



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Employee Drug and Alcohol Use and Drug and Alcohol Testing	Number 14 -17
Originating Department Office of Human Resources	Effective Date December 12, 2017

Montgomery County Regulation on:  
**EMPLOYEE DRUG AND ALCOHOL USE AND  
 DRUG AND ALCOHOL TESTING**  
 Issued by: County Executive  
 Regulation No. 14 -17  
 COMCOR No. 33.07.01  
 Supersedes: Executive Regulation 12-00AM, in part,  
 Executive Regulation 26-07, in part,  
 and Executive Regulation 16-13, in part  
 Authority: Montgomery County Code (2004) §33-7(b)  
 Council Review: Method (1)  
 Montgomery County Register Volume 34, Issue 8  
 Comment Deadline: August 31, 2017  
 Effective date: December 12, 2017  
 Sunset Date: None

**Summary:** This regulation amends Section 32 of the Personnel Regulations to incorporate changes for safety-sensitive transit employees to ensure compliance with a Federal Transit Administration audit of the County’s drug and alcohol program. The changes in this regulation also reflect the requirements of the Maryland Transit Administration.

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Please use the key below when reading this regulation:

**Boldface**

*Heading or defined term.*

\* \* \*

*Existing language unchanged by executive regulation.*

## **SECTION 32. EMPLOYEE DRUG AND ALCOHOL USE AND DRUG AND ALCOHOL TESTING**

\* \* \*

### **32-5 Prevention of Prohibited Drug Use and Alcohol Misuse by Safety-Sensitive Transit Employees under Federal Transit Administration Regulations**



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\* \* \*

(e) **Drug and alcohol prohibitions.**

\* \* \*

(4) **Refusal to submit to drug or alcohol testing.**

\* \* \*

(E) failing to arrive, or arrive in a timely manner, for a required test, except a pre-employment test;

\* \* \*

(H) in the case of a directly observed or monitored specimen collection for a drug test, failing to permit the observation or monitoring of the provision of a specimen, including failing to follow instructions from the observer to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if any type of prosthetic or other device (that could be used to interfere with the collection process) is present;

Observed collections are required in the following circumstances:

- (1) All return-to-duty tests;
- (2) All follow-up tests;
- (3) Anytime the employee is directed to provide another specimen because the temperature of the original specimen was outside of the accepted temperature range of 90o - 100o F;



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- (4) Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;
- (5) Anytime a collector observes that the employee has brought materials to the collection site or that the employee's conduct clearly indicates an attempt to tamper with a specimen;
- (6) Anytime the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the result;
- (7) Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated or substituted, but the test had to be canceled because the test of the split specimen could not be performed.

\* \* \*

**(g) Types of drug and alcohol testing.**

\* \* \*

**(1) Pre-employment and pre-assignment drug testing.**

- (A) An applicant for an FTA Safety-Sensitive position must produce a verified negative drug test result before employment.



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(B) An employee transferred or temporarily assigned to an FTA Safety-Sensitive position must produce a verified negative drug test result before performing safety-sensitive functions.

\* \* \*

**(4) Random testing.**

\* \* \*

(B) The County must ensure that random drug and alcohol tests are unannounced and that the dates for administering random tests are spread reasonably throughout the entire calendar year. Random tests will be reasonably spread throughout the day, week, and hours when safety sensitive functions are performed.

\* \* \*

**(h) Retesting of employees; collecting a new specimen after a dilute test result.**

\* \* \*

**(3) Collecting a new specimen from an applicant or employee after a dilute test result.**

(A) If the MRO reports that an applicant or employee had a verified dilute positive test, the County must treat it as a positive test result.

(B) The MRO will direct whether the new specimen is to be collected under direct observation or not.



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(C) After a dilute negative test result, if a new specimen is collected for testing this second test will be the test of record. If this second test also produces a dilute negative result, no additional tests will be conducted.

\* \* \*

Approved: Isiah Leggett  
Isiah Leggett, County Executive

09/27/17  
Date

Approved as to form and legality:

[Signature]  
Office of the County Attorney

9/21/2017  
Date