


HUMAN RESOURCES POLICY/PROCEDURE	Policy Number: HR-011a
SUBJECT: Substance Abuse Program Policy for Safety Sensitive Positions	EFFECTIVE DATE:
SIGNATURE OF APPROVAL:  Tiffany Homler Hawkins Chief Executive Officer, LYNX	REVISION NUMBER: 2 REPLACES: Substance Abuse Program Policy for Safety Sensitive Positions Dated: 5/23/2019  APPROVED DATE: 6/28/2023

**OBJECTIVE:**

The Central Florida Regional Transportation Authority (hereinafter "Authority") was created by Part III, Chapter 343, Florida Statutes, to own, operate, maintain and manage a public transportation system in the area of Seminole, Orange, Osceola Counties, and to adopt such policies as may be necessary to govern the operating of a public transportation system and public transportation facilities. The Chief Executive Officer is authorized to establish and administer such policies. Therefore, it is necessary to establish a Substance Abuse Program Policy for Safety Sensitive Positions.

**SCOPE:**

This policy applies to all safety-sensitive transit system employees, paid safety-sensitive part-time employees, contract employees, volunteers (when they receive remuneration) and contractors when they are on transit property or when performing any transit-related safety-sensitive business. Some provisions of this policy exceed the requirements of Part 655 and are *italicized* below.

**AUTHORITY:**

Authority for this policy and procedure are as follows:

- Florida Statutes, Title XXVI, Chapter 343, Part III
- Administrative Rule 2, Board Governance (By Laws), Rule 2.6 Policies and Procedures
- Administrative Rule 3, Human Resources

LYNX employees are our most valuable resource; therefore, it is the Agency's goal to provide a healthy, satisfying work environment which promotes personal opportunities for growth. In meeting these goals, 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;
- Create a workplace environment free from the adverse effects of drug abuse and alcohol misuse;
- Prohibit the unlawful manufacture, distribution, dispensing, possession or use of controlled substances; and
- Encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

This policy is also intended to comply with all applicable Federal regulations governing workplace substance abuse and drug free workplace programs in the transit industry. The Federal Transit Administration (FTA) of the U. S. Department of Transportation (DOT) has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.

In addition, the Federal government published 49 CFR Part 29, "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. LYNX Policy incorporates these requirements. .

All provisions of this policy that are being implemented solely under LYNX authority (i.e., non-DOT/FTA requirements) are denoted by italicized type.

LYNX is dedicated to assuring fair and equitable application of the Substance Abuse Program Policy. Therefore, supervisors, managers and directors are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor, manager or director who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action up to and including termination of employment.

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## **1. Background**

Pursuant to the Omnibus Transportation Employee Testing Act of 1991, the Federal Transit Administration (FTA) published regulations prohibiting drug use and alcohol misuse by transit employees and required transit agencies to test for prohibited drug use and alcohol misuse.

49 Code of Federal Regulations Part 655, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" mandates urine drug testing and breath alcohol testing for all employees in safety-sensitive positions. These regulations prohibit the performance of safety-sensitive functions when there is a positive drug or positive alcohol test result or when an employee refuses to submit to DOT required drug or alcohol testing.

In addition, the U.S. Department of Transportation (DOT) has issued 49 CFR Part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" to provide uniform procedures and standards for conducting drug and alcohol testing programs. The drug and alcohol-testing program of LYNX will be conducted in accordance with 49 CFR Parts 40 and 655, as amended.

Employees may request copies of the applicable regulations by contacting LYNX Designated Employer Representative (DER) listed in Section 28 of this Policy. Also, a copy of these procedures may be obtained from the Human Resources Department, or on-line in the Policies and Procedure section of <http://inlynx/InLYNX/main.asp>. It should be noted that 49 CFR Part 40 is also available on-line at <http://www.dot.gov/ost/dapc/index.html>. The DER is the custodian of the Drug & Alcohol records.

## **2. Purpose**

This policy is established to comply with FTA drug and alcohol testing requirements to ensure employee fitness for duty, and to protect our employees, passengers, and the general public from the risks posed by the misuse of alcohol and the use of prohibited drugs. This policy is also intended to comply with and incorporate 49 CFR Part 29, 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, including the reporting of employees convicted of criminal drug offenses that occur in the workplace.

### 3. Covered Employees

This policy applies to all safety-sensitive transit system employees, paid safety-sensitive part-time employees, contract employees, volunteers (when they receive remuneration) and contractors when they are on transit property or when performing any transit-related safety-sensitive business. This policy applies to off-site lunch periods, breaks, and/or off-duty hours, when an employee is scheduled to return to work. All policy items are implemented under the authority of the US Department of Transportation and/or the Federal Transit Administration (FTA). Safety-Sensitive Employees and Applicants for Safety-Sensitive Positions covered by this Policy include those who:

1. Operate a revenue service vehicle, including when not in revenue service;
2. Operate a non-revenue service vehicle when such vehicle is required to be operated by a holder of a commercial driver's license;
3. Control the movement/dispatch of a revenue service vehicle;
4. Perform maintenance on a revenue service vehicle or equipment used in revenue service;
5. Carry a firearm for security purposes;
6. May perform any of the above safety-sensitive functions in a supervisory or training role.

The following LYNX positions are considered safety-sensitive positions:

#### Transportation

- Deputy Director of Transportation
- Manager of Transportation
- Transportation Supervisor, Administration
- Transportation Supervisor
- Bus Operator
- Dispatchers

#### Human Resources

- Training and Development Coordinator
- Trainer (for Safety-Sensitive Positions)

#### Maintenance

- Deputy Director of Maintenance
- Manager of Vehicle Maintenance
- Road Ranger
- Maintenance Supervisor
- Supervisor of Training

- Technician: A, B and C
- Service Island Attendant
- Service Person

#### Planning

- Service Planner

#### Mobility

- Director of Mobility Services
- Deputy Director of Mobility Services
- Manager of Mobility Services
- Manger of Customer Service
- Safety and Training Coordinator
- Mobility Service Supervisors
- Mobility Services Representatives

### **4. Prohibited Substances**

In accordance with US DOT 49 CFR Parts 655 and 40, the following are prohibited substances:

- Cocaine
- Opioids (e.g., heroin, codeine, hydrocodone, oxymorphone, oxymorphone and hydrocodone)
- Phencyclidine (PCP)
- Cannabinoids (Marijuana)
- Amphetamines (includes methamphetamine and MDMA-Ecstasy)
- Alcohol Misuse as defined in Section 23, below.

Use of the five illegal drugs listed above is prohibited at all times.

### **5. Prescription and Over the Counter Medications**

*The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. A legally prescribed drug means a prescription or other written approval from a physician for the use of a drug by an individual in the course of medical treatment. However, the use of any substance which carries a warning label that indicates mental functioning, motor skills, or judgment may be adversely affected must be reported to supervisory personnel and medical advice must be sought before performing safety-sensitive duties.*

*The misuse or abuse of legally prescribed drugs is prohibited. This includes the use of medication that is prescribed to another individual as well as illegally obtained prescription drugs. This includes any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.*

*LYNX strongly encourages employees to inform their prescribing physician of the safety-sensitive job functions that they perform, in order to ensure that appropriate medications are prescribed. Therefore, all safety-sensitive employees have the responsibility to explain their job duties to their medical practitioner and ensure that the use of prescribed medication will not pose a safety risk to themselves, other employees, or the general public. It is recommended that the employee provide the medical professional with a copy of their current job description. Copies of job descriptions may be obtained by contacting Human Resources. Medications whose labels indicate, "May cause drowsiness," "affect mental functioning, motor skills or judgment," should not be selected.*

*It is the responsibility of every safety-sensitive employee, when selecting an over-the-counter medication, to read all warning labels before selecting it for use while in a working status.*

*Safety-sensitive employees who fail to comply with this section and subsequently have an accident are subject to discipline, up to and including discharge. It is imperative that employees inform their physicians and/or pharmacists of their employment requirements regarding fitness for duty prior to obtaining medication.*

## **6. Employee Protections**

The procedures that will be used to test for the presence of prohibited substances or misuse of alcohol shall be such that they protect the employee's privacy, the validity of the testing process and the confidentiality of the test results.

All urine drug testing and breath alcohol testing will be conducted in accordance, where applicable, with 49 CFR Part 40, as amended. All urine specimen collections, analysis and reporting of results shall be in accordance with 49 CFR Part 40, as amended.

Drug and alcohol testing shall be conducted in a manner that will ensure the highest degree of accuracy and reliability using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS).

Alcohol initial screening tests will be conducted using a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing Device (EBT) or non-evidential alcohol screening device that has been approved by NHTSA. Confirmatory tests for alcohol concentration will be conducted utilizing a NHTSA approved EBT.

1. Except as required by law or expressly authorized in this section, LYNX shall not release employee information that is contained in records maintained per 49 CFR Part 655.73.
2. An employee may, upon written request, obtain copies of any records pertaining to the employee's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests.
3. LYNX shall release information regarding an employee's records as directed, by the specific written consent of the employee authorizing release of the information to an identified person. Release of such information is permitted only in accordance with the terms of the employee's consent.
4. Records pertaining to a Substance Abuse Professional's evaluation, treatment and follow up testing results shall be made available to a subsequent DOT employer upon receipt of written consent from an employee.

**7. Employee Responsibility to Notify LYNX of Criminal Drug Conviction**

*It is a violation of this policy for any employee to fail to immediately notify LYNX within 24 hours of any criminal drug statute conviction, or a finding of guilt whether or not adjudication is withheld, or the entry into a diversionary program in lieu of prosecution. Violating employee shall be immediately removed from safety-sensitive duties. A criminal drug conviction will result in termination of employment.*

**8. Employee Training**

All safety-sensitive employees will undergo a minimum of sixty (60) minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use in personal health, safety, and the work environment. The training must also include manifestations and behavioral cues that may indicate prohibited drug use.

Supervisors will also receive sixty (60) minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and sixty (60) minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

**9. Pre-employment Drug and Alcohol Background Checks**

In compliance with 49 CFR Part 40.25, LYNX must make a good faith effort to obtain drug and alcohol testing records from prior DOT covered employer(s) for the previous two (2) years for all applicants seeking safety-sensitive positions and all current employees transferring into a safety-sensitive position. LYNX will require each applicant/transferee



to a safety-sensitive position to complete a written consent that allows the release of drug and alcohol testing information from previous DOT covered employers to LYNX. An applicant/transferee who refuses to provide written consent will not be permitted to perform safety-sensitive functions for LYNX.

All safety-sensitive applicants who have previously failed a DOT pre-employment test must provide proof that they have completed a Substance Abuse Professional's evaluation, treatment and return-to-duty process in addition to a pre-employment drug test with negative results, prior to their employment into a safety-sensitive job function. The credentials, training and education of the Substance Abuse Professional must meet the requirements of 49 CFR Part 40 Subpart O.

#### **10. Pre-Employment Testing**

All safety-sensitive position applicants and transferees shall undergo a urine drug test prior to placement in a safety-sensitive position. LYNX must be in receipt of a negative urine drug test result prior to the performance of any safety-sensitive function. A canceled test result will require an applicant to undergo a subsequent pre-employment urine drug test, until a negative test result can be obtained. It should be noted that a positive drug test is cause for an applicant not to be hired.

An employee returning from an extended leave period of 90 consecutive days or more, and whose name was removed from the random testing pool during that time, will be subject to a pre-employment urine drug test. LYNX must be in receipt of a negative drug test result prior to the employee being reinstated to safety-sensitive duty.

*LYNX test safety sensitive employees for drugs who have been out on authorized leave for periods of thirty (30) days or more. Test will be recorded as "other/policy" on chain of custody form (CCF). Employees who refuse to take the test will be terminated under LYNX's policy. This will not be considered a refusal under FTA' part 655.*

#### **11. Random Testing**

Employees in safety-sensitive positions shall be subject to random, unannounced testing. The minimum annual percentage rate for random alcohol testing and controlled substances testing shall be in accordance with 49 CFR Part 655, as amended.

The administering of random testing shall be spread reasonably throughout the calendar year and throughout all times of day when safety-sensitive functions are performed. Each covered employee who is notified of selection for random alcohol or drug testing shall immediately proceed to the testing site.

Random alcohol testing may only be conducted while an employee is performing a safety-sensitive function or just before the employee is to perform a safety-sensitive function or just after the employee has performed a safety-sensitive function.

Random urine drug testing may be conducted anytime while an employee is on duty or on call for duty.

The selection of employees for random alcohol and drug testing shall be made by a scientifically valid method. The selection process shall provide each covered employee an equal chance of being tested each time selections are made. A computer based random number generator that is fair and equitable for the covered employees shall derive the list.

## **12. Reasonable Suspicion Testing**

All safety-sensitive employees are subject to reasonable suspicion urine drug testing and/or breath alcohol testing. Reasonable suspicion testing is required when one or more trained company officials can articulate and substantiate physical, behavioral and performance indicators of probable drug use or alcohol misuse by observing the appearance, behavior, speech, or body odors of the employee. Reasonable suspicion testing for alcohol misuse may only be conducted when observations leading to that testing occur during, just preceding, or just after the period of the workday that the employee is required to be in compliance with FTA regulations.

## **13. Post-Accident Testing**

**Fatal Accident:** As soon as practicable following an accident involving the loss of a human life, drug and alcohol test will be conducted on each surviving covered employee operation the public transportation vehicle at the time of the accident. In addition, any other covered employee(s) i.e., maintenance personnel, dispatchers, controllers, whose performance could have contributed to the accident, as determined by LYNX using the best information available at the time of the decision, will be tested.

**Non-Fatal Accident:** Post-accident drug and alcohol testing shall be conducted if an accident results in injuries requiring immediate medical treatment away from the scene, and/or if one or more vehicles incurs disabling damage that requires towing from a site; unless LYNX determines, using the best information available at the time of the decision, that the employee's performance can be completely discounted as a contributing factor to the accident. Any other safety-sensitive employee whose performance could have contributed to the accident also shall be tested. The decision regarding whether or not the employee's performance could have contributed to the accident will be made in the sole discretion of LYNX using the best information available at the time of the decision.

Following an accident, the employee must be “readily available” for testing. Post-accident tests will be done as soon as possible, all reasonable efforts shall be made to test the safety-sensitive employee(s) within (2) two hours of the accident, but not after eight (8) hours for alcohol testing and thirty two (32) hours for drug testing. If a drug or alcohol test required by this section is not administered within the required testing windows listed above, LYNX shall prepare and maintain on file, a record stating the reasons the testing was not promptly administered and efforts to conduct testing shall cease.

Any safety-sensitive employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until the employee undergoes a post-accident alcohol test. Any safety-sensitive employee, who leaves the scene of the accident without a justifiable reason or explanation prior to submitting to drug and alcohol testing, shall be considered to have refused the test.

The post-accident testing requirements shall not delay necessary medical attention for injured persons, nor will they prohibit an employee who was performing a safety-sensitive function from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

In the rare event that an employee is unable to submit to a post-accident test within the required time period (i.e., 8 hours for alcohol and 32 hours for drugs) due to circumstances beyond LYNX’s control, the results of a blood, urine or breath alcohol test conducted by a federal, state or local official having independent authority for the test, will be considered to meet the requirements for a post-accident test. The test must conform to the applicable federal, state, or local testing requirements and the results must be obtained by LYNX (per 49 CFR Part 655.44).

*Safety-sensitive employees who report an occupational injury or illnesses will be tested under LYNX authority using Non-DOT forms. Employees that refuse to take this test will be terminated under LYNX’s policy and is not considered a FTA refusal under part 655.*

#### **14. Refusal to Submit to Urine Drug Testing**

All safety-sensitive employees will be subject to urine drug testing and breath alcohol testing as described in sections 9-13. An employee who fails to cooperate with the testing process or attempts to thwart the testing process will be considered to have “refused testing”. That employee will face the same consequences as if he or she produced a verified positive urine drug test result.

The following actions constitute a “refusal to test” in accordance with 49 CFR Part 40, as amended:

- 1) Failing to appear for any test within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. (Pre-employment testing is not applicable);
- 2) Failing to remain at the testing site until the testing process is complete;
- 3) Failing to attempt to provide a urine specimen for any drug test required by this part or DOT agency regulations;
- 4) In the case of a directly observed or monitored collection in a drug test, failing to permit the observation or monitoring of your provision of a specimen;
- 5) Failing to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- 6) Failing or declining to take an additional drug test the employer or collector has directed you to take;
- 7) Failing to undergo a medical examination or evaluation, as directed by the MRO (Medical Review Officer) as part of the verification process, or as directed by LYNX;
- 8) Failing to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector);
- 9) For an observed collection, failing to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- 10) Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process;
- 11) Admitting to the collector or MRO that you adulterated or substituted the specimen;
- 12) When the MRO verifies your drug test result as adulterated or substituted.

Refusals to test will result in employee's immediate removal from safety-sensitive duties and a referral to a Substance Abuse Professional that has knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders, and who meets the qualifications outlined in 49 CFR Part 40.281 Subpart O.

#### **15. Shy Bladder**

If a safety-sensitive employee cannot provide a sufficient urine specimen (Section 40.193(b)) the following will apply:

- The donor should attempt to drink no more than 40 ounces of fluid. Leaving the collection site before the process is complete will be considered a refusal to submit

to a test. If the donor refuses to drink fluids, this is not considered a refusal to take a drug test.

- If the donor has not provided a sufficient specimen within three hours of the first unsuccessful attempt, the test will be discontinued and the LYNX Designated Employer Representative (DER) will be immediately notified. In coordination with the Medical Review Officer (MRO), the donor will be required to submit to a medical evaluation within five (5) days. The evaluation will be performed by a licensed physician, acceptable to the MRO, with expertise in the medical issue that contributed to the employee's failure to provide a sufficient specimen. If a donor does not cooperate with the requirements of the medical examination, it will be considered a refusal to submit to a test.
- If an employee is required to have a medical examination for shy bladder, *this will be at the employee's expense*. The employee will assume responsibility for paying the licensed medical practitioner directly if it is not otherwise covered by the employee's medical insurance.
- Based upon the findings of the medical examination, the MRO will make one of the following determinations:
  - A medical condition has or probably could have, precluded the donor from providing a sufficient amount of urine and the test will be cancelled. A re-test will be scheduled based upon the recommendations of the MRO.
  - There is not an adequate basis for determining that a medical condition has or probably could have precluded the employee from providing a sufficient amount of urine. The test will be documented as a refusal to submit to a test.

## 16. Observed Urine Drug Collections

Observed collections are required in the following circumstances:

- All return-to-duty tests;
- All follow-up tests;
- Anytime the employee is directed to provide another specimen because the temperature on the original specimen was out of the accepted temperature range of 90°F - 100°F;
- Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;
- Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- Anytime the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was invalid and the

MRO determined that there was not an adequate medical explanation for the result;

- Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated or substituted, but had to be canceled because the test of the split specimen could not be performed.

During an observed collection, the employee who is being observed will be required to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the collector, by turning around, that they do not have a prosthetic device. The collector/observer must witness the employee's urine leave the body and enter the collection cup. The collector/observer must be of the same gender as the employee being observed.

## 17. Specimen Analysis

All specimens will be analyzed in accordance with the procedures set forth in 49 CFR Part 40, as amended. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. Specimen validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

## 18. Dilute Test Results

Upon receipt of MRO verified **negative-dilute** drug test results with creatinine levels greater than 5 mg/dl and less than 20 mg/dl, LYNX will exercise the option to require that applicants/employees submit to a secondary urine collection as provided in 49 CFR Part 40.197. The collection of the second specimen will not be conducted under direct observation. The result of the second urine drug test will be accepted as the final result.

LYNX will exercise this option uniformly for all pre-employment and random tests that produce a negative-dilute test result with creatinine levels greater than 5mg/dl but less than 20mg/dl.

Upon receipt of a **positive-dilute** urine drug test result, LYNX will immediately remove the employee from safety-sensitive duty and provide the employee with a referral to a DOT qualified Substance Abuse Professional. A positive dilute result is always deemed as a final positive result.

*Per LYNX Authority, violation of this substance abuse policy will result in termination of employment.*

**19. Medical Review Officer's Role and Responsibilities**

The designated Medical Review Officer (MRO) shall be a licensed physician (doctor of medicine or osteopathy) with knowledge of drug disorders. LYNX shall use the following MRO:

**Name of MRO:** Dr. Seth Portnoy  
Total Compliance Network  
**Address:** 5646 West Atlantic Blvd  
Margate, FL 33063  
**Phone Number:** 800-881-4626  
**Fax Number:** 954-677-1201

The role of the MRO is to review and interpret confirmed positive test results obtained through the employer's testing program. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive test result. This action may include conducting a medical interview and review of the individual's medical history, or review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication. The MRO shall not, however, consider the results of urine samples that are not obtained or processed in accordance with DOT regulations.

Additionally, the MRO cannot accept an assertion of consumption of a hemp food product as a basis for verifying a confirmed positive marijuana (THC) test result as a negative. Consumption of a hemp food product or use of medical marijuana are not to be considered legitimate medical explanations for the presence of a prohibited substance or metabolite in an individual's specimen.

An employee shall be notified by the MRO of a laboratory confirmed positive test and a verification interview will be conducted with the employee, by the MRO in accordance with 49 CFR Parts 40.131, through 40.141

**20. Verified Positive Results**

MRO verified positive urine drug tests will result in immediate removal from safety-sensitive duties and information regarding the services of a DOT qualified Substance Abuse Professional, as outlined in 49 CFR 40.281 Subpart O will be provided. See Section 26: *"Disciplinary Consequences for a Positive Test for Prohibited Drugs"*.

## 21. Canceled/Invalid Test Results

A drug test that has been declared canceled by the Medical Review Officer (MRO), because the specimen was invalid or for other reasons, shall be considered neither positive nor negative. Additionally, a specimen that has been rejected for testing by the laboratory is reported by the MRO as a canceled test.

When a negative urine drug test result is required (as is the case with pre-employment, return-to-duty and follow up test types) the employer must conduct another drug test on the individual. For some categories of cancelled drug tests, the MRO will indicate that a re-collection of a specimen using direct observation specimen collection procedures is required, regardless of test type. Direct observation collection procedures will be in accordance with 49 CFR Part 40.67 as amended. The MRO may also direct an employee to undergo a medical evaluation to determine whether or not clinical evidence of drug use exists when there are documented medical explanations for an individual producing invalid specimens and a negative result is needed for a pre-employment, return-to-duty or follow-up test.

For alcohol testing, a test that is deemed to be invalid per 49 CFR Part 40.267, shall be canceled and therefore considered neither positive nor negative.

## 22. Split Specimen Testing

Split specimen collection procedures will be followed in obtaining specimens. An employee is entitled to request, within 72 hours of learning of a verified positive test result, that the split specimen be tested at a different DHHS certified laboratory than that which conducted the test of the primary specimen. If the test result of the split specimen fails to reconfirm the presence of the drug or drug metabolite, the test result shall be ruled "Canceled". The procedures for canceled tests, as outlined in 49 CFR Part 40.187, will be followed. If the test result of the split specimen is positive, the test results shall be deemed positive. If the laboratory's test of the primary specimen is positive, adulterated or substituted and the split specimen is unavailable for testing, a recollection under direct observation is required. Direct observation collection procedures will be in accordance with 49 CFR Part 40 as amended.

Split Specimen Testing is not authorized for test results reported by the MRO as "Invalid".

### **Payment of Split Specimen Testing:**

When an employee has made a request to the MRO for a test of the split specimen, LYNX is required to ensure that the cost of the split specimen testing is covered, in order for a timely analysis of the sample. LYNX will seek reimbursement from the employee for the cost of the completed test, if the results reconfirm the original positive finding.



## **23. Alcohol**

For the purposes of this policy, alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol. Alcohol use means the consumption of any beverage, mixture, or preparation, including any medication containing alcohol. 49 CFR Part 655 authorizes alcohol testing and requires LYNX to take action on the findings, regardless of whether it was ingested as a beverage alcohol or in a medicinal or other preparation.

All safety-sensitive employees will be tested for alcohol and or drugs in the following circumstances: pre-employment, post-accident, reasonable suspicion, and random as set forth in 49 CFR 655.31.

## **24. Alcohol Use and Breath Alcohol Testing**

*No safety-sensitive employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having a breath alcohol concentration of 0.02 or greater.* If there is actual knowledge that an employee may be impaired by alcohol while performing safety-sensitive functions, the employee shall not be permitted to perform or continue to perform safety-sensitive functions, pending a reasonable suspicion interview, conducted per Section 12. No safety-sensitive employee shall use alcohol while performing safety-sensitive functions, within (4) four hours prior to performing a safety-sensitive function, or during the hours that they are on call or standby for duty. No safety-sensitive employee shall use alcohol within eight (8) hours following an accident or until the employee undergoes a post-accident alcohol test, whichever occurs first.

On-call employees are prohibited from consuming alcohol for the specific hours defined by their work schedule. All on-call employees will be given the opportunity to acknowledge the use of alcohol at the time he or she is called to report to duty and the inability to perform his or her safety sensitive function. If an on-call employee acknowledges the use of alcohol, but claims he or she can perform their duty, they will be required to take an alcohol test.

A Breath Alcohol Technician (BAT) qualified to conduct DOT breath alcohol testing shall conduct all DOT required alcohol screening tests.

In accordance with the provisions of 49 CFR Part 40, as amended, the results of both the screening and confirmation breath alcohol tests, as applicable, shall be displayed to the individual being tested immediately following the test(s).

The results of breath alcohol testing will be transmitted by the breath alcohol technician to LYNX in a confidential manner, in writing, in person, by telephone or electronic means in accordance with 49 CFR Part 40, as amended. All testing will be conducted consistent with the procedures put forth in 49 CFR Part 40, as amended.

LYNX affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. Handling of tests and confidentiality shall be in conformance with 49 CFR Part 40, and as described below:

If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. *A safety-sensitive employee who has a confirmed alcohol concentration of greater than 0.02 will be terminated.* The employee will not be referred to a DOT qualified Substance Abuse Professional.

An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. An employee testing positive for alcohol will be immediately removed from safety-sensitive duty and will be provided with a referral to a DOT qualified Substance Abuse Professional, in accordance with 49 CFR Part 40, as amended.

Operating a CDL required vehicle with blood concentration of 0.04 or higher is considered "Driving While Impaired" in the State of Florida. Penalties for DUIs can include expensive fines, license revocation and jail time. Convictions must remain on your record for 75 years. *Any employee that has a concentration of 0.08 or higher and attempts to operate his or her vehicle, law enforcement will be notified.*

No LYNX employee is permitted to report for duty or remain on duty when their ability to perform assigned functions is adversely affected by alcohol or when their breath alcohol concentration is 0.02 or greater. No employee shall consume alcohol while on duty, while performing safety-sensitive functions, or just before or just after performing a safety-sensitive function.

*Per LYNX Authority, violation of this Substance Abuse Program Policy will result in termination of employment.*

## **25. Refusal to Submit to Alcohol Testing**

The following actions constitute a refusal to submit to Alcohol Testing:

- (1) Fail to appear for any test within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer.
- (2) Fail to remain at the testing site until the testing process is complete.
- (3) Fail to attempt to provide an adequate amount of saliva or breath for any alcohol test required by this part or DOT agency regulations.

- (4) Fail to provide a sufficient breath specimen, and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
- (5) Fail to undergo a medical examination or evaluation, as directed by the LYNX DER.
- (6) Fail to sign the certification at Step 2 of the ATF.
- (7) Fail to cooperate with any part of the testing process.

*Per LYNX Authority, violation of this Substance Abuse Program Policy will result in the termination of employment and/or exclusion from hire.*

## **26. Prohibited Conduct**

The Manufacture, Trafficking, Possession and Use as outlined in the Drug-Free Workplace Act of 1988, transit system employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession or use of prohibited substances on LYNX premises, in transit vehicles, in uniform or while on company business. Compliance with the Drug-Free Workplace Act of 1988 is required of all recipients of Federal funding and is a condition of employment for all LYNX employees to abide by its terms.

Under the Drug-Free Workplace Act, all employees are required to notify LYNX of any criminal drug conviction or arrest within five (5) days after such conviction or arrest. Failure to comply with this provision shall result in disciplinary action up to and including termination of employment. LYNX will notify FTA of any employee criminal drug statute conviction within ten (10) days of notification of conviction.

Employees who violate this provision will be discharged. Where criminal activity is suspected, law enforcement shall be notified as appropriate,

## **27. Disciplinary Consequences**

### ***A Commercial Driver's License Suspension Due to A DUI Conviction:***

*Employees must notify LYNX immediately (within twenty-four (24) hours) of receiving the DWI/DUI. Any safety-sensitive employee who has been arrested for DWI/DUI will be suspended or may be re-assigned to a non-safety-sensitive position, should a position be available, for a maximum period of ninety (90) days and will not be permitted to operate any LYNX vehicle, under any circumstances. If the employee's CDL is not reinstated at the end of ninety (90) days, he/she will be terminated.*

### **Disciplinary Consequences for Non-Negative Alcohol Test Results:**

The Federal regulations require that any individual who refuses to submit to a test, has a verified positive drug test result, has a breath alcohol concentration of 0.04 or greater or has an alcohol concentration of 0.02 or greater but less than 0.04 must be immediately removed from his or her safety sensitive position.

*It is LYNX's policy to terminate the employment of any employee occupying a safety sensitive position that has an alcohol concentration of 0.02 or greater or refuses to submit a test.*

### **Disciplinary Consequences for a Non-Negative Test Result for Prohibited Drugs:**

Prohibited drugs include marijuana, cocaine, opiates, phencyclidine and amphetamines. *Under LYNX Policy, any employee testing positive for drugs will be immediately terminated.*

## **28. Voluntary Treatment Requirements**

*The provisions of this section apply to employees who voluntarily seek treatment before a disciplinary matter develops and/or prior to notification for a drug or alcohol test.*

*All employees are encouraged to voluntarily make use of the available resources for treatment for alcohol misuse and illegal drug use or dependency. If an employee voluntarily discloses a substance abuse problem before a disciplinary matter develops and/or before notification for a required test, he or she will be subject to substance abuse treatment, sequence testing under LYNX authority (**using non-DOT testing forms**) and will receive a Re-entry Contract.*

*The employee who voluntarily informs LYNX Management of his or her drug or alcohol use or dependency will be referred to the Employee Assistance Program (EAP). The employee will be evaluated by an addiction counselor. The employee will adhere to the course of treatment as prescribed by the addiction counselor. Failure to comply with the requirements for treatment shall be grounds for termination.*

*The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider. Employees who voluntarily disclose a substance abuse problem will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program.*

*After completion of treatment, the employee will be required to pass a non-DOT drug and/or alcohol test and will receive a Re-Entry Contract. The non-DOT drug test is a split sample. The purpose of the drug and/or alcohol testing is to provide a degree of assurance that the employee is drug and/or alcohol free (i.e., the employee is able to return to work*

Employee Acknowledgement of Receipt  
Of Central Florida Regional Transportation Authority d.b.a. LYNX

Substance Abuse Policy

I have received a legible copy of CFRTA d.b.a. LYNX Substance Abuse Policy. I understand that my employment with LYNX is conditioned upon full adherence to this policy.

Employee Name: \_\_\_\_\_

Employee Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Supervisor Name: \_\_\_\_\_

Supervisor Signature: \_\_\_\_\_

Date: \_\_\_\_\_