

**PACE SUBURBAN BUS DIVISION
DRUG AND ALCOHOL POLICY
AND TESTING PROGRAM**

Effective January 1, 1995/
Revised: May 1, 2007

(Pursuant to Resolution of the
Pace Suburban Bus Division Board of Directors)

Table of Contents

- I. **Overview**
- II. **Introduction**
 - A. Policy and Program Purposes
 - B. Employee and Management Responsibilities
 - C. Confidentiality
- III. **Implementation Guidelines for Promoting a Drug and Alcohol Free Workplace**
 - A. Deterrence
 - 1. Fitness for Duty
 - 2. Reporting the Use of Prescription or "Over-the-Counter" Medication
 - 3. Education and Training
 - B. Treatment and Rehabilitation
 - 1. Employee Assistance Program (EAP) Responsibilities
 - 2. EAP Referral
 - C. Effects of Alcohol
- IV. **Provisions for Drug and Alcohol Testing**
 - A. General Conditions
 - 1. Persons Subject to Testing
 - 2. Drug Rule
 - 3. Alcohol Rule -- Required Hours of Compliance

B. Detection

1. Circumstances for Testing

- a. Pre-Employment
- b. Reasonable Suspicion
- c. Post-Accident
- d. Random
- e. Return to Duty
- f. Follow-Up

2. Conduct that Constitutes a Refusal to Submit to a Test

V. **Methodology**

A. Drug Testing

- 1. Collection Procedures
- 2. Laboratory Testing
- 3. Review by Medical Review Officer (MRO)
- 4. Notification and Split Sampling

B. Alcohol Testing

- 1. Breath Testing Procedures
- 2. Notification
- 3. Positive Test Results at Designated Threshold Levels

C. Substance Abuse Professional (SAP) Evaluation

VI. **Enforcement of Policy Through Discipline**

A. Pre-employment

- B. Reasonable Suspicion
- C. Post-accident
- D. Random
- E. Return to Duty
- F. Follow-up
- G. Refusal to Take Test and/or Non-Compliance with Testing Procedures
- H. Inability to Provide Adequate Amount of Urine Specimen or Breath
- I. Urine Specimen Alteration
- J. Unsatisfactory Employment Assistance Program Participation
- K. Conviction for a Violation of a Criminal Drug Statute
- L. Applicability of Policy to Pace Contractors

VII. **Appendices**

- A. Terms and Definitions
- B. List of Safety-Sensitive Positions

I. Overview

Under the Drug-Free Workplace Act of 1988, the U. S. Congress required recipients of federal funds to take certain steps to provide for drug-free workplaces for their employees. Additionally under the Omnibus Transportation Employee Testing Act of 1991, the U.S. Congress directed the Federal Transit Administration ("FTA") to issue regulations on drug and alcohol testing for mass transit workers in safety-sensitive positions. In response the FTA has published regulations prohibiting drug use and alcohol misuse by transit employees and requiring transit agencies to test for prohibited drug use and alcohol misuse. These regulations are 49 CFR part 655, "Prevention of Prohibited Drug Use and Alcohol Misuse in Transit Operations". In addition, the Department of Transportation ("DOT") has issued 49 CFR part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs", and amendments which prescribes the testing methods to be followed.

This document sets forth the drug and alcohol policy and testing program of Pace Suburban Bus Division ("Pace") and has been adopted by the Pace Board of Directors pursuant to resolution. It was developed to comply with the requirements identified in the foregoing laws and FTA and DOT regulations. Where applicable, the document will identify those policies and procedures that are Pace-mandated and not required by the FTA. The policy and program identified in this document are intended to supplement and not supersede other Pace mandated drug and alcohol policies and testing programs not required by the DOT or the FTA. Additionally, in adopting this policy and program, Pace does not otherwise waive its right to enforce already established rules, policies, or programs, or the terms and provisions of any applicable collective bargaining agreement governing drug and alcohol use, possession, and testing.

II. Introduction

A. Policy and Program Purposes

Pace performs a vital service for the public. To ensure that this service is delivered safely, efficiently, and effectively, each Pace employee has the responsibility to perform his/her duties in a safe, conscientious, and courteous manner.

The purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace and to reduce the probability of accidents or incidents related to the use and/or misuse of alcohol and other drugs by employees so that transit services are delivered safely, efficiently, and effectively.

This policy outlines four principles as a means to achieve Pace's goal of providing a workplace free from the effects of drug and alcohol use and/or misuse for its employees. The first principle emphasizes deterrence from the use of drugs and alcohol in or affecting the workplace. Pace will make education and training available for all employees regarding the effects of substance abuse on individuals and on the workplace. Supervisors and managers will receive specialized training in

detection, early intervention, and enforcement.

The second principle is treatment and rehabilitation. Pace maintains an Employee Assistance Program ("EAP") to assist employees with personal problems, including those surrounding the misuse of drugs and alcohol. Pace supports rehabilitation before an employee's job is in jeopardy. Although employees are encouraged to receive help for drug and alcohol problems, participation in Pace's EAP will not excuse an employee's failure to comply with Pace rules and regulations. Nor will it preclude discipline for rule or policy violations.

The third principle is detection. Toward this end, Pace employs six (6) FTA-mandated drug and/or alcohol tests in the following circumstances: pre-employment, reasonable suspicion, post-accident, random, return to duty, and follow-up. The foregoing drug and/or alcohol tests will apply to all full-time, part-time, seasonal and temporary employees of Pace engaged in the performance of safety-sensitive functions. It also applies to: applicants for positions of employment involving the performance of safety-sensitive functions; employees of contractors engaged in the performance of safety-sensitive functions for Pace; and operators who are third party contractors.

The fourth principle is enforcement, which is essential if deterrence, rehabilitation, and detection are to be successful. All employees must be fit for duty as defined within this policy. Accordingly, the failure to properly report the use of medically authorized drugs, the use of illegal drugs, the manufacture, distribution, dispensing, possession, or use of a controlled substance or narcotic contrary to the terms of this policy, and the use or possession of intoxicants contrary to the terms of this policy is prohibited and will result in disciplinary action up to and including discharge.

B. Employee and Management Responsibilities

All Pace employees covered by this policy are required to refrain from using drugs and alcohol contrary to the specific prohibitions identified herein. _____ (or a designated representative) will monitor Pace Division and Department practices to ensure compliance. Anyone with questions regarding this policy, its practices or procedures should contact _____

Employees are responsible for ensuring adherence to this policy. Managers and supervisors will be held accountable for both the application of the policy and the consistency of its enforcement. To that end, Pace prohibits the discriminatory application, implementation, or enforcement of any provision of this policy on the basis of race, color, age, sex, religion, national origin and ancestry, sexual orientation, veteran status, or disability.

C. Confidentiality

Confidentiality will be maintained throughout the drug and alcohol screening

process. Pace will maintain records in a manner so that disclosure of information to unauthorized persons does not occur. Additionally, the specimen collection site, testing laboratory, medical review officer ("MRO"), breath alcohol technician ("BAT"), and substance abuse professional ("SAP") will be held to strict confidentiality requirements consistent with the following:

- The testing laboratory: shall maintain employee test records in confidence as provided by DOT requirements; shall ensure the security of data transmission and limit access to any data transmission, storage, and retrieval system; will report individual drug test results only to the employee tested, the designated MRO, or the decision makers in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee and arising from a certified positive drug test; and shall retain all records pertaining to a given urine specimen for a minimum of two (2) years.
- The MRO, BAT, and SAP will report individual test results only to: the employee tested; Pace's EAP, if applicable; and the Pace management official empowered to recommend or take administrative action (or the official's designated agent).

Pace will release individual test results to the employee tested upon written request. Pace will not release individual test results to any other party absent a specific written consent of the employee tested authorizing such release to a specifically identified person(s) except as follows:

- To the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested and arising from a test administered under this policy.
- To the National Transportation Safety Board ("NTSB") about any post-accident test performed for an accident under NTSB investigation.
- When requested by the DOT or any state or federal agency with regulatory authority over Pace or any of its employees.

EAP personnel will be expected to carry out all actions relative to this policy in a manner which respects the dignity and confidentiality of those involved. EAP records are regarded as confidential medical records and are not available for inspection by anyone except EAP staff absent a written release of information by the employee. EAP personnel will release information to Pace personnel only on a need-to-know basis subject to advance notice to the employee whenever feasible. In any case where the employee raises a claim against Pace involving his/her participation in the EAP, the employee shall be deemed to have waived his/her right to confidentiality and Pace shall have the right to explore thoroughly and evaluate

the employee's participation in the EAP.

Any employee covered by this policy is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of prohibited drugs or alcohol, including any records pertaining to his or her drug or alcohol tests. Pace shall provide promptly the records requested by the employee. Access by the employee to his or her records shall not be contingent upon payment for records other than those specifically requested.

III. Implementation Guidelines for Promoting a Drug and Alcohol Free Workplace

A. Deterrence

1. Fitness for Duty

Pace has determined that an employee is fit for duty when he/she is unequivocally able to perform his/her job duties, including when he/she is ready for work or working without the presence of any alcohol or the presence of any specified drugs or their metabolites as prescribed by this policy. Employees must understand that they are responsible for assuring that their job conduct is safe and appropriate.

Reporting the Use of Prescription or "Over-the-Counter" Medication

Separate from any FTA requirements, safety-sensitive employees are required to report their use of prescription or "over-the-counter" medication to Pace. Safety-sensitive employees who fail to report their use of prescription drugs or "over-the-counter" medication in accordance with this section, and subsequently have a positive drug or alcohol screen, are subject to progressive discipline up to and including discharge. Accordingly, all such employees are advised to inform their physicians and/or pharmacists of their employment requirements regarding fitness for duty prior to obtaining medication.

3. Education and Training

Pace recognizes that education and training of its work force and supervisors are major components of a successful drug and alcohol program. To that extent:

- All employees subject to testing under this policy will be provided a copy.

- Pace will display and distribute informational material about the effect of drugs along with a community service hotline telephone number to assist employees who may be experiencing problems with prohibited drugs.
- Pace will provide educational materials that explain the requirements of the FTA's alcohol rule and the policies and procedures identified in this document.
- Pace will distribute informational material about the signs and symptoms of an alcohol problem and the effects of alcohol misuse on an individual's health, work, and personal life.
- A minimum of sixty minutes of training will be provided to all employees subject to testing under this policy on the manifestations and behavioral cues indicating drug use and the effects of drug use on personal health, safety, and the work environment.
- A minimum of an additional sixty minutes of training for the alcohol program and sixty minutes of training for the drug program will be provided to supervisors who will be determining when it is appropriate to administer "reasonable suspicion" drug or alcohol tests under this policy.

In addition to the foregoing, Pace will consider and implement such other education and training programs as will help promote safety goals, maintain the integrity of Pace's drug and alcohol testing program, and enhance the benefits of that program.

B. Treatment and Rehabilitation

1. Employee Assistance Program (EAP) Responsibilities

In order to promote a drug and alcohol-free environment, Pace will work to assist eligible employees with problems due to the use of drugs or misuse of alcohol. Accordingly, separate from any programs regarding drug and alcohol testing mandated by the FTA and DOT, Pace has established and encourages the use of its Employee Assistance Program ("the EAP"). The EAP was established in part so that an employee who recognizes that he/she has a drug use or alcohol misuse problem may have the opportunity to receive treatment and rehabilitation.

Pace's EAP will assist eligible employees with drug use and alcohol misuse problems, and related concerns, through one or more of the following

depending upon the circumstances of each particular case:

- Consultation with supervisors and/or other Pace officials.
- Evaluation and referral.
- Individual and group counseling.
- Individual case management.
- Crisis intervention.
- Specialized education and training programs.

2. EAP Referral

There are two ways to begin rehabilitation through Pace's EAP—voluntary self-referral and managerial referral.

Voluntary self-referral is preferred by Pace as a means to resolve drug and/or alcohol problems. Such an option is not available to an employee after he/she has been notified to submit to a drug or alcohol test under this policy. Nor can an employee become a volunteer when subject to disciplinary action in order to avoid discipline.

Voluntary participation in the EAP will not adversely impact an employee's employment or promotional opportunities at Pace. However, employees who do not make a commitment to overcome their drug and/or alcohol problems may experience work performance problems as a result. Accordingly, an employee who exhibits poor or improper job performance as a result or tests positive for drugs and/or alcohol pursuant to a test administered under this policy will be subject to disciplinary action.

The second avenue for referral to the EAP is through management. Supervisors and managers of Pace may refer to the EAP for an evaluation any employee who demonstrates performance problems such as excessive absenteeism, tardiness, or overall poor work performance. Based upon the reason for the referral and the assessment of the EAP counselor, employees referred to the EAP and determined to have a drug use or alcohol misuse problem may be removed from their position and suspended or assigned to alternative duty subject to the availability of such work, any contractual restrictions upon the distribution of such work, the need to accommodate other employees, and any federal and state statutory and regulatory requirements.

The managerial option to refer any employee to Pace's EAP shall not, however, restrict Pace's right to terminate or otherwise discipline an employee. In the event an employee requests admission into the EAP after commission of an act (including a violation of this policy) which subjects him/her to discharge, Pace in its discretion may convert the discharge to a suspension and allow the employee admission into the EAP. Such a determination will be based upon the following criteria: the type of rule violation and all circumstances attendant to the incident in question; the employee's length of service; and the employee's overall work record.

Employees are directed to any pertinent collective bargaining agreement for the terms and provisions of, and restrictions and benefits attendant to, EAP participation. Any questions regarding Pace's EAP should be referred to the Regional Manager (or a designated representative).

C. Effects of Alcohol

Alcohol is the most commonly abused chemical substance in this country and in the workplace. Out of the two-thirds of all Americans who drink, there are an estimated thirteen million people with serious drinking problems. A problem drinker is anyone who frequently drinks to the state of intoxication. While intoxicated, he/she may exhibit behavior that would never occur while sober. Alcohol problems have a devastating impact on family life, health, and the workplace. The family may be subjected to frequent episodes of violence, physical and emotional neglect, and financial problems. Alcohol abuse may cause or exacerbate problems such as diabetes, ulcers, hypertension, and kidney problems. Emotional health is affected as well due to alcohol misuse, presenting symptoms such as depression, anxiety, hallucinations, and insomnia. Alcohol abuse in the workplace costs corporate America millions of dollars each year through excessive absenteeism, lack of motivation, and a rise in the use of medical benefits associated with illness caused by alcoholism.

The most effective way to combat alcohol misuse is treatment. Alcohol detoxification rehabilitation is the only method of intervention used to interrupt alcoholism.

IV. Provisions for Drug and Alcohol Testing

A. General Conditions

1. Persons Subject to Testing

The following persons will be subject to drug and/or alcohol testing pursuant to the terms of this policy:

- All full-time, part-time, seasonal, and temporary employees of Pace engaged in the performance of safety-sensitive functions;
- Applicants for positions of employment with Pace involving the performance of safety-sensitive functions;
- Employees of contractors engaged in the performance of safety-sensitive functions for Pace; and
- Operators who are third party contractors.

"Safety-sensitive functions" are performed by those persons who:

- Operate revenue service vehicles (including when not in revenue service).
- Operate non-revenue service vehicles required to be operated by a holder of a commercial driver's license.
- Dispatch or control revenue service vehicles.
- Maintain a revenue service vehicle or equipment used in revenue service.
- Carry a firearm for security purposes.

Included in the foregoing are supervisors who in fact perform safety-sensitive functions. Supervisors of covered employees who themselves do not perform safety-sensitive functions are excluded. Attached to this policy is a list of the position titles identifying the persons subject to drug and alcohol testing.

2. Drug Rule

All persons covered by this policy are prohibited from using any

of the following five substances: marijuana; cocaine; opiates; amphetamines; and phencyclidine. Pursuant to FTA requirements, each employee covered by this policy will be required to submit to drug testing administered in accordance with any of the following circumstances as described in detail in each case in Section IV. B. 1. a. through f of this policy: pre-employment; post-accident; reasonable suspicion; random; and return to duty/follow-up.

The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance on Pace property by any person at any time also is prohibited.

Additionally, separate from any DOT or FTA requirements:

- The use of illegal drugs by Pace employees at any time is prohibited.
- The use or possession of a controlled substance or narcotic from the time an employee reports for work until the conclusion of the employee's workday or reporting for work in an impaired condition due to the use of the same is prohibited.
- An employee may not have a controlled substance or narcotic in his/her system from the time of reporting for work until the conclusion of the workday.
- An employee shall not knowingly accept relief from or permit an employee to work who is under the influence of a controlled substance or narcotic.

3. Alcohol Rule -- Required Hours of Compliance

All persons covered by this policy are prohibited from consuming alcohol: while performing a safety-sensitive function; within four hours prior to performing a safety-sensitive function; and up to eight hours following an accident or until the employee undergoes a post-accident test. Under FTA requirements, each person covered by this policy is subject to alcohol testing: while performing any safety-sensitive function; immediately before performing any safety-sensitive function; and immediately after performing any safety-sensitive function.

Additionally, separate from any DOT or FTA requirements:

- Pace prohibits the use or possession of intoxicants on its property at any time.
- Employees, while in a Pace uniform, shall not either enter an establishment of which the main business is the selling of intoxicants or partake of an intoxicant in a public place.
- An employee shall not knowingly accept relief from or permit an employee to work who is under the influence of an intoxicant.

B. Detection

1. Circumstances for Testing

a. Pre-Employment

No applicant for employment will be placed in a safety-sensitive position by Pace unless the applicant submits to a pre-employment drug test and a verified negative drug test is received. The test will be administered as part of the pre-placement physical examination. Additionally, no Pace employee will be transferred into a safety-sensitive position unless the employee submits to a drug test and a verified negative drug test is received. The test will be administered as part of the qualifying physical examination. If an applicant or employee drug test is canceled, the applicant or employee must submit to another drug test.

In addition, when a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and the employee has not been in the Pace random selection pool during that time, Pace will ensure that the employee takes a pre-employment drug test with a verified negative result.

b. Reasonable Suspicion

All employees covered by this policy will be required to submit to a drug and alcohol test when Pace, through observations made by a supervisor, has reasonable suspicion that the employee has used a prohibited drug or misused

alcohol contrary to the terms of this policy. The request to undergo a reasonable suspicion test will be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odor of the person to whom the request is directed. Supervisors who will be expected to make such a determination will be trained in the facts, circumstances, physical evidence, physical signs and symptoms, and patterns of performance and/or behavior associated with drug use and alcohol misuse.

c. Post-Accident

All employees covered by this policy who are involved in an accident will be required to submit to a drug and alcohol test. An "accident" is defined as an occurrence associated with the operation of a Pace vehicle in which:

- An individual dies;
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or
- Any vehicle involved incurs disabling damage and is transported away from the scene by a tow truck or other vehicle.

In the case of any accident involving a fatality, each surviving safety-sensitive employee on duty in the Pace vehicle at the time of the accident will be tested. Additionally, safety-sensitive employees not on the vehicle whose performance could have contributed to the accident, as determined by Pace using the best information available at the time of the accident, will be tested.

In the case of all other accidents covered by this policy (i.e., those not involving a fatality), each safety-sensitive employee operating the Pace vehicle at the time of the accident will be tested unless Pace determines, using the best information available at the time of the decision, that the safety-sensitive employee's performance can be completely discounted as a contributing factor to the accident. Additionally, any other safety-sensitive employees whose performance could have contributed to the accident, as determined by Pace using the best information available at the time of the accident,

will be tested.

Post-accident drug tests will be performed as soon as possible but no later than thirty-two (32) hours following the accident. Post-accident alcohol tests will be performed within two (2) but no later than eight (8) hours following the accident. If an alcohol test is not administered within two (2) hours following the accident, Pace will prepare and maintain a record stating the reason(s) the test was not so administered. If an alcohol test still is not administered within eight (8) hours following the accident, all attempts to administer the test will cease.

An employee subject to post-accident testing who fails to remain available for such testing, including notifying Pace of his/her location after leaving the scene of the accident, may be deemed to have refused to submit to testing.

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 medical care.

d. Random Testing

All employees covered by this policy will be subject to random drug and alcohol testing. The random selection method will be a scientifically valid method, such as a random number table or a computer-based random number generator. Subject to adjustment by the FTA, each year at least twenty-five (25%) of the total number of safety-sensitive employees will be subject to drug testing and ten (10) percent to alcohol testing. In conducting such tests, the process will be unannounced as well as random. The dates for administering unannounced testing of randomly-selected covered employees shall be spread reasonably throughout the calendar year including all days and hours during which safety-sensitive functions are performed, so as to ensure that all covered employees have a reasonable expectation that they might be randomly tested for prohibited drug use anytime while on duty. Once the employee has been notified of selection for testing, the employee will be required to report immediately to the designated collection site.

e. Return to Duty

Before any employee covered by this policy is allowed to return to duty to perform a safety-sensitive function following a verified positive drug test result, an alcohol test result of 0.04 or greater, or a refusal to submit to a test, the employee will be required to:

- Be evaluated by a substance abuse professional ("SAP") designated by Pace to determine whether the employee has followed the recommendations for action by the SAP, including participation in any rehabilitation program; and
- Pass a return to duty drug and alcohol test.

Before any employee covered by this policy is allowed to return to duty to perform a safety-sensitive function following an alcohol test result of 0.04 or greater, the employee will be required to pass a return to duty alcohol test showing an alcohol concentration of less than 0.02. If a drug test result is cancelled, the employee will be subject to and required to pass another drug test.

In addition to the foregoing, and separate from any FTA requirements, Pace requires that all employees covered by this policy submit to a return to duty drug and alcohol test when:

- The employee is returning from a drug and/or alcohol rehabilitation program known to, or arranged by, Pace, or made known to Pace.
- The employee has signed a treatment plan, work resumption, or return to work agreement that requires the test.
- The employee is returning to work from an absence longer than thirty (30) consecutive calendar days.

Additionally, Pace requires that all employees covered by this policy submit to a return to duty alcohol test when the employee is returning to duty to perform a safety-sensitive function following an alcohol test result of 0.02 or greater but less than 0.04.

The employee must have a verified negative drug test result and alcohol test result of less than 0.02 to return to duty to perform a safety-sensitive function. If a drug test result is canceled, the employee will be subject to and required to pass another drug test.

f. Follow-Up

An employee who is allowed to return to duty to perform a safety-sensitive function following a verified positive drug test result, an alcohol test of 0.04 or greater, or a refusal to submit to a test will be subject to unannounced follow-up testing for at least twelve (12) but not more than sixty (60) months. The frequency and duration of the follow-up testing will be determined by the SAP, but subject to the conducting of a minimum of six (6) tests during the first twelve (12) months after the employee has returned to duty. The SAP shall document the basis upon which a determination of follow-up testing in excess of twenty-four (24) months has been made.

In addition to the foregoing, and separate from any FTA requirements, Pace requires that any employee who participates as a volunteer in Pace's EAP comply with all drug and/or alcohol testing recommended by the EAP counselor.

The foregoing is separate from and in addition to Pace's random testing program. Employees subject to follow-up testing also will remain in the standard random pool and will be tested whenever subject to random testing, even if as a result the employee is tested twice in the same month, week, or day.

2. Conduct that Constitutes a Refusal to Submit to a Test

The following conduct will be regarded by Pace as a refusal to submit to a drug and/or alcohol test:

- Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by Pace.
- Fail to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test.
- Fail to provide a urine specimen for any drug test required by this part of DOT agency regulations, observation or monitoring of your provision of a specimen. Provided that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a

pre-employment test is not deemed to have refused to test.

- In a case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen.
- Fail to provide a sufficient amount of urine or breath when directed and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
- Fail or decline to take a second test Pace or collector has directed you to take.
- Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment.
- Fail to sign the certification at step 2 of the ATF.
- Fail to cooperate with any part of the testing process.

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

V. Methodology

All drug and alcohol testing will be conducted in accordance with 49 CFR Part 40 and will include the procedures that will be used to test for the presence of illegal drugs or alcohol misuse, protect the employee and the integrity of the drug and alcohol testing process, safeguard the validity of the test results, and ensure the test results are attributed to the correct employee.

A. Drug Testing

1. Collection Procedures

When ordered to do so by Pace, an employee shall submit to drug testing through urine analysis. At the time specimens are collected, the employee will be given written instructions setting forth his/her responsibilities. The employee's identity will be verified through the use of a photo identification card or through a representative designated by Pace.

Forty-five (45) milliliters (about 1-1/2 ounces) of urine will be collected. The collection site technician will pour fifteen (15) ml into one bottle to be used as the split specimen. The remainder (at least thirty (30) ml) will be retained in the collection bottle or poured into another bottle to be used as the primary specimen.

If the employee is unable to provide at least forty-five (45) ml. of urine the specimen will be discarded unless the insufficient specimen was out of temperature range or showed evidence of adulteration or tampering. The collection site technician will instruct the employee, who must remain at the collection site, to drink up to forty (40) ounces of fluids, distributed reasonably through a period of up to three (3) hours, or until the employee has provided a new urine specimen, whichever occurs first. The employee will then provide a new sample using a fresh collection container. Both the new and the original insufficient sample will be sent to the laboratory if the original specimen was out of temperature range or there is evidence of adulteration or tampering. If the employee is still unable to provide an adequate specimen, testing will be discontinued and the employee will be directed to obtain, as soon as possible after the attempted provision of urine, an evaluation from a licensed physician who is acceptable to Pace concerning the employee's ability to procure an adequate amount of urine.

Within four (4) minutes of receiving the specimen, the temperature of the specimen will be recorded. Any specimen temperature out of the range of 32 to 38C/90 to 100F will require that an observed collection take place. The collection site technician also will examine the specimen visually for any unusual color or sediment, and note the results on the custody and control form.

Both bottles will be sealed and labeled in the presence of the employee. The donor will initial the labels verifying the specimen is his/hers. A custody and control form will be completed and signed by the collection site technician and the donor. Both the primary and split

specimen will be sealed in a single shipping container, together with the appropriate pages of the custody and control form. The tape seal on the container will bear the initials of the collection person and the date of closure for shipment. The specimen will be placed in secure storage until dispatched to the laboratory.

Procedures for collecting urine specimens shall allow individual privacy. If, however, any of the following circumstances exist, a collection site person of the same gender as the individual providing the urine specimen shall obtain a specimen by direct observation:

- The individual has provided a urine specimen that falls outside the normal temperature range (32 to 38C/90 to 100F).
- The collection site person observes conduct indicating an attempt to substitute or adulterate the specimen.
- The individual previously has been determined to have used a controlled substance without medical authorization and the test being conducted is a return to duty or follow-up test.

2. Laboratory Testing

All drug testing will be completed in a laboratory certified by the Department of Health and Human Services (DHHS). Pace has contracted with _____ to conduct all drug testing administered on its behalf under this policy. As of the revised date of this policy, the Federal Register has identified Quest Diagnostics as DHHS-certified.

An immunoassay test will be performed initially on the specimen. If any prohibited drug registers above the cutoff level on the immunoassay screen, an aliquot of the same urine specimen will be confirmed by using gas chromatography/mass spectrometry (GC/MS). All FTA and Pace mandated tests will undergo validity testing which is designed to deter and detect attempts to adulterate or substitute specimens. Which testing must conform with 49 CFR Part 40 as amended and effective January 18, 2001.

All FTA-mandated drug testing will be performed to detect for the presence of the following five substances: marijuana; cocaine; opiates; phencyclidine; and amphetamines. The following initial cutoff levels will be used when screening specimens to determine whether they are negative for the identified drugs:

Drug	Cutoff Levels (ng/ml)
Marijuana metabolites	50
Cocaine metabolites	300
Opiate metabolites	2000
Phencyclidine	25
Amphetamines	1000

The following confirmatory cutoff levels will be used:

Drug	Cutoff Levels (ng/ml)
Marijuana metabolites ¹	15
Cocaine metabolites ²	150
Opiates:	
6-Acetylmorphine ³	10
Morphine	2000
Codeine	2000
Phencyclidine	25
Amphetamines:	500
Methamphetamine ⁴	500

¹ Delta-9-tetrahydrocannabinol-9-carboxylic acid

² Benzoylcegonine

³ Test for 6-AM when morphine concentration exceeds 2000 ng/ml

⁴ Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/ml

All Pace-mandated testing will be performed to detect for the presence of, in addition to the foregoing five substances, the following five substances: barbiturates; benzodiazepine metabolites; methadone; methaqualone; and propoxyphene. The following initial cutoff levels will be used when screening specimens to determine whether they are negative for the identified drugs:

Drug	Cutoff Levels (ng/ml)
Barbiturates	300
Benzodiazepine metabolites	300
Methadone	300
Methaqualone	300
Propoxyphene	300

The following confirmatory cutoff levels will be used:

Drug	Cutoff Levels (ng/ml)
Barbiturates	200
Benzodiazepine metabolites	200
Methadone	200
Methaqualone	200
Propoxyphene	200

Long-term frozen storage (-20 deg. C or less) ensures that positive urine specimens will be available for any necessary retest during administrative or disciplinary proceedings. All confirmed positive specimens will be retained by the laboratory in their original labeled specimen bottles for a minimum of one year in properly secured long-term frozen storage. Within this one year period, Pace or any other person designed by DOT regulation may request the laboratory to retain the specimen for an additional period of time. If no such request is received, the laboratory may discard the specimen after the end of one year, except the laboratory shall maintain any specimen known to be under legal challenge for an indefinite period.

3. Review by Medical Review Officer (MRO)

All drug testing laboratory results shall be reviewed by a qualified medical review officer ("MRO") designated by Pace to verify and validate the test results. As of the revised date of this policy, Pace has contracted

The MRO will conduct an administrative review of the control and custody form to ensure its accuracy. The MRO will review and

interpret an individual's confirmed positive test by: (1) reviewing the individual's medical history; (2) affording the individual an opportunity to discuss the test result; and (3) deciding whether there is a legitimate medical explanation for the result, including legally prescribed medication. In addition, to ensure fairness to employees, the MRO will review the test results when a laboratory indicates that an employee's specimen may have been adulterated or substituted. The foregoing applies to both FTA-mandated and Pace-mandated drug testing.

4. Notification and Split Sampling

The MRO will notify each employee who has a verified positive test that the employee has seventy-two (72) hours within which to request a test of the split specimen. If the employee requests an analysis of the split specimen, the MRO will direct the laboratory, in writing, to ship the split specimen to another DHHS laboratory for analysis. An employee may also request an analysis of the split specimen for any specimen deemed to have been adulterated or substituted.

If the analysis of the split specimen fails to confirm the presence of the drug(s), drug metabolite(s), or evidence of adulteration or substitution, found in the primary specimen, or if the split specimen is unavailable or inadequate for testing, the MRO will cancel the test and report the cancellation and the reasons for it to the DOT, the employer, and the employee.

If the employee has not contacted the MRO within seventy-two (72) hours of being notified of a verified positive drug test or evidence of adulteration or substitution, the employee may present to the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test or evidence of adulteration or substitution, or other unavoidable circumstances prevented the employee from contacting the MRO in time. If the MRO concludes that there is a legitimate explanation for the employee's failure to contact the MRO, the MRO will direct that an analysis of the split sample be performed. If the MRO concludes that there is no legitimate explanation, the MRO is not required to direct the analysis of the split specimen.

If, after the MRO makes all reasonable efforts (and documents them), the MRO is unable to reach the individual directly, the MRO will contact a designated Pace representative who will direct the employee

to contact the MRO as soon as possible. If, after making all reasonable efforts, the designated Pace representative is unable to contact the employee, Pace may place the employee on temporary unqualified status or medical leave.

The MRO will report each verified test result to the person designated by Pace to receive the results. Reporting of a verified positive result or taking action required as a result of a positive drug test will not be delayed pending the split sampling analysis. The MRO will maintain all necessary records and send test result reports to Pace's Deputy Executive Director, Office of Operations Management (or a designated representative), Pace's drug and alcohol program manager.

The MRO will also report all negative drug tests which indicate the urine was diluted. It is Pace policy to ensure that the retesting of employees is consistent and therefore require the immediate retesting for all negative pre-employment, reasonable suspicion, return to duty and follow-up testing where results have indicated a diluted urine sample. Such re-collections will not be collected under direct observation, unless there is another basis for use of direct observation.

B. Alcohol Testing

1. Breath Testing Procedures

When ordered to do so by Pace, an employee shall submit to breath alcohol testing through the use of an evidential breath testing device ("EBT"). Upon arrival at the collection site, the employee's identity will be verified through the use of a photo identification card or through a representative designated by Pace. The testing procedures will be explained to the employee after which the employee and a breath alcohol technician ("BAT") designated by Pace will complete, date, and sign the alcohol testing form.

The BAT will inform the employee of the need to conduct a screening test. The BAT and the employee will read the sequential test number displayed by the EBT. The BAT will open an individually sealed, disposable mouthpiece in view of the employee and attach it to the EBT. The BAT will instruct the employee to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained. Following the screening test, the BAT will show the employee the result displayed on the EBT or the printed

result. If the result of the screening test is an alcohol concentration of less than 0.02, no further testing is required and the test will be reported to Pace as a negative test. The employee may then return to his/her safety-sensitive position.

If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed. The confirmation test will be conducted at least fifteen (15) minutes, but not more than thirty (30) minutes, after the completion of the initial test. This delay prevents any accumulation of alcohol in the mouth from leading to an artificially high reading. The employee will be instructed not to eat, drink, or put any object or substance in his/her mouth. The BAT will instruct the employee not to belch to the extent possible while awaiting the confirmation test. The BAT will inform the employee that the test will be conducted at the end of the waiting period, even if the employee has disregarded the instructions.

Before the confirmation test is administered, the BAT will conduct an air blank on the EBT. If the reading is greater than 0.00, the BAT will conduct one more air blank. If the second air blank is greater than 0.00, the EBT will not be used to conduct the test. The confirmation test will be conducted using the same procedure as the screening test. A new mouthpiece will be used.

If the initial and confirmatory test results are not identical, the confirmation test result will be deemed to be the final result. If the result displayed on the EBT is not the same as that on the printed form, the test will be cancelled and the EBT removed from service.

The BAT will sign and date the alcohol testing form. The employee will sign and date the certification statement, which includes a notice that the employee cannot perform safety-sensitive duties or operate a motor vehicle if the results are 0.02 or greater. The BAT will attach the alcohol test result printout directly on to the alcohol collection form with tamper proof tape (unless the results are printed directly on the form).

If a screening or confirmatory test cannot be completed, the BAT will, if practicable, begin a new test using a new alcohol testing form with a new sequential test number.

Refusal by an employee to complete and sign the alcohol testing form, to provide breath, or otherwise to cooperate with the collection process will be noted on the form and the test will be

terminated.

2. Notification

The BAT will transmit all results to a designated Pace representative in a confidential manner. In the event an individual must be removed because he/she is engaged in the performance of safety-sensitive duties, the BAT will notify the designated Pace representative immediately.

3. Positive Test Results at Designated Threshold Levels

In the event of a positive test result of 0.02 or greater but less than 0.04, the employee shall be removed from duty for at least eight hours following the administration of the test unless an earlier retest, conducted at Pace's option, shows an alcohol concentration of less than 0.02. An employee with a positive test result of less than 0.04 will not be subject to discipline based solely on the FTA-mandated test. Separate from any FTA requirements, in no event will the employee be allowed to return to duty unless he/she passes a return to duty alcohol test showing an alcohol concentration of less than 0.02.

In the event of a positive test result equal to or greater than 0.04, the employee shall be prohibited from performing any safety-sensitive duties until he/she has been evaluated by a substance abuse professional and has passed a return to duty test.

C. Substance Abuse Professional (SAP) Evaluation

Any individual who has a verified positive drug test result or a breath alcohol concentration of 0.04 or greater will be advised of the resources available to evaluate and resolve problems associated with drug abuse or alcohol misuse, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs. The employee also will be assessed by a substance abuse professional ("SAP") designated by Pace who will determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse.

As of the revised date of this policy, Pace has contracted _____ with to serve as its SAP. _____ also manages Pace's EAP. As discussed in Section III. B. of this policy, the EAP is designed to assist Pace employees with personal problems, including

problems associated with drug abuse or alcohol misuse.

The SAP will carry out the following responsibilities:

- Evaluate whether an employee who has refused to submit to a drug or alcohol test or who has a positive test result is in need of assistance in resolving problems associated with drug use or alcohol misuse.
- Evaluate whether any employee who previously tested positive and desires to return to work has properly followed the SAP's recommendations for treatment.
- Determine the number of months a returning employee will be subject to follow-up testing after returning to duty (subject to a minimum six (6) tests during the first twelve (12) months) and document the basis upon which a determination of follow-up testing in excess of twenty-four (24) months has been made.
- Recommend whether a returning employee who previously tested positive for drug use also should be subject to return to duty and/or follow-up testing for alcohol misuse.
- Document all contacts with referred employees and present regular periodic reports to Pace's drug and alcohol program manager or his/her designee.
- Recommend whether a returning employee who previously tested positive for alcohol misuse also should be subject to return to duty and/or follow-up testing for drug use.

The foregoing applies to both FTA-mandated and Pace-mandated testing.

VI. Enforcement of Policy Through Discipline

Separate from any FTA requirement Pace will under its own authority exercise the following discipline as a result of drug and or alcohol misuse.

A. Pre-Employment

Any applicant who tests positive for drugs and/or alcohol will be disqualified from consideration for a safety sensitive position with Pace.

B. Reasonable Suspicion

Any employee who tests positive for drugs and/or alcohol pursuant to a reasonable suspicion test administered under this policy will be discharged.

C. Post-Accident

Any employee involved in an accident who tests positive for drugs and/or alcohol pursuant to a test administered under this policy will be discharged.

D. Random

Any employee who tests positive for drugs and/or alcohol pursuant to a random test administered under this policy will be discharged.

E. Return to Duty

Any employee who tests positive for drugs and/or alcohol pursuant to a return to duty test administered under this policy will be discharged.

F. Follow-Up

Any employee who tests positive for drugs and/or alcohol pursuant to a follow-up test administered under this policy will be discharged.

G. Refusal to Take Test and/or Non-Compliance with Testing Procedures

Any employee who refuses to submit to any drug or alcohol test administered under this policy, to complete and sign the requisite testing forms, or otherwise to cooperate with the testing process in a way that prevents the completion of the test will be discharged.

H. Inability to Provide Adequate Amount of Urine Specimen or Breath

Any applicant or employee who is unable to provide an adequate amount of urine specimen for drug testing will be directed to drink up to forty (40) ounces of fluid, distributed reasonably through a period of up to three (3) hours, or until the employee has provided a new urine specimen, whichever occurs first. If the employee refuses to drink fluids as directed or to provide a new specimen, the collection site person shall terminate the collection.

In all cases involving an employee who cannot provide an adequate

specimen within the three (3) hour period, a Pace designated MRO shall refer the employee for a medical evaluation to develop pertinent information concerning whether the employee's inability to provide a specimen is genuine or constitutes a refusal to provide a specimen. If the former, Pace will make whatever accommodation is reasonable in light of all circumstances relevant to the case. If the latter, the employee's failure to provide an adequate amount of urine will be regarded as a refusal to submit to take the test and the employee will be discharged. In pre-employment testing involving an applicant who cannot provide an adequate specimen within the three (3) hour period, the applicant will be disqualified from consideration for employment with Pace (without resort to an MRO referral).

An employee who is unable to provide an adequate amount of breath for alcohol testing will be directed to obtain an evaluation from a licensed physician who is acceptable to Pace concerning the employee's medical ability to provide an adequate amount of breath. If the physician concludes that a medical condition has or could have precluded the employee from providing an adequate amount of breath, the employee's failure to do so will not be regarded as a refusal to take the test. If the physician is unable to make such a determination, the employee's failure to provide an adequate amount of breath will be regarded as a refusal to take the test and the employee will be discharged. An applicant who is unable to provide an adequate amount of breath for alcohol testing will be disqualified from consideration for employment with Pace (without referral to a physician).

I. Urine Specimen Alteration

In any case where it has been determined that an employee has altered or attempted to alter his/her urine specimen for a drug test administered under this policy, the employee will be discharged. In any case where it has been determined that an applicant has altered or attempted to alter his/her urine specimen for a drug test administered under this policy, the applicant will be disqualified from consideration for employment with Pace.

J. Unsatisfactory Employee Assistance Program Participation

An employee allowed entry into Pace's EAP who fails to participate in the recommended treatment program, fails to comply with the terms of his/her EAP plan, or refuses to take a drug and/or alcohol screen when ordered to do so will be discharged.

K. Conviction for a Violation of a Criminal Drug Statute

As a condition of employment with Pace, an employee must notify Pace in writing of his/her conviction for a violation of any criminal drug statute no later than five (a) calendar days after such conviction. Any employee convicted for such a violation occurring on Pace property will be discharged. In all other cases, discipline up to and including discharge will be issued based upon all circumstances relevant to the case.

L. Applicability of Policy to Pace Contractors

All Pace contractor employees who are engaged in the performance of safety-sensitive functions for Pace are subject to the provisions of this policy pertaining to *Deterrence (Section 111A)*, *Provisions for Drug and Alcohol Testing (Section IV)*, and *Methodology (Section V)*. Employees of third party contractors which operate transportation service for Pace contractors who are engaged in the performance of safety-sensitive functions also are subject to these provisions. Pace does not mandate the application of other provisions of this policy relating to *Treatment and Rehabilitation (the Employee Assistance Program, Section III)* and *Rehabilitation Policy Through Discipline (Section VI)* to contractor employees. These areas are left to the contractor's discretion. However, any contractor employee who violates Pace's policies on *Deterrence, Provisions for Drug and Alcohol Testing, and Methodology* will not be allowed to perform safety-sensitive functions in Pace-funded service.

Contractors are required to ensure compliance with the applicable provisions of Pace's policy and must provide timely data to Pace, as requested by Pace, in order that Pace may include such information in its mandated reports to DOT. Pace will make every reasonable effort to assist contractors in compliance, which may include offering Pace-obtained services for testing, MRO and SAP reviews, and education and training, for the fee(s) charged to Pace.

Appendix A. Terms and Definitions

Air Blank	A reading by an EBT of ambient air containing no alcohol.
Alcohol	The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.
Alcohol Concentration	The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.
Alcohol Use	The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
Aliquot	A portion of a specimen used for testing.
Breath Alcohol Technician (BAT)	An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.
Cancelled or Invalid Test	In drug testing, a drug test that has been declared invalid by a Medical Review Officer. A cancelled test is neither a positive nor a negative test. A sample that has been rejected for testing by a laboratory is treated the same as a cancelled test. In alcohol testing, a test that is deemed to be invalid is neither a positive nor a negative test.
Collection Container	A container into which the employee urinates to provide the urine sample used for a drug test.
Collection Site	A place designated by Pace where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.
Collection Site Person	A person who instructs and assists individuals at a collection site and who receives and makes a screening examination of the urine specimen provided by those individuals.

Confirmation (or Confirmatory) Test

In drug testing, a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screening test and that uses a different technique and chemical principle from that of the screening test to ensure reliability and accuracy. (Gas chromatography/mass spectrometry [GC/MS] is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.) In alcohol testing, a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration.

Contractor

A person or organization that provides a service for Pace 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.

Controlled Substance

The substances defined and included in the Schedules of Article II of the Illinois Controlled Substances Act, 720 ILES 570/201 et seq.

DHHS

The U.S. Department of Health and Human Services or any designee of the Secretary of the Department of Health and Human Services.

DOT

The Department of Transportation or any designee of the Secretary of the Department of Transportation.

Drug Metabolite

The specific substance produced when the human body metabolizes a given prohibited drug as it passes through the body and is excreted in urine.

Drug Test

The laboratory analysis of a urine specimen collected in accordance with regulations promulgated by the DOT and analyzed in a DHHS-approved laboratory.

Evidential Breath Testing Device (EBT)

An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices (CPL).

FTA

Federal Transit Administration

Medical Review Officer (MRO) A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by Pace's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test results together with his or her medical history and any other relevant biomedical information.

Narcotic

The substance defined and included in Section 102 of the Illinois Controlled Substances Act, 720 ILES 570/102.

Pass a Drug Test

An individual passes a drug test when a Medical Review Officer determines, in accordance with procedures established by the DOT, that the results of the test:

- Showed no evidence or insufficient evidence of a prohibited drug or drug metabolite
- Showed evidence of a prohibited drug or drug metabolite for which there was a legitimate medical explanation
- Were scientifically insufficient to warrant further action

Performing a Safety-Sensitive Function

A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Prescribed Drug

Any controlled substance or narcotic prescribed by a qualified, licensed health provider.

Prohibited Drug

Marijuana, cocaine, opiates, amphetamines, or phencyclidine.

Safety-Sensitive Position

A duty, position, or job category that requires the performance of a safety-sensitive function(s).

**Screening Test
(or Initial Test)**

In drug testing, an immunoassay screen to eliminate "negative" urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

Shipping Container

A container capable of being secured with a tamper-evident seal that is used to transfer one or more urine specimen bottle(s) and associated documentation from the collection site to the laboratory.

Specimen Bottle

The bottle that, after being labeled and sealed, is used to transmit a urine sample to the laboratory.

Split Specimen

An additional specimen collected with the original specimen to be tested in the event the original specimen tests positive.

**Substance Abuse
Professional (SAP)**

A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), with knowledge of and clinical experience in the diagnosis and treatment of drug- and alcohol-related disorders.

Validity Testing

Tests conducted by the laboratory designed to deter and detect attempts to adulterate or substitute specimens.

**Verified Negative
(drug test result)**

A drug test result reviewed by an MRO and determined to have no evidence of prohibited drug use.

**Verified Positive
(drug test result)**

A drug test result reviewed by an MRO and determined to have evidence of prohibited drug use.

Volunteer

A permanent, temporary, or part-time worker who is not compensated for his/her services unless involved either in the operation of a vehicle designed to transport sixteen or more passengers, including the driver, or in the provision of a charitable service with the expectation of receiving a benefit. The term "volunteer" includes any van pool driver who pursuant to FTA regulations is not subject to drug or alcohol testing.