



Belt Railway Company of Chicago Policies & Procedures

POLICY No: 3

POLICY: Alcohol & Drug Use

Effective: January 1, 1996

Reviewed: August, 2020

Revised: September 1, 2020, January 1, 2019, January 1, 2018; January 1, 2016; January 1, 2014; January 1, 2012; August 1, 2009

THE BELT RAILWAY COMPANY OF CHICAGO ALCOHOL AND DRUG USE POLICY

(Amended and revised August 1, 2009, January 1, 2012, January 1, 2014, January 1, 2016, January 1, 2018, January 1, 2019 and September 1, 2020)

Purpose

In compliance with the Drug-Free Workplace Act of 1988, The Belt Railway Company of Chicago (BRC) has a longstanding commitment to provide a safe, quality-oriented and productive work environment. Alcohol and drug abuse in the workplace constitute a threat to the health and safety of BRC employees, the safety of the general public, and the security of the company's equipment and facilities. For these reasons, the BRC is committed to promoting and maintaining a workplace that is free of drug and alcohol use.

The BRC is committed to a drug free workplace. As such, it has maintained a "zero-tolerance" policy since 1996, where drug and alcohol use in violation of the rules is considered unacceptable as a fundamental principle. The BRC, with one single exception in extremely limited circumstances as defined below, will terminate the employment of any employee who is shown to have violated any portion of this Drug and Alcohol Policy.

Scope

This policy applies to all employees and all applicants for employment of BRC. The BRC Human Resources (HR) Department is responsible for policy administration. The Secretary and Director of Compliance serves as the Designated Employer

Representative (DER) for the BRC and is responsible for compliance with governing federal regulations in the application of this policy to assure compliance.

Where testing is fulfilled in compliance with the BRC's Part 219 Railroad Compliance Plan, the provisions of that plan will specifically apply.

Employee Assistance Program (EAP)

The BRC will assist and support employees who voluntarily reach out to the BRC or its designated Employee Assistance Program ("EAP") provider to seek help for drug or alcohol problems. Such request for assistance must occur before a positive test event, in which event an employee will be subject to termination of employment under this Policy. Such employees may be allowed to use paid time accrued off, placed on leaves of absence, referred to treatment providers and otherwise accommodated as required by law and in accordance with treatment plans established by relevant treatment providers.

Employees are required to document that they are successfully following prescribed treatment and to take and pass follow-up tests if they hold jobs that are safety-sensitive or are governed by specific federal regulations. Once a drug test has been initiated under this policy, the employee will have forfeited the opportunity to be granted a leave of absence for treatment and will be subject to termination of employment for a violation of this policy, except under one single exception as documented herein.

Employees must report to work fit for duty, and free of any measurable amount of drugs or alcohol in their blood or other bodily fluids. This policy does not prohibit employees from the lawful use and possession of prescribed medications., subject to the following procedures.

Prescription Medications

Employees must consult with their doctors about the medications' effect on their fitness for duty and must receive confirmation from their doctor that they are able to work safely while taking any prescription medication. In addition, employees must promptly disclose any prescription medications they are taking to their supervisor with a copy to BRC's Human Resources Department.

It is the responsibility of each employee to proactively ensure that BRC Human Resources is kept up-to-date on all prescription medications that an employee is taking at any given time. Employees may be permitted to work in regulated or non-regulated service if, in the discretion of BRC, the employee may safely perform their job duties while taking a specific medication. BRC retains the final discretion to make decisions regarding employee fitness for duty, including relative to the use of prescription medications.

Employees are reminded that the provisions of 49 C.F.R. 219.102 Prohibition on abuse of controlled substances at any time whether on or off duty, except when used in as prescribed by a medical practitioner. The BRC applies this restriction this to all employees, regardless of whether they do or do not perform regulated service as defined in the regulation. (49 C.F.R § 219.5 Definitions).

Voluntary Referral and Post-Testing Support for D/A Policy Violations

Belt Railway Company of Chicago maintains two programs for employees encountering problems related to drug and alcohol usage. These include the Co-Worker and Individual Referral Program (CWRP) and the Employee Support Program (ESP).

The ESP and CWRP are available to all employees of the Belt Railway Company of Chicago (BRC). Employees in probationary status, whether by BRC direction or collective bargaining agreement are ineligible to participate in these programs.

An employee who successfully enters and follows the tenets of these programs, as outlined below, may avoid discipline and maintain their position with the BRC as long as the employee complies with, and successfully completes all aspects of the program.

Co-Worker and Individual Referral Program Procedures (CWRP):

If a Co-Worker (as defined in 49 CFR Part 219.5) or a family member of an employee believes that an employee is apparently unsafe to work or is, or appears to be, in violation of 49 CFR Part 219, GCOR Rule 1.5, or the BRC's Drug and Alcohol Policy, such individual may immediately contact a BRC Supervisor or the BRC's Designated Employer Representative (DER) to report the circumstances.

The name of the co-worker or family member making the report will not be made public.

Similarly, an employee may self-refer if they believe they are in potential violation of 49 CFR Part 219, GCOR Rule 1.5, or the BRC's Drug and Alcohol Policy. Self-referral, however, will not be accepted once an employee has been notified that they are required to submit to a drug and alcohol test by a supervisor or the BRC Police Department.

Regardless of the source of the referral, if the supervisor immediately determines there is an apparent GCOR Rule 1.5 violation, the employee will be removed from service.

In all cases, the supervisor will ensure that drug and alcohol tests have been conducted per a signs and symptoms evaluation. (The employee will be removed from service and promptly and safely, at BRC expense, transported home pending the results of the drug and alcohol tests.)

Referral to a Drug and Alcohol Counselor (DAC):

An employee relieved from service under CWRP must contact the DAC within two (2) working days of the removal from service to make an appointment unless otherwise directed by BRC HR.

An employee who fails to make the appointment, or who fails to appear for the appointment, or who fails to obtain a determination by the DAC, will be considered to have voluntarily forfeited all seniority rights and employment rights with the BRC.

The DAC must schedule necessary interviews with the employee and complete an evaluation within ten (10) calendar days of the date on which the employee first contacted the DAC with a request for evaluation under the program, unless it becomes necessary to refer the employee for further evaluation.

In each case, all necessary evaluations must be completed within thirty (30) days of the date on which the employee first contacted the DAC.

When Treatment is Required

If the DAC determines the employee is affected by psychological or chemical dependence on alcohol or a drug or by another identifiable and treatable mental or physical disorder involving abuse of alcohol or drugs as a primary manifestation, the following conditions must be met:

BRC Responsibilities:

The BRC will, to the extent necessary for treatment and rehabilitation, grant the employee a leave of absence from the BRC for the period necessary to complete primary treatment and establish control over the employee's alcohol or drug problem.

A leave of absence of up to forty-five (45) days will be granted, if necessary, for the purpose of meeting initial treatment needs.

The employee will be returned to service on written recommendation of the DAC when the employee has established control over the substance abuse problem. Approval to return to service may not be unreasonably withheld.

Following return-to-service, the employee, as a further condition of the withholding of discipline, may be required to participate in a reasonable program of follow-up treatment for a period from the date the employee was originally withdrawn from service.

The Drug and Alcohol Counselor (DAC) will determine the steps necessary and will notify the BRC, in writing, of the components of the follow-up treatment plan.

Employee Responsibilities:

An employee wishing to participate in CWRP must agree to undertake the process to the satisfaction of the DAC and the BRC.

An employee will be considered to have voluntarily forfeited all seniority rights and employment rights with the BRC if at any time they:

- Refuses to cooperate in the recommended course of treatment
- Fails to follow the tenets of the follow-up treatment plan

- Tests positive with a follow-up drug or alcohol test.

When Treatment is not Required:

If the DAC determines the employee is not affected by an identifiable and treatable mental or physical disorder involving the abuse of drugs or alcohol as a primary manifestation:

- The BRC will accept the recommendation of the DAC and return the employee to service within five days.

Single Exception to Zero Tolerance: Employee Support Program (ESP)

The Employee Support Program (ESP) is designed for a specific circumstance where an employee has been tested under either federal or company authority for drugs and alcohol use and has incurred a positive test result.

In the event that an employee incurs a positive test result, the BRC shall, offer an employee who violates the drug and alcohol policy, or who has a positive test result in a drug and alcohol test, the opportunity to return to work on a one-time, last-chance basis pursuant to the applicable regulatory requirements or their equivalent. This offer will not affect any mandatory suspension of ability to perform covered service under governing federal regulations.

An employee, who chooses to participate in the ESP will enter into a probationary period upon return to service of 60 months. During those 60 months, any failure on the part of the employee to fulfill the terms of their ESP participation will result in the employee automatically being placed in a dismissed status without the right to a formal investigation or right to appeal his or her dismissal under the applicable CBA.

Employees who elect to participate in the ESP will explicitly and prospectively waive their rights to a formal investigation or appeal of their potential future dismissal, which would normally be provided under their applicable CBA.

Unsuccessful completion of ESP for any reason will render the employee immediately dismissed from service, unable to continue employment with the BRC based on the provisions of BRC's historical "Zero Tolerance" Policy.

If an employee declines to participate in the ESP following a positive drug or alcohol test result, BRC's "Zero Tolerance" Policy with regard to violations of GCOR 1.5 and this Policy will govern, and the employee will be subject to summary dismissal upon establishing said violation at a formal investigation as per the employee's governing CBA.

Employees involved in any subsequent positive result occurrences after completion of ESP will be specifically ineligible to participate in ESP, and will be subject to automatic termination under the BRC's "Zero Tolerance" Policy without the formal investigation or appeal processes available in the applicable CBA, which rights the employee will have previously waived as a condition of participation in the ESP.

Participation in ESP will include follow-up drug testing at times and frequencies determined by the BRC and the Substance Abuse Professional (SAP) for a minimum of one year, but not more than five years as well as a waiver of the right to participate in a formal investigation under his or her applicable CBA to determine responsibility for a subsequent positive test, as well as the right to contest or appeal any termination resulting from a subsequent positive test as per applicable CBA.

Employees participating in the program are required to reimburse the BRC for one half of all costs associated with follow-up testing incurred by the railway and administered at the direction of the SAP. If the employee either does not complete the rehabilitation program or has a drug and alcohol test result that is non-negative after completing the rehabilitation program, the employee will be immediately discharged from employment without the formal investigation or appeal processes available in the applicable CBA, which rights the employee will have previously waived as a condition of participation in the ESP.

CWRP and ESP Terms and Conditions:

When an employee makes application to participate in the programs, they waive all further claims against the BRC for any costs, damages, or other factors related to their participation.

Employees participating in the CWRP and ESP Program(s) may only utilize these resources one time during the entire course of their employment with the BRC.

Workplace Rules

1. In accordance with General Code of Operating Rules (GCOR) Rule 1.5, Drugs and Alcohol or the applicable departmental equivalent, whenever employees are working, are operating any BRC vehicle, are present on BRC property, or are conducting company-related work offsite; they are prohibited from:
 - a. Using, possessing, buying, selling, manufacturing or dispensing an illegal drug (to include possession of drug paraphernalia).
 - b. Being under the influence of alcohol or an illegal drug as defined in this policy.
 - c. Possessing or consuming alcohol.

2. The presence of any detectable amount of any illegal drug, illegal controlled substance or alcohol in an employee's body system, while performing company business or while in a company facility, is prohibited.
3. BRC will also not allow employees to perform their duties while taking prescribed drugs that are adversely affecting their ability to safely and effectively perform their job duties. Employees taking a prescribed medication must carry it in a container labeled by a licensed pharmacist or be prepared to produce the container if asked. Employees are also responsible for maintaining a current copy of all prescriptions which they are presently taking with BRC's Human Resources office.
4. Any illegal drugs or drug paraphernalia will be turned over to an appropriate law enforcement agency and may result in criminal prosecution.
5. Federal law prohibits railroad employees from using controlled substances at any time, whether on or off duty except when prescribed by a medical practitioner and in full compliance with 49 C.F.R. 219.102, Prohibition on Abuse of Controlled Substances

Required Drug and Alcohol Testing

Pre-Employment Testing (49 C.F.R. 40.25)

Applicants being considered for hire must pass a drug test before beginning work or receiving an offer of employment. Refusal to submit to testing will result in disqualification of further employment consideration. Where work to be done is considered safety sensitive under Department of Transportation regulations, previous employer records on previous conduct related to drug and alcohol rule compliance will be conducted as prescribed by regulation.

Reasonable Suspicion Testing

Employees are subject to testing based on (but not limited to) observations by at least two members of management of apparent workplace use, possession or impairment.

The BRC Police Department must be consulted before initiating a Reasonable Suspicion drug or alcohol test. Qualified Management and Police Department must use the Reasonable Suspicion Observation Manual to document specific observations and behaviors that create a reasonable suspicion that an employee is under the influence of illegal drugs or alcohol. Examples include:

- Odors (smell of alcohol, body odor or urine).
- Movements (unsteady, fidgety, dizzy).
- Eyes (dilated, constricted or watery eyes, or involuntary eye movements).
- Face (flushed, sweating, confused or blank look).
- Speech (slurred, slow, distracted mid-thought, inability to verbalize thoughts).
- Emotions (argumentative, agitated, irritable, drowsy).
- Actions (yawning, twitching).

- Inactions (sleeping, unconscious, no reaction to questions).

When reasonable suspicion testing is warranted, a manager will meet with the employee to explain the observations and the requirement to undergo a drug and alcohol test within two hours. Refusal by an employee will be treated as a positive drug test result, and will result in immediate termination of employment.

Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. A member of management must transport the employee or arrange for a cab and arrange for the employee to be transported home.

Reasonable Cause Testing (BRC Authority)

When an employee is involved in an accident, incident, injury, rule violation or observed unsafe act, or may potentially have contributed to an incident based on their behavior (human factor), the BRC may require the employee to submit to a drug and alcohol test under company authority. The BRC may require all members of a work group to be tested, when it cannot be readily discerned that an individual employee's human factor behavior human factor did not play in a role in the incident at the time of the initial investigation of the occurrence. Refusal to submit to testing, when requested by the BRC, may be treated as insubordination, negligence or disregard for the interests of the BRC under the BRC rules structure.

Reasonable Suspicion Testing (DOT Authority)

When a trained supervisor has grounds to suspect an employee may be impaired, in violation of GCOR 1.5 or equivalent, the employee will be required to submit to reasonable suspicion testing under DOT authority. Where drug use is suspected, a second trained supervisor must also be involved, whether on or off property.

Employees are subject to testing based on (but not limited to) observations by at least two members of management of apparent workplace use, possession or impairment. Management must document specific observations and behaviors that create a reasonable suspicion that an employee is under the influence of illegal drugs or alcohol. Examples include:

- Odors (smell of alcohol, body odor or urine).
- Movements (unsteady, fidgety, dizzy).
- Eyes (dilated, constricted or watery eyes, or involuntary eye movements).
- Face (flushed, sweating, confused or blank look).
- Speech (slurred, slow, distracted mid-thought, inability to verbalize thoughts).
- Emotions (argumentative, agitated, irritable, drowsy).
- Actions (yawning, twitching).
- Inactions (sleeping, unconscious, no reaction to questions).

Random Testing (DOT Authority)

The BRC is responsible to assure that its random testing policy meets regulatory requirements and is approved by the FRA. BRC has two federal testing pools for the purpose of random testing:

- Hours of Service: employees engaged in performing regulated service and Yardmasters.
- Roadway Workers: employees performing service in accordance with the definition outlined in 49 C.F.R. 214.7.
- Employees selected for random testing are selected by a computer program in accordance with DOT requirements.

Random Testing (Company Authority)

The BRC will perform random testing under company authority of police officers, management employees and other designated employees, in a separate random testing pool. The same testing criterion utilized in the DOT Random Testing will apply for Non-DOT Random Testing, except a company drug testing panel will be used.

DOT Post Accident Testing

Employees are subject to testing when they cause or contribute to accidents that seriously damage a BRC vehicle, machinery, equipment or property or that result in an injury to themselves or another employee requiring offsite medical attention. A circumstance that constitutes probable belief will be presumed to arise in any instance involving a work-related accident or injury in which an employee who was operating a motorized is found to be responsible for causing the accident.

DOT Post Accident Testing is required when any of the following events occur:

Major Train Accident

An incident involving any rail equipment accident with reportable damages in excess of the current calendar year reporting threshold under 49 CFR Part 225 and one or more of the following: (see 49 C.F.R § 219.201)

- A fatality
- A release of hazardous materials from railroad lading that results in an evacuation or reportable injury cause by the release of hazardous materials.
- Damage to railroad property of \$1.5 Million or more.
- An impact accident occurs with damages in excess of \$150,000.

Impact Accident

An incident involving reportable damage in excess of the current reporting threshold that results in:

- A reportable Injury
- Damage to railroad property of \$150,000 or more.

Fatal Train Accident

An incident involving any on duty railroad employee or regulated contractor employee where damages do not exceed the current reporting threshold.

Passenger Train Accident

An incident involving a reportable injury to any person in a train accident involving damage in excess of the current reporting threshold that involves a passenger train.

Human Factor Highway Rail Grade Crossing Accident/Incident

An incident where the following criterion exist:

- Regulated employee interfered with the normal functioning of a grade crossing signal system, in testing or otherwise, without first providing for the safety of highway traffic that depends on the normal functionality of the system, as prohibited by 49 C.F.R. § 234.105 (c) (3).
- A train crew member who was, or should have been, protecting a highway rail grade crossing due to an activation failure of a grade crossing system as outlined in 49 C.F.R. § 234.105 (c) (3), is subject to testing.
- Regulated employee who was performing, or should have been performing the duties of an equipped flagger, as outlined in 49 C.F.R. § 234.5, but failed to do so, due to an activation failure, partial activation, or false activation of a grade crossing signal system, as provided by 49 C.F.R. § 234.105(c) (1) and (2), 49 C.F.R. § 234.106 or 49 C.F.R. § 234.107 (c)(1)(i) is subject to testing.
- If there is a fatality to any regulated service employee, regardless of fault. (Fatally injured regulated employee must be tested).

Post-Accident Testing Administration

When an accident/incident meets the criterion for a Major Train Accident, all assigned crew members of all trains and on-track equipment involved must be tested.

In any of these instances, the investigation and subsequent testing must take place within three hours following the accident, if not sooner. Refusal by an employee to test will be treated as a positive drug test result and will subject the employee to potential sanction by the DOT.

Where DOT Regulations require post-accident testing, employees are required to participate in testing as determined by the DER.

Collection and Testing Procedures

Employees subject to alcohol testing will be transported to a BRC designated facility and directed to provide breath specimens. Breath specimens will be tested by trained technicians using federally approved breath alcohol testing devices capable of producing printed results that identify the employee. If an employee's breath alcohol

concentration is .04 or more, a second breath specimen will be tested approximately 20 minutes later. The results of the second test will be determinative.

Applicants and employees subject to drug testing will be transported to a BRC designated testing facility and directed to provide urine specimens. Applicants and employees may provide specimens in private unless they appear to be submitting altered, adulterated or substitute specimens. When required by DOT regulations, observed testing may be performed. Collected specimens will be sent to a federally certified laboratory and tested for evidence of marijuana, cocaine, opiates, amphetamines, PCP, benzodiazepines, methadone, methaqualone and propoxyphene use. (Where indicated, specimens may be tested for other illegal drugs.) The laboratory will screen all specimens and confirm all positive screens. There must be a chain of custody from the time specimens are collected through testing and storage.

The laboratory will transmit all positive drug test results to a medical review officer (MRO) retained by the BRC who will offer individuals with positive results a reasonable opportunity to rebut or explain the results. Individuals with positive test results may also ask the MRO to have their split specimen sent to another federally certified laboratory to be tested at the applicant's or employee's own expense. Such requests must be made within 72 hours of notice of test results. If the second facility fails to find any evidence of drug use in the split specimen, the employee or applicant will be treated as passing the test. In no event should a positive test result be communicated to the BRC until such time that the MRO has confirmed the test to be positive.

In the event of a Negative Dilute Result, the BRC will retest in accordance with applicable DOT regulations in both DOT and Non-DOT tests.

Consequences of Refusal to Test

Applicants who refuse to cooperate in a drug test or who test positive will not be hired and will not be allowed to reapply/retest in the future.

Employees who refuse to cooperate in required tests or who use, possess, buy, sell, manufacture or dispense an illegal drug in violation of this policy will be terminated. If the employee refuses to be tested, yet the company believes he or she is impaired, under no circumstances will the employee be allowed to drive himself or herself home.

Employees who test positive, or otherwise violate this policy, will be subject to termination. Employees who refuse a test will be prohibited from participation in ESP.

Test Results

Employees will be paid for time spent in alcohol or drug testing. After the results of the test are received, in the event of a positive result BRC Management will attempt to notify the employee of said positive test result and inform the employee of the option to participate in the ESP, if applicable.

Confidentiality

Information and records relating to positive test results, drug and alcohol dependencies, and legitimate medical explanations provided to the MRO will be kept confidential to the

extent required by law and maintained in employee medical files. Such records and information shall not be disclosed among managers and supervisors without prior approval from BRC's Human Resources Department and will only be disclosed to the extent necessary when relevant to a grievance, charge, claim or other legal proceeding initiated by or on behalf of an employee or applicant. These records may also be subject to independent DOT or BRC audit as required.

Inspections

The BRC reserves the right to inspect all portions of its premises for drugs, alcohol or other contraband; affected employees may have union representation involved in this process. All employees, contract employees and visitors may be asked to cooperate in inspections of their persons, work areas and property that might conceal a drug, alcohol or other contraband. Employees who possess such contraband or refuse to cooperate in such inspections are subject to appropriate discipline, up to and including discharge.

Crimes Involving Drugs

The BRC prohibits all employees, including employees performing work under government contracts, from manufacturing, distributing, dispensing, possessing or using an illegal drug in or on BRC property or while conducting BRC business. BRC employees are also prohibited from misusing legally prescribed or over the counter (OTC) drugs. Law enforcement personnel may be notified, as appropriate, when criminal activity is suspected.

The BRC does not desire to intrude into the private lives of its employees, but recognizes that employees' off-the-job involvement with drugs and alcohol may have an impact on the workplace. Therefore, the BRC reserves the right to take appropriate disciplinary action for drug use, sale or distribution while off company premises. All employees who are convicted of, plead guilty to or are sentenced for a crime involving an illegal drug are required to report the conviction, plea or sentence to the Secretary and Director of Compliance within 48 hours. Failure to comply may result in a violation of DOT regulations and BRC rules.

Definitions

"BRC Property" includes all buildings, offices, facilities, grounds, parking lots, lockers, places and vehicles owned, leased or managed by The Belt Railway Company of Chicago or any site on which the company is conducting business.

"Illegal drug" means a substance whose use or possession is controlled by federal law but that is not being used or possessed under the supervision of a licensed health care professional. (Controlled substances are listed in Schedules I-V of 21 C.F.R. Part 1308.)

"Refuse to cooperate" means to obstruct the collection or testing process; to submit an altered, adulterated or substitute sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or to fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure. Employees who leave the scene of an accident without justifiable explanation

prior to submission to drug and alcohol testing will also be considered to have refused to cooperate and will automatically be subject to discharge.

“Under the influence of alcohol” means an alcohol concentration equal to or greater than .02 or actions, appearance, speech or bodily odors that reasonably cause a supervisor to conclude that an employee is impaired because of alcohol use.

“Under the influence of drugs” means a confirmed positive test result for illegal drug use per this policy. In addition, it means the misuse of legal drugs (prescription and possibly OTC) when there is not a valid prescription from a physician for the lawful use of a drug in the course of medical treatment (containers must include the patient’s name, the name of the substance, quantity/amount to be taken and the period of authorization).