

SUBSTANCE ABUSE TESTING PROGRAM POLICY

1.0 Policy Statement

The Arkansas Department of Transportation (ArDOT) and Western Transit System (“WTS”) are dedicated to providing safe, dependable, and economical transportation services to Arkansas’ public transportation customers. Our employees are our most valuable resource. It is our goal to provide a healthy and satisfying work environment, which promotes personal opportunities for growth. In meeting these goals, it is our policy to:

1. Assure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner;
2. Create a workplace environment free from the adverse effects of drug abuse and alcohol misuse;
3. Prohibit the unlawful manufacture, distribution, dispensing, possession or use of controlled substances; and
4. Encourage employees to seek professional assistance any time personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

2.0 Purpose of Policy

The purpose of this policy is to assure worker fitness for duty and to protect employees, customers, and the public from the risks posed by the misuse of alcohol and use of prohibited drugs. This policy is also intended to comply with 49 CFR Part 655, as amended and 49 CFR Part 40, as amended. Copies of Parts 655 and 40 are available in the drug and alcohol program manager’s office and can be found on the internet at the Federal Transit Administration (FTA) Drug and Alcohol Program website: <http://transitsafety.fta.dot.gov/DrugAndAlcohol/>.

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

Portions of this policy are not FTA-mandated, but reflect Agency’s policy. These additional provisions are identified by **bold text**.

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 unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify their direct supervisor no later than five days after such conviction.

3.0 Covered Employees

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

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

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

A volunteer is a covered employee if:

1. The volunteer is required to have a commercial driver’s license to operate the vehicle; or
2. The volunteer performs a safety-sensitive function and receives remuneration exceeding his or her actual expenses incurred.

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

Covered employees will receive a copy of Western Transit System’s Substance Abuse Testing Program Policy and will be requested to sign a confirmation of receipt.

4.0 Prohibited Behavior

Use of illegal drugs is prohibited always. All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in Part 40.

Prohibited drugs include:

- Marijuana
- Cocaine
- Phencyclidine (PCP)
- Opioids
- Amphetamines

Should Area Agency on Aging of Western Arkansas, Inc., / Western Transit System (WTS) suspect that an employee is abusing a substance other than the five drugs listed above, under its own authority, it reserves the right to conduct separate testing beyond those drugs, using standard laboratory protocols.

All covered employees are prohibited from performing or continuing to perform safety sensitive job functions while having an alcohol concentration of 0.04 or greater.

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

All covered employees are prohibited from consuming alcohol within **eight (8) hours** prior to the performance of safety-sensitive job functions. Violation of this provision is prohibited **and is cause for termination of employment.**

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

5.0 Consequences for Violations

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional (SAP). A person is qualified to act as an SAP if he or she meets the definition found in Part 40.281. A current list of SAPs can be found in Attachment B.

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties for at least eight hours unless a retest concludes with the employee's alcohol concentration being less than 0.02. **Other disciplinary measures may be taken.**

ZERO Tolerance

Per Area Agency on Aging of Western Arkansas, Inc. / Western Transit System (WTS) policy, any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test will be referred to an SAP **and terminated from employment. Scheduling arrangements and costs for assessment, rehabilitation or treatment will be the employee's responsibility.**

6.0 Circumstances for Testing

Pre-Employment Testing

A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

If a covered employee has not performed a safety-sensitive function for 90 or more consecutive calendar days, and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before he or she can return to a safety-sensitive function.

A covered employee or applicant who has previously failed or refused a DOT pre-employment drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when Area Agency on Aging of Western Arkansas, Inc. / Western Transit System (WTS) has reasonable suspicion 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 by a trained supervisor or other trained company official based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to a reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing 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.

Post-Accident Testing

Covered employees shall be subject to post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an accident involving the loss of human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by Area Agency on Aging of Western Arkansas, Inc. / Western Transit System (WTS) using the best information available at the time of the decision, will be tested.

Non-Fatal Accidents

As soon as practicable following an accident **not** involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

1. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
2. One or more vehicles incur disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted during all times of the day, when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year by the FTA administrator. The current year testing rates can be viewed online at www.transportation.gov/odapc/random-testing-rates.

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

A covered employee may only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

Random Testing – End of Shift

Random testing may occur anytime an employee is on duty so long as the employee is notified prior to the end of the shift. Employees who provide advance, verifiable notice of scheduled medical or child care commitments will be random drug tested no later than three hours before the end of their shift and random alcohol tested no later than 30 minutes before the end of their shift. Verifiable documentation of a previously scheduled medical or child care commitment, for the period immediately following an employee's shift, must be provided at least 2 hours before the end of the shift.

7.0 Testing Procedures

All FTA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

Dilute Urine Specimen

If there is a negative dilute test result, Area Agency on Aging of Western Arkansas, Inc. / Western Transit System (WTS) will conduct one additional retest. The result of the second test will be the test of record.

Dilute negative result with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).

Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. Area Agency on Aging of Western Arkansas, Inc. / Western Transit System

(WTS) guarantees that the split specimen test will be conducted in a timely fashion. The analysis of the split specimen cannot be conditioned by payment; **however the expense for split specimen testing shall be borne by the employee, unless the result fails to reconfirm the result of the original test.**

8.0 Test Refusals

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

1. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by Area Agency on Aging of Western Arkansas, Inc. / Western Transit System (WTS).
2. Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
3. Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breathe specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
4. In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
5. Fail to provide a sufficient quantity of urine or breathe without a valid medical explanation.
6. Fail or decline to take a second test as directed by the collector or Area Agency on Aging of Western Arkansas, Inc. / Western Transit System (WTS) for drug testing.
7. Fail to undergo a medical evaluation as required by the MRO or Area Agency on Aging of Western Arkansas, Inc. / Western Transit System (WTS)'s Designated Employer Representative (DER).
8. Fail to cooperate with any part of the testing process.
9. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
10. Possess or wear a prosthetic or other device used to tamper with the collection process.
11. Admit to the adulteration or substitution of a specimen to the collector or MRO.
12. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).

13. Fail to remain readily available following an accident.

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

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

9. Voluntary Self-Referral

Any Employee who has a drug/or alcohol abuse problem and has not been selected for reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to the Transportation Project Director, who will refer the individual to a substance abuse counselor for evaluation and treatment.

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

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function and will not be allowed to perform such function until successful completion of a prescribed rehabilitation program. All expenses related to evaluation or treatment is the sole responsibility of the employee.

10. Prescription Drug Use

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgement may be adversely affected must be reported to the Transportation Project Director / DER. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties. A legally prescribed drug means that the employee has received written or other approval from a physician for the use of the drug during

medical treatment. A prescription shall be deemed valid if it includes the employees name, substance prescribed, quantity and frequency and period of authorization.

Statement Regarding "Medical Marijuana"

Regardless of any State Law allowing the use of "legalized medical marijuana/cannabis" the US Department of Transportation's Drug and Alcohol Testing Regulation (49 CFR Part 40) does not authorize the use of Schedule 1 drugs, including marijuana or other product containing THC, for any reason. Therefore, a Medical Review Officer (MRO) will not verify a drug test as negative based upon information that a physician recommended that the employee Use "medical marijuana." Please note that marijuana remains a drug listed in Schedule 1 of the Controlled Substances Act. It remains unacceptable for any safety-sensitive employee subject to drug testing under Part 40 regulations to use or test positive for marijuana/cannabis.

11. Contact Person

For questions about Area Agency on Aging of Western Arkansas, Inc., / Wester Transit System (WTS) anti-drug and alcohol misuse program, contact:

Drug and Alcohol Program Manager (DAPM) and Designated Employer Representative (DER)

Dina Newman, Transportation Project Director (DAPM) (or)

Jerri Munholland, Transportation Coordinator (DER)

524 Garrison Avenue

Fort Smith, Ar. 72901

479-783-4500

Fax 479-785-3965

**Area Agency on Aging of Western Arkansas, Inc. / Western Transit System (WTS)
Board Resolution Adopting Substance Abuse Testing Policy**

WHEREAS, the Board of Directors of Area Agency on Aging of Western Arkansas, Inc. / Western Transit System (WTS) is dedicated to providing safe and dependable passenger transportation services; and

WHEREAS, it is our policy to assure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner and that our workplace environment is free of the adverse effects of drug abuse and alcohol misuse;
And

WHEREAS, it is also our policy that the unlawful manufacture, distribution, dispensing, possession or use of any controlled substance is prohibited and that we encourage our employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affects their ability to perform their assigned duties; and

WHEREAS, the U.S. Department of Transportation Federal Transit Administration has mandated a compliant Drug and Alcohol Testing Program regulated under 49 CFR Part 655, as amended, and 49 CFR Part 40, as amended, for safety-sensitive employees of public transportation agencies as a condition of federal funding; and

WHEREAS, the attached Drug and Alcohol Testing Program Policy meets the requirements of the FTA regulations;

THEREFORE, IT IS RESOLVED, that the Board of Directors of Area Agency on Aging of Western Arkansas, Inc. / Western Transit System (WTS) hereby adopts the attached Testing Program Policy, revised on December 7th, 2017, in compliance with FTA Regulations.

Adopted this 7th day of December, 2017.

David Burley MD
Chairman of the Board
Area Agency on Aging of Western Arkansas, Inc.

Attachment A: Covered Positions

Transit

- Fixed Route Bus Operator (Full Time)
- Fixed Route Bus Operator (Part Time)
- Fixed Route Dispatcher
- Fixed Route Supervisor *

Paratransit

- Paratransit Bus/Van Operator (Full Time)
- Paratransit Bus/Van Operator (Part Time)
- Paratransit dispatcher
- Paratransit Supervisor *

Maintenance

- Mechanic
 - Maintenance Director
 - Mechanic's Assistant
 - Vehicle Cleaner
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- Supervisors are only considered Covered by this policy if they also perform or are likely to perform safety-sensitive functions identified under "3. Covered Employees."

Attachment B: List of Substance Abuse Professionals

Name: Dr. Ricky Huggins, MDiv.; LADC; SAP
Agency: Your Best Journey LTD
Address: 205 Dewey Suite 8
City, State: Poteau, Oklahoma
Phone Number: 479-650-9691 fax 918-310-1059

Name: Kirk Duboise
Agency: Harbour House
Address: 615 N. 19th
City, State: fort smith, Arkansas
Phone Number: 479-785-4083 ext 106

Name: Cindy Stokes
Agency: Gateway Recovery Center (Keystone for Women)
Address: 3900 Armour
City, State: Fort Smith, Arkansas
Phone Number: 479-783-8849