

**BLUE WATER DEVELOPMENTAL HOUSING, INC.  
POLICIES AND PROCEDURES: EMPLOYEE INFORMATION**

<b>SUBMITTED BY:</b> Michelle Dineen-Gramer	<b>DATE SUBMITTED:</b> 09/14/2011	<b>SECTION:</b> Human Resources	
<b>BOARD APPROVED ON:</b> 09/14/11	<b>DATE REVISED:</b> 3/14/14, 6/28/16, 1/17/17, 10/1/2023	<b>SUBJECT:</b> Drug Testing Procedure	
<b>ANNUAL REVIEW BY EXECUTIVE DIRECTOR:</b> 01/17/17, 12/19/18, 02/17/21, 2/15/2023, 10/1/2023		<b>POLICY #:</b> ED-010	<b>PAGE #:</b> 1 of 11

**I. APPLICATION**

The provisions stated herein shall apply to all employees who perform safety sensitive functions for Blue Water Developmental Housing, Inc. (BWDH).

**II. POLICY**

It shall be the policy of the organization that employees complete random drug/alcohol testing as required by the Federal Department of Transportation.

This policy complies with 49 CFR Part 655, as amended, 49 CFR Part 382, as amended, and 49 CFR Part 40, as amended. Copies of Parts 655, 382, and 40 are available on the internet at the Department of Transportation (DOT) Office of Drug and Alcohol Policy and Compliance website <http://www.transportation.gov/odapc>.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with these regulations.

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.

**All BWDH employees are subject to the provisions of the Drug-Free Workplace Act of 1988.**

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 human resource and quality assurance specialist no later than five days after such conviction.

Covered Employees

This policy applies to every employee performing a “safety-sensitive function” as defined below, and any person applying for such positions.

Under FTA (Part 655), you are a covered employee if you perform any of the following safety-sensitive functions:

- 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

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- Carrying a firearm for security purposes

Prohibited Behavior

Use of illegal drugs is prohibited at all times. 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)
- opiates
- amphetamines

All covered employees are prohibited from performing or continuing to perform safety-sensitive 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 of 0.02 prior to performance.

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

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

**Consequences for Violations**

FTA Consequences

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).

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 results in the employee's alcohol concentration being less than 0.02.

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**Treatment/Discipline**

Per BWDH policy, any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test will be referred to a Substance Abuse Professional (SAP) and enters into the Last Chance Agreement.

**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 BWDH 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 on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to 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**

**FTA Procedures**

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

**Fatal Accidents:** As soon as practicable following an accident involving the loss of a 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

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performance could have contributed to the accident, as determined by BWDH 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 incurs 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

In addition, any other covered employee whose performance could have contributed to the accident, as determined by BWDH using the best information available at the time of the decision, will be tested.

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 at 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 within each DOT agency. The current year testing rates can be viewed online at <http://www.transportation.gov/odapc/random-testing-rates>. If a given driver is subject to random testing under the rules of more than one DOT agency, the driver will be subject to random drug and alcohol testing at the annual percentage rate established by the DOT agency regulating more than 50% of the driver's function.

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.

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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 (FTA)

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 3 hours before the end of the shift.

Return to Duty Testing

Any employee who is allowed to return to safety-sensitive duty after failing or refusing to submit to a DOT drug and/or alcohol test must first be evaluated by a substance abuse professional (SAP), complete a SAP-required program of education and/or treatment, and provide a negative return-to-duty drug and/or alcohol test result. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

Follow-up Testing

Employees returning to safety-sensitive duty following leave for substance abuse rehabilitation will be required to undergo unannounced follow-up alcohol and/or drug testing for a period of one (1) to five (5) years, as directed by the SAP. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the SAP. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

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, BWDH will accept the test result and there will be no retest,** unless the creatinine concentration of a negative dilute specimen was greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL.

Dilute negative results 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).

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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. BWDH guarantees that the split specimen test will be conducted in a timely fashion. Employees will be required to pay for the test

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 BWDH.
- (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 breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
- (6) Fail or decline to take a second test as directed by the collector or BWDH for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or BWDH'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 a SAP.

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Contact Person

For questions about the organization's anti-drug and alcohol misuse program, contact human resource and quality assurance specialist.

**III. NOTIFICATION/PROCEDURE**

**WHO**

**DOES WHAT**

Human Resource and Quality Assurance Specialist

1. Provides a list of covered employees that perform safety sensitive functions for BWDH to the testing site.
2. Receives via secure email a random drug and alcohol test list from the testing provider on a quarterly basis.
3. Notifies supervisor of selected employees via secure email and forwards the pre-filled authorization form(s).

Supervisor/Designee

4. Notifies selected employee within 14 days of receiving the notification. The supervisor should be aware of potential employee schedule conflicts and respond accordingly.

Division Director

5. When a supervisor is selected for random drug and alcohol testing, the appropriate division director will notify the supervisor(s) in person within 14 days of receiving the notification.

Supervisor

6. Notifies employee to report to the testing site immediately and records date and time on authorization form. Ensures employee has signed the authorization form.

Employee

7. Report to the testing site immediately.

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**III. NOTIFICATION/PROCEDURE (continued)**

**WHO**

**DOES WHAT**

Employee

8. Responsible to stay at the testing site until all required test(s) are completed and released by testing site personnel. Should the employee be unable to complete the required test(s), the employee must follow the directions from the collection site and notify their supervisor. (i.e. in the event testing needs to be completed after 5 p.m. a local hospital will be utilized).

9. Responsible to provide supervisor a copy of the signed authorization form within 48 hours after testing has been completed.

**Results**

Human Resource and Quality Assurance Specialist/Designee

10. Responsible to ensure receipt of chain of custody, signed authorization form, and results of test. Assemble and file the documents as appropriate.

11. Notified by phone of any positive tests by the testing provider and the results will be forwarded via secured portal.

12. Schedules meeting with the employee and supervisor to review the Last Chance Agreement, Continued Employment with the Last Chance Agreement, and the positive test results

13. Responsible to contact the substance abuse professional (SAP) and make a formal referral for the employee to the Substance Abuse Program

Employee

14. Responsible to sign the Last Chance Agreement and the Supplemental Continued Work Agreement.

**III. NOTIFICATION/PROCEDURE (continued)**



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**WHO**

**DOES WHAT**

Employee

15. Responsible to make contact with the SAP to schedule the initial meeting within 24 hours of meeting human resource and quality assurance specialist.
16. Will remain on the schedule but will have the following work restrictions while completing all components of the substance abuse program:
  - will not be allowed to count/pass medications
  - will not work alone
  - will not drive vehicle during work hours.
17. Responsible financially for any tests (drug, alcohol) or recommended treatment.

**Completion of Substance Abuse Program**

Substance Abuse Professional	18. Responsible to notify the human resource and quality assurance specialist of the employee's completion of the program.
Human Resource and Quality Assurance Specialist	19. Completes an authorization form for a drug test to return to full duty and forwards to employee's supervisor. (BWDH will be financially responsible for this test).
Supervisor/Designee	20. Responsible to have the employee sign the Exhibit C (in their presence) and forwards the signed form to the human resource and quality assurance specialist within 2 days of notification.

**III. NOTIFICATION/PROCEDURE (continued)**

Employee	21. Responsible to stay at the testing site until all required test(s) are completed and released by testing site personnel. Should the employee be unable to complete the required test(s), the employee must follow the directions from the
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	collection site and notify their supervisor. (i.e., collection site closes at 5pm. Local hospital would be utilized).
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**Return to Work Drug Test**

Human Resource and Quality Assurance Specialist	22. Receives results of the drug tests and notifies the supervisor and division director that the employee will return to work without any work restrictions.
Employee	23. Responsible to complete all required follow-up testing for a specified time frame.
Executive Director/ Division Director/ Supervisor	24. In the event the test report is positive, the human resource and quality assurance specialist, appropriate division director, executive director and supervisor will meet with the employee for immediate termination.

**Exhibits**

- A. <S:\Forms\Medical forms\Drug Testing forms\Last Chance Agreement 2.docx>
- B. <S:\Forms\Medical forms\Drug Testing forms\Last Chance Agreement Notification and Action Form Positive Drug Screen.doc>