUNICIPAL RAILWAY
RULES & INSTRUCTIONS HANDBOOK**

PREFACE

All MUNI employees are responsible for providing safe, efficient and courteous service to our passengers. As employees of MUNI, it is our duty to perform our duties with pride, courtesy, and attention toward providing safe and reliable transportation to our passengers.

The customers we serve expect and deserve employees who are neat in appearance, friendly, courteous, and who execute their duties in a competent and professional manner.

This Rules and Instructions Handbook sets forth the standards that govern the conduct of employees in the performance of their duties.

It is important that employees understand and comply with the rules and instructions contained herein.

Michael T. Burns
General Manager

Lisa A. Mancini
Chief Operating Officer

**SAN FRANCISCO MUNICIPAL RAILWAY
RULES & INSTRUCTIONS HANDBOOK**

No. _____

Revised: July 2000

This handbook is the Property of San Francisco
Municipal Railway (SF MUNI). It must be returned
when requested or when the employee leaves the
service of SF MUNI.

Issued to: _____

Handbook Serial No: _____

Department: _____

No. _____

Receipt

I acknowledge receipt of the
Rules & Instructions Handbook for employees.

Name: _____

Date Issued: _____

Handbook Serial No: _____

Department: _____

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1. DEFINITIONS

Absence Without Leave (AWOL) – Failure to report or notify as required at time indicated on schedules or detail list.

Accident – An unforeseen event or occurrence which causes injury, death, contact, or damage to property.

Active Cab – The compartment of a car from which control is achieved.

Advanced Train Control System (ATCS) – A signal system which uses a moving block signal system. This allows the maximum allowable trains to enter the subway system by decreasing the distance between trains without violating safety.

Automatic Speed Control (ASC) – A system that prevents trains from exceeding permissible speeds as designated by an on-board CAB signal indication panel light and equipment.

Automatic Train Control (ATC) – The system for automatically controlling train movement, enforcing train safety, and directing train operations. ATC includes subsystems for automatic train operation, train protection, and line supervision. On MUNI's SLRV, a system that provides for a safe operation of trains (1-4 cars coupled) by means of CAB signals and ASC.

Automatic Train Protection (ATP) – That subsystem within ATCS which maintains safe train operation through a combination of train detection, train separation and interlocking.

Avoidable Accident Policy – An avoidable accident is generally defined as any accident involving a MUNI vehicle which results in property damage and/or personal injury and in which the operator failed to exercise proper precautions to prevent the accident.

Block – A length of track of defined limits, the use of which is governed by block signals, CAB signals, or both or other set procedures.

Blue Light Phone – Emergency communications telephone located in the subway and designated by a blue light.

Boundary Block – A block specifically included to establish the end of a train entering/exiting ATCS territory.

Bumper Bar – A device found in the Cable Car tracks that forces the rope out of the grip if grip person does not release control before a certain location is reached.

Bumping Post – A structure at the end of the tracks to prevent trains from leaving the end of the track.

CAB Signal Mode – A form of manual train control wherein the operator controls the speed of the train in accordance with signal aspects displayed on the CAB signal indicator.

Call On – Manual activation of the signal system to establish a red over green or red over yellow wayside signal authorizing operator to enter an occupied platform.

Car – A self propelled vehicle operating on tracks.

Catenary – An overhead wire from which a rail vehicle collects propulsion and auxiliary power.

Clear Aspect – The aspect of a signal that conveys an indication that the train may proceed past the signal.

Clearance Line – A location allowing for safe passage of a train or another vehicle.

Cleared Signal – A signal that displays a ‘two aspect’ set of lights that indicates the allowed route that must be used.

Closed Track – A track in which automatic mode trains are prevented from operating.

Coasting – Vehicle moves by gravity with power removed or poles lowered. Cable Car – Cable Car moves by gravity without the cable.

Communicating Cut-Out Train (CCT) – A train being manually driven by the operator, but its VOBC is still communicating with the VCC.

Consist – See train.

Console – The control panel in the cab.

Coupler – A device at each end of the LRV for joining together mechanically, electrically, and pneumatically with another LRV.

Crew – A grip person and a conductor.

Crossover – Two turn outs, with track between the frogs, arranged to form a continuous passage between two parallel tracks.

Cut-Out Mode – A train driven manually by an operator who operates *on sight*.

Deadman Control – A pressure or activity activated device to detect inattention or disability of a train operator.

De-energize – To remove electrical power.

Depression Beam – A beam located at the bottom of hills and used to hold the cable under the slot rail. It has movable parts to allow grip to pass through.

Depression Hatch Cover – Cover that allows for accessing the depression beam.

Derailment – The condition of rolling equipment leaving the rails.

Dips – Track depression in the roadway that brings grip to cable depth to allow grip person to pick up cable.

Dispatcher – The person at the division level responsible for scheduling work assignments for operators, filling open runs, and ensuring that operators report for work as scheduled.

Disturbed Block – A condition in which the axle counter block status is unknown or unacceptable to the VCC.

Driver Display Unit (DDU) – Provides a visual, textual indication of the train operating data to the train operator.

Dwell Time – The elapsed time between doors opening and doors closing.

Emergency – Any condition that has caused or could cause injury to personnel or damage to property and/or equipment.

Emergency Braking (EB) – An irretrievable braking application used for emergency conditions activated by the Emergency Device.

Emergency Vehicle – Official emergency responder or police vehicle with running red lights and or sirens.

Employee – Any person employed by the San Francisco Municipal Railway.

Entry Point – A location on the trackway that can be used to re-initialize the VOBC positioning system and enter the vehicle in the VCC database.

Failed Train – A train that had successfully entered the ATCS system and then experienced the failure of all VOBCs.

Flagging Protection – Flags, lights, or cones used by work crews for protection while working on or about the track.

Green Over Yellow – Signal to proceed without CAB signal control, a diverge (or crossing) move through an interlocking.

Grip – Mechanism on board the Cable Car that grips the underground cable, which in turn provides motive power for the Cable Car.

Grip Take-Out Hatches – Access points throughout the system to allow grip replacement on the road.

Grip Slot – Guideway where grip runs in service, also known as slot rail.

Grip Person – The person who operates and controls the Cable Car by use of a device called a grip which is used to grab the rope and propel the Cable Car up to cable speed.

Gypsy – A device under the Cable Car tracks that raises a moveable pulley which in turn elevates the cable toward the top of its channel to allow the grip person to capture the cable with the grip.

Hand Signal – A signal used to govern train movement by the motion or position of a person's hand or arm.

Headway –The time interval between successive vehicles both traveling in the same direction on the same route measured from the time the head end of the leading vehicle passes a given reference point to the time the head end of the vehicle immediately following passes the same reference point.

Hi-Rail Equipment – Any rubber tire vehicle with the capability of lowering auxiliary wheels onto standard gauge track and operating in a rail environment.

Hook – Metal bar with a curved lower surface used to pull cable into the grip dies.

Horn Key – L-shaped retainer that secures the grip to the Cable Car.

Incident – An unforeseen event or occurrence which does not necessarily result in death, injury, contact, or property damage.

Interlocking – An arrangement of switches and signals interconnected to provide a route for trains and to prevent conflicting train movements.

Junctions – Areas where a trackway crosses another trackway.

Lead cab – See active cab.

Leave Car House – To exit building and begin revenue service or testing.

Let-go – The act of releasing cable from the grip.

Light Rail Vehicle (LRV) – An electrically propelled, passenger carrying rail vehicle.

Locator Markers – Numbered signs on the wall of the subway identifying the location of a train in the subway other than at station.

Maximum Authorized Speed – The highest speed limit which is authorized for a particular section of track.

Non-Communicating Cut-Out Train (NCT) - A train being manually driven by the operator which has a failed VOBC.

Normal Speed – Allowable speed up to a governed limit except where restrictions have been imposed.

Official Railway Time – Pac Bell time.

On Sight – *Operate on sight* in cut-out mode, bypass mode, or without CAB signals, not to exceed 27 mph.

Operate on Sight – At a speed that will permit stopping within one-half the range of vision of another train, stop signal, switch not properly aligned, track defect or obstruction.

Operations Control Center (OCC) – The primary location for controlling, monitoring and dispatching the entire MUNI system.

Operator – Employee on board the vehicle who has direct and immediate control over operation of the vehicle.

Outfit – A packet of information given to the operator at pull-out time that contains transfers, a paddle and any new bulletins or notices pertaining to operations, etc.

Pantograph – A device used for electrical current collection from a catenary system.

Pick-up (take rope) – Dip or gypsy point where Cable Car picks up cable. The dip lowers grip to cable. Gypsy lifts cable to grip.

Platform – Station structure adjacent to the trackway from which passengers board or disembark a rail vehicle.

Portal – A point at which the train enters or leaves a subway or tunnel.

Proper Authority – Authorized MUNI personnel who have the power to give orders, clear accidents, or give directions in order to clear delays, restore service and enforce safety rules.

Pull- In Time – The scheduled time a run is due back at the yard.

Pull-Out Time – The scheduled time at which the operator must leave the yard or barn.

Rear Brake – Conductor controlled brake.

Rear Platform – Deck at the rear of Powell type cars, allows entrance and exit for Cable Car. It is also the location of the rear brake control.

Red Over Green – Call-on, main (or straight) move through an interlocking at restricted speed being prepared to stop before another train or obstruction (this signal is only issued at the Embarcadero station).

Red Over Red – Stop.

Red Over Yellow – Call on, diverge or crossing move through an interlocking at restricted speed being prepared to stop before another train or obstruction. This signal is only issued at the Embarcadero Station and the Van Ness storage track.

Restricted Speed – *Operate on sight*, not to exceed 10 mph.

Reverse Running – The operation of a train in the direction opposite to the normal direction.

Right of Way – A general term denoting land, property usually a strip, acquired for or devoted to transportation purposes.

Round Trip – Service from one terminal to another in a given direction and back.

Rule – A written directive regulating the action or conduct of employees.

Run – Each vehicle on a given line or route is a separate assignment. Each assignment involves many trips back and forth along the line's route, also a work assignment.

Running Time – The scheduled elapsed time between certain points along each route.

Safety Latch – Device in the slot that prevent the Cable Car from rolling back from the top of a steep grade.

Safety Sensitive Employee – Refer to SF MUNI Drug and Alcohol policy.

Signal Aspect – The display or presentation of a signal that provides an indication.

Signal Indication – The information conveyed by the aspect of a signal.

Signal Tower – Controls all inbound and outbound Cable Car movement at Powell and California streets.

Sign-up – The method used by employees to choose work assignments.

Skinning Cable – When the cable is held by grip in partial release position, (12 o'clock) and car is moving faster than 91/2 miles per hour.

Slot Rail (grip slot) – A rail in between running rails of a Cable Car that keeps the grips in-line with the cable.

Slow Zone – An area within defined limits where rail equipment speed is reduced for a specific purpose.

Stop Bar – Painted line between rails that indicate stops.

Switch – A device enabling rail vehicle movement to transfer from one track/overhead to another (see turnout).

Switch, Facing Point – A switch aligned such that the switch points face toward the approaching train movement.

Switch, Trailing Point – A switch aligned such that the switch points face away from the approaching train movement.

Switchback – A means to go from one direction to another.

Target Point – The absolute location on the trackway to which a vehicle is commanded to proceed by the VCC.

Terminals – Begin and end points on a line.

Track Brakes – Wooden shoes that apply to rails for braking.

Trailing Car – Car(s) that is coupled and trainlined to a lead car, which controls train movement.

Train – A single car or multiple car trainlined into an operating unit.

Train Controller – The supervisor responsible for overseeing light rail system operations.

Train ID Number – The run's train number derived from the schedule.

Trainline – Circuits routed through cars by means of couplers or jumper cables so that power or control signals may be transmitted to other cars or the train.

Turnout – A track arrangement of a switch and frog (with guardrails) by means of which trains may be diverted from one track to another.

Turntables – Manually operated platforms that turn the Cable Car around to the opposite direction.

Vehicle Control Center (VCC) – The central train control system facility that provides control of vehicle movements and switch settings within its control area.

Vehicle On-Board Controller (VOBC) – A vital microprocessor-based unit on each vehicle which interprets commands from the VCC, controls vehicle movements according to these commands, and reports vehicle status back to the VCC.

Vetag – A means of automatically controlling switches and other wayside equipment.

Wayside Sign – A fixed sign along the right of way conveying operational information to the train operator.

Work Area – An area clearly defined by location markers, stations, or interlocking(s). When a station is used as the limit of a work area, a train may operate within the clearance boundaries only as authorized by the Operations Control Center Superintendent and in coordination with the person or unit having the clearance.

Work Times – The time a train, equipment, or personnel is allowed in or to pass through an area specified by the clearance.

Yard - Storage area for vehicles.

2. GENERAL RULES

2.1 Application Of Rules

2.1.1 Employees, whose duties are prescribed by these rules, will be provided with a copy of the San Francisco Municipal Railway Rulebook and Instruction Handbook.

2.1.2 Employees must have a copy of this Rules & Instruction Handbook available for immediate reference.

2.1.3 All employees will be held accountable for compliance with all rules in the San Francisco Municipal Railway Rules and Instruction Handbook.

2.1.4 When new rules or amended rules are adopted, employees will be furnished a new page(s), which must be inserted in the rulebook. All revisions to this Rules and Instructions Handbook must be promptly complied with.

2.1.5 Violation of any rule in this Rules and Instructions Handbook is sufficient cause for disciplinary action up to and including dismissal.

2.1.6 If in doubt as to the exact meaning of any rule, bulletin, instruction, order or notice in effect, apply to the proper authorities for explanation.

2.1.7 Adherence to these rules is essential to safety and safety is the primary importance in the performance of duties.

2.1.8 Employees must respond to inspectors or designated management officials' instructions during situations constituting an emergency or a major disruption of service regardless of job classification.

2.2 Bulletins, Orders, and Notices

2.2.1 Written instruction, rules, procedures, bulletins, notices and written and verbal

orders apply to all employees whose duties they affect and must be obeyed. All Bulletins, orders, and notices are numbered consecutively from January 1 of each year.

2.2.2 Notices will be issued regarding sign-ups, special events, emergencies and the dates new or amended rules are adopted and become effective.

2.2.3 General Bulletin is a written instruction issued by the Chief Operating Officer or General Superintendent, which contains a permanent change or addition to the SF MUNI Rules and Instructions for Operations.

2.2.4 Divisional Bulletin is a written instruction issued by the General Superintendent or Superintendent of a specific division affecting the operations and/or procedures of that particular division, usually for a limited and stated period of time.

2.2.5 General Order is a written instruction issued by the General Manager or Chief Operating Officer and pertains to items which affect operation of vehicles (other than temporary speed restrictions), and are of a permanent or semi-permanent nature. Topics for General Orders may include:

- A. Scheduled adjustments;
- B. Special schedules;
- C. Special vehicle Movements;
- D. Placing into service new or modified equipment;
- E. Changes to operating procedures or issuance of new Standard Operating Procedures (SOPs) and Emergency Operating Procedures (EOPs);
- F. Rule Book changes.

2.2.6 Special Order is a written instruction issued by the General Superintendent of a specific division. They pertain to items which affect vehicles (other than temporary speed restrictions), and are of a permanent or semi-permanent nature. Topics for special orders may include:

- A. Schedule adjustments;
- B. Special vehicle movements;
- C. Placing into service new or modified equipment.

2.2.7 Notices will be issued over the signature of the Chief Operating Officer or the General Superintendent of a specific division and will contain instructions or information for employees.

2.2.8 Employees receiving bulletins or orders from the proper authority must formally acknowledge their receipt and understanding of the document.

2.2.9 Employees returning from a period off duty are responsible for compliance with any Bulletins or Orders posted during their absence.

2.2.10 Operators must operate vehicles and equipment according to Rules, Bulletins, Standard Operating Procedures, and other authorized instructions.

2.2.11 Operators returning to duty after a period off of 60 days or more must be reexamined and requalified in the rules.

2.3 Duties

2.3.1 Employees who change assignments must familiarize themselves with the rules affecting their new assignments, such as right-of-way rules, operating and maintenance equipment, routes, stops, fare structure, etc.

- 2.3.2** Employees must comply with Civil Service Commission Rules before engaging in additional employment outside of the Municipal Railway.
- 2.3.3** Employees must examine the bulletin board each working day prior to operating a vehicle.
- 2.3.4** Employees subject to these rules must not allow anyone, unless properly authorized, to perform any part of their duties.
- 2.3.5** Participation in any unauthorized activity, while on duty or on the property, that may interfere with the primary function or the proper work performance of another employee or in any way compromises safety for the employee or the public is prohibited.

2.4 Record of Employees

- 2.4.1** A personnel record is kept of every employee from the day he/she enters service. Employees may examine their full personnel record under authorized supervision. Records are confidential, except as otherwise provided by law and if an employee so desires, an employee representative may be present during the examination.
- 2.4.2** Employees of the Railway must provide their current home address and telephone number to their Division Dispatcher and promptly report any change of either on forms provided for this purpose.
- 2.4.3** Operators are required to notify supervisors of any change in Driver's License status.

2.5 Leave Of Absence

- 2.5.1** Leave of absence will be granted in accordance with Charter, Ordinances, Civil Service and Municipal Railway regulations. All leave of absence must be approved by proper authority.

2.5.2 Employees who are absent for more than five consecutive working days must file a properly executed application for sick leave or other leave of absence. The application must be filed before or immediately following the fifth day of absence.

2.5.3 On returning from sick leave after an absence of more than five consecutive working days, an employee must have approval to return to work from a doctor. On the day prior to the intended day to return to work, the employee must report to his/her division with a medical clearance from a doctor.

A. If the doctor's clearance is received by the Division Dispatcher before 12:30 PM, the Transit Operator will be assigned to his/her regular run on the next scheduled work day.

B. If the doctor's clearance is received by the Division Dispatcher after 12:30 PM, the Transit Operator shall be placed on report (or assigned to other work), at a time designated by the Division Dispatcher, on the next scheduled work day.

2.5.4 Employees who are absent due to an Industrial Accident, regardless of the length of the absence, are to report to their Worker's Compensation Unit with a medical clearance.

2.5.5 Employees who have been on leave of absence for any cause exceeding sixty days must report to MUNI Headquarters, Operations Division, before returning to work, in order to establish their ability to return to full duty.

2.5.6 Employees who become ill or disabled while on duty are to immediately notify OCC and

will be governed by the provisions that apply to sick leave procedures.

2.6 Personal Appearance

2.6.1 All employees required to wear the official MUNI uniform must wear the required uniform while on duty.

2.6.2 Employees must present a neat appearance at all times while on duty.

2.6.3 Operator ID numbers are to remain in the designated place on the uniform and are to be in plain view at all times while on duty.

2.6.4 Official Municipal Railway and approved Union emblems are the only items allowed to be worn on the uniform.

2.6.5 Employees must maintain a high standard of personal cleanliness and neatness. Hair, mustaches, and beards must be neatly trimmed. Any style that impairs vision or hearing is prohibited.

2.7 Railway Property

2.7.1 Care must be exercised in the use of Railway property and every effort made to prevent damage or misuse.

2.7.2 Employees should not give away or loan MUNI property without the General Manager or the City Attorney's approval.

2.7.3 Employees must immediately report defective or lost property to OCC, an inspector, or their immediate supervisor.

2.7.4 Railway property must not be converted to personal use.

2.7.5 Unauthorized material must not be posted or allowed to be posted on Railway property or vehicles.

2.7.6 Railway property issued or in the possession of employee must be returned to the Railway upon separation of the employee from the

task for which the property was issued or upon demand by proper authority.

2.7.7 Employees must not duplicate or cause to be duplicated any Railway keys for any person without their supervisor's approval.

2.7.8 Operators must not loan or give any Railway keys to any person without their supervisor's approval.

2.8 Conduct

2.8.1 Polite, respectful behavior is required of all employees in their dealings with the public, their subordinates and each other.

2.8.2 Boisterous, profane or vulgar language is forbidden.

2.8.3 Avoid disputes with any person, no matter what the provocation.

2.8.4 When a passenger presents an invalid transfer or abuses a transfer rule, employees are to courteously request the passenger to retain the invalid transfer and pay the fare and then refer the passenger to the Passenger Service Department.

2.8.5 Politely refer a complainant to the Passenger Service Department if unable to resolve the matter satisfactorily.

2.8.6 Information concerning the business of the Railway is to be given only to properly authorized representatives of the Railway and peace officers in performance of their duties who present proper credentials.

2.8.7 Employees are not to, give presents to their superiors and supervisors are not to accept presents from subordinates.

- 2.8.8** Employees are not to engage in any business on Railway property that involves selling or buying merchandise or lending money.
- 2.8.9** Dishonest employees will not be retained in the service.
- 2.8.10** Immoral employees will not be retained in the service.
- 2.8.11** Quarrelsome employees will not be retained in the service.
- 2.8.12** Vicious employees will not be retained in the service.
- 2.8.13** Employees, on or off duty, are not to engage in unnecessary conversation with the operator in charge of a revenue vehicle.
- 2.8.14** Uniformed employees, upon request, are required to give their Identification number and vehicle number.
- 2.8.15** Employees must not engage in horseplay, fighting, sparring, or any form of practical joking that will compromise safety.
- 2.8.16** Employees must not loiter in areas open to the general public, nor in any manner interfere with Railway operation.
- 2.8.17** Employees must not possess a weapon while on duty.
- 2.8.18** Employees are prohibited from gambling while on duty or in uniform or at any time while on Railway property.
- 2.8.19** Employees may not play games on MUNI property after 6:00 P.M.
- 2.8.20** Employees are not to stop enroute between terminals, while in or out of service, or between garages, yards, or car houses and terminals, to enter any establishment, except to use the restroom or the telephone to report an emergency.

2.8.21 Knowingly falsifying any report or knowingly entering or causing to be entered any inaccurate, false or improper information on MUNI logs, books, reports, or records is prohibited.

2.9 Alertness

2.9.1 Operators must remain fully alert at all times. Sleeping or assuming an attitude of sleep while on duty is forbidden.

2.9.2 Operators on duty who become ill or otherwise feel they cannot maintain alertness to perform their normal duties must notify OCC or an inspector as soon as possible. Employees whose health becomes impaired to the degree that safety is threatened must notify OCC immediately.

2.9.3 Operators must not engage in unnecessary conversation or otherwise allow themselves to be distracted while operating.

2.9.4 Operators must be alert for hazards or obstructions and must take necessary action to avoid them, regardless of mode of operation.

2.9.5 Operators must remain in active cab seat at all times while vehicle is in motion.

2.10 Medical Issues

2.10.1 Prescribed medicine - Operators taking any prescribed medicine that may affect their judgment or faculties or cause dizziness or any other abnormal reaction must not operate Railway equipment. If there are any questions, operator must contact supervisor and advise of medication and its effects.

2.10.2 Color blindness - Operators must be able to clearly distinguish the colors used in the signage and signal systems.

2.10.3 Corrective lenses - Operators required to wear corrective lenses by their California Driver License must wear the required lenses while operating Railway vehicles.

2.11 Drugs and Alcohol

2.11.1 All Safety-Sensitive employees are subject to the provisions of the Railway's Substance Abuse Policy and Procedures Handbook and must adhere strictly to its provisions.

2.11.2 All employees are subject to the provisions of the Drug-Free Workplace Act of 1988, which prohibits the manufacture, distribution, dispensing, possession, or use of controlled substances in the workplace. Pursuant to Railway policy, any employee engaging in the manufacture, distribution, dispensing, possession or use of a controlled substance on Railway premises, in transit vehicles, in uniform, or while on Railway business will be subject to disciplinary action, up to and including termination, and/or will be required to complete a drug abuse assistance or rehabilitation program.

2.11.3 Every employee shall notify his or her supervisor of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to do so shall subject the employee to disciplinary action, up to and including termination, or satisfactory participation in a rehabilitation program.

2.11.4 No employee shall indulge in the use of, or be under the influence of intoxicants, or have open container(s) of intoxicants in their possession when reporting for or while on duty or at any time on Railway premises.

2.11.5 Employees shall not enter places where intoxicants are sold while on duty, except in case of necessity (i.e., emergency situation, use of restroom).

2.11.6 Employees in uniform, while off duty, must respect their uniform and refrain from the use of intoxicants or show evidence of the use of alcoholic liquor. Frequenting bars or taverns when in uniform is to be avoided.

2.12 Training

2.12.1 Employees must attend training sessions as directed by their supervisors.

2.13 Discipline

2.13.1 Violation of any of the following rules will be sufficient cause for charges for disciplinary action involving suspension or, if appropriate, dismissal.

- A. Inattention to duties;
- B. Incompetence;
- C. Substance Abuse;
- D. Immoral Conduct;
- E. Insubordination;
- F. Discourteous treatment of the public or other employees of the SF MUNI Railway;
- G. Fighting;
- H. Mishandling fares;
- I. Dishonesty;
- J. Abandonment of vehicle;
- K. Willful abuse of railway property.

2.14 Traffic Laws

2.14.1 Employees must comply with the laws, ordinances, and regulations of the state of California and the city and county of San Francisco.

2.14.2 Employees shall be familiar with and obey all such laws, ordinances, and regulations applicable to their responsibilities, including the signing of traffic citations.

EXHIBIT F

CONFIRMATION OF RECEIPT AND ACKNOWLEDGMENT

I acknowledge receipt of the San Francisco Municipal Transportation Agency's Substance Abuse Program Policy approved by the SFMTA Board of Directors on August 21, 2018 and its Drug and Alcohol Testing Procedures. I understand that it is my responsibility to familiarize myself with the program requirements and seek appropriate guidance or explanation if needed. I also understand that I am to sign this form and return it immediately.

Employee's Signature

Employee's Name (Printed)

Date

DSW#

Please complete and return this form to:

Substance Abuse Program
One South Van Ness Avenue, Sixth Floor
San Francisco, CA 94103



SUBSTANCE ABUSE PROGRAM

POLICY AND PROCEDURES HANDBOOK


**Substance Abuse Program
One South Van Ness Avenue, Sixth Floor
San Francisco, CA 94103
Tel: (415) 646-4766**

October 11, 2022

Memorandum from the Director of Transportation



TO: All Safety-Sensitive Employees
San Francisco Municipal Transportation Agency

FROM: Edward D. Reiskin 
Director of Transportation

DATE: December 5, 2018

SUBJECT: Federal Mandated Alcohol and Drug Testing Program

The enclosed revised Substance Abuse Policy and Procedures Handbook was approved by the San Francisco Municipal Transportation Agency (SFMTA) Board of Directors on August 21, 2018.

The Substance Abuse Policy and Procedures Handbook governs the implementation of 49 CFR Part 40 and 655 as it pertains to the SFMTA.

Drug and Alcohol Testing includes the following types of testing for all Safety-Sensitive Employees: Pre-employment, Reasonable Suspicion, Post-Accident, Random, Return-to-Duty, and Follow-Up. The substances tested for are: Marijuana, Amphetamines, Opioids (codeine, heroin, morphine, oxycodone, oxymorphone, hydrocodone, hydromorphone), Phencyclidine (PCP), and Cocaine. Enclosed you will find the procedures for each type of testing as well as a list of the safety-sensitive positions that are required to abide by the policy.

We encourage all employees who are experiencing problems with drugs and alcohol or other personal problems to contact the SFMTA CARE Employee Assistance Program (EAP) at 1.800.834.3773 for **free** and **confidential** assessment and referral services. If you have any questions regarding the revisions in the policy and procedures, you can contact the SFMTA Substance Abuse Program at 415.701.5018.

As part of the SFMTA dedication to providing public transit service that is safe for all employees and customers alike, I thank you for complying with the policy and procedures in this handbook.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 180904-124

WHEREAS, Since February 15, 1994, the U.S. Department of Transportation (DOT) has required recipients of federal assistance to have an alcohol and drug testing program and an employee training program in place for employees performing safety-sensitive functions, which requirements are embodied in 49 CFR Parts 40 and 655 (the Federal Rules); and,

WHEREAS, The Federal Rules require the governing body of a direct recipient of Federal financial assistance from the Federal Transit Administration to adopt a policy statement on alcohol misuse and prohibited drug use in the workplace by employees performing safety-sensitive functions; and,

WHEREAS, On December 13, 1994, in accordance with the Federal Rules, the predecessor to the SFMTA Board of Directors, the Public Transportation Commission (PTC), adopted a Substance Abuse Policy; including procedures for testing safety-sensitive employees for prohibited drugs and alcohol; and,

WHEREAS, On March 24, 1998, the PTC adopted Resolution No. 98-025, which approved an updated Substance Abuse Policy and Procedures to reflect changes in the Federal Rules; and,

WHEREAS, On August 20, 2002, the SFMTA Board of Directors adopted Resolution No. 02-092, which approved an updated Substance Abuse Policy and Procedures to reflect changes in the Federal Rules; and,

WHEREAS, On June 15, 2010, the SFMTA Board of Directors adopted Resolution No. 10-093, which approved an updated Substance Abuse Policy and Procedures to reflect changes in the Federal Rules; and,

WHEREAS, The Department of Transportation (DOT) amended 49 CFR Part 40 of the Federal Rules to include additional prohibited drugs in the testing panel and make other changes, which regulations became effective January 1, 2018; and,


WHEREAS, On July 18, 2018, the SFMTA, under authority delegated by the Planning Department, determined that the proposed revision to the SFMTA Substance Abuse Program Policy & Procedures Handbook is not a "project" under the California Environmental Quality Act (CEQA) pursuant Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference; and,

WHEREAS, The Substance Abuse Program staff has updated the Substance Abuse Policy and Procedures to comply with the revisions to the Federal Rules; now, therefore, be it

RESOLVED, The SFMTA Board of Directors adopts a revised Substance Abuse Policy, which has been updated to reflect the recent changes to 49 Code of Regulations Part 40 regarding the addition of synthetic opioids to the U.S. Department of Transportation drug testing panel, to clarify certain existing drug testing program provisions and definitions, and to make technical amendments.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of September 4, 2018.


Secretary to the Board of Directors

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**SFMTA
SUBSTANCE ABUSE PROGRAM
POLICY**

1.0 Policy

The San Francisco Municipal Transportation Agency ("Agency" or "SFMTA") operates the San Francisco Municipal Railway. SFMTA is dedicated to providing public transit service within the City and to other parts of the region that is convenient, effective, safe, and efficient. SFMTA employees are our most valuable resource. It is our policy (1) to take appropriate action to assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) to foster and maintain a drug and alcohol-free environment for all employees and patrons; (3) to prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to voluntarily seek professional assistance whenever personal problems, including alcohol or drug use, may adversely affect their ability to perform their assigned duties.

To achieve the goal of a substance-free workplace, this policy incorporates three integrated components:

A. Prevention through education and training: *Education and training will consistently communicate and clarify this policy to all employees, assist employees in recognizing substance abuse problems and in finding solutions to those problems.*

B. Detection, deterrence and enforcement: Under Federal law, all Safety-Sensitive employees are subject to pre-employment, reasonable suspicion, post-accident, random, return-to-duty, and follow-up drug and alcohol testing. Applicants for Safety-Sensitive positions will not be hired nor will current employees be assigned to Safety-Sensitive Functions unless they pass applicable drug tests.

C. Treatment and opportunities for rehabilitation: *Alcohol and drug abuse are recognized as diseases that can be treated. The Agency recognizes that our employees are the Agency's most important resource and encourages employees to take advantage of a voluntary rehabilitation program, to seek professional assistance through SFMTA's Peer Assistance Program or the SFMTA CARE Employee Assistance Program (EAP) prior to testing positive for drugs or alcohol, without fear of discipline.*

Portions of this Policy marked with a single asterisk () are not strictly FTA-mandated, but reflect current Agency employment policy.

2.0 Purpose

The purpose of this Policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the use of alcohol and prohibited drugs (as defined below). This policy complies with all applicable Federal regulations governing workplace anti-drug programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has adopted 49 CFR Part 655, which mandates urine drug and breath alcohol testing for employees performing Safety-Sensitive Functions. These regulations also prevent Performance of Safety-Sensitive Functions when there is a positive, adulterated, or substituted test result, or other rule violation (e.g., refusal to test). The U.S. Department of Transportation (DOT) has also adopted 49 CFR Part 40, which sets standards

for collecting and testing urine and breath specimens. This Policy incorporates these federal requirements for employees performing safety-sensitive functions, as well as other provisions as noted.

In addition, DOT has published 49 CFR Part 29, 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. The City adopted a Drug-Free Workplace policy for all of its employees in 1989. California passed a similar version of the federal law, the Drug-Free Workplace Act of 1990 (Gov't Code §§ 8350 et seq.). This Policy reiterates the requirements of the federal regulations; these requirements will be enclosed by double asterisks (**).

If any provision of an existing Agency policy, rule or resolution is inconsistent or in conflict with any provision of this Policy or the DOT/FTA Rules, this Policy and the FTA Rules shall take precedence; if any provision of this Policy is inconsistent or in conflict with the FTA Rules, the FTA Rules shall take precedence.

3.0 Consequences of Misuse/Abuse

The cost of substance misuse/abuse is devastating to society, the workplace, the family and individuals. Two thirds of all homicides are committed by people who use drugs or alcohol prior to the crime. Two-thirds of all Americans will be involved in an alcohol-related accident during their lifetimes.

The medical costs of illnesses related to substance misuse/abuse are staggering. Each year 30,000 people will die due to alcohol-caused liver disease. Another 10,000 will die due to alcohol-induced brain disease or suicide.

Besides the very real human costs just described, substance-abusing employees create very real business costs and legal liabilities for their employers:

Direct and measurable costs, such as the additional health care benefits claimed by substance abusers.

Less tangible and difficult-to-measure costs, such as the negative impact on employee morale or the diminished creativity of substance-abusing employees.

Potential costs or "liabilities," such as the potential costs of a lawsuit filed by an injured party after an accident caused by an impaired employee.

*SFMTA's Substance Abuse Program has several components to promote a drug-free workplace and comply with FTA regulations:

An expanded Substance Abuse Policy;

An employee education program to alert employees to the dangers of alcohol and other drugs;

An education program for management, required for all supervisors, to assist them in understanding SFMTA policy, knowing available resources, and carrying out their responsibilities as they relate to employee substance abuse;

A voluntary Peer Assistance Program to encourage early intervention;

A contract for EAP services;

A Substance Abuse Professional to work with employees who test positive.

4.0 Definitions

Accident: An occurrence associated with the operation of a vehicle, if as a result:

(a) An individual dies; or

(b) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the Accident; or

(c) With respect to an occurrence in which the public transportation 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

(d) With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from operation.

Adulterated Specimen: 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 an endogenous substance.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol. (The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.)

Cancelled Test: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which 49 CFR Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

Contractor: A person or organization that provides a safety-sensitive service for a recipient, sub-recipient, employer, or operator consistent with a specific understanding or arrangement. The understanding can be a written contract or an informal arrangement that reflects an ongoing relationship between the parties.

Covered Employee: A person, including an applicant or transferee, who performs or will perform a safety-sensitive function for SFMTA. This includes certain volunteers, as defined in Section 5.1.

Dilute Specimen: A specimen with creatinine and specific gravity values that are lower than expected for human urine.

Direct Observation: Collection of a urine specimen performed while under the observation of a Collector of the same gender as the employee providing the specimen, under the circumstances and according to the provisions set forth in 49 CFR Section 40.67.

DOT: The United States Department of Transportation.

Employer: A recipient or other entity that provides mass transportation service or which performs a safety-sensitive function for such recipient or other entity. This term includes sub-recipients, operators, and contractors.

Evidential Breath Testing Device (EBT). A device that is approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

FTA: The Federal Transit Administration, an agency of DOT.

Invalid Drug Test: The result of a drug test for a urine specimen that contains an unidentified adulterant or an unidentified 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.

Legally Prescribed Drug: A controlled substance (on Schedules II through IV of the Controlled Substance list) that is authorized for patient usage by a physician or medical practitioner.

Medical Review Officer (MRO): 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.

Negative Dilute: A test result that is negative but meets the dilute criteria.

Non-negative Drug Test: A test result found to be Adulterated, Substituted, Invalid, or positive for drug/drug metabolites.

Performing a Safety-Sensitive Function: A covered employee is considered to be performing a safety-sensitive function at any time he or she is actually performing, ready to perform, or immediately available to perform such functions.

Primary Specimen: In drug testing, 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.

Refusal to submit: A refusal to take a drug test as set out in 49 CFR Section 40.191 or an alcohol test as set out in 49 CFR Section 40.261.

Safety-Sensitive Function (Safety-Sensitive Duty): Any of the following duties, when performed by employees of recipients, sub-recipients, operators or contractors:

- (a) Operating a revenue service vehicle, whether or not in revenue service;

- (b) Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
- (c) Controlling dispatch or movement of a revenue service vehicle;
- (d) Maintaining (including repairs, overhaul, and rebuilding) a revenue service vehicle or equipment used in revenue service; or
- (e) Carrying a firearm for security purposes.

Service Agents: Any person or entity, other than an employee of the employer, who provides services specified in 49 CFR Part 40 to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs, laboratories, MROs, and SAPs. See Exhibit D for a list of Service Agents hired or under contract to SFMTA.

Split Specimen: In drug testing, a part of the urine specimen 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 (SAP): A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

Substituted Specimen: A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

5.0 Applicability

5.1 Covered Employees

This Policy applies to all Covered Employees, including paid part-time employees, who perform or could be called upon to perform any Safety-Sensitive Function. The Policy also applies to volunteers who: (a) are required to hold a commercial driver's license to operate a vehicle, or (b) Perform a Safety-Sensitive Function for SFMTA and receive remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity. Additionally, this policy applies to contractors who perform Safety-Sensitive Functions. For both drug and alcohol testing, this Policy applies during off-site lunch periods or breaks when an employee is scheduled to return to work.

A list of Safety-Sensitive positions is attached as Exhibit B. Participation in the prohibited substance testing program as described below is a requirement of each covered employee and therefore a condition of employment.

5.2 Other SFMTA Employees

****All SFMTA employees are subject to the provisions of the Drug-Free Workplace Act of 1988 (see Sections 6.1 of this Policy).**** *Visitors, vendors, and contractor employees on transit premises will not be permitted to conduct transit business if found to be in violation of the provisions of Section 8.1 of this Policy.*

5.3 Contractors

Employees of SFMTA contractors who perform Safety-Sensitive Duties for SFMTA are subject to the same FTA and DOT regulations. However, these contractors are not required to implement the provisions of the Drug-Free Workplace Act of 1988.

6.0. Opportunities for Rehabilitation

To promote a drug- and alcohol-free workplace, this Policy includes two types of rehabilitation programs, voluntary rehabilitation and rehabilitation after a positive test result or Refusal to Submit to a test.

6.1. Voluntary Rehabilitation

An employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable suspicion, random or Post-Accident testing or is not involved in a disciplinary proceeding, may voluntarily refer her or himself to the SFMTA's EAP or the Peer Assistance Program for evaluation and referral to a therapeutic program. The services of the EAP are also available to non-covered employees. Confidentiality, job security and promotional opportunities will be protected and no disciplinary action will be taken for such self-referral. The EAP will evaluate the employee and make a specific recommendation regarding the appropriate treatment. When an employee voluntarily refers her or himself for treatment, the employee may be eligible for sick leave and disability benefits. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

6.2. Rehabilitation after a Positive Alcohol or Drug Test, or Refusal

If there is a verified positive drug test result, a confirmed positive alcohol test result, or a Refusal to Submit to a test, the substance abuse professional (SAP) will refer the employee for substance abuse treatment or education services.

6.3 Costs of Rehabilitation.

Rehabilitation costs are provided to the extent offered by the Health Service System as part of employee health plans. Employees will be allowed to take accumulated sick leave and vacation leave to participate in any prescribed rehabilitation program.

7.0 Prohibited Drug Use and Alcohol Use

7.1 Prohibited Drugs

FTA regulations specifically prohibit the use of the following illegal drugs and drug metabolites at all times: marijuana, amphetamines (methylenedioxymethamphetamine (MDMA), methylenedioxyamphetamine (MDA)), opioids (codeine, heroin, morphine, 6-Acetylmorphine, oxycodone, oxymorphone, hydrocodone, hydromorphone), phencyclidine (PCP), and cocaine.

7.2 Alcohol

No covered employee shall consume beverages containing alcohol, or substances, including any medication, such that alcohol is present in the body while performing transit business.

7.3 Legally Prescribed and Over-the-Counter Drugs

Prescription and over-the-counter drugs can adversely affect an employee's job performance. However, the use of legally prescribed drugs and over-the-counter drugs is permitted under the circumstances described below. Legally prescribed drugs include those drugs approved and authorized for the employee by a physician for use during the course of medical treatment. For prescription drugs, the physician must issue a written prescription that clearly indicates the employee's name, drug type, and proper dosage. A legally valid prescription must be consistent with the Controlled Substances Act, 21 U.S.C., Chap. 13, §§801, et seq..

*If an employee is taking prescription and/or over-the-counter drugs, he/she must obtain a signed note from a physician that the use of this drug(s) at the prescribed or authorized dosage is consistent with the safe performance of the employee's Safety Sensitive Duties. This note must be presented to the employee's supervisor before Performing Safety-Sensitive Duties.

Failure to provide this note may result in disciplinary action.*

8.0 Prohibited Conduct

8.1 Manufacture, Trafficking, Possession, and Use of Controlled Substances

The manufacture, distribution, dispensing, possession, or use of controlled substances in the workplace is prohibited. A "controlled substance" is any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. § 812), and as further defined by 21 CFR 1300.11-1300.15. Any employee engaging in the manufacture, distribution, dispensing, possession or use of a controlled substance on SFMTA premises, in transit vehicles, in uniform, or while on SFMTA business will be subject to disciplinary action, up to and including termination and/or will be required to satisfactorily complete a drug abuse assistance or rehabilitation program as a condition of employment. *Law enforcement shall be notified, as appropriate, where criminal activity is suspected.*

8.2 Notifying SFMTA of Criminal Drug Conviction.

Every employee, including covered employees, must notify SFMTA of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to do so shall subject said employee to disciplinary action, up to and including termination.

8.3 Alcohol Use/Hours of Compliance

8.3.1 No Covered Employee shall use alcohol while performing Safety-Sensitive Functions.

8.3.2 No Covered Employee shall report for duty to perform a Safety-Sensitive Function or remain on duty while performing a Safety-Sensitive Function while having an alcohol concentration of 0.04 or greater.

8.3.3 No Covered Employee shall have used alcohol within four hours prior to Performing Safety-Sensitive Functions. Further, if SFMTA has actual knowledge that a Covered Employee has used alcohol within four hours, the employee will not be permitted to perform or continue to perform Safety-Sensitive Functions.

8.3.4 No Covered Employee shall use alcohol during the hours that they are on call. A Covered Employee who admits to the use of alcohol while in an on call status will not be permitted to perform Safety-Sensitive Functions unless he or she takes and passes an alcohol test.

8.3.5 Covered Employees shall refrain from alcohol use for eight (8) hours following an Accident or until an alcohol test has been administered (see Section 9.3.3.4).

8.3.6 A Safety-Sensitive employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his or her duties for eight hours unless a re-test results in a concentration measure of less than 0.02.

8.4 Refusal to Submit to Testing

A Refusal to Submit to testing (a "Refusal") is treated the same as a positive test. The following conduct constitutes a Refusal.

8.4.1 Failing to appear for any test within a reasonable time (except for pre-employment tests)

8.4.2 Failure to remain at the testing site until the test has been completed

8.4.3 Failure or refusal to take a second test that SFMTA or the collector has directed the employee to take

8.4.4 Failure to cooperate with any part of the testing process, including obstructive or abusive behavior (refusal to drink water is not a refusal to test)

8.4.5 Failure to provide adequate urine or breath and subsequent failure to undergo a medical examination as required for inadequate breath or urine, or failure to provide adequate urine or breath and subsequent failure to obtain a valid medical explanation for the inadequate breath or urine condition

8.4.6 Failure to sign Step 2 of the alcohol test form (ATF)

- 8.4.7 Failure to permit the observation or monitoring of your provision of a urine specimen if Direct Observation is required under 49 CFR Part 40
- 8.4.8 Adulterating, Substituting or otherwise contaminating or tampering with a urine specimen as verified by the MRO
- 8.4.9 Leaving the scene of an Accident without just cause prior to submitting to a test
- 8.4.10 Admitting to the Collector or the MRO that an employee has adulterated or substituted a urine specimen
- 8.4.11 For a collection under Direct Observation, failure to follow the observer's instructions to raise and lower clothing, and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process
- 8.4.12 Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process

Violation of these provisions shall be in accordance with disciplinary guidelines contained in applicable employee memoranda of understanding.

9.0 Testing for Prohibited Substances

9.1 Compliance with Testing Requirements

Covered Employees are required to comply with all federal testing requirements, as contained in 49 CFR Parts 40 and 655.

9.2 Procedures for Testing

9.2.1 General

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities that have been approved by the U.S. Department of Health and Human Services (DHHS) and the U.S. Department of Transportation (DOT). Testing for prohibited drugs and alcohol on covered employees shall be conducted in accordance with the procedures set forth in 49 CFR Part 40. The procedures that will be used to test for the presence of illegal drugs or alcohol misuse are designed to protect the employee and the drug and alcohol testing process, safeguard the validity of the test results, and ensure the test results are attributed to the correct employee.

9.2.2 Testing for Prohibited Drugs

Covered Employees may be tested for Prohibited Drugs at any time while on duty. The staff of the collection facility under contract to SFMTA (the "Collector") shall collect urine samples from Covered Employees to test for

prohibited drugs. The Collector will split each urine sample collected into a primary and a Split sample (see Testing Procedures). The urine samples will be sent under seal, with required chain of custody forms, to the laboratory. At the laboratory, specimens are placed in secure storage. An initial drug screen will be conducted on each primary specimen. For those specimens that are not negative, a 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 set forth in the attached Exhibit B. The specimen may also be considered Adulterated or Substituted based on criteria established by DOT and DHHS (see Section 9.2.2.1). If the result of the test of the primary specimen is positive, Adulterated, Substituted or Invalid, the primary and Split Specimens will be retained in frozen storage for at least one year.

9.2.3 Specimen Validity Testing

Specimen validity testing is the evaluation of the specimen by the laboratory to determine if it is consistent with normal human urine. Validity testing determines if the specimen contains Adulterants or foreign substances, if the urine was Diluted, or if the specimen was Substituted. Validity testing is conducted on all SFMTA specimens, in addition to the drug testing described in Section 9.2.2.

9.2.4 Alcohol Testing

Tests for alcohol concentration on Covered Employees 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). If the initial test on an employee indicates an alcohol concentration equal to 0.02 or greater, a second test will be performed to confirm the results of the initial test. For a summary of applicable alcohol threshold levels, see Exhibits C-1 and C-2.

9.2.5 Medical Review Officer (MRO)

All drug testing results shall be interpreted and evaluated by an MRO. The MRO shall comply with the drug testing procedures set forth in 49 CFR Part 40. The MRO does not review alcohol test results.

When the laboratory reports a confirmed positive, Adulterated, Substituted, or Invalid test, it is the responsibility of the MRO to: (a) within 24 hours after verifying the test, contact the employee and inform him or her of the positive, Adulterated, Substituted, or Invalid test result, (b) afford the employee an opportunity to discuss the test results with the MRO; (c) review the employee's medical history, including any medical records and biomedical information provided; and (d) determine whether there is a legitimate medical explanation for the result, including legally prescribed medication. If the employee indicates that he or she has a medical explanation for the positive, Adulterated,

Substituted, or Invalid test, he or she has up to five days to provide this information to the MRO.

9.2.5.1 Inability to Contact Employee.

The MRO has the authority to verify a positive or Refusal To Test without interviewing the employee if (a) the employee refuses to discuss the test result with the MRO, (b) if SFMTA has successfully directed the employee to contact the MRO, and the employee has not made contact with the MRO within 72 hours, (c) if neither the MRO nor SFMTA has made contact with the employee within 10 days of the date that the MRO received the test result from the laboratory.

9.2.5.2 MRO Determination

The MRO shall not convey test results to SFMTA until the MRO has made a definite decision that the test result was positive, Adulterated, Substituted, Invalid, or negative. The MRO may request the laboratory to conduct additional analysis of the original sample in order to verify the accuracy of the test result.

9.2.5.3 MRO Report

The MRO will report the test as either negative, negative with medical concern, positive, a Refusal due to Adulteration or Substitution, or Cancelled (Invalid). When the MRO reports the results of the verified positive test to SFMTA, the MRO will disclose the drug(s) for which there was a positive test. The MRO will also provide additional, clarifying information to SFMTA for tests that are confirmed as a refusal due to Adulteration or Substitution or Cancelled. The MRO may only reveal the quantitative amount of a positive drug test result to the employer, the employee, or the decision maker in a lawsuit, grievance or other proceeding initiated by the employee and arising from a verified positive drug test result.

9.2.5.4 Split Specimen

When the MRO has verified a test positive or as a Refusal to Test due to Adulteration or Substitution, the MRO shall inform the employee that he or she has 72 hours to request a test of the Split Specimen.

9.3 Types of Testing

49 CFR Part 655 requires the following types of testing for Covered Employees: pre-employment, pre-promotion or transfer, reasonable suspicion, post-Accident, random, return-to-duty, and follow-up testing.

9.3.1 Pre-employment, Transfer Testing

9.3.1.1 *Pre-employment Tests*

All applicants for Safety-Sensitive positions shall undergo urine drug testing prior to employment and within 90 days prior to performing Safety-Sensitive Duties for the first time. Receipt by the SFMTA of a negative test result is required prior to the employee being placed on the payroll. *A positive, Adulterated, or Substituted test will result in a decision not to hire, and the applicant's name will be removed from the list of eligibles for Safety-Sensitive positions. SFMTA will not consider any future application from the applicant for at least two years.* If the MRO Cancels a pre-employment test, the applicant shall be subject to another drug test. If the applicant's initial test is negative dilute the applicant will be directed to retest. If the retest result is negative dilute the applicant will not be hired and can reapply in six months.

9.3.1.2 *Transfer Testing*

Employees who are being considered for transfer to Safety-Sensitive positions from non-Safety-Sensitive positions will be required to undergo a drug test. An employee with a confirmed positive drug test as certified by the MRO will be disqualified from immediate transfer. *An employee who tests positive may reapply after six (6) months if he/she has successfully completed the SAP recommendations and has a negative return-to-duty test.*

9.3.1.3 *Employees on Leave*

When an applicant or covered employee (a) has not performed a Safety-Sensitive Function for 90 consecutive calendar days regardless of the reason, and (b) has not been in the random pool during that 90-day period, the individual must take another pre-employment test with a verified negative result.

9.3.1.4 *Prior Positive Tests or Refusals to Submit*

When an applicant or Covered Employee has previously failed any DOT-required test, the individual must provide proof to SFMTA that he or she has successfully completed the SAP referral, evaluation and treatment process. SFMTA will not consider hiring any person who tested positive or Refused to submit to testing for a minimum of two years following the positive test.

9.3.2 Reasonable Suspicion Testing

9.3.2.1 Federally Mandated Testing

All Covered Employees shall be subject to reasonable suspicion testing, to include urine and/or breath testing when there are reasons to believe that the Covered Employee has used a Prohibited Drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made on the basis of contemporaneous, articulable, and specific observations concerning the appearance, behavior, speech or body odors of the employee. Only supervisors who are trained to detect and document the signs and symptoms of drug and alcohol use will be authorized to make reasonable suspicion determinations.

Reasonable suspicion tests for the presence of alcohol shall only be made just prior, during, or immediately after performance of a Safety-Sensitive Function, based on observations made during, just preceding, or just after the period of the workday that the covered employee is required to be in compliance. Additionally, a reasonable suspicion alcohol test should be conducted within two hours of the determination to test. An alcohol test cannot be performed if it has not been completed within eight hours of the determination to test.

9.3.3 Post-Accident Testing

9.3.3.1 Fatal Accidents

As soon as practicable following an Accident that involves the loss of human life, SFMTA will conduct drug and alcohol tests on each surviving Covered Employee operating the public transportation vehicle at the time of the Accident. SFMTA will also conduct drug and alcohol tests on any covered employees whose performance could have contributed to the Accident, as determined by the onsite SFMTA supervisor using the best information available at the time of the decision.

9.3.3.2 Non-Fatal Injury Accidents

As soon as practicable following a non-fatal Accident in which a public transportation vehicle is involved, SFMTA will conduct drug and alcohol tests on each Covered Employee operating the public transportation vehicle at the time of the Accident unless SFMTA determines, using the best information available at the time, that the covered employee's performance can be completely discounted as a contributing factor to the Accident. Additionally, SFMTA shall test any other Covered Employee whose performance SFMTA determines could have contributed to the Accident.

9.3.3.3 *Vehicle Damage*

With respect to Accidents involving vehicle damage, all Covered Employees shall be tested in the following circumstances:

- a) In an Accident involving a **road surface vehicle** (e.g., bus, van, automobile), if any vehicle involved in the incident is disabled and must be towed from the scene, any Covered Employee operating the public transportation vehicle shall be tested unless SFMTA determines, using the best information available at the time, that the Covered Employee's performance can be completely discounted as a contributing factor to the Accident. Additionally, SFMTA shall test any other Covered Employee whose performance SFMTA determines could have contributed to the Accident.
- b) In an Accident involving **another type of public transportation vehicle** (e.g., rail car, trolley bus, streetcar, cable car), if the public transportation vehicle is removed from revenue service, any Covered Employee on duty in the vehicle shall be tested unless SFMTA determines, using the best information available at the time, that the Covered Employee's performance can be completely discounted as a contributing factor to the Accident. Additionally, SFMTA shall test any other Covered Employee whose performance SFMTA determines could have contributed to the Accident.

9.3.3.4 *Procedure*

Following an Accident, all Covered Employees subject to testing shall remain readily available for testing. An employee who fails to remain readily available, including notifying a supervisor of his or her location if he or she leaves the scene of the Accident prior to submitting for testing, may be deemed to have Refused to Submit to testing.

The drug test shall occur as soon as possible, but not later than 32 hours after the Accident. An alcohol test must be attempted within two hours after the Accident. If the employee is not tested within two hours, a report must be filed documenting why the test was not performed within two hours. If an alcohol test is not administered within eight hours of the Accident, SFMTA shall cease attempts to test and shall update the report to document the reasons why the test was not conducted. Nothing in this section shall delay medical attention for the injured following an Accident or prohibit an 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 when appropriate approval is given.

9.3.4 Random Testing

9.3.4.1 *General*

Covered Employees will be subject to unannounced, random drug and alcohol testing in accordance with FTA regulations. Random testing is unpredictable and spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when Safety-Sensitive functions are performed.

9.3.4.2 *Random Pool*

Each Covered Employee shall be in a pool from which a minimum of 50% random selection is made for drug testing and a minimum of 10% for alcohol testing annually. Each such employee shall have an equal chance at selection and shall remain in the pool after being tested. The basis for random selection shall be by a scientifically valid random number generation method initiated by computer.

9.3.4.3 *Procedure*

Each employee notified of selection for random drug or random alcohol testing is required to proceed to the test site immediately. If the employee is performing a Safety-Sensitive Function at the time of notification, the SFMTA shall ensure that the employee ceases to perform the Safety-Sensitive Function and proceeds to the testing site immediately. A Covered Employee shall only be randomly tested for alcohol 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.

9.3.5 Return-to-Duty Testing

Any Covered Employee who has failed a drug test, tested in at 0.04 or greater on an alcohol test, or who has Refused to Submit to a test, must pass the return-to-duty test ordered by the SAP. The return-to-duty drug test will be performed under Direct Observation as described in 49 CFR Section 40.67. He/she also must have successfully completed the SAP recommendations *and sign a return-to-work agreement.* A positive return-to-duty test counts as a second positive.

In order to be allowed to return to work in his or her Safety-Sensitive position, a Covered Employee must test negative on the SAP-ordered return-to-duty drug test and less than 0.02 on the return-to-duty alcohol test.

9.3.6 Follow-Up Testing

After returning to duty, the employee will be subject to unannounced drug and/or alcohol tests for up to 60 months as determined by the SAP, with a

minimum of six tests during the first 12 months. The follow-up drug test will be performed under Direct Observation as described in 49 CFR Section 40.67.

Regarding Follow-Up Testing: an employee with an alcohol concentration of greater than or equal to 0.02 but less than 0.04 will be removed from Safety Sensitive Function and will be referred to the Substance Abuse Program Manager.

9.4 Testing of Split Specimen

Any Covered Employee who questions a verified positive drug test or a Refusal to Submit to testing because of Adulteration or Substitution has 72 hours from the time of notification to ask the MRO for a test of the Split Specimen.

Requests after 72 hours will only be accepted if the delay was due to documentable facts (e.g., serious injury, illness, inability to contact the MRO) that were beyond the control of the employee. This test will be conducted at a different DHHS-certified laboratory. The method of collecting, storing, and testing the Split Specimen will be consistent with the procedures set forth in 49 CFR Part 40. After a positive test, the employee will be immediately removed from his or her Safety-Sensitive Function even if analysis of the split is requested.

The employee will be responsible for the cost of having the Split Specimen tested at the second DHHS laboratory. If the employee does not pay such costs, SFMTA will seek reimbursement for the expense from the employee.

If the Split Specimen is unavailable or appears insufficient for testing, the MRO will Cancel the test and direct SFMTA to send the employee for another test that will be performed under Direct Observation. No advance notice will be given to the employee.

9.5 Consequences of Non-negative Test Result

9.5.1 Positive Drug or Alcohol Test; Refusal to Submit

Any Covered Employee who has a positive drug test as verified by the MRO, a confirmed alcohol test of 0.04 or greater, or who Refuses to Submit to a test will be removed from Safety-Sensitive Functions immediately, evaluated by a SAP, and informed of educational and rehabilitation resources available.

*An employee who tests positive will be offered a disciplinary hearing (Skelly Meeting). The employee has the option to voluntarily waive this hearing for the **first** positive drug or alcohol test if he/she agrees to accept a 30-day suspension in lieu of termination.*

9.5.2 Invalid Result

Invalid Drug Test If the MRO reports to SFMTA that an employee's drug test is Invalid, without a medical explanation that is acceptable to the MRO, the employee will be subject to an immediate re-test under Direct Observation, without advance notice. If the employee has a medical explanation for the

Invalid Test that is acceptable to the MRO, the test will be Cancelled, with no further action required.

9.5.3 Dilute Specimen

A drug test result that is positive and Dilute will be treated as positive. All drug test results that are determined to be negative and Dilute will require that the employee take an immediate retest. If the retest yields a second negative Dilute result, the test will be treated as a normal negative test.

Violation of these provisions shall be in accordance with disciplinary guidelines contained in applicable employee memoranda of understanding.

9.5.4 Negative with a Safety Concern

In the event the MRO has a safety concern due to a legally prescribed medication, the MRO must also advise the employee that, before informing the Designated Employer Representative (DER) about any medication the employee is using pursuant to a legally valid prescription consistent with the Controlled Substances Act, the employee will be allowed five business days from the date the MRO reports the verified negative result to have his or her prescribing physician contact the MRO to determine if the medication can be changed to one that does not make the employee medically unqualified or does not pose a significant safety risk. If, in the MRO's reasonable medical judgment, a medical qualification issue or a significant safety risk remains after the MRO communicates with the employee's prescribing physician or after five business days, whichever is shorter, the MRO will report the drug test results with a safety risk to the DER. If the MRO receives information that eliminates the medical qualification issue or significant safety risk, the MRO must transmit this information to the DER to whom the MRO previously provided information to.

If in the event the MRO reports to the DER that an employee is prescribed a medication that presents a medical qualification issue and/or indicates that continued performance by the employee of his or her Safety-Sensitive Function is likely to pose a significant safety risk, the employee will be referred for evaluation to an Occupational Health medical examiner at San Francisco General Hospital for final determination of medical suitability in performing Safety-Sensitive Functions.

10.0 Substance Abuse Professional (SAP)

Any Covered Employee who tests positive or refuses to submit to testing will be evaluated by a SAP. A SAP must be a licensed physician, psychologist, social worker, certified employee assistance professional, marriage/family therapist, or nationally certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.

The SAP will evaluate each employee by conducting a face-to-face assessment to determine what assistance the employee needs in resolving problems associated with drug abuse or alcohol misuse. If an employee is allowed to return to duty, he or she must properly follow the rehabilitation program prescribed by the SAP.

11.0 Return-to-Work Agreements

The SAP will provide a written release to the appropriate division certifying the employee's eligibility to be considered for return to Safety-Sensitive Duty only after the employee has signed a return-to-work agreement. The return-to-work agreement shall outline the terms and conditions of continuing care.

12.0 Compliance with Background Check Requirements

All applicants and employees (transfers) applying for Safety-Sensitive positions are required to sign a written consent to allow SFMTA to obtain the following information regarding the applicant/employee's DOT drug and alcohol testing history for the previous two years:

- Alcohol tests with a result of .04 or higher
- Verified positive drug tests
- Refusals to be tested, including verified Adulterations and Substitutions
- Failed pre-employment tests
- Other violations of DOT drug and alcohol testing regulations
- Documentation of the successful completion of return-to-duty requirements and follow-up tests

Information will be obtained from all DOT-regulated employers who employed the applicant/employee for a period of two years prior to the date of the application. Such employers will be asked to include any alcohol and drug test information obtained from previous employers or other applicable DOT agency regulations. For example, if a former employer has information from other employers (within the two-year period), that employer is obligated to provide that information to SFMTA.

Additionally, the applicant or covered employee must disclose if they, within the prior two years, failed a pre-employment drug or alcohol test for an employer that did not hire them.

13.0 Training and Education

All Covered Employees shall participate in a minimum one-hour training session designed to meet FTA requirements by learning about the effects and consequences of drug use on personal health, safety and the work environment.

For supervisors participating in reasonable suspicion testing, there will be at least two hours of training to explain the criteria for reasonable suspicion determinations and testing, including at

least an hour on the physical, behavioral and performance indicators of probable drug use and another hour on the physical, behavioral, speech and performance indicators of probable alcohol misuse.

Initial training sessions will be re-enforced with educational materials and meetings. Further, employees shall be provided with SFMTA's EAP telephone number.

14.0 Records & Confidentiality

14.1 Access to Records

A Covered Employee is entitled, upon written request, to review and obtain copies of any records relating to the employee's drug and alcohol testing (excluding follow-up testing plan) and to provide information to dispute the results. However, the results of individual drug or alcohol tests shall not be released by SFMTA to anyone other than the employee without expressed written authorization of the tested individual. The only exceptions are as follows:

- a) Release to the collection facility, testing laboratory, MRO or SAP, or designee;
- b) Pursuant to a lawful court order or other law requiring disclosure;
- c) In connection with an SFMTA disciplinary, grievance, arbitration or other legal proceeding initiated by or on behalf of the individual and arising from a certified positive drug or alcohol test or from SFMTA's determination that the employee engaged in conduct prohibited under the FTA rules.
- d) To the Secretary of Transportation, any DOT agency with regulatory authority over the employer or any of its covered employees, or to a State oversight agency authorized to oversee rail fixed guideway systems.
- e) When requested by the National Transportation Safety Board as part of an Accident investigation, SFMTA shall disclose information related to its administration of a Post-Accident drug or alcohol test administered following the Accident under investigation.
- f) When requested by a State oversight agency to certify to FTA compliance with drug and alcohol testing procedures of 49 CFR Parts 40 and 655.

Access to records retained by SFMTA shall not be contingent upon the receipt of payment for production of those records. However, the MRO, laboratory, and other service agents may charge for producing records as long as those charges are consistent with 49 CFR Part 40.

14.2 Records Maintained

SFMTA shall maintain substance abuse program records in a secure location with controlled access. Records held by SFMTA or its service agents shall be maintained as follows: (a) results of negative drug tests and alcohol tests less than .02 – one year; (b) records of collection and training, records of inspection, calibration, and maintenance of EBTs – two years; (c) records of background checks – three years; (d) records of

information from previous employers concerning drug and alcohol test results, records of verified positive drug test results and alcohol tests .02 or greater, documentation of Refusals including Adulterations and Substitutions, referrals to the SAP and evaluations, follow up tests and follow up testing schedules, MIS reports to FTA – five years.

Service agents maintain all records relating to urine specimen analysis in confidence for at least two years. Service agents may not disclose such records to anyone other than the employer, the employee, or the decision maker in a lawsuit, grievance or other proceeding initiated by the employee and arising from a verified positive test result.

15.0 System Contact

Any questions regarding this policy or any other aspect of SFMTA's Substance Abuse Management Program should be directed to the office of transit system representative:

Name: Beverly Tilson, M.S., LAADC-CA, ICAADC, WTS
Title: Substance Abuse Program Manager
Address: One South Van Ness Ave, 6th floor
San Francisco, CA 94103
Telephone: (415) 646-4766

16.0 Revisions to the Policy and Program

This policy and program is subject to revision.

EXHIBIT A: Drug and Alcohol Service Agents

Off-Site Collections

Mega Lab Services

1321 Evans Ave Suite E
San Francisco, CA 94124
(415) 872-9284

On-Site Collections

Zenith Health Network

1321 Evans Ave Suite E
San Francisco, CA 94124
(415) 872-9284

Laboratory

Alere Toxicology Services Inc

1111 Newton Street
Gretna, LA 70053
(800) 433-3823 Ext. 68225

Medical Review Officer

Comprehensive Drug Testing Inc.

230 Commerce
Irvine, CA 92602
(714) 852-5200

Substance Abuse Professional (SAP)

Beverly Tilson, M.S., LAADC-CA, ICAADC, WTS

One South Van Ness, 6th Floor
San Francisco, CA 94103
(415) 646-4766 (Office)
(415) 930-0354 (Mobile)



EXHIBIT B: Safety-Sensitive Classifications

Basis for Testing

- A. Maintaining or repairing a revenue service vehicle or equipment used in revenue service.
- B. Operating a revenue service vehicle.
- C. Controlling dispatch or movement of a revenue service vehicle.
- D. Operating a non-revenue service vehicle when required to be operated by a holder of a Commercial Driver's license.
- E. Carrying a firearm for security purposes.

Operations Division

Class	Title	Basis for Testing	Union
9136	Transit Training Specialist	C	200
9139	Transit Supervisor	C	200
9140	Transit Manager I	C	200
9141	Transit Manager II	C	200
9142	Transit Manager III	C	MEA
9143 *	Transit Manager IV	C	MEA
9150	Train Controller	C	200
9152	Transportation Controller Trainee	C	200
9153	Transportation Controller	C	200
9160	Transit Operations Specialist	C	200
9163	Transit Operator	B	TWU-250A
9172 *	Manager II	C	MEA
9174 *	Manager IV	C	MEA
9184 *	Deputy General Manager (Operations)	C	MEA
9916 *	Public Service Aide	C	Unrepresented

All above supervisors and managers may in the course of their duties control the movement of revenue service vehicles and so are included in the testing program.

* Some employees in these classifications are non-Safety Sensitive.



Maintenance Division

Class	Title	Basis for Testing	Union
6252	Line Inspector	A	6
7110	Mobile Equipment Assistant Supervisor	D	3
7126	Mechanical Shop Equipment Supervisor	C	1414
7130	General Superintendent Facilities Maintenance	C	MEA
7212	Automotive Transit Equipment Superintendent	C	MEA
7214	Electrical Transit Equipment Supervisor	C	6
7215	General Laborer Supervisor	C	261
7216	Electrical Transit Shop Supervisor I	C	6
7223	Cable Machinery Supervisor	C	39
7228	Automotive Transit Shop Supervisor I	C	1414
7235	Transit Power Line Supervisor I	C	6
7241	Senior Maintenance Controller	C	1414
7244	Power Plant Supervisor I	C	6
7249	Automotive Mechanic Supervisor	C	1414
7251	Track Maintenance Worker Supervisor I	C	853
7253	Electrical Transit Mechanic Supervisor I	C	6
7254	Automotive Machinist Supervisor I	A	1414
7255	Powerhouse Electrician Supervisor I	C	6
7264	Automotive Body & Fender Worker Supervisor I	C	1414
7279	Powerhouse Electrician Supervisor I	C	6
7286	Wire Rope Cable Maintenance Supervisor	E	39
7287	Supervising Electronic Maintenance Technician	A	6
7306	Automotive Body & Fender Worker	A	1414
7310	Transit Power Cable Splicer	A	6
7313	Automotive Machinist	A	1414
7314	Apprentice Stationary Engineer I	A	39
7315	Automotive Machinist Assistant Supervisor	A,B	?
7318	Electronic Maintenance Technician	A	6
7320	Apprentice Automotive Machinist I	A,B,D	1414
7321	Apprentice Automotive Machinist II	A,B,D	1414
7322	Automotive Body & Fender Worker Assistant Supervisor	C	1414
7325	General Utility Mechanic	A	1414
7326	Glazier	A	718
7328	Operating Engineer Universal	D	6
7329	Electronic Maintenance Technician Assistant Supervisor	A	6
7333	Apprentice Stationary Engineer II	A	39
7334	Stationary Engineer	A	39



Class	Title	Basis for Testing	Union
7338	Electrical Line Worker	A	6
7340	Maintenance Controller	C	1414
7345	Electrician	A	6
7355	Truck Driver	D	853
7364	Powerhouse Operator	C	6
7365	Senior Powerhouse Operator	C	6
7366	Transit Power Line Worker	A	6
7371	Electrical Transit System Mechanic	A, B	6
7380	Electrical Transit Mechanic Assistant Supervisor	C	1414
7381	Automotive Mechanic	A, B	1414
7382	Automotive Mechanic Assistant Supervisor	C	6
7383	Apprentice Automotive Mechanic I	A,B,D	1414
7384	Apprentice Automotive Mechanic II	A,B,D	1414
7390	Welder	A	6
7408	Assistant Powerhouse Operator	C	6
7409	Electrical Transit Service Worker	A, B	*
7410	Automotive Service Worker	A, B	TWU-250A
7412	Automotive Service Worker Assistant Supervisor	C, B	200
7430	Assistant Electronic Maintenance Technician	A	6
7432	Electrical Line Helper	A	6
7454	Traffic Signal Operator	C	1021
7458	Switch Repairer	A	261
7472	Wire Rope Cable Maintenance Mechanic	A	39
7473	Wire Rope Cable Maintenance Mechanic Trainee	A	39
7514	General Laborer	A	261
7540	Track Maintenance Worker	A	261
9102	Transit Car Cleaner	A	1021
9104	Transit Car Cleaner Assistant Supervisor	C, B	1021
9940	Pre-Apprentice Automotive Mechanic	A,B,D	1414

EXHIBIT C: DOT Drug Panel

Pursuant to U.S. Department of Transportation regulations, following are the drugs to be tested for, and the threshold levels of each test which the SFMTA is required to accept.

Initial test analyte	Initial test cutoff concentration ¹	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites (THCA) ²	50 ng/mL ³	THCA ¹	15 ng/m
Cocaine metabolite (Benzoylecgonine)	150 ng/mL ³	Benzoylecgonine	100 ng/mL
Codeine/Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL
Hydrocodone/Hydromorphone	300 ng/mL	Hydrocodone/Hydromorphone	100 ng/mL
Oxycodone/Oxymorphone	100 ng/mL	Oxycodone/Oxymorphone	100 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamine/Methamphetamine/ MDMA ⁴ /MDA ⁵	500 ng/mL	Amphetamine/Methamphetamine/MDMA/MDA	250 ng/mL

¹ For grouped analytes (i.e., two or more analytes in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

² An immunoassay must be calibrated with the target analyte, Δ-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

³ Alternate technology (THCA and Benzoylecgonine): When using an alternate technology initial test for the specific target analytes of THCA and Benzoylecgonine, the laboratory must use the same cutoff for the initial and confirmatory tests (i.e., 15 ng/mL for THCA and 100ng/mL for Benzoylecgonine).

⁴ Methylenedioxyamphetamine (MDMA).

⁵ Methylenedioxyamphetamine (MDA).

- The Medical Review Officer (MRO) has the authority to conduct D, L stereoisomer and THC –V testing.



ALCOHOL

(Includes ethanol, methanol, isopropanol)

Breath Alcohol Concentration (expressed in terms of grams of alcohol per 210 liters of breath)	
Initial Screen	Confirmatory (given if initial screen is 0.02 or greater)
Less than 0.02 Perform Safety-Sensitive Function	0.02 or greater Employee may not perform Safety-Sensitive Function



EXHIBIT D: Consequences of Positive Drug/Alcohol Tests (9163's)

Testing Types	Substance	Assumption of Results	Employee Status Waiting for Results	1 st Positive	2 nd Positive Within 5 Years
Pre-Employment	Drug	N/A	N/A	Not hired, may not reapply for two years.	Not hired, may not reapply.
Pre-Employment (90-Day Rule)	Drug	N/A	Return to Work process paused	Removed from Duty ¹ No pay, ² , Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action. Discipline will not imposed until cleared for safety-sensitive duty.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Random - Drug	Drug	Assumed Negative	On Duty	Removed from Duty ¹ No pay, ² , Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Random - Alcohol	Alcohol > or = .04	Positive	Immediate Results	Removed from Duty ¹ No pay, ² , Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Post Accident	Drug or Alcohol	Assumed Negative	On Duty	Removed from Duty ¹ No pay, Referred to SAP, SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action. ⁴	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Reasonable Suspicion	Drug or Alcohol	Assumed Positive	Off Duty Until Results Received	Removed from Duty ¹ No pay, Referred to SAP, Return to Duty	Will be Subject to Termination Except Where Substantial



Testing Types	Substance	Assumption of Results	Employee Status Waiting for Results	1 st Positive	2 nd Positive Within 5 Years
				Test,3, Follow-Up Testing, Subject to Disciplinary Action.4	Mitigating Circumstances Warrant.
Return-to-Duty	Drug or Alcohol	Assumed Negative	Off Duty Until Results Received	N/A	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Follow-Up Testing	Drug or Alcohol	Assumed Negative	On Duty	N/A	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.



Issues	Substance	1st Occurrence	2nd Occurrence Within 5 Years
Refusal to Test	Drug or Alcohol	Removed from Duty ¹ No pay. Referred to SAP For treatment recommendation. Return to duty and follow-up testing. Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant
Failure to Comply with Treatment Program or Return to Work Agreement	Drug or Alcohol	Off work ¹ No pay. Referred to SAP for treatment recommendation. Return to duty and follow-up testing. Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant
Alteration of Specimen	Drug or Alcohol	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant. ¹	Termination

- 1 Any employee who is subsequently determined to be the subject of a false positive or under reasonable suspicion tests negative shall be made whole for any wages and benefits lost.
- 2 Employee may use accumulated sick/vacation pay for rehabilitation program.
- 3 Employee may not return to work until SAP certifies them capable of returning to their safety-sensitive job.
- 4 Disciplinary action to be a 30-day suspension except that a first positive relating to an incident resulting in death, serious bodily injury or substantial destruction of property warrants immediate discharge



EXHIBIT E: Consequences of Positive Drug/Alcohol Tests (Not 9163)

Testing Types	Substance	Assumption of Results	Employee Status Waiting for Results	1 st Positive	2 nd Positive Within 5 Years
Pre-Employment	Drug	N/A	N/A	Not hired, may not reapply for two years.	Not hired, may not reapply.
Pre-Employment (90-Day Rule)	Drug	N/A	Return to Work process paused	Removed from Duty ¹ No pay, ² Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action. Discipline will not imposed until cleared for safety-sensitive duty.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Random - Drug	Drug	Assumed Negative	On Duty	Removed from Duty ¹ No pay, ² Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Random - Alcohol	Alcohol > or = .04	Positive	Immediate Results	Removed from Duty ¹ No pay, ² Referred to SAP SAP Recommendation for Treatment, Return to Duty	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.



				Test, ³ Follow-Up Testing, Subject to Disciplinary Action.	
Post Accident	Drug or Alcohol	Assumed Negative	On Duty	Removed from Duty ¹ No pay, Referred to SAP, SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action. ⁴	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Reasonable Suspicion	Drug or Alcohol	Assumed Positive	Off Duty Until Results Received	Removed from Duty ¹ No pay, Referred to SAP, Return to Duty Test, ³ , Follow-Up Testing, Subject to Disciplinary Action. ⁴	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Return-to-Duty	Drug or Alcohol	Assumed Negative	Off Duty Until Results Received	N/A	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Follow-Up Testing	Drug or Alcohol	Assumed Negative	On Duty	N/A	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.



Issues	Substance	1 st Occurrence	2 nd Occurrence within 5 years
Refusal to Test	Drug or Alcohol	Removed from Duty ¹ No pay. Referred to SAP For treatment recommendation. Return to duty and follow-up testing. Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant
Failure to Comply with Treatment Program or Return to Work Agreement	Drug or Alcohol	Off work ¹ No pay. Referred to SAP for treatment recommendation. Return to duty and follow-up testing. Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant
Alteration of Specimen	Drug or Alcohol	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant. ¹	Termination

- 1 Any employee who is subsequently determined to be the subject of a false positive or under reasonable suspicion tests negative shall be made whole for any wages and benefits lost.
- 2 Employee may use accumulated sick/vacation pay for rehabilitation program.
- 3 Employee may not return to work until SAP certifies them capable of returning to their safety-sensitive job.
- 4 Disciplinary action to be a 30-day suspension except that a first positive relating to an incident resulting in death, serious bodily injury or substantial destruction of property warrants immediate discharge.

SFMTA
DRUG AND ALCOHOL TESTING
PROCEDURES

Drug Specimen Collection Procedures

These collection procedures shall apply to all types of drug testing (e.g. Random, Reasonable Suspicion, Post-Accident, etc.)

1. Collection site(s)/agents shall have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage, and shipping or transportation of urine specimens to a DHHS-certified drug testing laboratory. Collection site(s)/agents shall be qualified/trained in accordance with Federal Regulations.
2. The collection agent will execute standardized chain-of-custody forms. Handling and transportation of urine specimens from one authorized individual or place to another shall always be accomplished through chain-of-custody procedures. Every effort will be made to minimize the number of persons handling specimens. All DOT (FTA) tests for covered employees shall be conducted using DOT chain-of-custody forms. Drug tests conducted under SFMTA's own authority may not use federal chain-of-custody forms.
3. Designated on-site collections areas have been established to protect the privacy of the employee being tested and to comply with federally mandated testing procedures. In emergency situations, such as post-accident testing, an employee restroom may be used. In such a case, a same gender collector may enter the restroom with the employee but will remain outside the stall until the specimen is collected. No unauthorized persons will be permitted in any part of the designated collection area where specimens are collected or stored.
4. The collection agent shall take precautions to ensure that a urine specimen is not adulterated or diluted during the collection procedure and that information on the urine specimen bottle and on the chain-of-custody form can identify the individual from whom the specimen was collected. The following minimum precautions shall be taken to ensure that unadulterated specimens are obtained and correctly identified:
 - a. To deter the dilution of specimens at the collection site, toilet bluing agents shall be placed in toilet tanks so the reservoir of water in the toilet bowl remains blue. There shall be no source of water (e.g. no shower or sink) in the enclosure where urination occurs.

When an individual arrives at the collection site, the collection agent shall request the individual to present photo identification. If the individual does not have proper photo identification, the collection agent shall contact the supervisor of the individual or other SFMTA supervisor who can positively identify the individual. If the individual's identity cannot be established, the collection agent shall not proceed with the collection.

- c. If the individual fails to arrive at the designated collection site at the assigned time, the collection agent shall contact SFMTA's Designated Employer Representative ("DER") to advise her/him of the no-show status
 - d. The collection agent shall ask the individual to remove any unnecessary outer garments, such as a coat or jacket that might conceal items or substances that could be used to tamper or adulterate the individual's urine specimen. Additionally, the collection agent shall request that the individual empty his or her pockets and display any items in them that

could be used to adulterate a specimen. If nothing is there that could be used to adulterate the specimen, the employee may return the items to his/her pockets. The collection agent shall ensure that all personal belongings, such as a purse or briefcase, remain with the employee's clothes, and that these items are secured. The individual may retain his or her wallet.

- e. The individual shall be instructed to wash and dry his/her hands prior to urination.
- f. After washing his/her hands, the individual shall remain in the presence of the collection agent and shall not have access to any water fountain, faucet, soap dispenser, cleansing agent or any other materials that could be used to adulterate the specimen.
- g. The collector shall ensure that the proper chain-of-custody forms are used, as described in Paragraph 2, above.
- h. The collection agent shall provide the individual with a collection container capable of holding at least 45 ml. of urine and direct the employee to go into the room used for urination, provide a specimen of at least 45 ml., not flush the toilet, and return to the collection agent as soon as the employee has completed the void.
- i. In the presence of the donor, the collector shall pour the urine into the two specimen bottles provided, with at least 30 ml. into one bottle for the primary specimen, and at least 15 ml. into the other bottle to be used as the split specimen.
- j. If the individual is unable to provide such a quantity of urine, the collector shall instruct the individual to drink not more than 40 ounces of fluids. Refusal to drink does not constitute a Refusal to Submit to testing. The individual has up to three hours to provide a complete sample using a fresh collection container. The employee may not leave the test area during the three-hour period and will be monitored during that period by testing personnel. If, after three hours, the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the DER notified. The DER shall refer the employee for a medical evaluation by a physician to develop pertinent information concerning whether the employee's inability to provide a specimen constitutes a refusal to test. In the absence of medical justification, the inability to provide a sample will be treated as a Refusal to Submit to testing and have the same consequences as a positive test.
- k. The collector shall measure the temperature of the specimen. The measuring device must accurately reflect the temperature of the specimen and not contaminate the specimen. The time from urination to temperature measurement is critical and in no case shall exceed four minutes. If the temperature of the specimen is outside the range of 32°-38°C / 90°-100°F that constitutes a reason to believe that the individual may have altered or substituted the specimen. In that case, another specimen shall be collected under direct observation of a person of the same gender and who is a collection agent or has been appropriately instructed by the collection agent. Both specimens shall be forwarded to the laboratory for testing.

- l. Immediately after the specimen is collected, the collection agent shall also inspect the specimen to determine its color/smell and look for any signs of contaminants. Any unusual findings shall be noted on the chain-of-custody form.
- m. Whenever there is reason to believe that an individual has Altered or Substituted the specimen, a second specimen shall be obtained as soon as possible under the Direct Observation of a person of the same gender and who is a collection agent or has been appropriately instructed by the collection agent. All specimens suspected of being Adulterated shall be forwarded to the laboratory for testing.
- n. Both the collection agent and the individual being tested shall keep the specimen in view at all times prior to its being sealed and labeled.
5. The collection agent shall complete the chain-of-custody form, label and secure the specimen container, and prepare the specimen for shipment to the laboratory. Specifically, the collection agent shall place the tamper-evident seals on each bottle, then write the date on the seals. The Covered Employee must initial the seals after they have been affixed on the bottles.
6. Both bottles shall be shipped to the laboratory in a single shipping container (e.g., plastic bag), together with Copy 1 of the chain-of-custody form.

Circumstances Authorizing Direct Observation

The following circumstances are the exclusive grounds constituting a reason to believe that the individual may have altered or substituted the specimen. If any of these circumstances exist, it will be necessary to conduct an observed collection.

1. The employee has presented a urine specimen that falls outside the normal temperature range (32°-38°C / 90°-100°F),
2. The original specimen shows signs of tampering, e.g., unusual color, odor or other characteristic.
3. The collector observes materials brought to the collection site or the employee's conduct clear indicates an attempt to tamper with a specimen.
4. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to you as negative-dilute and that a second collection must take place under direct observation.
5. The MRO reports that the specimen is Invalid and that there was not an adequate medical explanation for the result.
6. The MRO reported that the original positive, Adulterated, or Substituted test result had to be Cancelled because the Split Specimen analysis could not be performed.
7. As an employer, the SFMTA must direct a collection under Direct Observation of a Covered Employee if the drug test is a return-to-duty test or a follow-up test.

Direct Observation Procedures

8. The collector must ensure that the observer is the same gender as the employee. The collector must never permit an opposite gender person to act as the observer. The observer can be a different person from the collector and need not be a qualified collector provided that he or she is appropriately instructed by a qualified collector.
9. If someone else is to observe the collection (e.g., in order to ensure a same gender observer), the collector must verbally instruct that person to follow procedures at paragraphs (9) and (10) below. If the collector is the observer, he or she too must follow these procedures.
10. The observer must request the employee to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the observer, by turning around, that they do not have a prosthetic device. After the observer has determined that the employee does not have such a device, the observer may permit the employee to return clothing to its proper position for observed urination.
11. The observer must watch the employee urinate into the collection container. Specifically, the observer is to watch the urine go from the employee's body into the collection container

Breath Alcohol Testing Procedures

These collection procedures shall apply to all types of alcohol testing (e.g., Random, Reasonable Suspicion, Post-Accident)

Breath alcohol testing shall be conducted by a trained Breath Alcohol Technician (BAT). Testing will be conducted in a manner to ensure the greatest amount of employee aural and visual privacy (mobile or clinic facility). Unauthorized access to the testing area is prohibited. One test will be conducted at a time. The BAT will utilize an Evidential Breath Testing (EBT) device authorized by 49 CFR Part 40.

1. Upon arrival at the testing site (whether on or off SFMTA premises) the following procedures will be followed. The Covered Employee will be asked to present picture identification for the BAT, or the supervisor accompanying the employee will be asked to verify the identity of the employee.
2. The procedure will be explained to the Covered Employee and he/she will be asked to sign Block 2 of the alcohol test form (ATF). A refusal to sign the ATF form will be treated as a Refusal to Submit to testing. The employee will be immediately removed from duty, instructed to report to his/her supervisor, and advised to contact the Substance Abuse Professional.
3. The BAT will open a sealed mouthpiece in view of the Covered Employee and attach it to the EBT.
4. The Covered Employee will be instructed to blow into the mouthpiece for at least six seconds or until the device indicates that an adequate amount of breath has been obtained.
5. The results will be shown to the employee and printed out of the EBT.
6. If the results are negative (less than 0.02), the BAT will sign in the appropriate space and release the Covered Employee to return to duty. Employees tested under the random testing program will be provided with a return-to-work release form to give to the supervisor.
7. If the screening test results are equal to 0.02 or greater, the BAT will perform a confirmation breath test.
8. The confirmation test must be conducted no less than 15 minutes, but not more than 30 minutes, following the screening test. Between tests, the employee will be instructed not to eat, drink, put anything into his or her mouth, or belch, and must remain with the BAT. The BAT will conduct air blanks until a 0.00 reading is obtained. A new mouthpiece will be provided for the employee. Beginning the confirmation test after 30 minutes has expired does not invalidate the confirmation test results; however, the BAT must document why the confirmation test began after the 30-minute point.
9. If the confirmation test is equal to 0.04 or greater, the DER will be notified, and the Covered Employee's supervisor will be provided written confirmation of the necessity to remove the employee from duty and referred to the SAP. If the confirmation test result is

equal to 0.02 or greater but less than 0.04, the employee is prohibited from performing a Safety-Sensitive Function until his or her next shift, but not less than eight hours from the time of the test, or until another breath test result is less than .02.

10. If the Covered Employee refuses to sign the ATF, provide breath or provide an adequate amount of breath, the test will be terminated and the DER will be notified. This is a Refusal to Submit to testing and will have the same consequences as a positive test. The supervisor will be notified that the employee is not released to return to duty.
11. If a screening or confirmatory test cannot be completed because the Covered Employee cannot produce adequate breath (shy breath), additional attempts will be made. An employee who is unable to provide adequate breath for testing will be subject to a medical examination to determine whether a medical condition exists. If the examining physician determines the employee has a medical condition precluding him/her from providing an adequate amount of breath for testing, the physician shall document the finding for SFMTA's files. If the examining physician finds no medical reason for the inability to provide adequate breath for testing, the findings should be documented, and the employee removed from duty. In the absence of medical justification, the inability to provide adequate breath will be treated the same as a refusal to test.

Random Testing Procedures

The FTA regulations require random testing for prohibited drugs and alcohol for all Safety-Sensitive employees (Covered Employees). Random testing identifies employees who are using drugs or misusing alcohol but are able to use the predictability of other testing methods to escape detection. More importantly, it is widely believed that random testing serves as a strong deterrent against employees beginning or continuing prohibited drug use and misuse of alcohol at SFMTA. SFMTA has developed procedures for notification and collection to best implement the requirements of the federal rules.

These procedures answer common questions regarding random testing: Who is tested? Why are only some individuals tested? When and how do the tests occur?

1. Random drug and alcohol testing applies only to Safety-Sensitive employees. Identification numbers for all Safety-Sensitive employees are included in a selection pool.
2. Random drug and alcohol testing is accomplished by a scientifically valid, tamper-proof, computer-generated selection process. A random list of employee numbers will be generated every month by the Substance Abuse MIS staff. A surplus will be randomized to allow for selected employees who are not available. SFMTA determines that "not available" is limited to employees who are not at work due to vacation, sick leave, disability or scheduled time off. Employees who are unavailable will have their names held, and other attempts will be made to test them until the next random selection list is generated. The MIS Personnel triggers the selection list of the month's Operations and Maintenance employees to be scheduled for testing.
3. Once a list is generated, employee numbers are matched with names and the names are sorted by division. The work schedule for each employee is determined. Testing is then scheduled on an unannounced, weekly basis. Testing is conducted on-site by mobile van.
4. No employee will be removed from the random pool following selection, and every employee will continue to be subject to selection throughout the year. Every employee in the random pool has an equal chance of being selected every time. Employees are only removed from the random pool when they are in rehabilitation programs, permanently transferred to a non-safety-sensitive position, or on extended leave.
5. Random testing will be conducted on all shifts, all times of day, and all days of the week throughout the calendar year. No shift is exempt from testing. The total number of drug tests completed annually must be a minimum of fifty percent (50%) of the eligible Safety-Sensitive employees in the random pool. The total number of alcohol tests completed each year must be a minimum of ten percent (10%) of the number of safety-sensitive employees.
6. Random drug testing may be conducted concurrently with random alcohol testing or at any time while an employee is on duty. Random alcohol testing will be conducted just before the employee is scheduled to perform a Safety-Sensitive Function, while the employee is performing Safety-Sensitive Duties or just after the employee performs a Safety-Sensitive Function.

7. Maintenance and Operations supervisors will be notified which employees have been selected for testing. (See Procedures for Random Test Notification). Employees will be notified to stop work, where to report for testing, and who will relieve them, if necessary. Once an employee is notified of his/her selection, he/she must report immediately for the test. If an employee is not notified, a "Failure to Test as Scheduled" form must be completed and signed by the supervisor.
8. The employee must submit to a drug and/or alcohol test, and sign all necessary forms. Failure to cooperate with the collection procedure in any way constitutes a refusal to test, which is considered the same as a positive test result.
9. The employee will be in a paid status throughout random testing. The employee will be removed from duty if the result of the alcohol tests is positive, when a positive or non-negative drug test result is received, or if the employee Refuses to Submit to testing.
10. If both alcohol and drug tests are given, the breath alcohol test will be performed first. Immediately thereafter, the urine sample will be collected for the drug test.
11. If there is a confirmed breath alcohol test greater than or equal to .02 and less than .04, the employee *will be relieved from duty* immediately until the start of his/her next shift, but not less than eight (8) hours following administration of the test, or until the employee's alcohol concentration measures less than .02.
12. If there is a confirmed positive breath alcohol test (equal to .04 or above), and/or a confirmed positive, Refusal to Submit to testing, Adulterated, or Substituted drug test, the employee will be removed from duty and directed to the Substance Abuse Professional (SAP) for an evaluation and referral for rehabilitation or education. The employee cannot return-to-work until he/she has been released by the SAP, completed the return-to-work agreement and successfully completed a return-to-duty test.
13. Employees who test positive for drugs or alcohol, refuse testing, or whose drug test has been Adulterated or Substituted, will be disciplined in accordance with applicable memoranda of understanding.

Procedures for Random Test Notification

1. The MIS staff person will trigger the selection list of the month's Operations and Maintenance employees to be scheduled for testing.
2. The Testing Coordinator will notify the collector of the time and location for testing.
3. Notification of Covered Employees

The Substance Abuse Program will notify the employee's Supervisor/Manager, Division Dispatcher or Inspector.

a. Notification of Operators:

- Notification will be by the Division Dispatcher if the operator pulls out of the Division at any time during the work day.
- Notification will be by an Inspector, or Inspector Manager, if the operator does not pull out of the Division.

Time of notification must be documented.

b. Notification of Non-Platform Employees:

- The Deputy Director of Operations' designee will inform the immediate supervisor of any non-platform employee who is selected for testing the day of the test. This supervisor will then make the notification to the employee.

Time of notification must be documented.

Non-Platform Notification Tree

Notifier	Employee
Director of Transportation	Director of Transit
Director of Transit	Deputy Transit Manager
Deputy Transit Manager	Manager IV
Manager IV	Manager II
Manager II	Transit Manager IV
Transit Manager IV	Transit Manager III
Transit Manager III	Transit Manager II
Transit Manager II	Transit Manager I
Transit Manager I	9139 Supervisors

c. Notification of Maintenance Employees:

- Notification will be by the supervisor/manager on site. Supervisors will be informed the day of the test. Notification will be at the latest possible time to minimize the possibility of employee's learning of testing prior to reporting to work or prior to the collection van arriving on site.

The time of notification must be documented.

- d. Reporting: The employee shall report to the test site immediately.
4. The SFMTA requires that the "Random Testing Notification Form" (see attached) be completed by the supervisor and signed by the employee.
5. The employee cannot "go off sick" or on vacation or leave work after notification.
6. Collection personnel shall report "no shows" to the Testing Coordinator.
7. The Testing Coordinator shall confirm with the supervisor or Central Control that the employee was notified.
8. The Substance Abuse Manager shall notify Operations and Maintenance if an employee fails to report for testing after notification.
9. An employee who fails to report for testing shall be removed from duty immediately. This will be treated as a Refusal to Submit to testing and have the same consequences as a positive test. He/she cannot return to duty until cleared by the SAP.



TESTING NOTIFICATION FORM

EMPLOYEE NAME: _____ ID# _____

TIME OF NOTIFICATION: _____ DATE OF TEST: _____

TYPE OF TEST:

Random
 Drug only Both (Drug and Alcohol)

Follow Up Post Accident Reasonable Suspicion
(All tests above require Drug and Alcohol)

LOCATION OF TEST SITE: _____ WORK LOCATION: _____ PHONE: _____

_____, under federal regulations for drug and alcohol testing of
(Employee's Name)

safety-sensitive employees, you are being tested for the presence of prohibited drugs and alcohol. Your signature indicates that you have read and understood the given instructions, agree to take the test and authorize the release of your test results to the San Francisco Municipal Transportation Agency (SFMTA).

SAFETY-SENSITIVE EMPLOYEES STATEMENT TO EMPLOYEES REGARDING REFUSAL TO SUBMIT TO DRUG AND/OR ALCOHOL TESTING

If you refuse to submit to a drug and/or alcohol test, refuse to sign the necessary forms, or follow instructions, it will be considered a violation of the testing procedure. You will be removed from duty and referred to the Substance Abuse Professional for assessment. This information will be forwarded to the Director of Transit or designee.

Employee's Signature Date

Notifier's Signature Date

RETURN-TO-DUTY RELEASE

- ____ Employee has completed all testing requirements and is released to duty.
____ Employee has not completed all testing requirements, or has tested positive for alcohol between 0.02-0.039 and is **NOT** released to return-to-duty:
 ____ For eight (8) hours or until next shift.
 ____ Until released by Substance Abuse Professional (SAP).

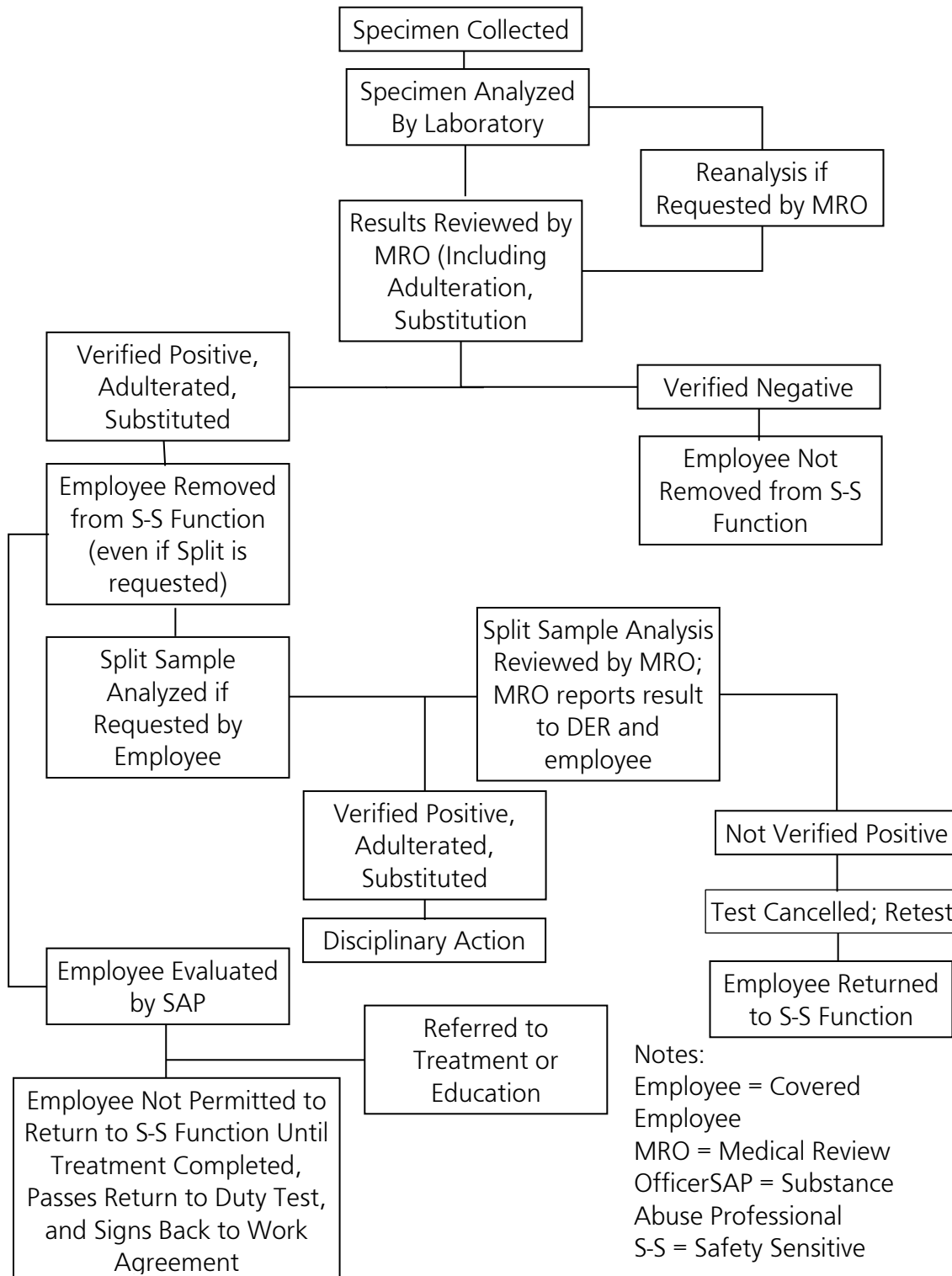
Collector's Signature Date & Time Finished

1. White - SAP

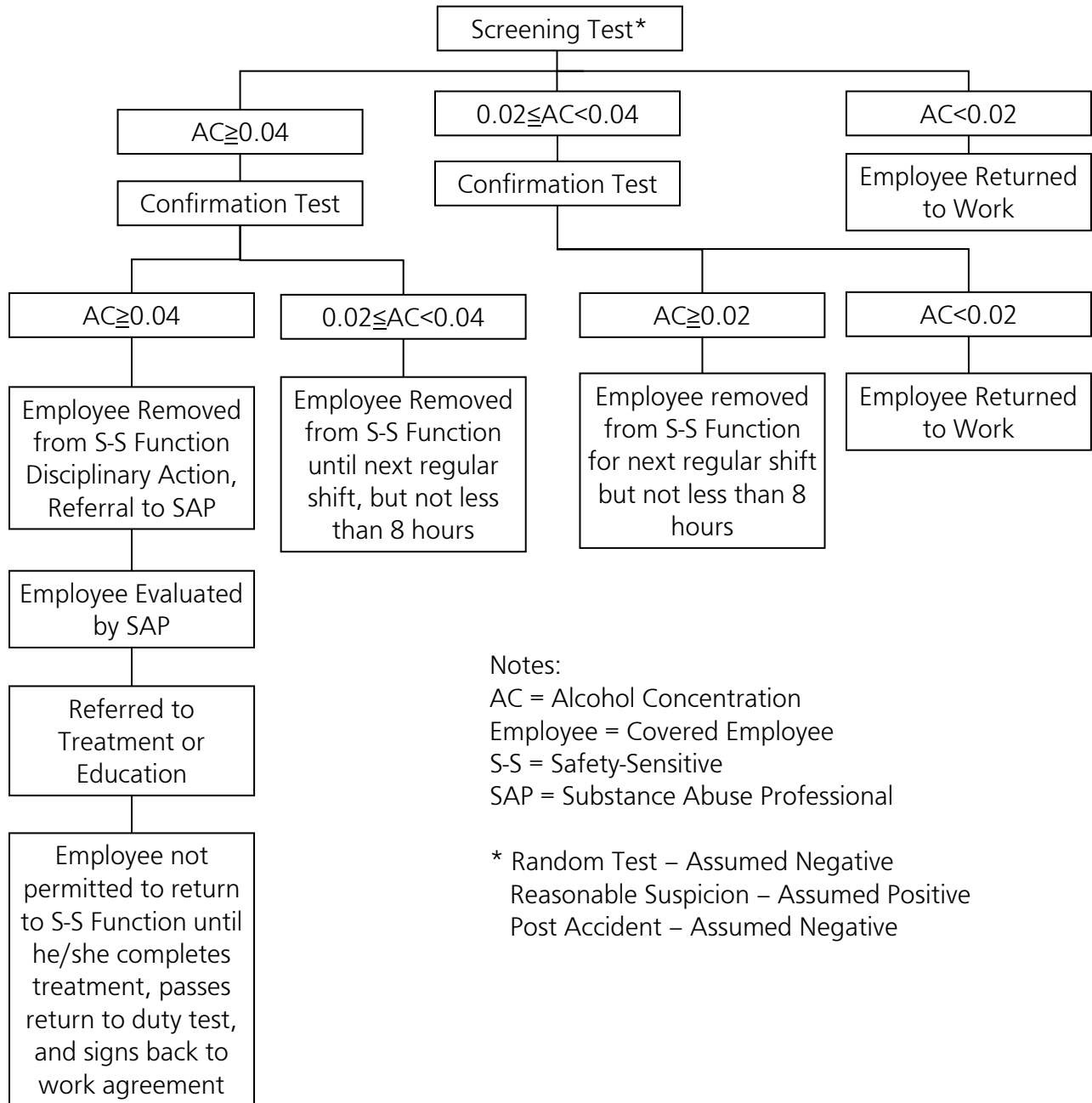
2. Yellow - Supervisor

3. Pink - Employee

Drug Testing Process for All Tests



Alcohol Testing Process for All Tests (see 49 CFR § 655.35a)



Notes:

AC = Alcohol Concentration

Employee = Covered Employee

S-S = Safety-Sensitive

SAP = Substance Abuse Professional

* Random Test – Assumed Negative

Reasonable Suspicion – Assumed Positive

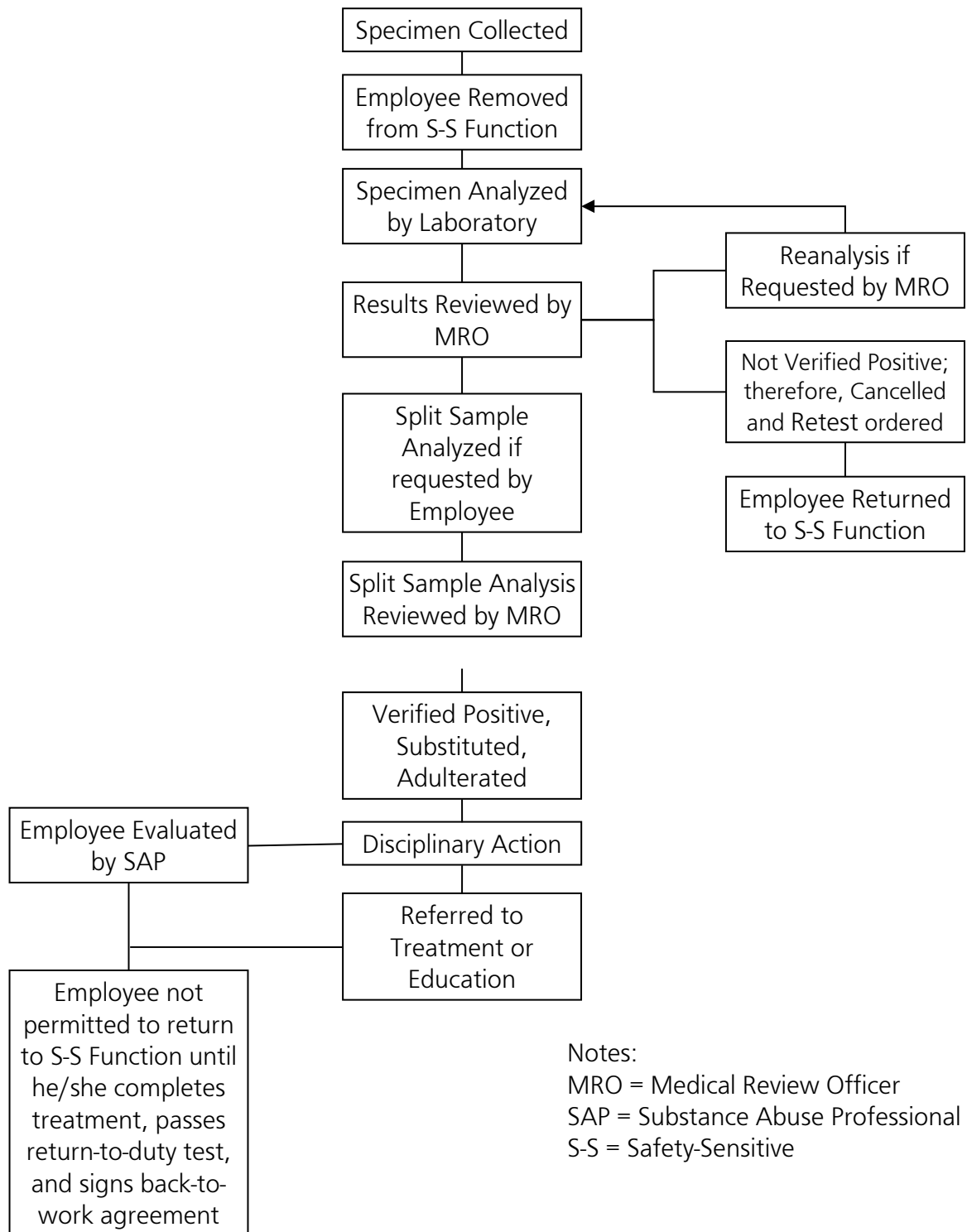
Post Accident – Assumed Negative

Reasonable Suspicion Testing Procedures

The FTA regulations also require a Covered Employee to submit to a test when the employer has a reasonable suspicion that the employee has used a prohibited drug or has misused alcohol. The request to undergo a reasonable suspicion test must be based on specific, articulable observations concerning appearance, behavior, speech, or body odor of the Covered Employee. A trained supervisor must make these observations.

1. Supervisors and managers receive training in order to identify behaviors that might be indicators of drug use and/or alcohol misuse. Training includes the procedures for how to deal with employees suspected of drug use and/or alcohol misuse.
2. If one trained supervisor observes behavior that might be indicative of drug use and/or alcohol misuse, he/she directs the employee to stop work and escorts the employee to an area to be questioned and observed in private.
3. The supervisor completes the Supervisor's Alcohol and/or Substance Abuse Report. The supervisor must ensure that the employee does not continue to operate in a Safety-Sensitive job after having been identified for reasonable suspicion testing.
4. If there is a decision to test based on observable symptoms, the employee is ordered to submit to a drug and/or alcohol test and is taken to the collection site.
5. The employee is on paid status until the test collection is completed. SFMTA requires that the employee may not perform Safety-Sensitive work pending the outcome of the drug test. Since the employee is believed to be under the influence of drugs and/or alcohol, arrangements will be made to have him/her transported home.
6. If there is a confirmed breath alcohol test equal to 0.02 or greater but less than 0.04, the employee will be relieved from his or her Safety-Sensitive Function immediately for a minimum of eight hours.
7. If there is a confirmed positive breath alcohol test (equal to 0.04 or above), refusal to submit to testing, or confirmed positive drug test, the employee will be directed to the Substance Abuse Professional (SAP) for an evaluation and referral for rehabilitation or education.
8. Employees who test positive for drugs or alcohol, refuse to submit to a test, or whose test result is Adulterated or Substituted will be disciplined in accordance with applicable memoranda of understanding.

Drug Testing Process for Reasonable Suspicion



Post-Accident Testing Procedures

The FTA regulations require testing for prohibited drugs and alcohol in the case of certain public transportation accidents. Post-accident testing is mandatory for accidents where there is a loss of life and for other non-fatal accidents.

1. The inspector ensures that all injured people receive proper medical care.
2. The supervisor determines whether the accident meets FTA criteria (see "Post-Accident Testing Chart").
3. The employee will be taken to the collection site and tested as soon as practicable following the accident. The tests should be performed within two hours of the accident. If tests are not performed within two hours, the inspector must document the reasons why the test was not performed. If an alcohol test cannot be administered within eight hours, the test must be cancelled and the inspector shall document the reasons why the test was not conducted. If a drug test cannot be performed within 32 hours after the accident, the inspector shall document the reasons why the test was not conducted.
4. The employee should remain readily available for alcohol testing up to eight hours post-accident and for drug testing, up to 32 hours after the accident, including notifying his/her supervisor of his/her location, or he/she may be deemed to have refused to submit to testing.
5. If the employee is injured and needs medical treatment, provisions will be made to perform an alcohol test within eight hours and a drug test within 32 hours of the accident.
6. The employee is prohibited from using alcohol for eight hours after the accident, prior to testing.
7. Pending the results of a drug test, the employee will be returned to his/her safety-sensitive position if medically cleared to be returned to work. In the interests of safety, the SFMTA will transfer all employees to a non-safety-sensitive status pending the results of a drug test.
8. If the alcohol test is positive (equal to .04 or greater), the employee must be removed from duty and referred to the SAP. If the test is equal to 0.02 or greater but less than 0.04, the employee will be removed from duty for at least eight hours.
9. If the employee refuses to submit to a test or if the test is confirmed positive, the employee will be removed from duty and referred to the SAP.
10. Discipline for positive, adulterated, or substituted drug and/or alcohol tests, and refusals to submit to testing will be imposed in accordance with applicable memoranda of understanding.

Post-Accident Alcohol & Drug Testing Criteria

A post-accident test shall be conducted when the incident meets the criteria listed below. A post-accident test is NOT a probable cause or reasonable suspicion test.

Definitions

Accident means an occurrence associated with the operation of a revenue service vehicle, if as a result–

- (1) An individual dies;
- (2) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident;
- (3) With respect to an occurrence in which the public transportation vehicle involved is a bus, electric bus, van or automobile, one or more vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, "disabling damage" means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, tail-lights, turn signals, horn, or windshield wipers that makes them inoperative; or
- (4) With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from revenue service.

For accidents *not involving a fatality*, there are two categories:

Road Surface Vehicles

The first category is for "road surface" vehicles, including buses, vans, and automobiles.

An accident is an occurrence resulting in a vehicle—either a public transportation vehicle or another vehicle—suffering disabling damage and having to be towed away.

Rail Vehicles

The second category includes rail cars, trolley buses and trolley cars, and vessels. This category would include other kinds of transit conveyances operated by FTA recipients, such as people movers, inclines, and monorails. (Cable cars fit into this category.)

An accident is deemed to have occurred to such a vehicle when the occurrence results in the public transportation vehicle being removed from revenue service.

This includes an accident when the vehicle is in operation but occurring when the vehicle is not operating in revenue service (for example, in the yard), if it results in

damage that would result in a comparable vehicle being withdrawn from revenue service or results in a delay in the vehicle placed into or returned to revenue service.

Who is Tested?

Fatality

If an accident involving a fatality has occurred, a test must be given to those surviving covered employees operating the vehicle at the time of the accident. Tests should also be administered to any other covered employee who SFMTA determines could have contributed to the accident.

Bodily Injury or Property Damage

Road Surface Vehicles

With respect to non-fatal accidents involving road surface vehicles, a Covered Employee operating the vehicle at the time of the accident would have to be tested unless the employer determines that an employee's performance can be completely discounted as a contributing factor to the accident.

Rail Vehicles

With respect to rail vehicles, the employer must test Covered Employees operating the vehicle at the time of the accident, unless the employer determines that an employee's performance can be completely discounted as a contributing factor to the accident.

Examples

- *The second car operator would not have to be tested for a vehicle accident caused exclusively by the operator of the lead car, who was operating the train.*
- *Both operators would have to be tested if a person in the second car was hit by the doors which are operated by the second car operator, and is then struck by the train operated by the lead car operator.*

Other Possible Tests

Other employees who may have contributed must also be tested; for example, a dispatcher who routes two trains onto the same track, which then collide. In that situation, three persons would be tested: the two train operators and the dispatcher who routed the trains.

Post-Accident Testing Chart

Type of Accident (Associated with the Operation of a Vehicle)	Requirements for Coverage	Test Surviving Covered Employee operating the Vehicle at time of Accident?	Test Other Safety- Sensitive Employee?
Fatal (all types of vehicles)	None beyond loss of human life in accident	In all cases	<u>If</u> employer determines that Covered Employee's performance could have contributed to accident (includes Maintenance personnel)
Non-fatal (buses, vans, electric buses, or automobiles)	<u>Either</u> injury requiring immediate medical treatment away from accident scene <u>or</u> disabling damage to transit vehicle or other vehicle	<u>Unless</u> employer determines that Covered Employee's performance can be completely discounted as a contributing factor to the accident	<u>If</u> employer determines that Covered Employee's performance could have contributed to accident (includes Maintenance personnel)
Non-fatal (rail cars, trolley cars, trolley buses, or vessels)	<u>Either</u> injury requiring immediate medical treatment away from accident scene <u>or</u> public transportation vehicle is removed from revenue service	<u>Unless</u> employer determines that Covered Employee's performance can be completely discounted as a contributing factor to the accident	<u>If</u> employer determines that Covered Employee's performance could have contributed to accident (includes Maintenance personnel)

Post-Accident Drug and Alcohol Testing Questionnaire

1. DID THIS ACCIDENT INVOLVE A FATALITY? **YES or NO**
If "Yes," drug and alcohol tests are required of driver* and anyone else who could have contributed to the accident.
2. WAS THERE AN INJURY FOR WHICH THE INDIVIDUAL RECEIVED IMMEDIATE MEDICAL TREATMENT AWAY FROM THE SCENE? **YES or NO**
If "Yes," drug and alcohol tests are required of driver* and anyone else who could have contributed to the accident.
3. IF ACCIDENT INVOLVED A ROAD SERVICE VEHICLE (DIESEL BUS, VAN, AUTOMOBILE), WAS THERE DISABLING DAMAGE TO **ANY** VEHICLE (i.e., WAS ANY VEHICLE TOWED AWAY, INCLUDING NON-SFMTA VEHICLE)? **YES or NO**

"Disabling damage" means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated.

Disabling damage does not include:

- Damage which can be remedied temporarily at the scene of the occurrence without special tools or parts;
- Tire disablement without other damage even if no spare tire is available; or
- Damage to headlights, tail-lights, turn signals, horn, or windshield wipers that makes them inoperative.

If "Yes," drug and alcohol tests are required of driver and anyone else who could have contributed to the accident.

4. IF ACCIDENT INVOLVED A RAIL VEHICLE (LRV, TROLLEY BUS, CABLE CAR), DID THE RAIL VEHICLE HAVE TO BE REMOVED FROM SERVICE (EVEN IF IN THE YARD)?
YES or NO

If "Yes," drug and alcohol tests are required of driver* and anyone else who could have contributed to the accident.

5. CAN THE DRIVER'S PERFORMANCE BE COMPLETELY DISCOUNTED AS A CONTRIBUTING FACTOR TO THE ACCIDENT? **YES or NO**

If "Yes," explain why



If the answer to question 5 is "Yes," no test is required of a driver or operator, except in cases involving a fatality.

6. COULD ANY OTHER SAFETY-SENSITIVE EMPLOYEE HAVE CONTRIBUTED TO THE ACCIDENT (e.g. MECHANIC)? **YES or NO**

If "Yes," explain why

7. WAS TESTING PERFORMED WITHIN TWO HOURS AFTER THE ACCIDENT? **YES or NO**

If "No," explain why

8. IF THE ANSWER TO NO.7 IS "NO", WAS TEST PERFORMED WITHIN EIGHT HOURS AFTER THE ACCIDENT? **YES or NO**

If "No," explain why

*** The term "driver" includes an operator of a non-revenue vehicle if that operator is required to hold a commercial driver's license to operate the vehicle involved.**

Return-to-Duty and Follow-Up Testing

Before any Covered Employee can be allowed to return to duty to perform a Safety-Sensitive Function following a verified positive drug test, a positive breath alcohol test, a Refusal to Submit to a test, or engaging in conduct prohibited by the regulations regarding alcohol misuse, the employee must first be evaluated by a Substance Abuse Professional and pass the return-to-duty test. The return-to-duty and follow-up drug testing will be performed under Direct Observation as described in 49 CFR Section 40.67.

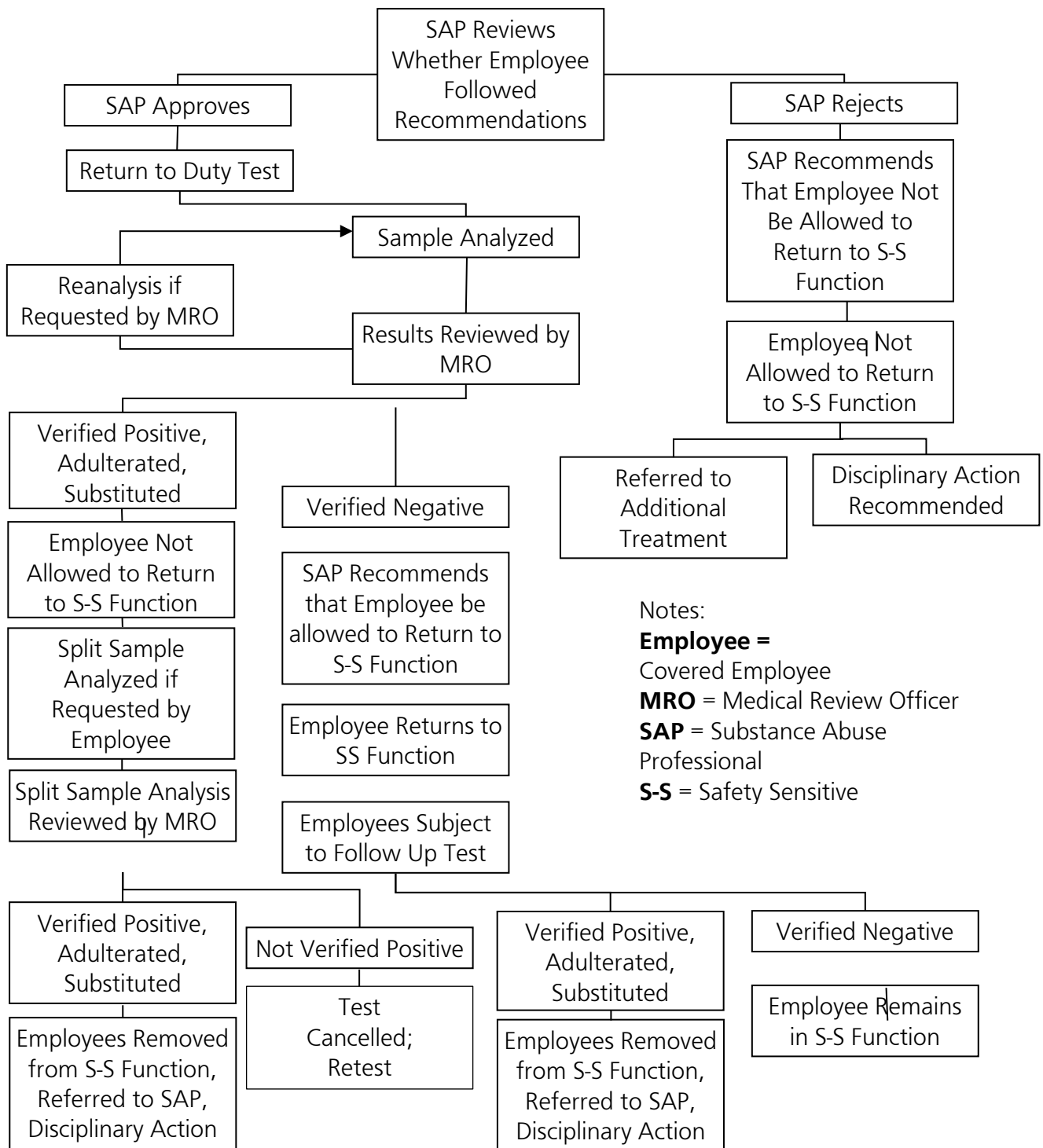
Return-to-Duty Testing equal to .04% Alcohol Test and/or Positive Drug Test

1. When the SAP determines that a Covered Employee is ready to return to Safety-Sensitive Duty after completing any recommended rehabilitation, the employee must take and pass a drug and/or alcohol return-to-duty test. If the return-to-duty test is positive or constitutes a Refusal to Submit to testing, it counts as a second positive. If the test result is Cancelled or Invalid, the employee will have to be retested.
2. SFMTA requests that the Covered employee notify the SAP 14 days in advance of his/her expected return-to-duty date. The SAP will schedule the employee for the follow-up evaluation and the return-to-duty test.
3. Discipline will be imposed consistent with applicable memoranda of understanding.

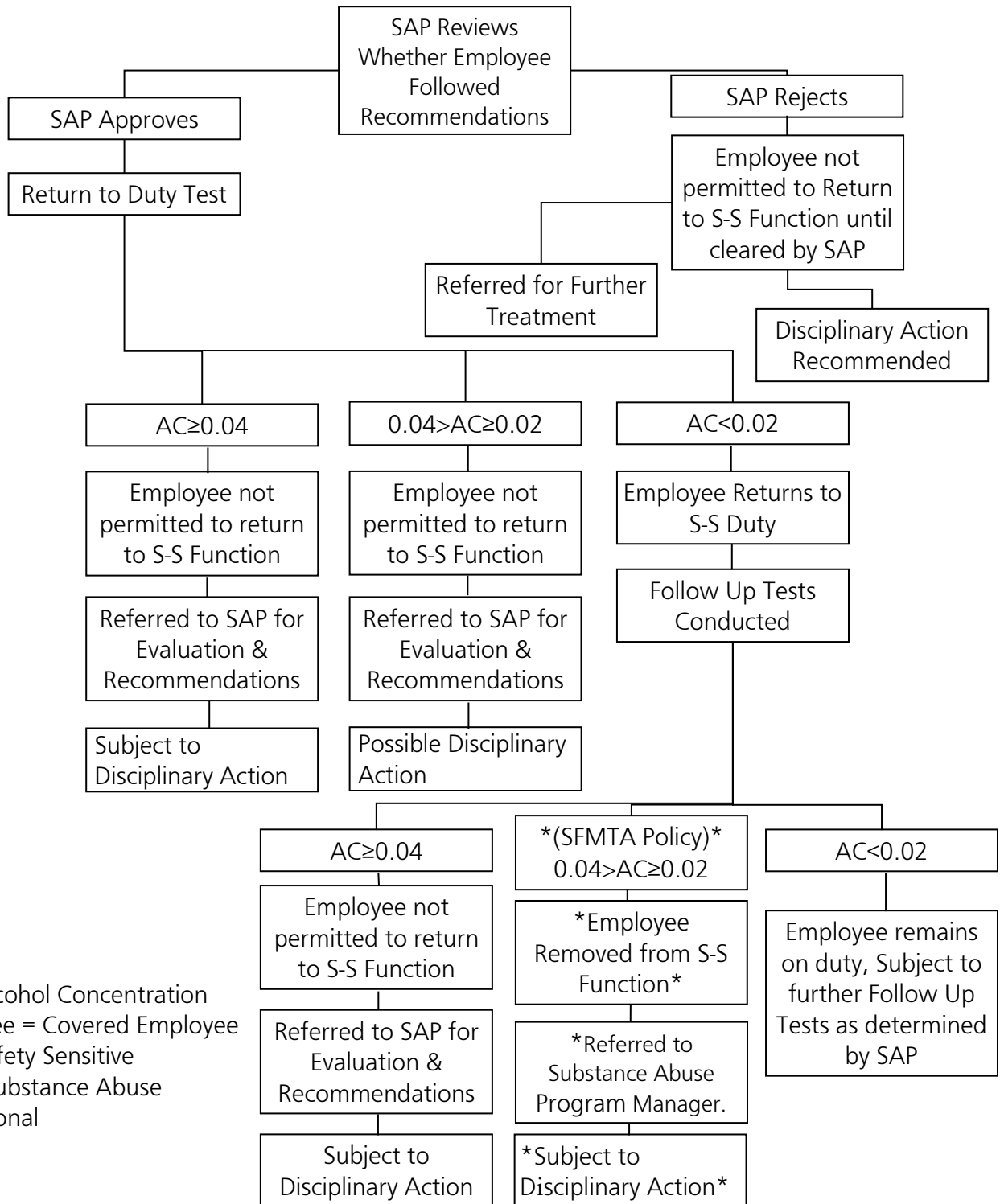
Follow-Up Testing

1. Once a Covered Employee returns to Safety-Sensitive Duty, he/she shall be subject to unannounced follow-up testing for at least 12 months, but not more than 60 months. The type, frequency and duration of the follow-up testing shall be determined by the SAP; however, a minimum of six tests shall be performed during the first 12 months after the employee has returned to duty. Follow-up testing does not exclude an employee from the random testing program. This means that an employee is subject to random testing as well as follow-up testing.
2. Follow-up testing prescribed while an individual was working for another employer must be continued by SFMTA if SFMTA elects to hire the individual.
3. If a Covered Employee tests positive on a follow-up test or Refuses To Submit to such testing, discipline will be imposed in accordance with applicable memoranda of understanding.

Process for Direct Observation Drug Testing



Process for Return-to-Duty and Follow-Up Alcohol Testing



Notes:
 AC = Alcohol Concentration
 Employee = Covered Employee
 S-S = Safety Sensitive
 SAP = Substance Abuse Professional

Pre-Employment Testing

1. The FTA regulations require that all applicants for employment in Safety-Sensitive positions, individuals being transferred to Safety-Sensitive positions from non-Safety-Sensitive positions, and employees returning from leaves over 90 days when out of the random pool must be given pre-employment drug tests prior to performing Safety-Sensitive Functions.
2. Applicants may not be hired or assigned to Safety-Sensitive Functions unless they pass the test (negative test result).
3. Applicants must be informed in writing of the testing requirements prior to conducting the test. SFMTA will require each applicant to sign a form acknowledging that they know that their urine will be tested for cocaine, PCP, amphetamines, marijuana, and opioids. Note: The form that they sign prominently displays the message **"YOUR APPLICATION WILL BE CONSIDERED INCOMPLETE IF THIS NOTICE IS NOT SIGNED AND DATED."** A testing history must be requested from previous employers for the two years prior to application.
4. The Human Resources Division will notify the Substance Abuse Program of the number of applicants to be tested and their anticipated start date. A minimum of five working days are required to set up testing appointments. The Substance Abuse Program notifies Human Resources of the scheduled date, time, and location for testing.
5. It is the responsibility of the applicant to report to the collection site at the time and day scheduled.
6. Drug tests will be administered by the SFMTA's service agents. Tests may be conducted at an off-site facility when prearranged by Human Resources.
7. If an applicant's test is determined to be Negative Dilute, Invalid or is Cancelled, the applicant must be retested.
 - If the applicant's initial test was negative dilute and the retest result is also negative dilute the applicant will not be hired and can reapply in 6 months.
8. The Substance Abuse Program will be notified of all testing results and these results will be immediately transmitted to Human Resources.
9. SFMTA has determined that applicants who Refuse to Submit to testing, or who test positive for drugs, will not be considered for a SFMTA Safety-Sensitive job for five years.
10. An applicant whose pre-employment test results are negative will continue through the hiring process for the Safety-Sensitive position.
11. An applicant must begin his or her Safety-Sensitive Function within 90 days of receipt of the test results by the employer. Delays beyond 90 days necessitate a new test. A verified negative pre-employment drug test must be received before the employee is placed on the payroll or permitted to perform Safety-Sensitive Functions. The applicant must also receive any required orientation and training before performing such work.

Transfer Testing

1. An employee who is being considered for transfer to a Safety- Sensitive position from a non-Safety-Sensitive position will be required to undergo a drug test.
2. An employee with a confirmed positive, Adulterated, or Substituted drug test, as certified by the MRO, will be disqualified from immediate transfer and referred to the SAP. No discipline will be initiated as a result of the positive test.

An employee who tests positive or whose test is Adulterated or Substituted may reapply after six months if he/she has successfully completed the SAP recommendations.

If a transferred employee has not performed Safety-Sensitive Duties for 90 consecutive calendar days from the date of the pre-transfer drug test, and the employee has not been in the random selection pool during that period, the employee will be required to take another pre-employment drug test with a negative result.

Post-Leave Testing

If a Covered employee has been on leave status and has not performed Safety-Sensitive Duties for 90 consecutive calendar days or been in the random selection pool during that period, the employee will be required to take another pre-employment drug test before returning to his or her Safety-Sensitive Function.

Split Specimen Testing Procedures

1. At the time of collection, the urine specimen will be split and poured into two specimen bottles. One specimen (Primary Specimen) will contain at least 30 ml. of urine, and the other one (Split Specimen), a minimum of 15 ml. of urine.
2. Both specimens are sent to the DHHS-certified laboratory under contract with SFMTA, but only the Primary Specimen is analyzed. The Split Specimen is stored in case the Covered Employee requests that the Split Specimen be analyzed.
3. The Covered Employee has the option of having an analysis of the Split Specimen if his or her test result is positive, Adulterated, or Substituted. The Split Specimen analysis is performed at a separate DHHS-certified laboratory.
4. The Covered Employee has 72 hours after being notified by the Medical Review Officer (MRO) of a verified positive to request a test of the Split Specimen. Requests after 72 hours will only be accepted if the delay was due to documented facts that were beyond the control of the employee.
5. The Covered Employee must notify the MRO that he/she wants to test Split Specimen.
6. Pursuant to past SFMTA practice, laboratory fees are the responsibility of the Covered Employee.
7. For a positive drug test - If the second DHHS-certified laboratory identifies the presence of the drug(s) (without regard to cutoff concentrations), the Split Specimen will be considered "Reconfirmed." If the test fails to reconfirm the presence of the drug(s), the second laboratory will then conduct validity testing. If the second laboratory fails to confirm the presence of the drug(s) and adulterants, the test will be Cancelled. The MRO will report a reconfirmed test or a test that fails to reconfirm to the employee and SFMTA. A split test that fails to reconfirm will also be reported to DOT.
8. For an Adulterated or Substituted test – If the second laboratory reconfirms the Adulteration or Substitution, the original test result will remain the same. If the laboratory fails to reconfirm, the test will be Cancelled.
9. If the Split Specimen is unavailable or appears insufficient for testing, the MRO will Cancel the test. This applies to all test results that are being challenged – drug positives, Adulterations, and Substitutions. If the test is Cancelled for this reason, the MRO will direct the DER to send the employee for another test that will be performed under direct observation. No advance notice will be given to the employee.

EXHIBIT G



NOTIFICATION OF POSITIVE TEST

TO: Aleta Washington-Williams, Manager IV, Woods Division

FROM: Beverly Tilson, Substance Abuse Program Manager [REDACTED]

EMPLOYEE NAME: **Zhekun Chen** ID# [REDACTED]

TEST DATE: **10/26/23** TEST TYPE: **Random**

NOTIFICATION OF POSITIVE: **11/1/23**

CIRCUMSTANCES:

- A. Alcohol test over 0.04
- B. Confirmed positive drug test
- C. Other _____

✧ PLEASE ACKNOWLEDGE RECEIPT AND DATE EMPLOYEE WAS REMOVED FROM SAFETY SENSITIVE DUTY.

cc: David Garcia, HR – Employee & Labor Relations
Shana Dines, HR – Employee & Labor Relations
MJ Johnson, HR – Employee & Labor Relations



DATE: 11/1/23

TO: Zhekun Chen, CAP ID #7041
9163 – Transit Operator

FROM: Aleta Washington-Williams
9174 – Manager IV

SUBJECT: **POSITIVE DRUG TEST (PROBATIONARY TRAINEE)**

Dear Zhekun Chen,

You submitted to a **Random** urine drug test on **10/26/23**. The Medical Review Officer (MRO) confirmed the test as being positive for **Marijuana** on **11/1/23**. As a result, the San Francisco Municipal Transportation Agency (SFMTA) relieved you from safety sensitive duty.

Please be advised that the U.S. Department of Transportation (DOT) regulations require SFMTA to release testing information about you to prospective employers who request such information, provided you consent in writing to the release of your testing information.

If you are considering applying at another transit agency, the DOT requires you to contact a Substance Abuse Professional and follow her/his recommendations prior to being eligible for consideration for employment in any safety-sensitive position within the transit industry. A list of Substance Abuse Professionals, in your area, who are familiar with the DOT regulations are enclosed for your assistance.

I acknowledge receipt and understanding of this memorandum.

Print Name	Signature	Date
-------------------	------------------	-------------

cc: David Garcia, HR – Employee & Labor Relations
Shana Dines, HR – Employee & Labor Relations
MJ Johnson, HR – Employee & Labor Relations



London Breed, Mayor

Gwyneth Borden, Chair
Amanda Eaken, Vice Chair
Stephanie Cajina, Director
Steve Heminger, Director

Fiona Hinze, Director
Sharon Lai, Director
Manny Yekutiel, Director

Jeffrey Tumlin, Director of Transportation

Certified Mail Tracking #9589 0710 5270 1156 8945 95
USPS Tracking #9590 9402 7110 1251 4328 27

11/1/23

Via Certified Mail

Zhekun Chen

Dear Zhekun Chen:

RE: POSITIVE DRUG TEST (PROBATIONARY TRAINEE)

You submitted to a **Random** urine drug test on **10/26/23**. The Medical Review Officer (MRO) confirmed the test as being **Positive** for **Marijuana** on **11/1/23**.

Please be advised that the U.S. Department of Transportation (DOT) regulations require SFMTA to release testing information about you to prospective employers who request such information, provided you consent in writing to the release of your testing information.

If you are considering applying at another transit agency, the DOT requires you to contact a Substance Abuse Professional and follow her/his recommendations prior to being eligible for consideration for employment in any safety-sensitive position within the transit industry. A list of Substance Abuse Professionals, in your area, who are familiar with the DOT regulations are enclosed for your assistance.

Sincerely,



Beverly Tilson
Substance Abuse Program Manager

Attachment: List of Substance Abuse Professionals

cc: David Garcia, HR – Employee & Labor Relations
Shana Dines, HR – Employee & Labor Relations
MJ Johnson, HR – Employee & Labor Relations



SUBSTANCE ABUSE PROFESSIONALS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Test Results

Date Results Transmitted: 2023-11-01 9:21 AM

Transmitted By: PM

Participant/Donor: ZHEKUN CHEN

SSN/EID: [REDACTED]

CCF/Specimen ID: [REDACTED]

Specimen Type: URINE

Company: San Francisco Muni Trans Agency

Location: San Francisco Muni Trans Agency

Lab Account Number: [REDACTED]

Reason for Test: RANDOM

Date Specimen Collected: [REDACTED]

Laboratory: [REDACTED]

Collection Site: [REDACTED] -

Collection Site Phone: [REDACTED]

Program: DOT

Agency: FTA

Date MRO Received CCF Copy 2: [REDACTED]

Date Test Verified by MRO: [REDACTED]

Test Results

Panel - DOT DRUG PANEL 5000

<u>Drug</u>	<u>Results</u>
Amphetamines	NEGATIVE
Cocaine	NEGATIVE
Marijuana	POSITIVE
Opioids	NEGATIVE
Phencyclidine (PCP)	NEGATIVE

MY DETERMINATION/VERIFICATION IS: **POSITIVE**

Certified Medical Review Officer
[REDACTED] Signature [REDACTED]

The information contained in this message is CONFIDENTIAL and is for the intended addressee only. Any unauthorized use, dissemination of the information, or copying of this message is prohibited. If you believe you have received the message in error, please contact our Client Services Department at [REDACTED] and delete the message without copying or disclosing it.



LAB NUMBER

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, ID No.

Facility Number

B. MRO Name, Address, Phone No., and Fax No.

SAN FRANCISCO MUNICIPAL TRAINING
1 SOUTH VAN NESS AVENUE
2TH FLOOR
SAN FRANCISCO, CA 94103
415-701-5039 415-701-4383

C. Donor SSN, Employee I.D., or CDL State and No.

D. Specify Testing Authority: HHS NRC Specify DOT Agency: FMCSA FAA FRA FTA PHMSA USCG

E. Reason for Test: Pre-employment Random Reasonable Suspicion/Cause Post Accident Return to Duty Follow-up Other (specify)

F. Drug Tests to be Performed: THC, COC, PCP, OPI, AMP THC & COC Only Other (specify)

G. Collection Site Address:

Collector Phone: (Write phone number in boxes if not pre-printed.)

Collector Number

STEP 2: COMPLETED BY COLLECTOR (make remarks when appropriate).

URINE ORAL FLUID

COLLECTION: Split Single None Provided, Enter Remark.

URINE: Collector reads urine temperature within 4 minutes. Temperature between 90° and 100° F? Yes No, Enter Remark Observed, Enter Remark

ORAL FLUID: Split Type: Serial Concurrent Subdivided Each Device Within Expiration Date? Yes No Volume Indicator(s) Observed

REMARKS:

STEP 3: Collector affixes seal(s) to bottle(s)/tube(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY TEST FACILITY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable federal requirements.

SPECIMEN BOTTLE(S)/TUBE(S) RELEASED TO:

Collector Name (First, MI, Last)

Date Collected (Mo/Dy/Yr)

Signature of Collector

Time Collected: AM PM

Name of Delivery Service
Fedex

STEP 5: COMPLETED BY DONOR

I certify that I provided my specimen to the collector; that I have not adulterated it in any manner; each specimen bottle/tube used was sealed with a tamper-evident seal in my presence; and that I have signed this form and on the label affixed to each specimen bottle/tube is correct.

Signature of Donor

(PRINT) Donor's Name (First, MI, Last)
ZHEKUN CHEN

Date (Mo/Day/Yr)
10 26 12

Email address Daytime Phone No. Evening Phone No. () Date of Birth 10 13 1983 (Mo/Day/Yr)

After the Medical Review Officer receives the test results for the specimen identified by this form, he/she may contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY ON THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

URINE ORAL FLUID

In accordance with applicable federal requirements, my verification is:

NEGATIVE POSITIVE for: DILUTE
 REFUSAL TO TEST because - check reason(s) below: TEST CANCELLED
 ADULTERATED (adulterant/reason): SUBSTITUTED
 OTHER:

REMARKS:

Signature of Medical Review Officer

(PRINT) Medical Review Officer's Name (First, MI, Last)

Date (Mo/Day/Yr)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable federal requirements, my verification for the split specimen (if tested) is:

RECONFIRMED for: TEST CANCELLED
 FAILED TO RECONFIRM for:

REMARKS:

Signature of Medical Review Officer

Page 180 (PRINT) Medical Review Officer's Name (First, MI, Last)

Date (Mo/Day/Yr)



150A
#7041

SFMTA

TESTING NOTIFICATION FORM

EMPLOYEE NAME: Chen, Zhekun ID# [REDACTED]
 TIME OF NOTIFICATION: 10:38a DATE OF TEST: 10/26/23

TYPE OF TEST:

Random
 Drug only Both (Drug and Alcohol)

Follow Up Post Accident Reasonable Suspicion
 (All tests above require Drug and Alcohol)

LOCATION OF TEST SITE: [REDACTED] WORK LOCATION: [REDACTED] PHONE: [REDACTED]

Zhekun Chen, under federal regulations for drug and alcohol testing of
 (Employee's Name)

safety-sensitive employees, you are being tested for the presence of prohibited drugs and alcohol. Your signature indicates that you have read and understood the given instructions, agree to take the test and authorize the release of your test results to the San Francisco Municipal Transportation Agency (SFMTA).

=====

SAFETY-SENSITIVE EMPLOYEES STATEMENT TO EMPLOYEES REGARDING REFUSAL TO SUBMIT TO DRUG AND/OR ALCOHOL TESTING

If you refuse to submit to a drug and/or alcohol test, refuse to sign the necessary forms, or follow instructions, it will be considered a violation of the testing procedure. You will be removed from duty and referred to the Substance Abuse Professional for assessment. This information will be forwarded to the Director of Transit or designee.

[REDACTED]
[REDACTED]
 Notifier's Signature

10/26/23
 Date
10/26/23
 Date

=====

RETURN-TO-DUTY RELEASE

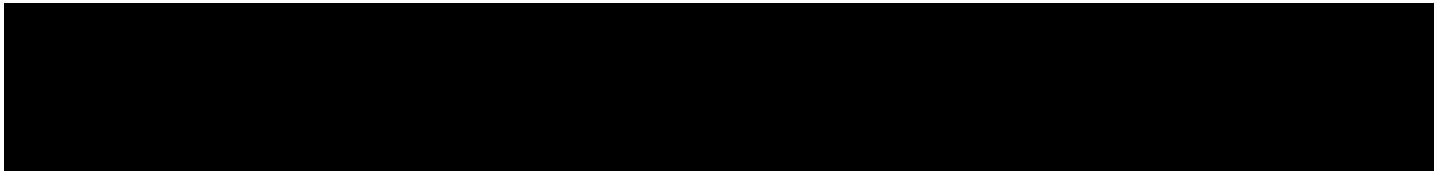
- Employee has completed all testing requirements and is released to duty.
- Employee has not completed all testing requirements, or has tested positive for alcohol between 0.02-0.039 and is NOT released to return-to-duty:
 - For eight (8) hours or until next shift.
 - Until released by Substance Abuse Professional (SAP).

[REDACTED]
 Collector's Signature

10-26-23 11:03 AM
 Date & Time Finished

EXHIBIT H

CSF Job Appointment Summary

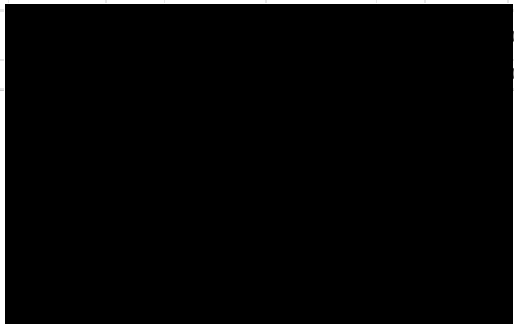


Zhekun Chen (Zhekun)

Emp

Job Appointment Summary

Eff Date	Appt Date	Action	Description	Payroll Status	Job Code	Union Code	Empl Class	Exmpt Cat	Full/Part Time							Cert Date	Ctywd Snrty Date	Company Seniority Date	Vacation Anniversary Date	Sick Anniversary Date
11/03/2023	06/12/2023	TER	Release from Probation-Discip	Terminated	9163	253	PCS	NA	F							06/02/2023	06/02/2023	06/12/2023	06/12/2023	06/12/2023
06/12/2023	06/12/2023	HIR	New Hire	Active	9163	253	PCS	NA	F							06/02/2023	06/02/2023			



Save Return to Search Notify

EXHIBIT I

From: [Eng, Sandra \(CSC\)](#)
To: [Gordon, Mika \(CSC\)](#)
Cc: [Aldana, Elizabeth \(CSC\)](#); [Holmes, Lavena \(CSC\)](#)
Subject: Fwd: Notice of Receipt - Zhekun Chen
Date: Tuesday, January 09, 2024 2:23:19 AM

Hi Mika,

Please forward this as additional information for this appeal to MTA.

Sincerely,

Sandra

Get [Outlook for iOS](#)

From: [REDACTED]
Sent: Monday, January 8, 2024 2:02:47 PM
To: Eng, Sandra (CSC) <sandra.eng@sfgov.org>
Subject: Re: Notice of Receipt - Zhekun Chen

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

 [9-4-18_item_10.3_substance_abuse_policy_handbook.pdf](#)

Hi Sandra,

Below is my explanation for my hearing:

As a bus driver I know I must be extra careful, and safety is my priority. I am recognizing the importance of safety in my role as a bus driver and am taking responsibility for the situation. I felt very sorry to the community and my family that I tested positive for Marijuana with a level of 36 ng/mL.

I wanted to be clarifying that I'm not addicted to any drugs including Marijuana but have experienced a situation where I tested positive for marijuana due to an accidental intake. As a bus driver for 10 years with consistent negative drug test results annually, especially in light of the recent positive test result due to the accidental consumption of a marijuana-containing sleep gummy that my wife gave to me. In the future, I will be cautious with over-the-counter or any consumable

products, especially those that might contain substances that can lead to a positive drug test. I will always check labels and be aware of what I am consuming.

Also, there is no violation reported in the Clearinghouse, because pursuant to U.S. Department of Transportation (DOT) regulations the test cutoff concentration for Marijuana metabolites (THCA) is 50 ng/mL (see SFMTA Policy and Procedures Handbook on page 34, highlighted) and my test result is below the cutoff concentration (I'm tested positive with a level of 36 ng/mL). While my test result is below the cutoff and doesn't indicate a need for SAP as per DOT standards. Second, in the SFMTA policy and procedures handbook (page 36, highlighted) it indicated for Pre-Employment (90-Day Rule) can return to duty after a follow-up testing.

Lastly, I am taking responsibility, learning from the experience, and making positive changes can contribute to personal growth and rebuilding trust. I am requesting to removal of restrictions and reapply for my position as a bus operator.

Please let me know if you have any questions.

Best,
Zhekun

From: Gordon, Mika (CSC) <shamika.gordon@sfgov.org>
Sent: Friday, December 29, 2023 4:22 PM
To: [REDACTED]
Subject: Notice of Receipt - Zhekun Chen

Dear Zhekun Chen:

Please find the attached notification regarding the appeal you filed. This shall serve as formal notification.

Sincerely,



CONFIRMATION OF RECEIPT AND ACKNOWLEDGMENT

I acknowledge receipt of the San Francisco Municipal Transportation Agency's Substance Abuse Program Policy approved by the SFMTA Board of Directors on September 4, 2018 and its Drug and Alcohol Testing Procedures. I understand that it is my responsibility to familiarize myself with the program requirements and seek appropriate guidance or explanation if needed. I also understand that I am to sign this form and return it immediately.

Employee's Signature

Employee's Name (Printed)

Date

Please complete and return this form to:

Substance Abuse Program
One South Van Ness Avenue, Sixth Floor
San Francisco, CA 94103



SUBSTANCE ABUSE PROGRAM

POLICY AND PROCEDURES HANDBOOK

**Substance Abuse Program
One South Van Ness Avenue, Sixth Floor
San Francisco, CA 94103
Tel: (415) 701-5018
Fax: (415) 701-4381**

August 21, 2018

Memorandum

DATE: August 22, 2018
TO: All Safety-Sensitive Employees
San Francisco Municipal Transportation Agency
FROM: Edward D. Reiskin
Director of Transportation
SUBJECT: Federal Mandated Alcohol and Drug Testing Program

The enclosed revised Substance Abuse Policy and Procedures Handbook was approved by the San Francisco Municipal Transportation Board of Directors on August 21, 2018.

The Substance Abuse Policy and Procedures Handbook governs the implementation of 49 CFR Part 40 and 655 as it pertains to the SFMTA.

Drug and Alcohol Testing includes the following types of testing for all Safety-Sensitive Employees: Pre-employment, Reasonable Suspicion, Post-Accident, Random, Return-to-Duty, and Follow-Up. The substances tested for are: Marijuana, Amphetamines, Opioids (codeine, heroin, morphine, oxycodone, oxymorphone, hydrocodone, hydromorphone), Phencyclidine (PCP), and Cocaine. Enclosed you will find the procedures for each type of testing as well as a list of the safety-sensitive positions that are required to abide by the policy.

We encourage all employees who are experiencing problems with drugs and alcohol or other personal problems to contact the SFMTA CARE Employee Assistance Program (EAP) at 1.800.834.3773 for **free** and **confidential** assessment and referral services. If you have any questions regarding the revisions in the policy and procedures, you can contact the SFMTA Substance Abuse Program at 415.701.5018.

As part of the SFMTA dedication to providing public transit service that is safe for all employees and customers alike I thank you for complying with the policy and procedures in this handbook.

SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 10-093

WHEREAS, Since February 15, 1994, the U.S. Department of Transportation (DOT) has required recipients of federal assistance to have an alcohol and drug testing program and an employee training program in place for employees performing safety-sensitive functions, which requirements are embodied in 49 CFR Parts 40 and 655 (the "federal regulations"); and

WHEREAS, The federal regulations require the governing body of a direct recipient of Federal financial assistance from the Federal Transit Administration to adopt a policy statement on alcohol misuse and prohibited drug use in the workplace by employees performing safety-sensitive functions; and

WHEREAS, On December 13, 1994, in accordance with the federal regulations, the Public Transportation Commission (PTC), predecessor to the San Francisco Municipal Transportation Agency (SFMTA) Board of Directors, adopted a Substance Abuse Policy; including procedures for testing safety-sensitive employees for prohibited drugs and alcohol; and

WHEREAS, On March 24, 1998, the PTC adopted Resolution No. 98-025, which approved the updated Substance Abuse Policy and Procedures to reflect changes in the federal regulations; and

WHEREAS, On August 20, 2002, the MTA Board of Directors adopted Resolution No. 02-092, which approved an updated Substance Abuse Policy and Procedures to reflect changes in the federal regulations; and


WHEREAS, DOT amended the federal regulations regarding observed collections, which regulations have been effective since August 1, 2009; and

WHEREAS, The DOT also amended the federal regulations to include additional prohibited drugs in the testing panel and lower threshold levels for determining a positive test as to certain prohibited drugs, which regulations will become effective October 1, 2010; and

WHEREAS, The Substance Abuse Program has updated the Substance Abuse Policy and Procedures to comply with the revisions to the federal regulations; now, therefore be it

RESOLVED, That the SFMTA Board of Directors adopts the updated Substance Abuse Policy and Procedures to comply with the most recent amendments to the federal regulations including observed collections, additional prohibited drugs in the testing panel and lower threshold levels for determining a positive test as to certain prohibited drugs.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of JUN 15 2010.


Secretary to the Board of Directors
San Francisco Municipal Transportation Agency



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SFMTA

Substance Abuse Program

SFMTA SUBSTANCE ABUSE PROGRAM POLICY



1.0 Policy

The San Francisco Municipal Transportation Agency ("Agency" or "SFMTA") operates the San Francisco Municipal Railway. SFMTA is dedicated to providing public transit service within the City and to other parts of the region that is convenient, effective, safe, and efficient. SFMTA employees are our most valuable resource. It is our policy (1) to take appropriate action to assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) to foster and maintain a drug and alcohol-free environment for all employees and patrons; (3) to prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to voluntarily seek professional assistance whenever personal problems, including alcohol or drug use, may adversely affect their ability to perform their assigned duties.

To achieve the goal of a substance-free workplace, this policy incorporates three integrated components:

A. Prevention through education and training: *Education and training will consistently communicate and clarify this policy to all employees, assist employees in recognizing substance abuse problems and in finding solutions to those problems.*

B. Detection, deterrence and enforcement: Under Federal law, all Safety-Sensitive employees are subject to pre-employment, reasonable suspicion, post-accident, random, return-to-duty, and follow-up drug and alcohol testing. Applicants for Safety-Sensitive positions will not be hired nor will current employees be assigned to Safety-Sensitive Functions unless they pass applicable drug tests.

C. Treatment and opportunities for rehabilitation: *Alcohol and drug abuse are recognized as diseases that can be treated. The Agency recognizes that our employees are the Agency's most important resource and encourages employees to take advantage of a voluntary rehabilitation program, to seek professional assistance through SFMTA's Peer Assistance Program or the SFMTA CARE Employee Assistance Program (EAP) prior to testing positive for drugs or alcohol, without fear of discipline.*

Portions of this Policy marked with a single asterisk () are not strictly FTA-mandated, but reflect current Agency employment policy.

2.0 Purpose

The purpose of this Policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the use of alcohol and prohibited drugs (as defined below). This policy complies with all applicable Federal regulations governing workplace anti-drug programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has adopted 49 CFR Part 655, which mandates urine drug and breath alcohol testing for employees performing Safety-Sensitive Functions. These



regulations also prevent Performance of Safety-Sensitive Functions when there is a positive, adulterated, or substituted test result, or other rule violation (e.g., refusal to test). The U.S. Department of Transportation (DOT) has also adopted 49 CFR Part 40, which sets standards for collecting and testing urine and breath specimens. This Policy incorporates these federal requirements for employees performing safety-sensitive functions, as well as other provisions as noted.

In addition, DOT has published 49 CFR Part 29, 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. The City adopted a Drug-Free Workplace policy for all of its employees in 1989. California passed a similar version of the federal law, the Drug-Free Workplace Act of 1990 (Gov't Code §§ 8350 et seq.). This Policy reiterates the requirements of the federal regulations; these requirements will be enclosed by double asterisks (**).

If any provision of an existing Agency policy, rule or resolution is inconsistent or in conflict with any provision of this Policy or the DOT/FTA Rules, this Policy and the FTA Rules shall take precedence; if any provision of this Policy is inconsistent or in conflict with the FTA Rules, the FTA Rules shall take precedence.

3.0 Consequences of Misuse/Abuse

The cost of substance misuse/abuse is devastating to society, the workplace, the family and individuals. Two thirds of all homicides are committed by people who use drugs or alcohol prior to the crime. Two-thirds of all Americans will be involved in an alcohol-related accident during their lifetimes.

The medical costs of illnesses related to substance misuse/abuse are staggering. Each year 30,000 people will die due to alcohol-caused liver disease. Another 10,000 will die due to alcohol-induced brain disease or suicide.

Besides the very real human costs just described, substance-abusing employees create very real business costs and legal liabilities for their employers:

Direct and measurable costs, such as the additional health care benefits claimed by substance abusers.

Less tangible and difficult-to-measure costs, such as the negative impact on employee morale or the diminished creativity of substance-abusing employees.

Potential costs or "liabilities," such as the potential costs of a lawsuit filed by an injured party after an accident caused by an impaired employee.

*SFMTA's Substance Abuse Program has several components to promote a drug-free workplace and comply with FTA regulations:

An expanded Substance Abuse Policy;



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An employee education program to alert employees to the dangers of alcohol and other drugs;

An education program for management, required for all supervisors, to assist them in understanding SFMTA policy, knowing available resources, and carrying out their responsibilities as they relate to employee substance abuse;

A voluntary Peer Assistance Program to encourage early intervention;

A contract for EAP services;

A Substance Abuse Professional to work with employees who test positive.

4.0 Definitions

Accident: An occurrence associated with the operation of a vehicle, if as a result:

- (a) An individual dies; or
- (b) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the Accident; or
- (c) 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
- (d) 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: 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: The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol. (The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.)

Cancelled Test: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which 49 CFR Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

Contractor: A person or organization that provides a safety-sensitive service for a recipient, sub-recipient, employer, or operator consistent with a specific understanding or arrangement. The understanding can be a written contract or an informal arrangement that reflects an ongoing relationship between the parties.



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Covered Employee: A person, including an applicant or transferee, who performs or will perform a safety-sensitive function for SFMTA. This includes certain volunteers, as defined in Section 5.1.

Dilute Specimen: A specimen with creatinine and specific gravity values that are lower than expected for human urine.

Direct Observation: Collection of a urine specimen performed while under the observation of a Collector of the same gender as the employee providing the specimen, under the circumstances and according to the provisions set forth in 49 CFR Section 40.67.

DOT: The United States Department of Transportation.

Employer: A recipient or other entity that provides mass transportation service or which performs a safety-sensitive function for such recipient or other entity. This term includes sub-recipients, operators, and contractors.

Evidential Breath Testing Device (EBT). A device that is approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

FTA: The Federal Transit Administration, an agency of DOT.

Invalid Drug Test: The result of a drug test for a urine specimen that contains an unidentified adulterant or an unidentified 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.

Legally Prescribed Drug: A controlled substance (on Schedules II through IV of the Controlled Substance list) that is authorized for patient usage by a physician or medical practitioner.

Medical Review Officer (MRO): 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.

Negative Dilute: A test result that is negative but meets the dilute criteria.

Non-negative Drug Test: A test result found to be Adulterated, Substituted, Invalid, or positive for drug/drug metabolites.

Performing a Safety-Sensitive Function: A covered employee is considered to be performing a safety-sensitive function at any time he or she is actually performing, ready to perform, or immediately available to perform such functions.



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Primary Specimen: In drug testing, 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.

Refusal to submit: A refusal to take a drug test as set out in 49 CFR Section 40.191 or an alcohol test as set out in 49 CFR Section 40.261.

Safety-Sensitive Function (Safety-Sensitive Duty): Any of the following duties, when performed by employees of recipients, sub-recipients, operators or contractors:

- (a) Operating a revenue service vehicle, whether or not in revenue service;
- (b) Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
- (c) Controlling dispatch or movement of a revenue service vehicle;
- (d) Maintaining (including repairs, overhaul, and rebuilding) a revenue service vehicle or equipment used in revenue service; or
- (e) Carrying a firearm for security purposes.

Service Agents: Any person or entity, other than an employee of the employer, who provides services specified in 49 CFR Part 40 to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs, laboratories, MROs, and SAPs. See Exhibit D for a list of Service Agents hired or under contract to SFMTA.

Split Specimen: In drug testing, a part of the urine specimen 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 (SAP): A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

Substituted Specimen: A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

5.0 Applicability

5.1 Covered Employees

This Policy applies to all Covered Employees, including paid part-time employees, who perform or could be called upon to perform any Safety-Sensitive Function. The Policy also applies to volunteers who: (a) are required to hold a commercial driver's license to operate a vehicle, or (b) Perform a Safety-Sensitive Function for SFMTA and receive remuneration in excess of his or her actual expenses incurred while engaged in the



volunteer activity. Additionally, this policy applies to contractors who perform Safety-Sensitive Functions. For both drug and alcohol testing, this Policy applies during off-site lunch periods or breaks when an employee is scheduled to return to work.

A list of Safety-Sensitive positions is attached as Exhibit B. Participation in the prohibited substance testing program as described below is a requirement of each covered employee and therefore a condition of employment.

5.2 Other SFMTA Employees

****All SFMTA employees are subject to the provisions of the Drug-Free Workplace Act of 1988 (see Sections 6.1 of this Policy).**** *Visitors, vendors, and contractor employees on transit premises will not be permitted to conduct transit business if found to be in violation of the provisions of Section 8.1 of this Policy.*

5.3 Contractors

Employees of SFMTA contractors who perform Safety-Sensitive Duties for SFMTA are subject to the same FTA and DOT regulations. However, these contractors are not required to implement the provisions of the Drug-Free Workplace Act of 1988.

6.0. Opportunities for Rehabilitation

To promote a drug- and alcohol-free workplace, this Policy includes two types of rehabilitation programs, voluntary rehabilitation and rehabilitation after a positive test result or Refusal to Submit to a test.

6.1. Voluntary Rehabilitation

An employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable suspicion, random or Post-Accident testing or is not involved in a disciplinary proceeding, may voluntarily refer her or himself to the SFMTA's EAP or the Peer Assistance Program for evaluation and referral to a therapeutic program. The services of the EAP are also available to non-covered employees. Confidentiality, job security and promotional opportunities will be protected and no disciplinary action will be taken for such self-referral. The EAP will evaluate the employee and make a specific recommendation regarding the appropriate treatment. When an employee voluntarily refers her or himself for treatment, the employee may be eligible for sick leave and disability benefits. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

6.2. Rehabilitation after a Positive Alcohol or Drug Test, or Refusal

If there is a verified positive drug test result, a confirmed positive alcohol test result, or a Refusal to Submit to a test, the substance abuse professional (SAP) will determine if an employee should be referred for substance abuse treatment or education services.



6.3 Costs of Rehabilitation.

Rehabilitation costs are provided to the extent offered by the Health Service System as part of employee health plans. Employees will be allowed to take accumulated sick leave and vacation leave to participate in any prescribed rehabilitation program.

7.0 Prohibited Drug Use and Alcohol Use

7.1 Prohibited Drugs

FTA regulations specifically prohibit the use of the following illegal drugs and drug metabolites at all times: marijuana, amphetamines (methylenedioxymethamphetamine (MDMA), methylenedioxyamphetamine (MDA)), opioids (codeine, heroin, morphine, 6-Acetylmorphine, oxycodone, oxymorphone, hydrocodone, hydromorphone), phencyclidine (PCP), and cocaine.

7.2 Alcohol

No covered employee shall consume beverages containing alcohol, or substances, including any medication, such that alcohol is present in the body while performing transit business.

7.3 Legally Prescribed and Over-the-Counter Drugs

Prescription and over-the-counter drugs can adversely affect an employee's job performance. However, the use of legally prescribed drugs and over-the-counter drugs is permitted under the circumstances described below. Legally prescribed drugs include those drugs approved and authorized for the employee by a physician for use during the course of medical treatment. For prescription drugs, the physician must issue a written prescription that clearly indicates the employee's name, drug type, and proper dosage. A legally valid prescription must be consistent with the Controlled Substances Act, 21 U.S.C., Chap. 13, §§801, et seq..

*If an employee is taking prescription and/or over-the-counter drugs, he/she must obtain a signed note from a physician that the use of this drug(s) at the prescribed or authorized dosage is consistent with the safe performance of the employee's Safety Sensitive Duties. This note must be presented to the employee's supervisor before Performing Safety-Sensitive Duties.

Failure to provide this note may result in disciplinary action.*

8.0 Prohibited Conduct

8.1 Manufacture, Trafficking, Possession, and Use of Controlled



Substances

The manufacture, distribution, dispensing, possession, or use of controlled substances in the workplace is prohibited. A "controlled substance" is any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. § 812), and as further defined by 21 CFR 1300.11-1300.15. Any employee engaging in the manufacture, distribution, dispensing, possession or use of a controlled substance on SFMTA premises, in transit vehicles, in uniform, or while on SFMTA business will be subject to disciplinary action, up to and including termination and/or will be required to satisfactorily complete a drug abuse assistance or rehabilitation program as a condition of employment. *Law enforcement shall be notified, as appropriate, where criminal activity is suspected.*

8.2 Notifying SFMTA of Criminal Drug Conviction.

Every employee, including covered employees, must notify SFMTA of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to do so shall subject said employee to disciplinary action, up to and including termination.

8.3 Alcohol Use/Hours of Compliance

8.3.1 No Covered Employee shall use alcohol while performing Safety-Sensitive Functions.

8.3.2 No Covered Employee shall report for duty to perform a Safety-Sensitive Function or remain on duty while performing a Safety-Sensitive Function while having an alcohol concentration of 0.04 or greater.

8.3.3 No Covered Employee shall have used alcohol within four hours prior to Performing Safety-Sensitive Functions. Further, if SFMTA has actual knowledge that a Covered Employee has used alcohol within four hours, the employee will not be permitted to perform or continue to perform Safety-Sensitive Functions.

8.3.4 No Covered Employee shall use alcohol during the hours that they are on call. A Covered Employee who admits to the use of alcohol while in an on call status will not be permitted to perform Safety-Sensitive Functions unless he or she takes and passes an alcohol test.

8.3.5 Covered Employees shall refrain from alcohol use for eight (8) hours following an Accident or until an alcohol test has been administered (see Section 9.3.3.4).

8.3.6 A Safety-Sensitive employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his or her duties for eight hours unless a re-test results in a concentration measure of less than 0.02.



8.4 Refusal to Submit to Testing

A Refusal to Submit to testing (a "Refusal") is treated the same as a positive test. The following conduct constitutes a Refusal.

- 8.4.1 Failing to appear for any test within a reasonable time (except for pre-employment tests)
- 8.4.2 Failure to remain at the testing site until the test has been completed
- 8.4.3 Failure or refusal to take a second test that SFMTA or the collector has directed the employee to take
- 8.4.4 Providing false information
- 8.4.5 Failure to cooperate with any part of the testing process, including obstructive or abusive behavior (refusal to drink water is not a refusal to test)
- 8.4.6 Failure to provide adequate urine or breath and subsequent failure to undergo a medical examination as required for inadequate breath or urine, or failure to provide adequate urine or breath and subsequent failure to obtain a valid medical explanation for the inadequate breath or urine condition
- 8.4.7 Failure to sign Step 2 of the alcohol test form (ATF)
- 8.4.8 Failure to permit Direct Observation of a urine specimen if the observation is required by 49 CFR Part 40
- 8.4.9 Adulterating, Substituting or otherwise contaminating or tampering with a urine specimen as verified by the MRO
- 8.4.10 Leaving the scene of an Accident without just cause prior to submitting to a test
- 8.4.11 Admitting to the Collector or the MRO that an employee has adulterated or substituted a urine specimen
- 8.4.12 For a collection under Direct Observation, failure to follow the observer's instructions to raise and lower clothing, and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process
- 8.4.13 Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process

Violation of these provisions shall be in accordance with disciplinary guidelines contained in applicable employee memoranda of understanding.



9.0 Testing for Prohibited Substances

9.1 Compliance with Testing Requirements

Covered Employees are required to comply with all federal testing requirements, as contained in 49 CFR Parts 40 and 655.

9.2 Procedures for Testing

9.2.1 General

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities that have been approved by the U.S. Department of Health and Human Services (DHHS) and the U.S. Department of Transportation (DOT). Testing for prohibited drugs and alcohol on covered employees shall be conducted in accordance with the procedures set forth in 49 CFR Part 40. The procedures that will be used to test for the presence of illegal drugs or alcohol misuse are designed to protect the employee and the drug and alcohol testing process, safeguard the validity of the test results, and ensure the test results are attributed to the correct employee.

9.2.2 Testing for Prohibited Drugs

Covered Employees may be tested for Prohibited Drugs at any time while on duty. The staff of the collection facility under contract to SFMTA (the "Collector") shall collect urine samples from Covered Employees to test for prohibited drugs. The Collector will split each urine sample collected into a primary and a Split sample (see Testing Procedures). The urine samples will be sent under seal, with required chain of custody forms, to the laboratory. At the laboratory, specimens are placed in secure storage. An initial drug screen will be conducted on each primary specimen. For those specimens that are not negative, 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 set forth in the attached Exhibit B. The specimen may also be considered Adulterated or Substituted based on criteria established by DOT and DHHS (see Section 9.2.2.1). If the result of the test of the primary specimen is positive, Adulterated, Substituted or Invalid, the primary and Split Specimens will be retained in frozen storage for at least one year.

9.2.3 Specimen Validity Testing

Specimen validity testing is the evaluation of the specimen by the laboratory to determine if it is consistent with normal human urine. Validity testing



determines if the specimen contains Adulterants or foreign substances, if the urine was Diluted, or if the specimen was Substituted. Validity testing is conducted on all SFMTA specimens, in addition to the drug testing described in Section 9.2.2.

9.2.4 Alcohol Testing

Tests for alcohol concentration on Covered Employees 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). If the initial test on an employee indicates an alcohol concentration equal to 0.02 or greater, a second test will be performed to confirm the results of the initial test. For a summary of applicable alcohol threshold levels, see Exhibits C-1 and C-2.

9.2.5 Medical Review Officer (MRO)

All drug testing results shall be interpreted and evaluated by an MRO. The MRO shall comply with the drug testing procedures set forth in 49 CFR Part 40. The MRO does not review alcohol test results.

When the laboratory reports a confirmed positive, Adulterated, Substituted, or Invalid test, it is the responsibility of the MRO to: (a) within 24 hours after verifying the test, contact the employee and inform him or her of the positive, Adulterated, Substituted, or Invalid test result, (b) afford the employee an opportunity to discuss the test results with the MRO; (c) review the employee's medical history, including any medical records and biomedical information provided; and (d) determine whether there is a legitimate medical explanation for the result, including legally prescribed medication. If the employee indicates that he or she has a medical explanation for the positive, Adulterated, Substituted, or Invalid test, he or she has up to five days to provide this information to the MRO.

9.2.5.1 Inability to Contact Employee.

The MRO has the authority to verify a positive or Refusal To Test without interviewing the employee if (a) the employee refuses to discuss the test result with the MRO, (b) if SFMTA has successfully directed the employee to contact the MRO, and the employee has not made contact with the MRO within 72 hours, (c) if neither the MRO nor SFMTA has made contact with the employee within 10 days of the date that the MRO received the test result from the laboratory.



9.2.5.2 *MRO Determination*

The MRO shall not convey test results to SFMTA until the MRO has made a definite decision that the test result was positive, Adulterated, Substituted, Invalid, or negative. The MRO may request the laboratory to conduct additional analysis of the original sample in order to verify the accuracy of the test result.

9.2.5.3 *MRO Report*

The MRO will report the test as either negative, negative with medical concern, positive, a Refusal due to Adulteration or Substitution, or Cancelled (Invalid). When the MRO reports the results of the verified positive test to SFMTA, the MRO will disclose the drug(s) for which there was a positive test. The MRO will also provide additional, clarifying information to SFMTA for tests that are confirmed as a refusal due to Adulteration or Substitution or Cancelled. The MRO may only reveal the quantitative amount of a positive drug test result to the employer, the employee, or the decision maker in a lawsuit, grievance or other proceeding initiated by the employee and arising from a verified positive drug test result.

9.2.5.4 *Split Specimen*

When the MRO has verified a test a positive or as a Refusal to Test due to Adulteration or Substitution, the MRO shall inform the employee that he or she has 72 hours to request a test of the Split Specimen.

9.3 Types of Testing

49 CFR Part 655 requires the following types of testing for Covered Employees: pre-employment, pre-promotion or transfer, reasonable suspicion, post-Accident, random, return-to-duty, and follow-up testing.

9.3.1 Pre-employment, Transfer Testing

9.3.1.1 *Pre-employment Tests*

All applicants for Safety-Sensitive positions shall undergo urine drug testing prior to employment and within 90 days prior to performing Safety-Sensitive Duties for the first time. Receipt by the SFMTA of a negative test result is required prior to the employee being placed on the payroll. *A positive, Adulterated, or Substituted test will result in a decision not to hire, and the applicant's name will be removed from the list of eligibles for Safety-Sensitive positions. SFMTA will not consider any future application from the applicant for at least two years.* If the MRO



Cancels a pre-employment test, the applicant shall be subject to another drug test. If the applicant's initial test is negative dilute the applicant will be directed to retest. If the retest result is negative dilute the applicant will not be hired and can reapply in six months.

9.3.1.2 Transfer Testing

Employees who are being considered for transfer to Safety-Sensitive positions from non-Safety-Sensitive positions will be required to undergo a drug test. An employee with a confirmed positive drug test as certified by the MRO will be disqualified from immediate transfer. *An employee who tests positive may reapply after six (6) months if he/she has successfully completed the SAP recommendations and has a negative return-to-duty test.*

9.3.1.3 Employees on Leave

When an applicant or covered employee (a) has not performed a Safety-Sensitive Function for 90 consecutive calendar days regardless of the reason, and (b) has not been in the random pool during that 90-day period, the individual must take another pre-employment test with a verified negative result.

9.3.1.4 Prior Positive Tests or Refusals to Submit

When an applicant or Covered Employee has previously failed any DOT-required test, the individual must provide proof to SFMTA that he or she has successfully completed the SAP referral, evaluation and treatment process. SFMTA will not consider hiring any person who tested positive or Refused to submit to testing for a minimum of two years following the positive test.

9.3.2 Reasonable Suspicion Testing

9.3.2.1 Federally Mandated Testing

All Covered Employees shall be subject to reasonable suspicion testing, to include urine and/or breath testing when there are reasons to believe that the Covered Employee has used a Prohibited Drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made on the basis of contemporaneous, articulable, and specific observations concerning the appearance, behavior, speech or body odors of the employee. Only supervisors who are trained to detect and document the signs and symptoms of drug and alcohol use will be authorized to make reasonable suspicion determinations.



Reasonable suspicion tests for the presence of alcohol shall only be made just prior, during, or immediately after performance of a Safety-Sensitive Function, based on observations made during, just preceding, or just after the period of the workday that the covered employee is required to be in compliance. Additionally, a reasonable suspicion alcohol test should be conducted within two hours of the determination to test. An alcohol test cannot be performed if it has not been completed within eight hours of the determination to test.

9.3.3 Post-Accident Testing

9.3.3.1 *Fatal Accidents*

As soon as practicable following an Accident that involves the loss of human life, SFMTA will conduct drug and alcohol tests on each surviving Covered Employee operating the mass transit vehicle at the time of the Accident. SFMTA will also conduct drug and alcohol tests on any covered employees whose performance could have contributed to the Accident, as determined by the onsite SFMTA supervisor using the best information available at the time of the decision.

9.3.3.2 *Non-Fatal Injury Accidents*

As soon as practicable following a non-fatal Accident in which a mass transit vehicle is involved, SFMTA will conduct drug and alcohol tests on each Covered Employee operating the mass transit vehicle at the time of the Accident unless SFMTA determines, using the best information available at the time, that the covered employee's performance can be completely discounted as a contributing factor to the Accident. Additionally, SFMTA shall test any other Covered Employee whose performance SFMTA determines could have contributed to the Accident.

9.3.3.3 *Vehicle Damage*

With respect to Accidents involving vehicle damage, all Covered Employees shall be tested in the following circumstances:

- a) In an Accident involving a **road surface vehicle** (e.g., bus, van, automobile), if any vehicle involved in the incident is disabled and must be towed from the scene, any Covered Employee operating the mass transit vehicle shall be tested unless SFMTA determines, using the best information available at the time, that the Covered Employee's performance can be completely discounted as a contributing factor to the Accident. Additionally, SFMTA shall test



any other Covered Employee whose performance SFMTA determines could have contributed to the Accident.

- b) In an Accident involving **another type of mass transit vehicle** (e.g., rail car, trolley bus, streetcar, cable car), if the mass transit vehicle is removed from revenue service, any Covered Employee on duty in the vehicle shall be tested unless SFMTA determines, using the best information available at the time, that the Covered Employee's performance can be completely discounted as a contributing factor to the Accident. Additionally, SFMTA shall test any other Covered Employee whose performance SFMTA determines could have contributed to the Accident.

9.3.3.4 Procedure

Following an Accident, all Covered Employees subject to testing shall remain readily available for testing. An employee who fails to remain readily available, including notifying a supervisor of his or her location if he or she leaves the scene of the Accident prior to submitting for testing, may be deemed to have Refused to Submit to testing.

The drug test shall occur as soon as possible, but not later than 32 hours after the Accident. An alcohol test must be attempted within two hours after the Accident. If the employee is not tested within two hours, a report must be filed documenting why the test was not performed within two hours. If an alcohol test is not administered within eight hours of the Accident, SFMTA shall cease attempts to test and shall update the report to document the reasons why the test was not conducted. Nothing in this section shall delay medical attention for the injured following an Accident or prohibit an 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 when appropriate approval is given.

9.3.4 Random Testing

9.3.4.1 General

Covered Employees will be subject to unannounced, random drug and alcohol testing in accordance with FTA regulations. Random testing is unpredictable and spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when Safety-Sensitive functions are performed.



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9.3.4.2 *Random Pool*

Each Covered Employee shall be in a pool from which a minimum of 25% random selection is made for drug testing and a minimum of 10% for alcohol testing annually. Each such employee shall have an equal chance at selection and shall remain in the pool after being tested. The basis for random selection shall be by a scientifically valid random number generation method initiated by computer.

9.3.4.3 *Procedure*

Each employee notified of selection for random drug or random alcohol testing is required to proceed to the test site immediately. If the employee is performing a Safety-Sensitive Function at the time of notification, the SFMTA shall ensure that the employee ceases to perform the Safety-Sensitive Function and proceeds to the testing site immediately. A Covered Employee shall only be randomly tested for alcohol 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.

9.3.5 Return-to-Duty Testing

Any Covered Employee who has failed a drug test, tested in at 0.04 or greater on an alcohol test, or who has Refused to Submit to a test, must pass the return-to-duty test ordered by the SAP. The return-to-duty drug test will be performed under Direct Observation as described in 49 CFR Section 40.67. He/she also must have successfully completed the SAP recommendations *and sign a return-to-work agreement.* A positive return-to-duty test counts as a second positive.

In order to be allowed to return to work in his or her Safety-Sensitive position, a Covered Employee must test negative on the SAP-ordered return-to-duty drug test and less than 0.02 on the return-to-duty alcohol test.

9.3.6 Follow-Up Testing

After returning to duty, the employee will be subject to unannounced drug and/or alcohol tests for up to 60 months as determined by the SAP, with a minimum of six tests during the first 12 months. The follow-up drug test will be performed under Direct Observation as described in 49 CFR Section 40.67.

Regarding Follow-Up Testing: an employee with an alcohol concentration of greater than or equal to 0.02 but less than 0.04 will be removed from Safety Sensitive Function and will be referred to the Substance Abuse Program Manager.



9.4 Testing of Split Specimen

Any Covered Employee who questions a verified positive drug test or a Refusal to Submit to testing because of Adulteration or Substitution has 72 hours from the time of notification to ask the MRO for a test of the Split Specimen.

Requests after 72 hours will only be accepted if the delay was due to documentable facts (e.g., serious injury, illness, inability to contact the MRO) that were beyond the control of the employee. This test will be conducted at a different DHHS-certified laboratory. The method of collecting, storing, and testing the Split Specimen will be consistent with the procedures set forth in 49 CFR Part 40. After a positive test, the employee will be immediately removed from his or her Safety-Sensitive Function even if analysis of the split is requested.

The employee will be responsible for the cost of having the Split Specimen tested at the second DHHS laboratory. If the employee does not pay such costs, SFMTA will seek reimbursement for the expense from the employee.

If the Split Specimen is unavailable or appears insufficient for testing, the MRO will Cancel the test and direct SFMTA to send the employee for another test that will be performed under Direct Observation. No advance notice will be given to the employee.

9.5 Consequences of Non-negative Test Result

9.5.1 Positive Drug or Alcohol Test; Refusal to Submit

Any Covered Employee who has a positive drug test as verified by the MRO, a confirmed alcohol test of 0.04 or greater, or who Refuses to Submit to a test will be removed from Safety-Sensitive Functions immediately, evaluated by a SAP, and informed of educational and rehabilitation resources available.

*An employee who tests positive will be offered a disciplinary hearing (Skelly Meeting). The employee has the option to voluntarily waive this hearing for the **first** positive drug or alcohol test if he/she agrees to accept a 30-day suspension in lieu of termination.*

9.5.2 Invalid Result

Invalid Drug Test If the MRO reports to SFMTA that an employee's drug test is Invalid, without a medical explanation that is acceptable to the MRO, the employee will be subject to an immediate re-test under Direct Observation, without advance notice. If the employee has a medical explanation for the Invalid Test that is acceptable to the MRO, the test will be Cancelled, with no further action required.



9.5.3 Dilute Specimen

A drug test result that is positive and Dilute will be treated as positive. All drug test results that are determined to be negative and Dilute will require that the employee take an immediate retest. If the retest yields a second negative Dilute result, the test will be treated as a normal negative test.

Violation of these provisions shall be in accordance with disciplinary guidelines contained in applicable employee memoranda of understanding.

9.5.4 Negative with a Safety Concern

In the event the MRO has a safety concern due to a legally prescribed medication, the MRO must also advise the employee that, before informing the Designated Employer Representative (DER) about any medication the employee is using pursuant to a legally valid prescription consistent with the Controlled Substances Act, the employee will be allowed five business days from the date the MRO reports the verified negative result to have his or her prescribing physician contact the MRO to determine if the medication can be changed to one that does not make the employee medically unqualified or does not pose a significant safety risk. If, in the MRO's reasonable medical judgment, a medical qualification issue or a significant safety risk remains after the MRO communicates with the employee's prescribing physician or after five business days, whichever is shorter, the MRO will report the drug test results with a safety risk to the DER. If the MRO receives information that eliminates the medical qualification issue or significant safety risk, the MRO must transmit this information to the DER to whom the MRO previously provided information to.

If in the event the MRO reports to the DER that an employee is prescribed a medication that presents a medical qualification issue and/or indicates that continued performance by the employee of his or her Safety-Sensitive Function is likely to pose a significant safety risk, the employee will be referred for evaluation to an Occupational Health medical examiner at San Francisco General Hospital for final determination of medical suitability in performing Safety-Sensitive Functions.

10.0 Substance Abuse Professional (SAP)

Any Covered Employee who tests positive or refuses to submit to testing will be evaluated by a SAP. A SAP must be a licensed physician, psychologist, social worker, certified employee assistance professional, or nationally certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.

The SAP will evaluate each employee by conducting a face-to-face assessment to determine what assistance the employee needs in resolving problems associated with drug abuse or



alcohol misuse. If an employee is allowed to return to duty, he or she must properly follow the rehabilitation program prescribed by the SAP.

11.0 Return-to-Work Agreements

The SAP will provide a written release to the appropriate division certifying the employee's eligibility to be considered for return to Safety-Sensitive Duty only after the employee has signed a return-to-work agreement. The return-to-work agreement shall outline the terms and conditions of continuing care.

12.0 Compliance with Background Check Requirements

All applicants and employees (transfers) applying for Safety-Sensitive positions are required to sign a written consent to allow SFMTA to obtain the following information regarding the applicant/employee's DOT drug and alcohol testing history for the previous two years:

- Alcohol tests with a result of .04 or higher
- Verified positive drug tests
- Refusals to be tested, including verified Adulterations and Substitutions
- Other violations of DOT drug and alcohol testing regulations
- Documentation of the successful completion of return-to-duty requirements and follow-up tests

Information will be obtained from all DOT-regulated employers who employed the applicant/employee for a period of two years prior to the date of the application. Such employers will be asked to include any alcohol and drug test information obtained from previous employers or other applicable DOT agency regulations. For example, if a former employer has information from other employers (within the two-year period), that employer is obligated to provide that information to SFMTA.

Additionally, the applicant or covered employee must disclose if they, within the prior two years, failed a pre-employment drug or alcohol test for an employer that did not hire them.

13.0 Training and Education

All Covered Employees shall participate in a minimum one-hour training session designed to meet FTA requirements by learning about the effects and consequences of drug use on personal health, safety and the work environment.

For supervisors participating in reasonable suspicion testing, there will be at least two hours of training to explain the criteria for reasonable suspicion determinations and testing, including at least an hour on the physical, behavioral and performance indicators of probable drug use and



another hour on the physical, behavioral, speech and performance indicators of probable alcohol misuse.

Initial training sessions will be re-enforced with educational materials and meetings. Further, employees shall be provided with SFMTA's EAP telephone number.

14.0 Records & Confidentiality

14.1 Access to Records

A Covered Employee is entitled, upon written request, to review and obtain copies of any records relating to the employee's drug and alcohol testing (excluding follow-up testing plan) and to provide information to dispute the results. However, the results of individual drug or alcohol tests shall not be released by SFMTA to anyone other than the employee without expressed written authorization of the tested individual. The only exceptions are as follows:

- a) Release to the collection facility, testing laboratory, MRO or SAP, or designee;
- b) Pursuant to a lawful court order or other law requiring disclosure;
- c) In connection with an SFMTA disciplinary, grievance, arbitration or other legal proceeding initiated by or on behalf of the individual and arising from a certified positive drug or alcohol test or from SFMTA's determination that the employee engaged in conduct prohibited under the FTA rules.
- d) To the Secretary of Transportation, any DOT agency with regulatory authority over the employer or any of its covered employees, or to a State oversight agency authorized to oversee rail fixed guideway systems.
- e) When requested by the National Transportation Safety Board as part of an Accident investigation, SFMTA shall disclose information related to its administration of a Post-Accident drug or alcohol test administered following the Accident under investigation.
- f) When requested by a State oversight agency to certify to FTA compliance with drug and alcohol testing procedures of 49 CFR Parts 40 and 655.

Access to records retained by SFMTA shall not be contingent upon the receipt of payment for production of those records. However, the MRO, laboratory, and other service agents may charge for producing records as long as those charges are consistent with 49 CFR Part 40.

14.2 Records Maintained

SFMTA shall maintain substance abuse program records in a secure location with controlled access. Records held by SFMTA or its service agents shall be maintained as follows: (a) results of negative drug tests and alcohol tests less than .02 – one year; (b)



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records of collection and training, records of inspection, calibration, and maintenance of EBTs – two years; (c) records of background checks – three years; (d) records of information from previous employers concerning drug and alcohol test results, records of verified positive drug test results and alcohol tests .02 or greater, documentation of Refusals including Adulterations and Substitutions, referrals to the SAP and evaluations, follow up tests and follow up testing schedules, MIS reports to FTA – five years.

Service agents maintain all records relating to urine specimen analysis in confidence for at least two years. Service agents may not disclose such records to anyone other than the employer, the employee, or the decision maker in a lawsuit, grievance or other proceeding initiated by the employee and arising from a verified positive test result.

15.0 System Contact

Any questions regarding this policy or any other aspect of SFMTA's Substance Abuse Management Program should be directed to the office of transit system representative:

Name: [REDACTED]
Title: Substance Abuse Program Manager
Address: One South Van Ness Ave, 6th floor
San Francisco, CA 94103
Telephone: (415) 701-5018

16.0 Revisions to the Policy and Program

This policy and program is subject to revision.



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EXHIBIT A: Drug and Alcohol Service Agents

Off-Site Collections



On-Site Collections



Laboratory



Medical Review Officer



Substance Abuse Professional (SAP)





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EXHIBIT B: Safety-Sensitive Classifications

Basis for Testing

- A. Maintaining or repairing a revenue service vehicle or equipment used in revenue service.
- B. Operating a revenue service vehicle.
- C. Controlling dispatch or movement of a revenue service vehicle.
- D. Operating a non-revenue service vehicle when required to be operated by a holder of a Commercial Driver’s license.
- E. Carrying a firearm for security purposes.

Operations Division

Class	Title	Basis for Testing	Union
9136	Transit Training Specialist	C	200
9139	Transit Supervisor	C	200
9140	Transit Manager I	C	200
9141	Transit Manager II	C	200
9142	Transit Manager III	C	MEA
9143 *	Transit Manager IV	C	MEA
9150	Train Controller	C	200
9152	Transportation Controller Trainee	C	200
9153	Transportation Controller	C	200
9160	Transit Operations Specialist	C	200
9163	Transit Operator	B	TWU-250A
9172 *	Manager II	C	MEA
9174 *	Manager IV	C	MEA
9184 *	Deputy General Manager (Operations)	C	MEA
9916 *	Public Service Aide	C	Unrepresented

All above supervisors and managers may in the course of their duties control the movement of revenue service vehicles and so are included in the testing program.

* Some employees in these classifications are non-Safety Sensitive.



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Maintenance Division

Class	Title	Basis for Testing	Union
6252	Line Inspector	A	6
7110	Mobile Equipment Assistant Supervisor	D	3
7126	Mechanical Shop Equipment Supervisor	C	1414
7130	General Superintendent Facilities Maintenance	C	MEA
7212	Automotive Transit Equipment Superintendent	C	MEA
7214	Electrical Transit Equipment Supervisor	C	6
7215	General Laborer Supervisor	C	261
7216	Electrical Transit Shop Supervisor I	C	6
7223	Cable Machinery Supervisor	C	39
7228	Automotive Transit Shop Supervisor I	C	1414
7235	Transit Power Line Supervisor I	C	6
7241	Senior Maintenance Controller	C	1414
7244	Power Plant Supervisor I	C	6
7249	Automotive Mechanic Supervisor	C	1414
7251	Track Maintenance Worker Supervisor I	C	853
7253	Electrical Transit Mechanic Supervisor I	C	6
7254	Automotive Machinist Supervisor I	A	1414
7255	Powerhouse Electrician Supervisor I	C	6
7264	Automotive Body & Fender Worker Supervisor I	C	1414
7279	Powerhouse Electrician Supervisor I	C	6
7286	Wire Rope Cable Maintenance Supervisor	E	39
7287	Supervising Electronic Maintenance Technician	A	6
7306	Automotive Body & Fender Worker	A	1414
7310	Transit Power Cable Splicer	A	6
7313	Automotive Machinist	A	1414
7314	Apprentice Stationary Engineer I	A	39
7315	Automotive Machinist Assistant Supervisor	A,B	?
7318	Electronic Maintenance Technician	A	6
7320	Apprentice Automotive Machinist I	A,B,D	1414
7321	Apprentice Automotive Machinist II	A,B,D	1414
7322	Automotive Body & Fender Worker Assistant Supervisor	C	1414
7325	General Utility Mechanic	A	1414
7326	Glazier	A	718
7328	Operating Engineer Universal	D	6



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Class	Title	Basis for Testing	Union
7329	Electronic Maintenance Technician Assistant Supervisor	A	6
7333	Apprentice Stationary Engineer II	A	39
7334	Stationary Engineer	A	39
7338	Electrical Line Worker	A	6
7340	Maintenance Controller	C	1414
7345	Electrician	A	6
7355	Truck Driver	D	853
7364	Powerhouse Operator	C	6
7365	Senior Powerhouse Operator	C	6
7366	Transit Power Line Worker	A	6
7371	Electrical Transit System Mechanic	A, B	6
7380	Electrical Transit Mechanic Assistant Supervisor	C	1414
7381	Automotive Mechanic	A, B	1414
7382	Automotive Mechanic Assistant Supervisor	C	6
7383	Apprentice Automotive Mechanic I	A,B,D	1414
7384	Apprentice Automotive Mechanic II	A,B,D	1414
7390	Welder	A	6
7408	Assistant Powerhouse Operator	C	6
7409	Electrical Transit Service Worker	A, B	*
7410	Automotive Service Worker	A, B	TWU-250A
7412	Automotive Service Worker Assistant Supervisor	C, B	200
7430	Assistant Electronic Maintenance Technician	A	6
7432	Electrical Line Helper	A	6
7454	Traffic Signal Operator	C	1021
7458	Switch Repairer	A	261
7472	Wire Rope Cable Maintenance Mechanic	A	39
7473	Wire Rope Cable Maintenance Mechanic Trainee	A	39
7514	General Laborer	A	261
7540	Track Maintenance Worker	A	261
9102	Transit Car Cleaner	A	1021
9104	Transit Car Cleaner Assistant Supervisor	C, B	1021
9940	Pre-Apprentice Automotive Mechanic	A,B,D	1414



EXHIBIT C: DOT Drug Panel

Pursuant to U.S. Department of Transportation regulations, following are the drugs to be tested for, and the threshold levels of each test which the SFMTA is required to accept.

Initial test analyte	Initial test cutoff concentration ¹	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites (THCA) ²	50 ng/mL ³	THCA ¹	15 ng/mL
Cocaine metabolite (Benzoylecgonine)	150 ng/mL ³	Benzoylecgonine	100 ng/mL
Codeine/Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL
Hydrocodone/Hydromorphone	300 ng/mL	Hydrocodone/Hydromorphone	100 ng/mL
Oxycodone/Oxymorphone	100 ng/mL	Oxycodone/Oxymorphone	100 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamine/Methamphetamine/ MDMA ⁴ /MDA ⁵	500 ng/mL	Amphetamine/Methamphetamine/MDMA/MDA	250 ng/mL

¹ For grouped analytes (i.e., two or more analytes in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory’s validated limit of quantification) must be equal to or greater than the initial test cutoff.

² An immunoassay must be calibrated with the target analyte, Δ-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

³ Alternate technology (THCA and Benzoylecgonine): When using an alternate technology initial test for the specific target analytes of THCA and Benzoylecgonine, the laboratory must use the same cutoff for the initial and confirmatory tests (i.e., 15 ng/mL for THCA and 100ng/mL for Benzoylecgonine).

⁴ Methylenedioxyamphetamine (MDMA).

⁵ Methylenedioxyamphetamine (MDA).



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- The Medical Review Officer (MRO) has the authority to conduct D, L stereoisomer and THC –V testing.

ALCOHOL

(Includes ethanol, methanol, isopropanol)

Breath Alcohol Concentration (expressed in terms of grams of alcohol per 210 liters of breath)	
Initial Screen	Confirmatory (given if initial screen is 0.02 or greater)
Less than 0.02	0.02 or greater
Perform Safety-Sensitive Function	Employee may not perform Safety-Sensitive Function



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EXHIBIT D: Consequences of Positive Drug/Alcohol Tests (9163's)

Testing Types	Substance	Assumption of Results	Employee Status Waiting for Results	1 st Positive	2 nd Positive Within 5 Years
Pre-Employment	Drug	N/A	N/A	Not hired, may not reapply for two years.	Not hired, may not reapply.
Pre-Employment (90-Day Rule)	Drug	N/A	Return to Work process paused	Removed from Duty ¹ No pay, ² , Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action. Discipline will not imposed until cleared for safety-sensitive duty.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Random - Drug	Drug	Assumed Negative	On Duty	Removed from Duty ¹ No pay, ² , Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Random - Alcohol	Alcohol > or = .04	Positive	Immediate Results	Removed from Duty ¹ No pay, ² , Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Post Accident	Drug or Alcohol	Assumed Negative	On Duty	Removed from Duty ¹ No pay, Referred to SAP, SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action. ⁴	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Reasonable Suspicion	Drug or Alcohol	Assumed Positive	Off Duty Until	Removed from Duty ¹ No pay,	Will be Subject to Termination



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Testing Types	Substance	Assumption of Results	Employee Status Waiting for Results	1 st Positive	2 nd Positive Within 5 Years
			Results Received	Referred to SAP, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action. ⁴	Except Where Substantial Mitigating Circumstances Warrant.
Return-to-Duty	Drug or Alcohol	Assumed Negative	Off Duty Until Results Received	N/A	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Follow-Up Testing	Drug or Alcohol	Assumed Negative	On Duty	N/A	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.



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Issues	Substance	1st Occurrence	2nd Occurrence Within 5 Years
Refusal to Test	Drug or Alcohol	Removed from Duty ¹ No pay. Referred to SAP For treatment recommendation. Return to duty and follow-up testing. Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant
Failure to Comply with Treatment Program or Return to Work Agreement	Drug or Alcohol	Off work ¹ No pay. Referred to SAP for treatment recommendation. Return to duty and follow-up testing. Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant
Alteration of Specimen	Drug or Alcohol	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant. ¹	Termination

- 1 Any employee who is subsequently determined to be the subject of a false positive or under reasonable suspicion tests negative shall be made whole for any wages and benefits lost.
- 2 Employee may use accumulated sick/vacation pay for rehabilitation program.
- 3 Employee may not return to work until SAP certifies them capable of returning to their safety-sensitive job.
- 4 Disciplinary action to be a 30-day suspension except that a first positive relating to an incident resulting in death, serious bodily injury or substantial destruction of property warrants immediate discharge



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EXHIBIT E: Consequences of Positive Drug/Alcohol Tests (Not 9163)

Testing Types	Substance	Assumption of Results	Employee Status Waiting for Results	1 st Positive	2 nd Positive Within 5 Years
Pre-Employment	Drug	N/A	N/A	Not hired, may not reapply for two years.	Not hired, may not reapply.
Pre-Employment (90-Day Rule)	Drug	N/A	Return to Work process paused	Removed from Duty ¹ No pay, ² , Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action. Discipline will not imposed until cleared for safety-sensitive duty.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Random - Drug	Drug	Assumed Negative	On Duty	Removed from Duty ¹ No pay, ² , Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Random - Alcohol	Alcohol > or = .04	Positive	Immediate Results	Removed from Duty ¹ No pay, ² , Referred to SAP	Will be Subject to Termination Except Where Substantial Mitigating



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				SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action.	Circumstances Warrant.
Post Accident	Drug or Alcohol	Assumed Negative	On Duty	Removed from Duty ¹ No pay, Referred to SAP, SAP Recommendation for Treatment, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action. ⁴	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Reasonable Suspicion	Drug or Alcohol	Assumed Positive	Off Duty Until Results Received	Removed from Duty ¹ No pay, Referred to SAP, Return to Duty Test, ³ Follow-Up Testing, Subject to Disciplinary Action. ⁴	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Return-to-Duty	Drug or Alcohol	Assumed Negative	Off Duty Until Results Received	N/A	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Follow-Up Testing	Drug or Alcohol	Assumed Negative	On Duty	N/A	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.



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Issues	Substance	1 st Occurrence	2 nd Occurrence within 5 years
Refusal to Test	Drug or Alcohol	Removed from Duty ¹ No pay. Referred to SAP For treatment recommendation. Return to duty and follow-up testing. Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant
Failure to Comply with Treatment Program or Return to Work Agreement	Drug or Alcohol	Off work ¹ No pay. Referred to SAP for treatment recommendation. Return to duty and follow-up testing. Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant
Alteration of Specimen	Drug or Alcohol	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant. ¹	Termination

- 1 Any employee who is subsequently determined to be the subject of a false positive or under reasonable suspicion tests negative shall be made whole for any wages and benefits lost.
- 2 Employee may use accumulated sick/vacation pay for rehabilitation program.
- 3 Employee may not return to work until SAP certifies them capable of returning to their safety-sensitive job.
- 4 Disciplinary action to be a 30-day suspension except that a first positive relating to an incident resulting in death, serious bodily injury or substantial destruction of property warrants immediate discharge.



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SFMTA DRUG AND ALCOHOL TESTING PROCEDURES



Drug Specimen Collection Procedures

These collection procedures shall apply to all types of drug testing (e.g. Random, Reasonable Suspicion, Post-Accident, etc.)

1. Collection site(s)/agents shall have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage, and shipping or transportation of urine specimens to a DHHS-certified drug testing laboratory. Collection site(s)/agents shall be qualified/trained in accordance with Federal Regulations.
2. The collection agent will execute standardized chain-of-custody forms. Handling and transportation of urine specimens from one authorized individual or place to another shall always be accomplished through chain-of-custody procedures. Every effort will be made to minimize the number of persons handling specimens. All DOT (FTA) tests for covered employees shall be conducted using DOT chain-of-custody forms. Drug tests conducted under SFMTA's own authority may not use federal chain-of-custody forms.
3. Designated on-site collections areas have been established to protect the privacy of the employee being tested and to comply with federally mandated testing procedures. In emergency situations, such as post-accident testing, an employee restroom may be used. In such a case, a same gender collector may enter the restroom with the employee but will remain outside the stall until the specimen is collected. No unauthorized persons will be permitted in any part of the designated collection area where specimens are collected or stored.
4. The collection agent shall take precautions to ensure that a urine specimen is not adulterated or diluted during the collection procedure and that information on the urine specimen bottle and on the chain-of-custody form can identify the individual from whom the specimen was collected. The following minimum precautions shall be taken to ensure that unadulterated specimens are obtained and correctly identified:
 - a. To deter the dilution of specimens at the collection site, toilet bluing agents shall be placed in toilet tanks so the reservoir of water in the toilet bowl remains blue. There shall be no source of water (e.g. no shower or sink) in the enclosure where urination occurs.

When an individual arrives at the collection site, the collection agent shall request the individual to present photo identification. If the individual does not have proper photo identification, the collection agent shall contact the supervisor of the individual or other SFMTA supervisor who can positively identify the individual. If the individual's identity cannot be established, the collection agent shall not proceed with the collection.

- c. If the individual fails to arrive at the designated collection site at the assigned time, the collection agent shall contact SFMTA's Designated Employer Representative ("DER") to advise her/him of the no-show status



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- d. The collection agent shall ask the individual to remove any unnecessary outer garments, such as a coat or jacket that might conceal items or substances that could be used to tamper or adulterate the individual's urine specimen. Additionally, the collection agent shall request that the individual empty his or her pockets and display any items in them that could be used to adulterate a specimen. If nothing is there that could be used to adulterate the specimen, the employee may return the items to his/her pockets. The collection agent shall ensure that all personal belongings, such as a purse or briefcase, remain with the employee's clothes, and that these items are secured. The individual may retain his or her wallet.
- e. The individual shall be instructed to wash and dry his/her hands prior to urination.
- f. After washing his/her hands, the individual shall remain in the presence of the collection agent and shall not have access to any water fountain, faucet, soap dispenser, cleansing agent or any other materials that could be used to adulterate the specimen.
- g. The collector shall ensure that the proper chain-of-custody forms are used, as described in Paragraph 2, above.
- h. The collection agent shall provide the individual with a collection container capable of holding at least 45 ml. of urine and direct the employee to go into the room used for urination, provide a specimen of at least 45 ml., not flush the toilet, and return to the collection agent as soon as the employee has completed the void.
- i. In the presence of the donor, the collector shall pour the urine into the two specimen bottles provided, with at least 30 ml. into one bottle for the primary specimen, and at least 15 ml. into the other bottle to be used as the split specimen.
- j. If the individual is unable to provide such a quantity of urine, the collector shall instruct the individual to drink not more than 40 ounces of fluids. Refusal to drink does not constitute a Refusal to Submit to testing. The individual has up to three hours to provide a complete sample using a fresh collection container. The employee may not leave the test area during the three-hour period and will be monitored during that period by testing personnel. If, after three hours, the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the DER notified. The DER shall refer the employee for a medical evaluation by a physician to develop pertinent information concerning whether the employee's inability to provide a specimen constitutes a refusal to test. In the absence of medical justification, the inability to provide a sample will be treated as a Refusal to Submit to testing and have the same consequences as a positive test.
- k. The collector shall measure the temperature of the specimen. The measuring device must accurately reflect the temperature of the specimen and not contaminate the specimen. The time from urination to temperature measurement is critical and in no case shall exceed four minutes. If the temperature of the specimen is outside the range of 32°-38°C / 90°-100°F that constitutes a reason to believe that the individual may have altered or



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substituted the specimen. In that case, another specimen shall be collected under direct observation of a person of the same gender and who is a collection agent or has been appropriately instructed by the collection agent. Both specimens shall be forwarded to the laboratory for testing.

- l. Immediately after the specimen is collected, the collection agent shall also inspect the specimen to determine its color/smell and look for any signs of contaminants. Any unusual findings shall be noted on the chain-of-custody form.
 - m. Whenever there is reason to believe that an individual has Altered or Substituted the specimen, a second specimen shall be obtained as soon as possible under the Direct Observation of a person of the same gender and who is a collection agent or has been appropriately instructed by the collection agent. All specimens suspected of being Adulterated shall be forwarded to the laboratory for testing.
 - n. Both the collection agent and the individual being tested shall keep the specimen in view at all times prior to its being sealed and labeled.
5. The collection agent shall complete the chain-of-custody form, label and secure the specimen container, and prepare the specimen for shipment to the laboratory. Specifically, the collection agent shall place the tamper-evident seals on each bottle, then write the date on the seals. The Covered Employee must initial the seals after they have been affixed on the bottles.
 6. Both bottles shall be shipped to the laboratory in a single shipping container (e.g., plastic bag), together with Copy 1 of the chain-of-custody form.



Circumstances Authorizing Direct Observation

The following circumstances are the exclusive grounds constituting a reason to believe that the individual may have altered or substituted the specimen. If any of these circumstances exist, it will be necessary to conduct an observed collection.

1. The employee has presented a urine specimen that falls outside the normal temperature range (32°-38°C / 90°-100°F) or the original specimen appears to have been tampered with.
2. The laboratory reported to the MRO that a specimen is invalid, and the MRO reported to the SFMTA that there was not an adequate medical explanation for the result.
3. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to you as negative-dilute and that a second collection must take place under direct observation.
4. The MRO reports that (1) the specimen is Invalid and that there was not an adequate medical explanation for the result; or (2) the MRO reported that the original positive, Adulterated, or Substituted test result had to be Cancelled because the Split Specimen analysis could not be performed.
5. As an employer, the SFMTA must direct a collection under Direct Observation of a Covered Employee if the drug test is a return-to-duty test or a follow-up test.
6. The collector must ensure that the observer is the same gender as the employee. The collector must never permit an opposite gender person to act as the observer. The observer can be a different person from the collector and need not be a qualified collector provided that he or she is appropriately instructed by a qualified collector.
7. If someone else is to observe the collection (e.g., in order to ensure a same gender observer), the collector must verbally instruct that person to follow procedures at paragraphs (9) and (10) below. If the collector is the observer, he or she too must follow these procedures.
8. The observer must request the employee to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the observer, by turning around, that they do not have a prosthetic device. After the observer has determined that the employee does not have such a device, the observer may permit the employee to return clothing to its proper position for observed urination.
9. The observer must watch the employee urinate into the collection container. Specifically, the observer is to watch the urine go from the employee's body into the collection container



Breath Alcohol Testing Procedures

These collection procedures shall apply to all types of alcohol testing (e.g., Random, Reasonable Suspicion, Post-Accident)

Breath alcohol testing shall be conducted by a trained Breath Alcohol Technician (BAT). Testing will be conducted in a manner to ensure the greatest amount of employee aural and visual privacy (mobile or clinic facility). Unauthorized access to the testing area is prohibited. One test will be conducted at a time. The BAT will utilize an Evidential Breath Testing (EBT) device authorized by 49 CFR Part 40.

1. Upon arrival at the testing site (whether on or off SFMTA premises) the following procedures will be followed. The Covered Employee will be asked to present picture identification for the BAT, or the supervisor accompanying the employee will be asked to verify the identity of the employee.
2. The procedure will be explained to the Covered Employee and he/she will be asked to sign Block 2 of the alcohol test form (ATF). A refusal to sign the ATF form will be treated as a Refusal to Submit to testing. The employee will be immediately removed from duty, instructed to report to his/her supervisor, and advised to contact the Substance Abuse Professional.
3. The BAT will open a sealed mouthpiece in view of the Covered Employee and attach it to the EBT.
4. The Covered Employee will be instructed to blow into the mouthpiece for at least six seconds or until the device indicates that an adequate amount of breath has been obtained.
5. The results will be shown to the employee and printed out of the EBT.
6. If the results are negative (less than 0.02), the BAT will sign in the appropriate space and release the Covered Employee to return to duty. Employees tested under the random testing program will be provided with a return-to-work release form to give to the supervisor.
7. If the screening test results are equal to 0.02 or greater, the BAT will perform a confirmation breath test.
8. The confirmation test must be conducted no less than 15 minutes, but not more than 30 minutes, following the screening test. Between tests, the employee will be instructed not to eat, drink, put anything into his or her mouth, or belch, and must remain with the BAT. The BAT will conduct air blanks until a 0.00 reading is obtained. A new mouthpiece will be provided for the employee. Beginning the confirmation test after 30 minutes has expired does not invalidate the confirmation test results; however, the BAT must document why the confirmation test began after the 30-minute point.



9. If the confirmation test is equal to 0.04 or greater, the DER will be notified, and the Covered Employee's supervisor will be provided written confirmation of the necessity to remove the employee from duty and referred to the SAP. If the confirmation test result is equal to 0.02 or greater but less than 0.04, the employee is prohibited from performing a Safety-Sensitive Function until his or her next shift, but not less than eight hours from the time of the test, or until another breath test result is less than .02.
10. If the Covered Employee refuses to sign the ATF, provide breath or provide an adequate amount of breath, the test will be terminated and the DER will be notified. This is a Refusal to Submit to testing and will have the same consequences as a positive test. The supervisor will be notified that the employee is not released to return to duty.
11. If a screening or confirmatory test cannot be completed because the Covered Employee cannot produce adequate breath (shy breath), additional attempts will be made. A new test is started with a new device test number. An employee who is unable to provide adequate breath for testing will be subject to a medical examination to determine whether a medical condition exists. If the examining physician determines the employee has a medical condition precluding him/her from providing an adequate amount of breath for testing, the physician shall document the finding for SFMTA's files. If the examining physician finds no medical reason for the inability to provide adequate breath for testing, the findings should be documented, and the employee removed from duty. In the absence of medical justification, the inability to provide adequate breath will be treated the same as a refusal to test.



Random Testing Procedures

The FTA regulations require random testing for prohibited drugs and alcohol for all Safety-Sensitive employees (Covered Employees). Random testing identifies employees who are using drugs or misusing alcohol but are able to use the predictability of other testing methods to escape detection. More importantly, it is widely believed that random testing serves as a strong deterrent against employees beginning or continuing prohibited drug use and misuse of alcohol at SFMTA. SFMTA has developed procedures for notification and collection to best implement the requirements of the federal rules.

These procedures answer common questions regarding random testing: Who is tested? Why are only some individuals tested? When and how do the tests occur?

1. Random drug and alcohol testing applies only to Safety-Sensitive employees. Identification numbers for all Safety-Sensitive employees are included in a selection pool.
2. Random drug and alcohol testing is accomplished by a scientifically valid, tamper-proof, computer-generated selection process. A random list of employee numbers will be generated every month by the Substance Abuse MIS staff. A surplus will be randomized to allow for selected employees who are not available. SFMTA determines that "not available" is limited to employees who are not at work due to vacation, sick leave, disability or scheduled time off. Employees who are unavailable will have their names held, and other attempts will be made to test them until the next random selection list is generated. The MIS Personnel triggers the selection list of the month's Operations and Maintenance employees to be scheduled for testing.
3. Once a list is generated, employee numbers are matched with names and the names are sorted by division. The work schedule for each employee is determined. Testing is then scheduled on an unannounced, weekly basis. Testing is conducted on-site by mobile van.
4. No employee will be removed from the random pool following selection, and every employee will continue to be subject to selection throughout the year. Every employee in the random pool has an equal chance of being selected every time. Employees are only removed from the random pool when they are in rehabilitation programs, permanently transferred to a non-safety-sensitive position, or on extended leave.
5. Random testing will be conducted on all shifts, all times of day, and all days of the week throughout the calendar year. No shift is exempt from testing. The total number of drug tests completed annually must be a minimum of twenty-five percent (25%) of the eligible Safety-Sensitive employees in the random pool. The total number of alcohol tests completed each year must be a minimum of ten percent (10%) of the number of safety-sensitive employees.
6. Random drug testing may be conducted concurrently with random alcohol testing or at any time while an employee is on duty. Random alcohol testing will be conducted just before the employee is scheduled to perform a Safety-Sensitive Function, while the



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employee is performing Safety-Sensitive Duties or just after the employee performs a Safety-Sensitive Function.

7. Maintenance and Operations supervisors will be notified which employees have been selected for testing. (See Procedures for Random Test Notification). Employees will be notified to stop work, where to report for testing, and who will relieve them, if necessary. Once an employee is notified of his/her selection, he/she must report immediately for the test. If an employee is not notified, a "Failure to Test as Scheduled" form must be completed and signed by the supervisor.
8. The employee must submit to a drug and/or alcohol test, and sign all necessary forms. Failure to cooperate with the collection procedure in any way constitutes a refusal to test, which is considered the same as a positive test result.
9. The employee will be in a paid status throughout random testing. The employee will be removed from duty if the result of the alcohol tests is positive, when a positive or non-negative drug test result is received, or if the employee Refuses to Submit to testing.
10. If both alcohol and drug tests are given, the breath alcohol test will be performed first. Immediately thereafter, the urine sample will be collected for the drug test.
11. If there is a confirmed breath alcohol test greater than or equal to .02 and less than .04, the employee *will be relieved from duty* immediately until the start of his/her next shift, but not less than eight (8) hours following administration of the test, or until the employee's alcohol concentration measures less than .02.
12. If there is a confirmed positive breath alcohol test (equal to .04 or above), and/or a confirmed positive, Refusal to Submit to testing, Adulterated, or Substituted drug test, the employee will be removed from duty and directed to the Substance Abuse Professional (SAP) for an evaluation and referral for rehabilitation or education. The employee cannot return-to-work until he/she has been released by the SAP, completed the return-to-work agreement and successfully completed a return-to-duty test.
13. Employees who test positive for drugs or alcohol, refuse testing, or whose drug test has been Adulterated or Substituted, will be disciplined in accordance with applicable memoranda of understanding.



Procedures for Random Test Notification

1. The MIS staff person will trigger the selection list of the month's Operations and Maintenance employees to be scheduled for testing.
2. The Testing Coordinator will notify the collector of the time and location for testing.
3. Notification of Covered Employees

The Substance Abuse Program will notify the employee's Supervisor/Manager, Division Dispatcher or Inspector.

a. Notification of Operators:

- Notification will be by the Division Dispatcher if the operator pulls out of the Division at any time during the work day.
- Notification will be by an Inspector, or Inspector Manager, if the operator does not pull out of the Division.

Time of notification must be documented.

b. Notification of Non-Platform Employees:

- The Deputy Director of Operations' designee will inform the immediate supervisor of any non-platform employee who is selected for testing the day of the test. This supervisor will then make the notification to the employee.

Time of notification must be documented.

Non-Platform Notification Tree

Notifier	Employee
Director of Transportation	Director of Transit
Director of Transit	Deputy Transit Manager
Deputy Transit Manager	Manager IV
Manager IV	Manager II
Manager II	Transit Manager IV
Transit Manager IV	Transit Manager III
Transit Manager III	Transit Manager II
Transit Manager II	Transit Manager I
Transit Manager I	9139 Supervisors

c. Notification of Maintenance Employees:

- Notification will be by the supervisor/manager on site. Supervisors will be informed the day of the test. Notification will be at the latest possible time to minimize the



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possibility of employee's learning of testing prior to reporting to work or prior to the collection van arriving on site.

The time of notification must be documented.

- d. Reporting: The employee shall report to the test site immediately.
4. SFMTA requires that the "Random Testing Notification Form" (see attached) be completed by the supervisor and signed by the employee.
5. The employee cannot "go off sick" or on vacation or leave work after notification.
6. Collection personnel shall report "no shows" to the Testing Coordinator.
7. The Testing Coordinator shall confirm with the supervisor or Central Control that the employee was notified.
8. The Substance Abuse Manager shall notify Operations and Maintenance if an employee fails to report for testing after notification.
9. An employee who fails to report for testing shall be removed from duty immediately. This will be treated as a Refusal to Submit to testing and have the same consequences as a positive test. He/she cannot return to duty until cleared by the SAP.



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RANDOM TESTING NOTIFICATION FORM

EMPLOYEE NAME: _____ ID# _____

TIME OF NOTIFICATION: _____ DATE OF TEST: _____

TYPE OF TEST: Drug Alcohol Both

LOCATION OF TEST SITE: _____ WORK LOCATION: _____ PHONE: _____

_____, under federal regulations for random drug and alcohol
(Employee's Name)

testing of Safety-Sensitive employees, you have been randomly selected for testing for the presence of prohibited drugs and alcohol. You are hereby notified of that selection. Your signature indicates that you have read and understood the given instructions, agree to take the test and authorize the release of your test results to the San Francisco Municipal Transportation Agency (SFMTA).

=====

SAFETY-SENSITIVE EMPLOYEES

STATEMENT TO EMPLOYEES REGARDING REFUSAL TO SUBMIT TO RANDOM DRUG AND/OR ALCOHOL TESTING

If you Refuse to Submit to a random drug and/or alcohol test, refuse to sign the necessary forms, or follow instructions, it will be considered a violation of the random testing procedure. You will be removed from duty and referred to the Substance Abuse Professional for assessment. This information will be forwarded to the Director of Transit or designee.

Employee's Signature

Date

Notifier's Signature

Date

=====

RETURN-TO-DUTY RELEASE

_____ Employee has completed all testing requirements and is released to duty.

_____ Employee has not completed all testing requirements, or has tested positive for alcohol from 0.02-0.039 and is NOT released to return-to-duty:

_____ For eight (8) hours or until next shift.

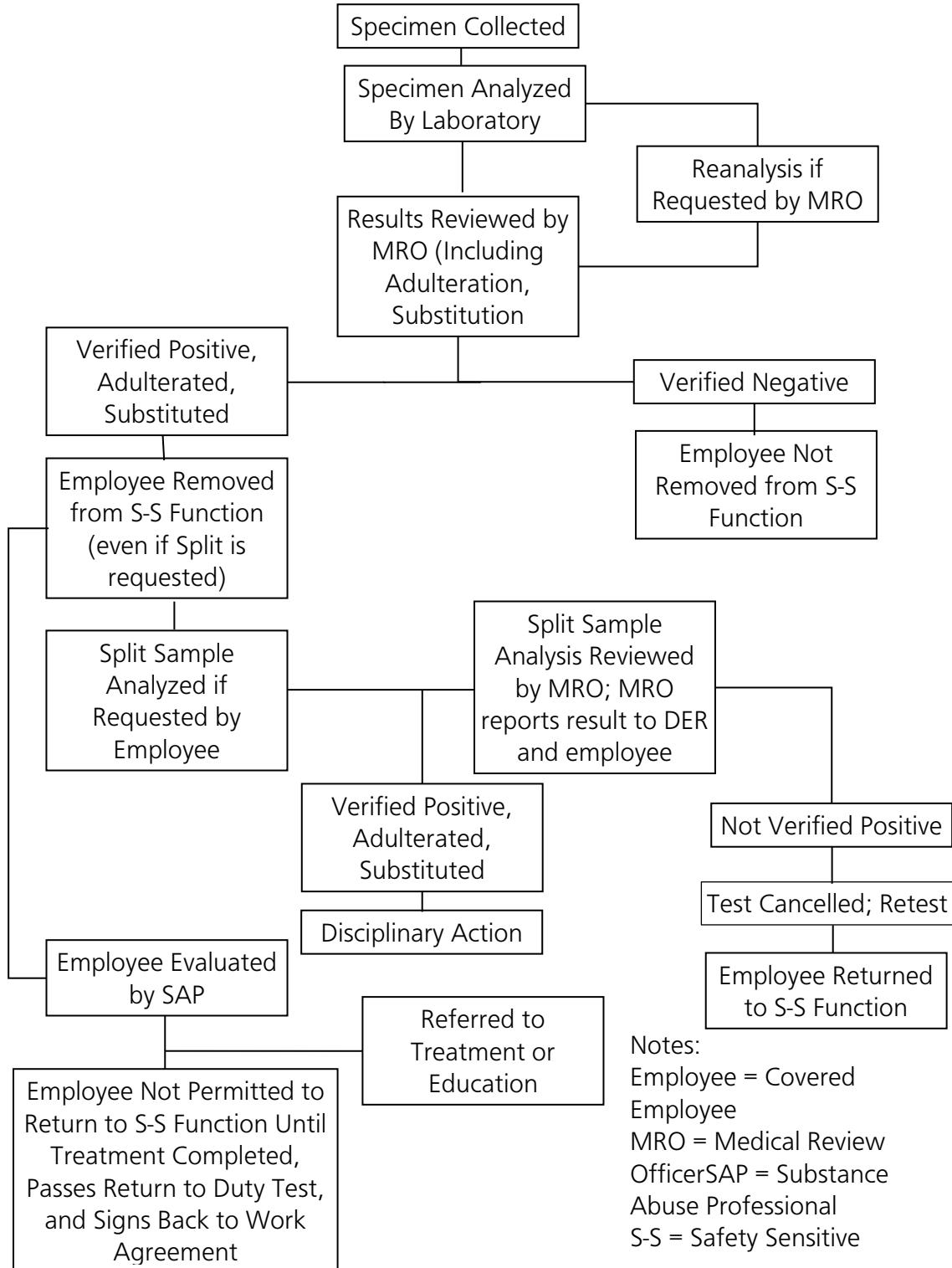
_____ Until released by Substance Abuse Professional (SAP).

Collector's Signature

Date & Time Finished



Drug Testing Process for All Tests

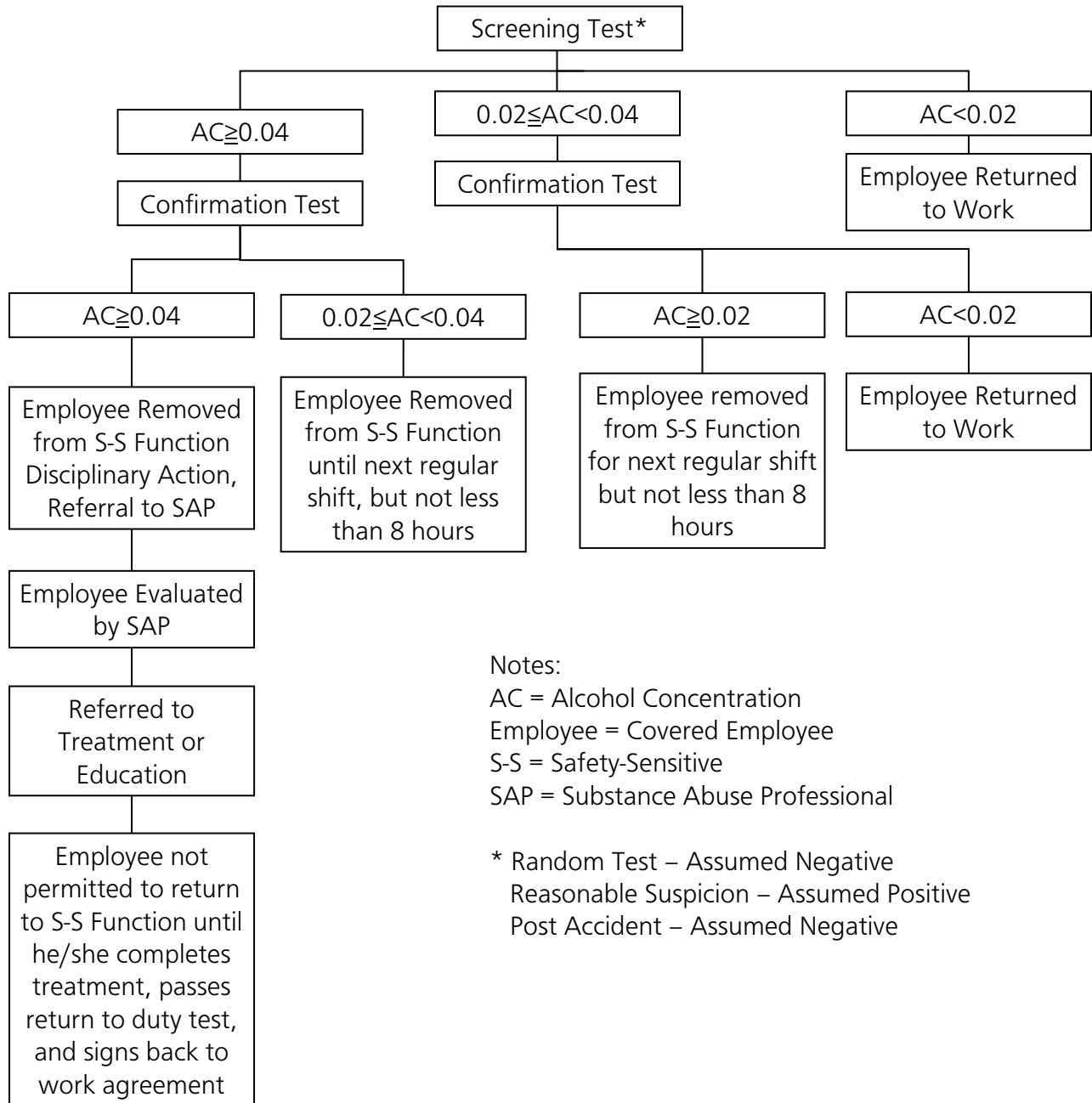




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Alcohol Testing Process for All Tests (see 49 CFR § 655.35a)





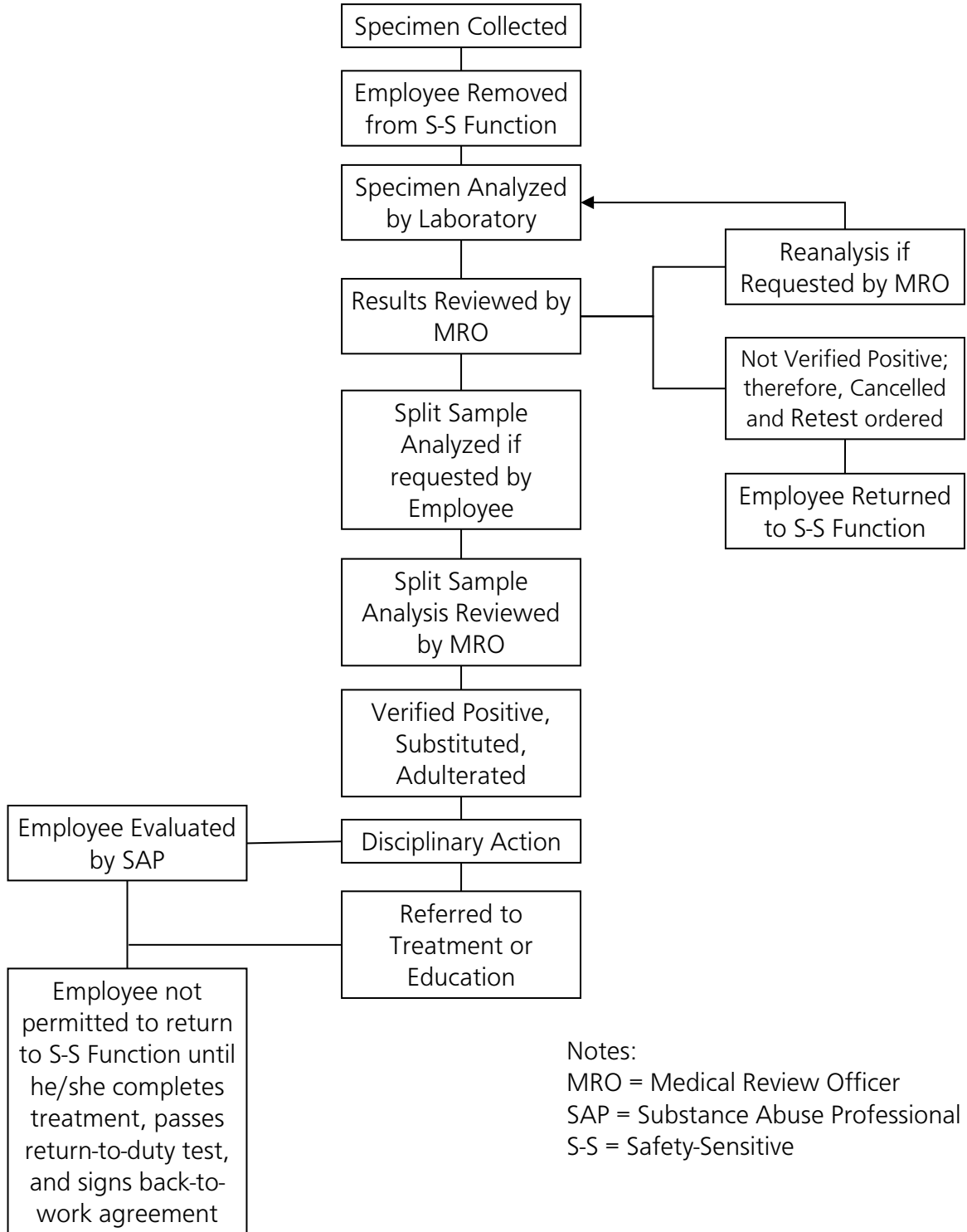
Reasonable Suspicion Testing Procedures

The FTA regulations also require a Covered Employee to submit to a test when the employer has a reasonable suspicion that the employee has used a prohibited drug or has misused alcohol. The request to undergo a reasonable suspicion test must be based on specific, articulable observations concerning appearance, behavior, speech, or body odor of the Covered Employee. A trained supervisor must make these observations.

1. Supervisors and managers receive training in order to identify behaviors that might be indicators of drug use and/or alcohol misuse. Training includes the procedures for how to deal with employees suspected of drug use and/or alcohol misuse.
2. If one trained supervisor observes behavior that might be indicative of drug use and/or alcohol misuse, he/she directs the employee to stop work and escorts the employee to an area to be questioned and observed in private.
3. The supervisor completes the Supervisor's Alcohol and/or Substance Abuse Report. The supervisor must ensure that the employee does not continue to operate in a Safety-Sensitive job after having been identified for reasonable suspicion testing.
4. If there is a decision to test based on observable symptoms, the employee is ordered to submit to a drug and/or alcohol test and is taken to the collection site.
5. The employee is on paid status until the test collection is completed. SFMTA requires that the employee may not perform Safety-Sensitive work pending the outcome of the drug test. Since the employee is believed to be under the influence of drugs and/or alcohol, arrangements will be made to have him/her transported home.
6. If there is a confirmed breath alcohol test equal to 0.02 or greater but less than 0.04, the employee will be relieved from his or her Safety-Sensitive Function immediately for a minimum of eight hours.
7. If there is a confirmed positive breath alcohol test (equal to 0.04 or above), refusal to submit to testing, or confirmed positive drug test, the employee will be directed to the Substance Abuse Professional (SAP) for an evaluation and referral for rehabilitation or education.
8. Employees who test positive for drugs or alcohol, refuse to submit to a test, or whose test result is Adulterated or Substituted will be disciplined in accordance with applicable memoranda of understanding.



Drug Testing Process for Reasonable Suspicion



Notes:
 MRO = Medical Review Officer
 SAP = Substance Abuse Professional
 S-S = Safety-Sensitive



Post-Accident Testing Procedures

The FTA regulations require testing for prohibited drugs and alcohol in the case of certain mass transit accidents. Post-accident testing is mandatory for accidents where there is a loss of life and for other non-fatal accidents.

1. The inspector ensures that all injured people receive proper medical care.
2. The supervisor determines whether the accident meets FTA criteria (see "Post-Accident Testing Chart").
3. The employee will be taken to the collection site and tested as soon as practicable following the accident. The tests should be performed within two hours of the accident. If tests are not performed within two hours, the inspector must document the reasons why the test was not performed. If an alcohol test cannot be administered within eight hours, the test must be cancelled and the inspector shall document the reasons why the test was not conducted. If a drug test cannot be performed within 32 hours after the accident, the inspector shall document the reasons why the test was not conducted.
4. The employee should remain readily available for alcohol testing up to eight hours post-accident and for drug testing, up to 32 hours after the accident, including notifying his/her supervisor of his/her location, or he/she may be deemed to have refused to submit to testing.
5. If the employee is injured and needs medical treatment, provisions will be made to perform an alcohol test within eight hours and a drug test within 32 hours of the accident.
6. The employee is prohibited from using alcohol for eight hours after the accident, prior to testing.
7. Pending the results of a drug test, the employee will be returned to his/her safety-sensitive position if medically cleared to be returned to work. In the interests of safety, SFMTA may transfer an employee to a non-safety-sensitive status pending the results of a drug test. These determinations will be made on a case-by-case basis.
8. If the alcohol test is positive (equal to .04 or greater), the employee must be removed from duty and referred to the SAP. If the test is equal to 0.02 or greater but less than 0.04, the employee will be removed from duty for at least eight hours.
9. If the employee refuses to submit to a test or if the test is confirmed positive, the employee will be removed from duty and referred to the SAP.
10. Discipline for positive, adulterated, or substituted drug and/or alcohol tests, and refusals to submit to testing will be imposed in accordance with applicable memoranda of understanding.



Post-Accident Alcohol & Drug Testing Criteria

A post-accident test shall be conducted when the incident meets the criteria listed below. A post-accident test is NOT a probable cause or reasonable suspicion test.

Definitions

Accident means an occurrence associated with the operation of a revenue service vehicle, if as a result–

- (1) An individual dies;
- (2) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident;
- (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 incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, "disabling damage" means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, tail-lights, turn signals, horn, or windshield wipers that makes them inoperative; 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 revenue service.

For accidents *not involving a fatality*, there are two categories:

Road Surface Vehicles

The first category is for "road surface" vehicles, including buses, vans, and automobiles.

An accident is an occurrence resulting in a vehicle—either a mass transit vehicle or another vehicle—suffering disabling damage and having to be towed away.

Rail Vehicles

The second category includes rail cars, trolley buses and trolley cars, and vessels. This category would include other kinds of transit conveyances operated by FTA recipients, such as people movers, inclines, and monorails. (Cable cars fit into this category.)

An accident is deemed to have occurred to such a vehicle when the occurrence results in the mass transit vehicle being removed from revenue service.



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This includes an accident when the vehicle is in operation but occurring when the vehicle is not operating in revenue service (for example, in the yard), if it results in damage that would result in a comparable vehicle being withdrawn from revenue service or results in a delay in the vehicle placed into or returned to revenue service.

Who is Tested?

Fatality

If an accident involving a fatality has occurred, a test must be given to those surviving covered employees operating the vehicle at the time of the accident. Tests should also be administered to any other covered employee who SFMTA determines could have contributed to the accident.

Bodily Injury or Property Damage

Road Surface Vehicles

With respect to non-fatal accidents involving road surface vehicles, a Covered Employee operating the vehicle at the time of the accident would have to be tested unless the employer determines that an employee's performance can be completely discounted as a contributing factor to the accident.

Rail Vehicles

With respect to rail vehicles, the employer must test Covered Employees operating the vehicle at the time of the accident, unless the employer determines that an employee's performance can be completely discounted as a contributing factor to the accident.

Examples

- *The second car operator would not have to be tested for a vehicle accident caused exclusively by the operator of the lead car, who was operating the train.*
- *Both operators would have to be tested if a person in the second car was hit by the doors which are operated by the second car operator, and is then struck by the train operated by the lead car operator.*

Other Possible Tests

Other employees who may have contributed must also be tested; for example, a dispatcher who routes two trains onto the same track, which then collide. In that situation, three persons would be tested: the two train operators and the dispatcher who routed the trains.



Post-Accident Testing Chart

Type of Accident (Associated with the Operation of a Vehicle)	Requirements for Coverage	Test Surviving Covered Employee operating the Vehicle at time of Accident?	Test Other Safety- Sensitive Employee?
Fatal (all types of vehicles)	None beyond loss of human life in accident	In all cases	<u>If</u> employer determines that Covered Employee's performance could have contributed to accident (includes Maintenance personnel)
Non-fatal (buses, vans, electric buses, or automobiles)	<u>Either</u> injury requiring immediate medical treatment away from accident scene <u>or</u> disabling damage to transit vehicle or other vehicle	<u>Unless</u> employer determines that Covered Employee's performance can be completely discounted as a contributing factor to the accident	<u>If</u> employer determines that Covered Employee's performance could have contributed to accident (includes Maintenance personnel)
Non-fatal (rail cars, trolley cars, trolley buses, or vessels)	<u>Either</u> injury requiring immediate medical treatment away from accident scene <u>or</u> mass transit vehicle is removed from revenue service	<u>Unless</u> employer determines that Covered Employee's performance can be completely discounted as a contributing factor to the accident	<u>If</u> employer determines that Covered Employee's performance could have contributed to accident (includes Maintenance personnel)



Post-Accident Drug and Alcohol Testing Questionnaire

1. DID THIS ACCIDENT INVOLVE A FATALITY? **YES or NO**
If "Yes," drug and alcohol tests are required of driver* and anyone else who could have contributed to the accident.

2. WAS THERE AN INJURY FOR WHICH THE INDIVIDUAL RECEIVED IMMEDIATE MEDICAL TREATMENT AWAY FROM THE SCENE? **YES or NO**
If "Yes," drug and alcohol tests are required of driver* and anyone else who could have contributed to the accident.

3. IF ACCIDENT INVOLVED A ROAD SERVICE VEHICLE (DIESEL BUS, VAN, AUTOMOBILE), WAS THERE DISABLING DAMAGE TO **ANY** VEHICLE (i.e., WAS ANY VEHICLE TOWED AWAY, INCLUDING NON-SFMTA VEHICLE)? **YES or NO**

"Disabling damage" means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated.

Disabling damage does not include:

- Damage which can be remedied temporarily at the scene of the occurrence without special tools or parts;
- Tire disablement without other damage even if no spare tire is available; or
- Damage to headlights, tail-lights, turn signals, horn, or windshield wipers that makes them inoperative.

If "Yes," drug and alcohol tests are required of driver and anyone else who could have contributed to the accident.

4. IF ACCIDENT INVOLVED A RAIL VEHICLE (LRV, TROLLEY BUS, CABLE CAR), DID THE RAIL VEHICLE HAVE TO BE REMOVED FROM SERVICE (EVEN IF IN THE YARD)?
YES or NO

If "Yes," drug and alcohol tests are required of driver* and anyone else who could have contributed to the accident.

5. CAN THE DRIVER'S PERFORMANCE BE COMPLETELY DISCOUNTED AS A CONTRIBUTING FACTOR TO THE ACCIDENT? **YES or NO**

If "Yes," explain why _____



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If the answer to question 5 is "Yes," no test is required of a driver or operator, except in cases involving a fatality.

6. COULD ANY OTHER SAFETY-SENSITIVE EMPLOYEE HAVE CONTRIBUTED TO THE ACCIDENT (e.g. MECHANIC)? **YES or NO**

If "Yes," explain why _____

7. WAS TESTING PERFORMED WITHIN TWO HOURS AFTER THE ACCIDENT? **YES or NO**

If "No," explain why _____

8. IF THE ANSWER TO NO.7 IS "NO", WAS TEST PERFORMED WITHIN EIGHT HOURS AFTER THE ACCIDENT? **YES or NO**

If "No," explain why _____

*** The term "driver" includes an operator of a non-revenue vehicle if that operator is required to hold a commercial driver's license to operate the vehicle involved.**



Return-to-Duty and Follow-Up Testing

Before any Covered Employee can be allowed to return to duty to perform a Safety-Sensitive Function following a verified positive drug test, a positive breath alcohol test, a Refusal to Submit to a test, or engaging in conduct prohibited by the regulations regarding alcohol misuse, the employee must first be evaluated by a Substance Abuse Professional and pass the return-to-duty test. The return-to-duty and follow-up drug testing will be performed under Direct Observation as described in 49 CFR Section 40.67.

Return-to-Duty Testing equal to .04% Alcohol Test and/or Positive Drug Test

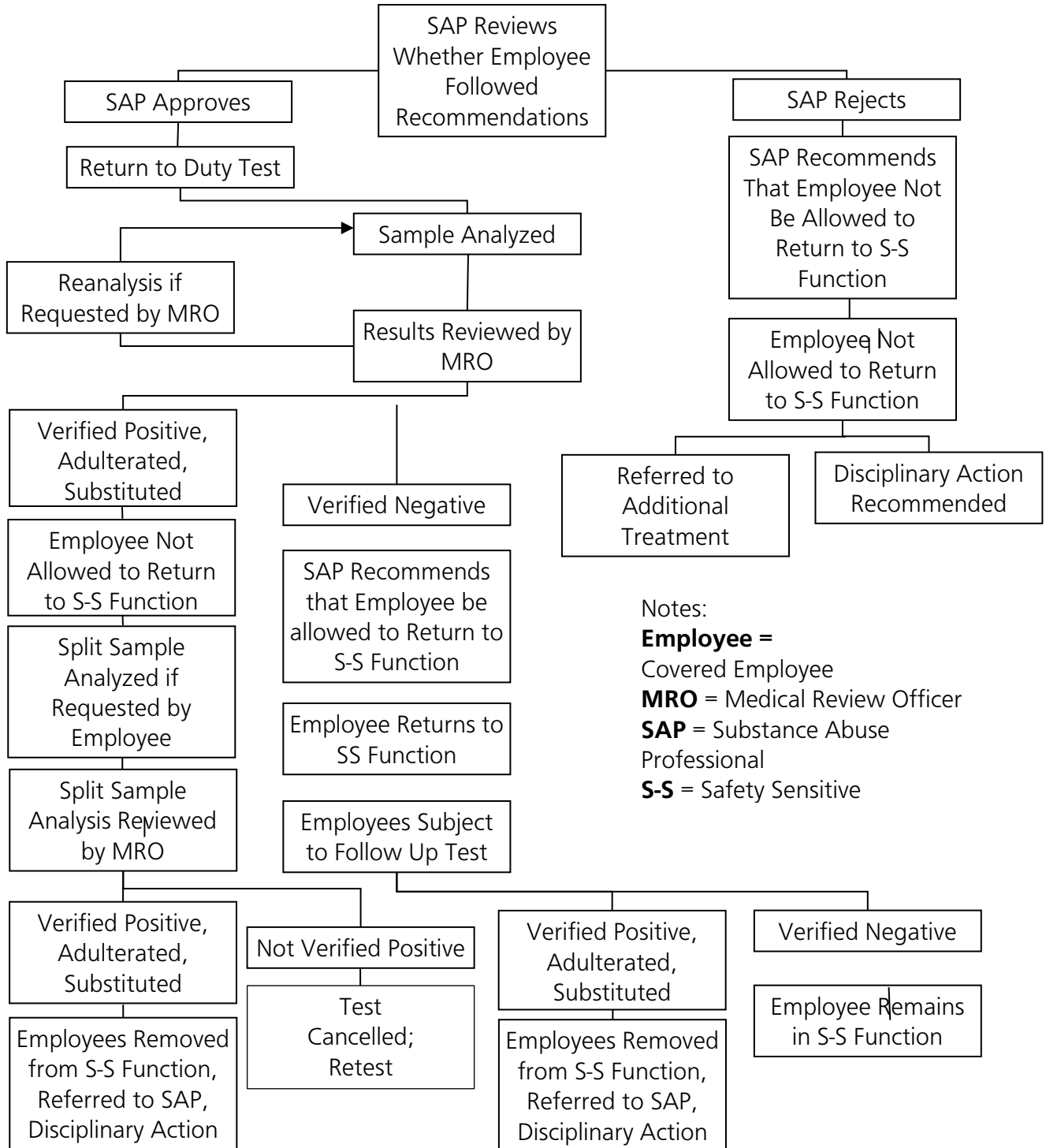
1. When the SAP determines that a Covered Employee is ready to return to Safety-Sensitive Duty after completing any recommended rehabilitation, the employee must take and pass a drug and alcohol return-to-duty test. If the return-to-duty test is positive or constitutes a Refusal to Submit to testing, it counts as a second positive. If the test result is Cancelled or Invalid, the employee will have to be retested.
2. SFMTA requests that the Covered employee notify the SAP 14 days in advance of his/her expected return-to-duty date. The SAP will schedule the employee for the follow-up evaluation and the return-to-duty test.
3. Discipline will be imposed consistent with applicable memoranda of understanding.

Follow-Up Testing

1. Once a Covered Employee returns to Safety-Sensitive Duty, he/she shall be subject to unannounced follow-up testing for at least 12 months, but not more than 60 months. The type, frequency and duration of the follow-up testing shall be determined by the SAP; however, a minimum of six tests shall be performed during the first 12 months after the employee has returned to duty. Follow-up testing does not exclude an employee from the random testing program. This means that an employee is subject to random testing as well as follow-up testing.
2. Follow-up testing prescribed while an individual was working for another employer must be continued by SFMTA if SFMTA elects to hire the individual.
3. If a Covered Employee tests positive on a follow-up test or Refuses To Submit to such testing, discipline will be imposed in accordance with applicable memoranda of understanding.



Process for Direct Observation Drug Testing

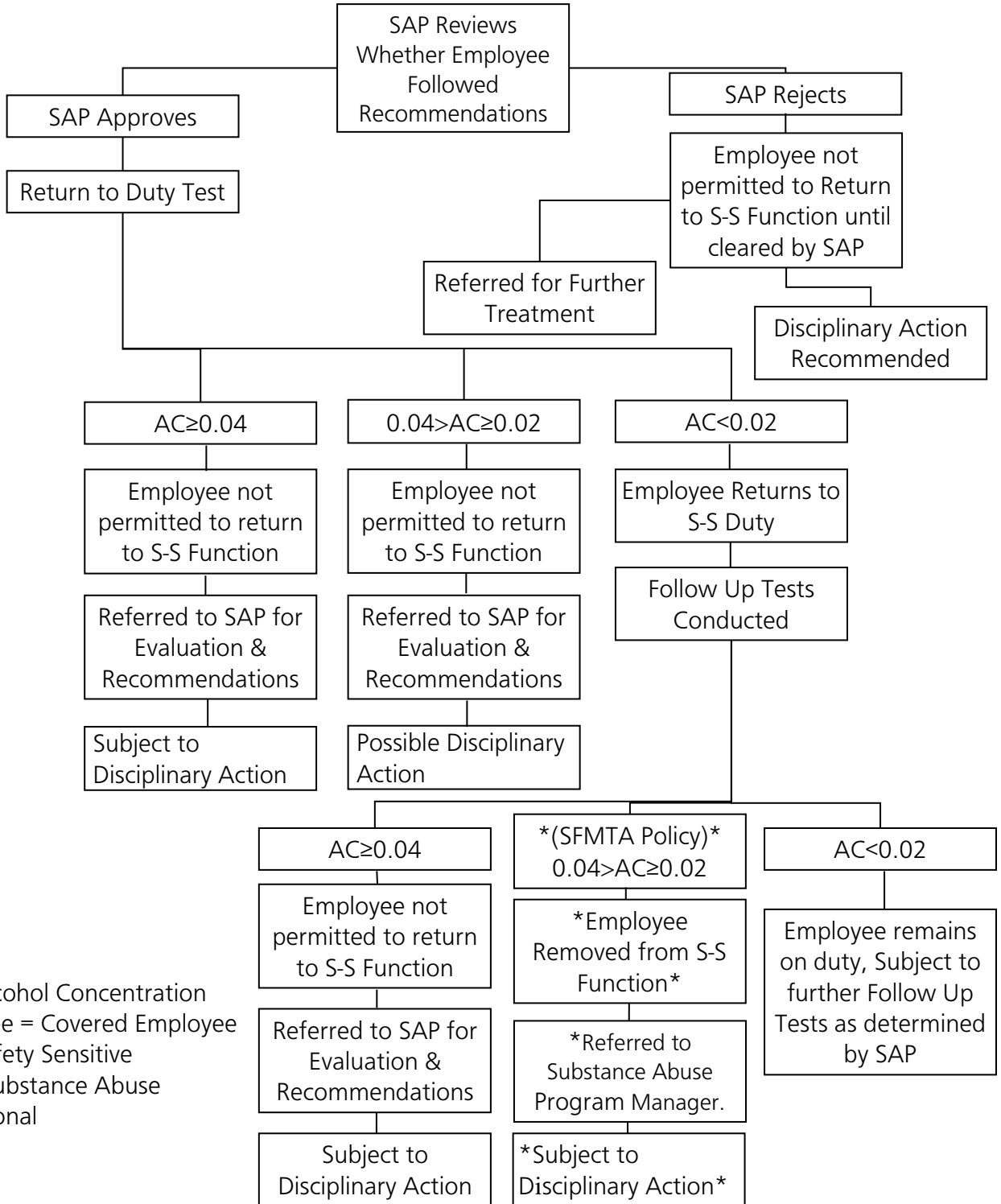




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Process for Return-to-Duty and Follow-Up Alcohol Testing



Notes:
 AC = Alcohol Concentration
 Employee = Covered Employee
 S-S = Safety Sensitive
 SAP = Substance Abuse Professional



Pre-Employment Testing

1. The FTA regulations require that all applicants for employment in Safety-Sensitive positions, individuals being transferred to Safety-Sensitive positions from non-Safety-Sensitive positions, and employees returning from leaves over 90 days when out of the random pool must be given pre-employment drug tests prior to performing Safety-Sensitive Functions.
2. Applicants may not be hired or assigned to Safety-Sensitive Functions unless they pass the test (negative test result).
3. Applicants must be informed in writing of the testing requirements prior to conducting the test. SFMTA will require each applicant to sign a form acknowledging that they know that their urine will be tested for cocaine, PCP, amphetamines, marijuana, and opioids. Note: The form that they sign prominently displays the message **"YOUR APPLICATION WILL BE CONSIDERED INCOMPLETE IF THIS NOTICE IS NOT SIGNED AND DATED."** A testing history must be requested from previous employers for the two years prior to application.
4. The Human Resources Division will notify the Substance Abuse Program of the number of applicants to be tested and their anticipated start date. A minimum of five working days are required to set up testing appointments. The Substance Abuse Program notifies Human Resources of the scheduled date, time, and location for testing.
5. It is the responsibility of the applicant to report to the collection site at the time and day scheduled.
6. Drug tests will be administered by the SFMTA's service agents. Tests may be conducted at an off-site facility when prearranged by Human Resources.
7. If an applicant's test is determined to be Negative Dilute, Invalid or is Cancelled, the applicant must be retested.
 - If the applicant's initial test was negative dilute and the retest result is also negative dilute the applicant will not be hired and can reapply in 6 months.
8. The Substance Abuse Program will be notified of all testing results and these results will be immediately transmitted to Human Resources.
9. SFMTA has determined that applicants who Refuse to Submit to testing, or who test positive for drugs, will not be considered for a SFMTA Safety-Sensitive job for five years.
10. An applicant whose pre-employment test results are negative will continue through the hiring process for the Safety-Sensitive position.
11. An applicant must begin his or her Safety-Sensitive Function within 90 days of receipt of the test results by the employer. Delays beyond 90 days necessitate a new test. A verified negative pre-employment drug test must be received before the employee is placed on the payroll or permitted to perform Safety-Sensitive Functions. The applicant must also receive any required orientation and training before performing such work.



Transfer Testing

1. An employee who is being considered for transfer to a Safety- Sensitive position from a non-Safety-Sensitive position will be required to undergo a drug test.
2. An employee with a confirmed positive, Adulterated, or Substituted drug test, as certified by the MRO, will be disqualified from immediate transfer and referred to the SAP. No discipline will be initiated as a result of the positive test.

An employee who tests positive or whose test is Adulterated or Substituted may reapply after six months if he/she has successfully completed the SAP recommendations.

If a transferred employee has not performed Safety-Sensitive Duties for 90 consecutive calendar days from the date of the pre-transfer drug test, and the employee has not been in the random selection pool during that period, the employee will be required to take another pre-employment drug test with a negative result.

Post-Leave Testing

If a Covered employee has been on leave status and has not performed Safety-Sensitive Duties for 90 consecutive calendar days or been in the random selection pool during that period, the employee will be required to take another pre-employment drug test before returning to his or her Safety-Sensitive Function.



Split Specimen Testing Procedures

1. At the time of collection, the urine specimen will be split and poured into two specimen bottles. One specimen (Primary Specimen) will contain at least 30 ml. of urine, and the other one (Split Specimen), a minimum of 15 ml. of urine.
2. Both specimens are sent to the DHHS-certified laboratory under contract with SFMTA, but only the Primary Specimen is analyzed. The Split Specimen is stored in case the Covered Employee requests that the Split Specimen be analyzed.
3. The Covered Employee has the option of having an analysis of the Split Specimen if his or her test result is positive, Adulterated, or Substituted. The Split Specimen analysis is performed at a separate DHHS-certified laboratory.
4. The Covered Employee has 72 hours after being notified by the Medical Review Officer (MRO) of a verified positive to request a test of the Split Specimen. Requests after 72 hours will only be accepted if the delay was due to documented facts that were beyond the control of the employee.
5. The Covered Employee must notify the MRO that he/she wants to test Split Specimen.
6. The Covered Employee may designate a DHHS-certified laboratory or request that the MRO identify a separate DHHS-certified laboratory.
7. Pursuant to past SFMTA practice, laboratory fees are the responsibility of the Covered Employee.
8. For a positive drug test - If the second DHHS-certified laboratory identifies the presence of the drug(s) (without regard to cutoff concentrations), the Split Specimen will be considered "Reconfirmed." If the test fails to reconfirm the presence of the drug(s), the second laboratory will then conduct validity testing. If the second laboratory fails to confirm the presence of the drug(s) and adulterants, the test will be Cancelled. The MRO will report a reconfirmed test or a test that fails to reconfirm to the employee and SFMTA. A split test that fails to reconfirm will also be reported to DOT.
For an Adulterated or Substituted test – If the second laboratory reconfirms the Adulteration or Substitution, the original test result will remain the same. If the laboratory fails to reconfirm, the test will be Cancelled.
9. If the Split Specimen is unavailable or appears insufficient for testing, the MRO will Cancel the test. This applies to all test results that are being challenged – drug positives, Adulterations, and Substitutions. If the test is Cancelled for this reason, the MRO will direct the DER to send the employee for another test that will be performed under direct observation. No advance notice will be given to the employee.