





12.	ADJOURNMENT	Baines, Chair	
Note:	NEXT MEETING: Monday, May 6, 2024, in the Board Room.		



**Executive Committee Meeting  
Monthly Attendance Record  
2024**

	January	5-Feb	4-Mar	8-Apr	6-May	June	1-Jul	5-Aug	9-Sep	7-Oct	4-Nov	2-Dec	Attended
Oliver Baines		O	O										2/10
Robert Pimentel		O	O										2/10
Amy Arambula		O	O										2/10
Lisa Mitchell		O	O										2/10
Charles Garabedian		O	O										2/10
Earl Brown		O	O										2/10
Alysia Bonner		O	O										2/10
Linda Hayes		O	O										2/10
Jimi Rodgers		O	O										2/10

O-Present X-Absent T-Teleconference

**EXECUTIVE COMMITTEE MEETING**

**Date:** March 4, 2024

**Time:** 5:30 PM

**Location:** 1920 Mariposa Street, Suite 310 Fresno, CA 93721

**MINUTES**

**1. CALL TO ORDER**

Oliver Baines, Chair, called the meeting to order at 5:32 p.m.

**2. ROLL CALL**

Roll was called and a quorum was established.

Chair Baines stated moving forward Staff will not be presenting on the agenda unless the Executive Committee Members have questions regarding the agenda item. If no questions are heard the agenda item will move forward.

**Committee Members:**

Oliver Baines  
Robert Pimentel  
Jimi Rodgers  
Any Arambula  
Earl Brown  
Charles Garabedian  
Alyssia Bonner  
Linda Hayes  
Lisa Michell

**Staff:**

Emilia Reyes  
Karina Perez  
Michelle L. Tutunjian  
Jack Lazzarini  
Sherry Neil  
Elionora Vivanco  
Ana Medina  
Rosa Pineda  
Shawn Riggins  
Jon Escobar  
Patrick Turner  
Susan Lopez  
Rena Failla  
Sandy Lomelino

Nelson Dibie  
Angela Riofrio  
Steve Warnes  
Leah Struck  
Andy Arredondo  
Annette Thornton  
Augie Quiroz  
Julio Romero  
Jay Zapata  
Amanda Venegas  
Misty Gattie-Blanco

**Teleconference (T):**

N/A

**Absent:**

N/A

**3. MINUTES FROM FEBRUARY 05, 2024 COMMITTEE MEETING**

Public Comments: None heard.

**Motion by:** Bonner **Second by:** Hayes

**Ayes:** Oliver Baines, Robert Pimentel, Jimi Rodgers, Any Arambula, Earl Brown, Charles Garabedian, Alyssia Bonner, Linda Hayes, and Lisa Michell.

**Nays:** None

#### 4. EXECUTIVE COMMITTEE CHARTER

Public Comments: None heard.

**Motion by:** Hayes **Second by:** Garabedian

**Ayes:** Oliver Baines, Robert Pimentel, Jimi Rodgers, Any Arambula, Earl Brown, Charles Garabedian, Alyssia Bonner, Linda Hayes, and Lisa Michell.

**Nays:** None

#### 5. SCHOOL OF UNLIMITED LEARNING

##### A. Material Revision Petition

Jack Lazzarini, Programs Officer, introduced Susan Lopez, Principal/Chief Academic Officer, Rena Failla, Guidance Coordinator, and Sandy Lomelino, Coordinator Curriculum Instruction, and provided a brief overview of the School of Unlimited Learning Material Revision petition to submit to Fresno unified School District.

Public Comments: None heard.

A motion was made by Vice Chair, Pimentel, seconded by Commissioner Brown. The motion did not pass by the following votes:

**Ayes:** Pimentel, Brown and Rodgers

**Nays:** Arambula, Mitchell, and Garabedian

**Abstain:** Baines, Bonner, and Hayes

After the first motion failed, a second motion was made by Chair Baines to approve this matter as recommended for full Board consideration. This was seconded by Commissioner Brown.

**Ayes:** Pimentel, Brown Garabedian, Rodgers, Baines, Bonner, and Hayes

**Nays:** Arambula, and Mitchell

**Abstain:** None

#### 6. FOOD SERVICES

##### A. Facility Strategic Plan - Ad hoc Committee

Public Comments: None heard.

**Motion by:** Garabedian **Second by:** Pimentel

**Ayes:** Oliver Baines, Robert Pimentel, Jimi Rodgers, Any Arambula, Earl Brown, Charles Garabedian, Alyssia Bonner, Linda Hayes, and Lisa Michell.

**Nays:** None

#### 7. FOSTER GRANDPARENTS PROGRAM

##### A. 2024 AmeriCorps Seniors Foster Grandparent Program Replacement and Expansion Opportunity Grant

Public Comments: None heard.

**Motion by:** Garabedian **Second by:** Bonner

**Ayes:** Oliver Baines, Robert Pimentel, Jimi Rodgers, Any Arambula, Earl Brown, Charles Garabedian, Alyssia Bonner, Linda Hayes, and Lisa Michell.

**Nays:** None

**8. HEALTH SERVICES**

A. 2024 Public Awareness and Community Outreach Campaign Services Grant

Public Comments: None heard.

**Motion by:** Pimentel **Second by:** Hayes

**Ayes:** Oliver Baines, Robert Pimentel, Jimi Rodgers, Any Arambula, Earl Brown, Charles Garabedian, Alyssia Bonner, Linda Hayes, and Lisa Michell.

**Nays:** None

**9. TRAINING AND EMPLOYMENT**

A. California Economic Resiliency Fund (CERF) Subaward Agreement

Public Comments: None heard.

**Motion by:** Hayes **Second by:** Bonner

**Ayes:** Oliver Baines, Robert Pimentel, Jimi Rodgers, Any Arambula, Earl Brown, Charles Garabedian, Alyssia Bonner, Linda Hayes, and Lisa Michell.

**Nays:** None

**10. COMMUNITY NEEDS ASSESSMENT**

Public Comments: None heard.

No action required.

**11. PROGRAM PLANNING AND DEVELOPMENT**

A. Grant Tracker

Public Comments: None heard.

No action required.

**12. CEO COMMENTS**

Emilia Reyes, Chief Executive Officer, announced the following:

- ❖ Special Meeting/Budget Hearing – special meetings will not count for or against Commissioners attendance. The following special meetings are scheduled on:
  - March 11<sup>th</sup> at 5:30pm – Food Security, Health & Wellness
  - March 18<sup>th</sup> at 4:30pm – Educational Achievement, Employment Opportunities
  - March 25<sup>th</sup> at 5:30pm – Community Safety, Housing Stability

- ❖ BoardEffect – to provide cost savings, we will no longer be utilizing BoardEffect and will transition to SharePoint. Board and Committee materials will be shared on SharePoint and continue to post the packets on the Agency website.
- ❖ Community Needs Assessment – the Community Needs Assessment launches Tuesday, March 5, 2024, and invited Commissioners to attend one or all the information sessions/forums. A flyer was provided with details of locations, times, and dates of the sessions/forums.
- ❖ Executive Committee/Board Meeting Day – Commissions can schedule a meeting with Chief Executive Officer, Emilia Reyes, on the Executive Committee and Board Meeting days to answer any questions or concerns.
- ❖ All Staff Conference – The 2024 All Staff Conference is taking place on Friday, March 15, 2024, from 8:30 a.m. to 4:30 p.m. at the Clovis Veterans Memorial District. The theme is Journey to Wellness – Healthy Mind, Healthy Body, Healthy Community.

Public Comments: None heard.

No action required.

13. **CLOSED SESSION**  
**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**  
 (Gov. Code section 54957)  
 Title: CEO

Ken Price, Legal Counsel, had no action to report out of closed session.

14. **PUBLIC COMMENTS**  
*(This is an opportunity for the members of the public to address the Board on any matter related to the Commission that is not listed on the agenda. Limit two minutes per speaker.)*

15. **COMMISSIONERS' COMMENT**

16. **ADJOURNMENT**

**Note:** **NEXT MEETING:** Monday, April 8, 2024, in the Board Room.





## **Conclusion**

If ratified by the Committee, this item will move forward for full Board consideration at the April 15, 2024, Commission meeting and allow Food Services to enter into a contract with FMAAA if proposal is awarded. If not ratified, Food Services will not accept funding from FMAAA if awarded and the program will not be able to continue providing congregate and home delivered meals to seniors in Fresno and Madera County.

**EXECUTIVE COMMITTEE MEETING**

<b>Date:</b> April 8, 2024	<b>Program:</b> Food Services
<b>Agenda Item #</b> 5	<b>Director:</b> Jon Escobar
<b>Subject:</b> Congregate Nutrition - COVID-19 Emergency Meal Program Contract Amendment	<b>Officer:</b> Jack Lazzarini

**Recommended Action**

Staff recommends Committee ratification for full Board consideration of the Congregate Nutrition COVID-19 Emergency Meal Program Contract Number 24-0095, Amendment 1 to \$1,050,000. This Amendment reflects an increase of \$250,000, changing the maximum amount of this agreement from \$800,000 to \$1,050,000.

**Background**

The Board approved the Title III C1 Congregate Nutrition COVID-19 Emergency Meal Program Contract at the October 5, 2023, meeting, Agenda Item 13D6.

On February 21, 2024, the Fresno Madera Area Agency on Aging (FMAAA) notified Fresno EOC of the additional funding for the 2023-2024 Emergency Meals Program, due to additional funding through the Older Americans Act.

**Fiscal Impact**

The increase in funding will generate an additional \$250,000 for the 2023-2024 contract year from July 1, 2023, to June 30, 2024.

**Conclusion**

If ratified by the Committee, this item will move forward for full Board consideration at the April 15, 2024, Commission Meeting and allow Food Services to provide additional meals to clients in the Fresno and Madera County service area who are unable to leave their home to purchase or prepare their own food. If not ratified, additional funding will not be accepted from FMAAA and Food Services will not be able to provide additional meals to homebound clients in Fresno and Madera County.

**EXECUTIVE COMMITTEE MEETING**

<b>Date:</b> April 8, 2024	<b>Program:</b> Sanctuary and Support Services
<b>Agenda Item #:</b> 6	<b>Director:</b> Misty Gattie-Blanco
<b>Subject:</b> 2024 Services for Victims of Human Trafficking Grant	<b>Officer:</b> Sherry Neil

**Recommended Action**

Staff recommends Committee approval for full Board consideration of the 2024 Services for Victims of Human Trafficking grant application due on April 22, 2024, to the U.S. Department of Justice (OJP), Office for Victims of Crime (OVC) in the amount of \$950,000 for a 3-year project period from October 1, 2024, to September 30, 2027.

**Background**

Since 2009, Fresno EOC has continuously operated the Central Valley Against Human Trafficking (CVAHT) project, administered by the Sanctuary and Support Services program. CVAHT acts as the lead anti-trafficking project in the Central Valley and provides leadership for the Central Valley Freedom Coalition. Through formal partnerships, CVAHT’s region includes Merced, Madera, Fresno, Kings, Tulare, and Kern counties. From 2010-2023, CVAHT and formal partners have identified 2,150 victims of human trafficking which includes 1,790 domestic and 360 foreign nationals. OJP is committed to advancing work that promotes civil rights and racial equity, increases access to justice, supports crime victims and individuals impacted by the justice system, strengthens community safety, and protects the public from crime and evolving threats, and builds trust between law enforcement and the community.

To enhance capacity to identify, assist, and provide services to all victims of human trafficking OVC leads the nation in supporting victim-centered and trauma-informed programs, policies, and resources that promote justice, access, and empowerment. This opportunity provides funding for services to victims of human trafficking.

Fresno EOC’s application is identified as Purpose Area 2: Enhancing Access to Comprehensive Services for Human Trafficking Victims. Under Purpose Area 2, awards will be made to victim service organizations with a demonstrated history of serving human trafficking victims with a comprehensive range of direct services.

This grant will support survivors in need of comprehensive services including, but not limited to, trauma response and case management. Services are available to survivors of all forms of human trafficking (labor and sex trafficking).

## **Fiscal Impact**

This funding will support personnel costs, travel, training, direct services, and other operating costs. A non-federal match of 25% is required and coming from the CA Office of Emergency Services (CalOES) and Slave 2 Nothing (S2N) in the amount of \$316,667.

## **Conclusion**

If approved by the Committee, this item will move forward for full Board consideration at the April 15, 2024, Commission Meeting and expand capacity for CVAHT to serve victims of human trafficking. If not approved, CVAHT will not accept funding if grant is awarded and will not be able to continue providing comprehensive services and case management to victims of human trafficking.

Fresno EOC - Sanctuary and Support Services Central Valley Against Human Trafficking OVC 2024 Services for Victims of Human Trafficking	FY 2024-2025 Budget Period 10/1/2024 - 9/30/2025 YEAR 1	FY 2025-2026 Budget Period 10/1/2025 - 9/30/2026 YEAR 2	FY 2026-2027 Budget Period 10/1/2026 - 9/30/2027 YEAR 3	Required Matching Funds - 25% (CalOES & S2N)	Total Program Budget
Personnel	\$ 136,102	\$ 140,180	\$ 144,406	\$ 128,940	\$ 549,628
Sanctuary Director - .08 FTE					
Central Valley Against Human Trafficking Program Manager - .15 FTE					
Anti-Human Trafficking Case Manager/Advocate - 2 FTE					
Human Trafficking Outreach Coordinator - 0.35 FTE					
Office Assistant (.15 FTE)					
Program Assistant (0.10 FTE)					
Fringe Benefits	\$ 71,010	\$ 75,627	\$ 80,612	\$ 62,599	\$ 289,848
Travel/Training	\$ 44,338	\$ 5,004	\$ 5,004	\$ -	\$ 54,346
Supplies	\$ 7,700	\$ 4,100	\$ 4,100	\$ 1,168	\$ 17,068
Contractual	\$ -	\$ -	\$ -	\$ 74,100	\$ 74,100
Procurement	\$ 2,480	\$ 2,480	\$ 2,480	\$ 900	\$ 8,340
Other Operating Expenses	\$ 24,304	\$ 20,604	\$ 20,604	\$ 8,100	\$ 73,612
Direct Services	\$ 26,400	\$ 26,400	\$ 26,400	\$ 40,860	\$ 120,060
Total Direct Charges	\$ 312,334	\$ 274,395	\$ 283,606	\$ 316,667	\$ 1,187,002
Indirect Charges	\$ 26,174	\$ 26,285	\$ 27,206	\$ -	\$ 79,665
TOTALS	\$ 338,508.00	\$ 300,680.00	\$ 310,812.00	\$ 316,667.00	\$ 1,266,667

**EXECUTIVE COMMITTEE MEETING**

<b>Date:</b> April 8, 2024	<b>Program:</b> Transit Systems
<b>Agenda Item #:</b> 7	<b>Director:</b> Thomas Dulin
<b>Subject:</b> Transit 5.12 Drug and Alcohol Policy	<b>Officer:</b> Jack Lazzarini

**Recommended Action**

Staff recommends Committee review and approval for full Board consideration of the revised Transit 5.12 Drug and Alcohol Policy.

**Background**

Effective June 2, 2023, legislation concerning Part 40, which governs federal drug and alcohol collection standards, was enacted. This legislation amended the regulations of the Federal Transit Administration (FTA) and the Federal Motor Carrier Safety Administration (FMCSA) regarding drug and alcohol collection.

This policy was last approved on December 16, 2020, by the Board of Commissioners. These amendments permit the collection of oral fluid instead of urine samples, particularly in cases of observed collection. Additionally, the legislation includes language addressing the collection of specimens for transgender or nonbinary individuals during observed collection.

To ensure compliance and clarity amidst these regulatory changes, we engaged with RLS & Associates, experts in Drug and Alcohol policies for transit agencies. Based on their recommendations, we have made the below adjustments to our current policy:

1. Revisions to ensure compliance with the June 2, 2023, legislation.
2. Separation of FTA and FMCSA regulations into distinct policies to mitigate potential confusion.
3. Revision of Attachment A to specify job duties requiring drug and alcohol testing by Job Title.
4. Amendment of Attachment B to eliminate the necessity for additional board approval when there's a change in the Designated Employer Representative (DER) individual for this policy.

## **Fiscal Impact**

Action on this agenda item will have no fiscal impact.

## **Conclusion**

If approved by the Committee, this item will move forward for full Board consideration at the April 15, 2024, Commission Meeting and replace the current Transit 5.12 Drug and Alcohol Policy. If not approved, the policy will remain outdated and potentially non-compliant with current regulations.

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**5.12 FMCSA DRUG AND ALCOHOL TESTING POLICY**  
**Fresno Economic Opportunities Commission Transit Systems**  
**Adopted as of [MONTH DD, YEAR]**

**A. PURPOSE**

- 1) The Fresno Economic Opportunities Commission Transit Systems provides public transit and paratransit services for the residents of Fresno County and Madera County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, Fresno EOC Transit Systems declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
- 2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transportation industry. Specifically, the Federal Motor Carrier Safety Administration (FMCSA) of the U.S. Department of Transportation has published 49 CFR Part 382, as amended, that mandates drug and alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test; and The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of specimens for drug and alcohol testing.
- 3) Any provisions set forth in this policy that are included under the sole authority of Fresno EOC Transit Systems and are not provided under the authority of the above named Federal regulations are underlined. Tests conducted under the sole authority of Fresno EOC Transit Systems will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

**B. APPLICABILITY**

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties. See Attachment A for a list of employees and the authority under which they are included.



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This policy applies to every person whose position requires the possession of a commercial driver's license (CDL); every employee performing a "safety-sensitive function" as defined below, and any person applying for such positions.

Under FMCSA (Part 382), you are a covered safety-sensitive employee if you perform any of the following safety-sensitive functions:

- Driving a commercial motor vehicle which requires the driver to have a CDL
- Waiting to be dispatched to operate a commercial motor vehicle
- Inspecting, servicing, or conditioning any commercial motor vehicle
- Performing all other functions in or upon a commercial motor vehicle (except resting in a sleeper berth)
- Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloading, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments being loaded or unloaded
- Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle

### **C. DEFINITIONS**

*Actual Knowledge:* means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in § 382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under § 382.307. As used in this section, "traffic citation" means a ticket, complaint, or other document charging driving a CMV while under the influence of alcohol or controlled substances.

*Adulterated specimen:* A specimen that has been altered, as evidence by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

*Alcohol:* The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

*Alcohol Concentration:* Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

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*Aliquot*: A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

*Alternate specimen*: An authorized specimen, other than the type of specimen previously collected or attempted to be collected.

*Canceled Test*: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

*Clearinghouse*: The FMCSA database that 49 CFR Part 382 requires employers and service agents to report information to, and to query, regarding CDL drivers who are subject to the DOT controlled substance and alcohol testing regulations.

*Collection Site*: A place selected by the employer where employees present themselves for the purpose of providing a specimen for a drug test.

*Commerce* means:

1. Any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States; or
2. Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in paragraph (1) of this definition.

*Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse)* means the FMCSA database that subpart G of 49 CFR Part 382 requires employers and service agents to report information to and to query regarding drivers who are subject to the DOT controlled substance and alcohol testing regulations.

*Commercial motor vehicle* means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle

1. Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
2. Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or
3. Is designed to transport 16 or more passengers, including the driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act

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(49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

*Confirmatory Drug Test:* A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify a specific drug or drug metabolite.

*Confirmatory Validity Test:* A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

*Covered Employee Under FMCSA Authority:* An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

*Cutoff:* The analytical value (e.g., drug or drug metabolite concentration) used as the decision point to determine a result (e.g., negative, positive, adulterated, invalid, or substituted) or the need for further testing.

*Designated Employer Representative (DER):* An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 382.

*DOT, The Department, DOT Agency:* These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

*Dilute specimen:* A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

*Disabling damage:* Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is

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available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

*Driver* means any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

*Employee:* Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under 49 CFR Part 40, the term employee has the same meaning as the term “donor” as found on CCF and related guidance materials produced by the Department of Health and Human Services.

*Evidential Breath Testing Device (EBT):* A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations, and appears on ODAPC’s Web page for “Approved Evidential Breath Measurement Devices” because it conforms with the model specifications available from NHTSA.

*Initial Drug Test:* The first test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

*Initial Specimen Validity Test:* The first test used to determine if a specimen is adulterated, diluted, substituted, or invalid

*Invalid Result:* The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

*Laboratory:* Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of HHS; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under 49 CFR Part 40.

*Limit of Detection (LOD):* The lowest concentration at which the analyte (e.g., drug or drug metabolite) can be identified.

*Limit of Quantification (LOQ):* For quantitative assays, the lowest concentration at which the identity and concentration of the analyte (e.g., drug or drug metabolite) can be accurately established.

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*Medical Review Officer (MRO):* A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the 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 result, together with his/her medical history, and any other relevant bio-medical information.

*Negative Dilute:* A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

*Negative result:* The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

*Non-negative specimen:* A specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), or invalid.

*Oral Fluid Specimen:* A specimen that is collected from an employee's oral cavity and is a combination of physiological fluids produced primarily by the salivary glands. An oral fluid specimen is considered to be a direct observation collection for all purposes of 49 CFR Part 40, as amended.

*Oxidizing Adulterant:* A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

*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.

*Positive result:* The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

*Primary specimen:* In drug testing, the specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of specimen validity testing. The primary specimen is the portion of the donor's subdivided specimen designated as the primary ("A") specimen by the collector to distinguish it from the split ("B") specimen, as defined in 49 CFR Part 40, as amended.

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*Prohibited drug:* Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine as specified in 49 CFR Part 40, as amended.

*Reconfirmed:* The result reported for a split (Bottle B) specimen when the second HHS-certified laboratory corroborates the original result reported for the primary (Bottle A) specimen.

*Rejected for Testing:* The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

*Safety-sensitive function* means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

1. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
2. All time inspecting equipment as required by §§ 392.7 and 392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
3. All time spent at the driving controls of a commercial motor vehicle in operation;
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of § 393.76 of this subchapter);
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

*Specimen:* Fluid, breath, or other material collected from an employee at the collection site for the purpose of a drug or alcohol test.

*Specimen Bottle:* The bottle that, after being sealed and labeled according to the procedures in 49 CFR Part 40, is used to hold a primary (“A”) or split (“B”) specimen during the transportation to the laboratory. In the context of oral fluid testing, it may be referred to as a “vial,” “tube,” or “bottle.”

*Split Specimen:* In drug testing, the specimen that is sent to a first laboratory

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and stored with its original seal intact, and which is transported to a second laboratory for retesting at the employee's request following MRO verification of the primary specimen as positive, adulterated or substituted.

*Split specimen collection:* A collection in which the single specimen collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

*Substance Abuse Professional (SAP):* A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

*Substituted specimen:* An employee's specimen not consistent with a normal human specimen, as determined by HHS (e.g., a urine specimen, with creatinine and specific gravity values that are so diminished, or so divergent that they are not consistent with normal human urine).

*Test Refusal:* The following are considered a refusal to test if the employee:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
- (2) Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine collection in a drug test, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of specimen without a valid medical explanation.
- (6) Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine collection .
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.

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- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.
- (14) As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

*Undiluted (neat) oral fluid:* An oral fluid specimen to which no other solid or liquid has been added. For example: A collection device that uses a diluent (or other component, process, or method that modifies the volume of the testable specimen) must collect at least 1 mL of undiluted (neat) oral fluid.

*Urine specimen:* Urine collected from an employee at the collection site for the purpose of a drug test.

*Verified negative test:* A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use at or above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

*Verified positive test:* A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use at or above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

*Validity testing:* The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the specimen, if the specimen was diluted, or if the specimen was altered.

#### **D. EDUCATION AND TRAINING**

- 1) Fresno EOC Transit Systems will provide educational materials that explain the requirements of Part 382 as well as this policy. Fresno EOC Transit Systems will ensure that a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle.

The materials to be made available to drivers shall include what is provided in this policy document in addition to a detailed discussion the following:

- 1) Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances



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- problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management; and
- 2) The requirement that the following personal information collected and maintained under Part 382 and this policy shall be reported to the FMCSA Clearinghouse:
    - a. A verified positive, adulterated, or substituted drug test result;
    - b. An alcohol confirmation test with a concentration of 0.04 or higher;
    - c. A refusal to submit to any test required by subpart C of this part;
    - d. An employer's report of actual knowledge, as defined at §382.107;
    - e. On duty alcohol use pursuant to §382.205;
    - f. Pre-duty alcohol use pursuant to §382.207;
    - g. Alcohol use following an accident pursuant to §382.209; and
    - h. Controlled substance use pursuant to §382.213;
    - i. A substance abuse professional (SAP as defined in §40.3 of this title) report of the successful completion of the return-to-duty process;
    - j. A negative return-to-duty test; and
    - k. An employer's report of completion of follow-up testing.
  - 3) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 382 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
  - 4) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

#### **E. PROHIBITED SUBSTANCES**

- 1) Prohibited substances addressed by this policy include the following.

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- a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1308.11 through 1308.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. It is important to note that the use of marijuana in any circumstances remains completely prohibited for any safety-sensitive employee subject to drug testing under USDOT regulations. The use of marijuana in any circumstance (including under state recreational and/or medical marijuana laws) by a safety-sensitive employee is a violation of this policy and a violation of the USDOT regulation 49 CFR Part 40, as amended.

USDOT drug testing regulations (49 CFR Part 40) require that all employees covered under FMCSA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a Fresno EOC Transit Systems supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.
- c. Alcohol: The use of beverages containing alcohol (including mouthwash, medication, food, candy) or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited.

## **F. PROHIBITED CONDUCT**

- 1) Illegal use of the drugs listed in this policy and as defined in 49 CFR Part 40, as amended is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty if they have used a prohibited drug as defined in 49 CFR Part 40, as amended.

- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.
- 3) The FRESNO ECONOMIC OPPORTUNITIES COMMISSION shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.
  - a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT regulations require the employee to be removed from the performance of safety-sensitive duties until:
    - i. The employee's alcohol concentration measures less than 0.02; or
    - ii. The start of the employee's next regularly scheduled duty period, but not less than twenty-four hours following administration of the test.
- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- 7) Fresno EOC Transit Systems, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.

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- 8) Consistent with the Drug-free Workplace Act of 1988, all Fresno EOC Transit Systems employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including agency premises and agency vehicles.

## **G. DRUG STATUTE CONVICTION**

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the Fresno EOC Transit Systems management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in this policy.

## **H. TESTING REQUIREMENTS**

- 1) Drug testing and alcohol testing will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FMCSA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in this policy, and return to duty/follow-up.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under Fresno EOC Transit Systems authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.
- 3) All covered employees will be subject to drug testing and alcohol testing as a condition of ongoing employment with Fresno EOC Transit Systems. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in this policy.

## **I. DRUG TESTING PROCEDURES**

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed

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in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

- 2) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine and/or oral fluid specimen will be collected as described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary specimen. For those specimens that are not negative, a confirmatory test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the confirmatory test are at or above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to Fresno EOC Transit Systems. If a legitimate explanation is found, the MRO will report the test result as negative.
- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49

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CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Fresno EOC Transit Systems will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however Fresno EOC Transit Systems will seek reimbursement for the split sample test from the employee.

- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.
  
- 7) Observed collections
  - a. Consistent with 49 CFR Part 40, as amended, collection under direct observation with no advance notice will occur if:
    - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Fresno EOC Transit Systems that there was not an adequate medical explanation for the result;
    - ii. The MRO reports to Fresno EOC Transit Systems that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
    - iii. The laboratory reported to the MRO that the urine specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the urine specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).
    - iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
    - v. The temperature on the original urine specimen was out of range (See §40.65(b)(5));

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- vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with (See §40.65(c)(1)).
- vii. All follow-up-tests; or
- viii. All return-to-duty tests

Urine collections that are required to be directly observed will be conducted by a person of the same gender as the donor as required by 49 CFR Part 40.67.

## **J. ALCOHOL TESTING PROCEDURES**

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.
- 2) A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at

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- least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) Fresno EOC Transit Systems affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
  - 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FMCSA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

#### **K. PRE-EMPLOYMENT TESTING**

- 1) All applicants for covered positions shall undergo drug testing prior to performance of a safety-sensitive function.
  - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
  - b. An employee shall not be placed, transferred or promoted into a position covered under FMCSA authority or company authority until the employee takes a drug test with verified negative results.
  - c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in 49 CFR Part 40 and 382. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
  - d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FMCSA authority or company authority submits a drug test with a verified positive



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result, the employee shall be subject to disciplinary action in accordance with this policy.

- e. If a pre-employment test is canceled, Fresno EOC Transit Systems will require the applicant to take and pass another pre-employment drug test.
- f. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- g. Applicants are required (even if ultimately not hired) to provide *Fresno EOC Transit Systems* with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. *Fresno EOC Transit Systems* is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide Fresno EOC Transit Systems proof of having successfully completed a referral, evaluation and treatment plan as described in 49 CFR Part 40.

## 2) FMCSA Drug Testing Exceptions

A driver is not required to undergo a pre-employment test if:

- I. The driver has participated in a DOT testing program within the previous 30 days; and
- II. While participating in that program, either:
  - a. Was drug tested within the past six months (from the date of application with the employer), or
  - b. Participated in the random drug testing program for the previous 12 months (from the date of application with the employer); and
- III. The Fresno EOC Transit Systems can ensure that no prior employer of the driver of whom Fresno EOC Transit Systems has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months

**L. REASONABLE SUSPICION TESTING**

- 1) All Fresno EOC Transit Systems FMCSA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under Fresno EOC Transit Systems' authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.
- 2) Fresno EOC Transit Systems shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in this policy.
- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the Fresno EOC Transit Systems
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with this policy. Fresno EOC Transit Systems shall place the employee on administrative leave in accordance with the provisions set forth under this policy. Testing in this circumstance would be performed under the direct authority of the Fresno EOC Transit Systems. **Since the employee self-**

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referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in this policy or the associated consequences.

## **M. POST-ACCIDENT TESTING**

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

FATAL ACCIDENTS – As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee who was performing safety-sensitive functions with respect to the vehicle.

NON-FATAL ACCIDENTS – As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, an alcohol test will be conducted on each driver who receives a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

1. The accident results in injuries requiring immediate medical treatment away from the scene; or
2. One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, a drug test will be conducted on each driver who receives a citation within thirty-two (32) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

1. The accident results in injuries requiring immediate medical treatment away from the scene; or
2. One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

### **General Accident Procedures:**

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The appropriate supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, 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 an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that Fresno EOC Transit Systems is unable to perform an FMCSA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), Fresno EOC Transit Systems may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FMCSA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

## **N. RANDOM TESTING**

- 1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Individuals who may be covered under company authority will be selected from a pool of non-DOT-covered employees.
- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.

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- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FMCSA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>.
- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered employees that fall under the FMCSA regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under Fresno EOC Transit Systems authority.
- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under Fresno EOC Transit Systems' authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

#### **O. RETURN-TO-DUTY TESTING**

Fresno EOC Transit Systems will terminate the employment of any employee that tests positive or refuses a test as specified in this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the agency, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety. The

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SAP will determine whether the employee returning to duty will require a return-to-duty drug test, alcohol test, or both.

#### **P. FOLLOW-UP TESTING**

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

#### **Q. RESULT OF DRUG/ALCOHOL TEST**

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be immediately removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAP) for assessment, and will be terminated.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. A test refusal is defined as any of the following circumstances:

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- a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
  - b. Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
  - c. Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
  - d. In the case of a directly-observed or monitored urine collection in a drug test, fail to permit monitoring or observation of your provision of a specimen.
  - e. Fail to provide a sufficient quantity of specimen without a valid medical explanation.
  - f. Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
  - g. Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
  - h. Fail to cooperate with any part of the testing process.
  - i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine collection.
  - j. Possess or wear a prosthetic or other device used to tamper with the collection process.
  - k. Admit to the adulteration or substitution of a specimen to the collector or MRO.
  - l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
  - m. Fail to remain readily available following an accident.
  - n. As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
- 4) An alcohol test result of  $\geq 0.02$  to  $\leq 0.039$  BAC shall result in the removal of the employee from duty for twenty-four hours, or the remainder or the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NONDOT alcohol test with a result of less than 0.02 BAC.
- 5) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

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6) FMCSA Procedures for Voluntary Self-Identification

Any covered employee who has a drug and/or alcohol use problem and has not been notified of the requirement to submit to reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to the [designated person or department], who will refer the individual to a substance abuse counselor for evaluation and treatment.

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function until successful completion of a prescribed rehabilitation program. Prior to participating in a safety-sensitive function, the employee must also undergo a DOT return-to-duty drug test with a verified negative result and/or a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

**R. GRIEVANCE AND APPEAL**

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

**S. PROPER APPLICATION OF THE POLICY**

Fresno EOC Transit Systems is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

**T. INFORMATION DISCLOSURE**

- 1) Drug/alcohol testing records shall be maintained by the Fresno EOC Transit Systems Drug and Alcohol Program Manager and, except as provided



below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.

- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other management personnel on a need-to-know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Fresno EOC Transit Systems or the employee.
- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken

11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FMCSA.

This Policy was adopted by the *Fresno EOC Transit Systems 'Board of Directors* on 11/07/2007.

This Policy was revised and adopted by the Fresno EOC Transit Systems Board of Directors on September 27, 2017.

This Policy was revised and adopted by the Fresno EOC Transit Systems Board of Directors on January 01, 2020.

This Policy was revised and adopted by the Fresno EOC Transit Systems Board of Directors on December 16, 2020.

*This Policy was revised and adopted by the Fresno EOC Board of Commissioners on XXXXXX XX, 202X*

*[APPLICABLE SIGNATURES]*

### Attachment A

Job Title	Job Duties	Testing Authority
Safety and Training Manager	<ul style="list-style-type: none"> <li>• Driving a commercial motor vehicle which requires the driver to have a CDL</li> </ul>	FMCSA
Maintenance Manager	<ul style="list-style-type: none"> <li>• Inspecting, servicing, or conditioning any commercial motor vehicle</li> <li>• Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle</li> </ul>	FMCSA
Transit Supervisors	<ul style="list-style-type: none"> <li>• Driving a commercial motor vehicle which requires the driver to have a CDL</li> </ul>	FMCSA
Mechanic	<ul style="list-style-type: none"> <li>• Inspecting, servicing, or conditioning any commercial motor vehicle</li> <li>• Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle</li> </ul>	FMCSA
Road Safety Coordinator	<ul style="list-style-type: none"> <li>• Driving a commercial motor vehicle which requires the driver to have a CDL</li> </ul>	FMCSA
Commercial Drivers	<ul style="list-style-type: none"> <li>• Driving a commercial motor vehicle which requires the driver to have a CDL</li> <li>• Waiting to be dispatched to operate a commercial motor vehicle</li> <li>• Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle</li> </ul>	FMCSA

## **Attachment B Contacts**

Any questions regarding this policy or any other aspect of the substance abuse policy including but not limited to, SAP Referral Services, Drug and Alcohol Program Administrator (third party if applicable) contact information, and HHS Certified Laboratory should be directed to the following:

Fresno EOC Transit Systems Designated Employer Representative  
Fresno EOC Transit Systems Safety and Training Department  
Address: 3110 W. Nielsen Ave; Fresno, Ca. 93706  
Telephone Number: 559-486-6587 Fax Number: 559-485-5379

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**5.12 FTA DRUG AND ALCOHOL TESTING POLICY**  
**Fresno Economic Opportunities Commission Transit Systems**  
**Adopted as of [XXXXX XX, 202X]**

**A. PURPOSE**

- 1) The Fresno Economic Opportunities Commission Transit Systems provides public transit and paratransit services for the residents of Fresno County and Madera County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, Fresno EOC Transit Systems declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
- 2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates drug testing and alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test; and The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of specimens.
- 3) Any provisions set forth in this policy that are included under the sole authority of Fresno EOC Transit Systems and are not provided under the authority of the above-named Federal regulations are underlined. Tests conducted under the sole authority of Fresno EOC Transit Systems will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

**B. APPLICABILITY**

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties. See Attachment A for a list of employees and the authority under which they are included.

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

- Operation of revenue service vehicle, including when the vehicle is not in revenue service.
- Maintenance of a revenue service vehicle or equipment used in revenue service.
- Security personnel who carry firearms.
- Controlling dispatch or movement of revenue service vehicles and
- Any transit employee who operates a non-revenue service vehicle that requires a Commercial Driver's License to operate.

Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service.

A list of safety-sensitive positions who perform one or more of the above-mentioned duties is provided in Attachment A. Supervisors and Managers are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL or receive remuneration for service in excess of actual expense.

### **C. DEFINITIONS & ABBREVIATIONS**

*Accident:* An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle.

*Adulterated specimen:* A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

*Alcohol:* The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

*Alcohol Concentration:* Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

*Alcohol use:* The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

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**Aliquot:** A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

**Alternate specimen:** An authorized specimen, other than the type of specimen previously collected or attempted to be collected.

**Breath Alcohol Technician (BAT):** A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.

**Cancelled Test:** A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

**CDL:** Commercial Drivers License

**Chain of custody.** The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF) as approved by the Office of Management and Budget.

**Collection Site:** A place selected by the employer where employees present themselves for the purpose of providing a specimen for a drug test.

**Confirmatory Drug Test:** A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.

**Confirmatory Validity Test:** A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

**Covered Employee Under FTA Authority:** An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

**Cutoff:** The analytical value (e.g., drug or drug metabolite concentration) used as the decision point to determine a result (e.g., negative, positive, adulterated, invalid, or substituted) or the need for further testing.

**Designated Employer Representative (DER):** An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test



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results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

*DOT, The Department, DOT Agency:* These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

*Dilute specimen:* A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

*Disabling damage:* Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

*Employee:* Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under 49 CFR Part 40, the term employee has the same meaning as the term “donor” as found on CCF and related guidance materials produced by the Department of Health and Human Services.

*Evidential Breath Testing Device (EBT):* A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations, and appears on Office of Drug & Alcohol Policy & Compliance’s (ODAPC) Web page for “Approved Evidential Breath Measurement Devices” because it conforms with the model specifications available from NHTSA.

*Initial Drug Test:* The first test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

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**Initial Specimen Validity Test:** The first test used to determine if a specimen is adulterated, diluted, substituted, or invalid.

**Invalid Result:** The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

**Laboratory:** Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under 49 CFR Part 40.

**Limit of Detection (LOD):** The lowest concentration at which the analyte (e.g., drug or drug metabolite).

**Limit of Quantification (LOQ):** For quantitative assays, the lowest concentration at which the identity and concentration of the analyte (e.g., drug or drug metabolite) can be accurately established.

**Medical Review Officer (MRO):** A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the 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 result, together with his/her medical history, and any other relevant bio-medical information.

**Negative Dilute:** A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

**Negative result:** The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

**Non-negative specimen:** A specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites.

**Oral Fluid Specimen:** A specimen that is collected from an employee's oral cavity and is a combination of physiological fluids produced primarily by the salivary glands. An oral fluid specimen is considered to be a direct observation collection for all purposes of 49 CFR Part 40, as amended.

**Oxidizing Adulterant:** A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

**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.

**Positive result:** The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

**Primary specimen:** In drug testing, the specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of specimen validity testing. The primary specimen is the portion of the donor's subdivided specimen designated as the primary ("A") specimen by the collector to distinguish it from the split ("B") specimen, as defined in 49 CFR Part 40, as amended.

**Prohibited drug:** Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine as specified in 49 CFR Part 40, as amended.

**Reconfirmed:** The result reported for a split (Bottle B) specimen when the second HHS-certified laboratory corroborates the original result reported for the primary (Bottle A) specimen.

**Rejected for Testing:** The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

**Revenue Service Vehicles:** All transit vehicles that are used for passenger transportation service.

**Safety-sensitive functions:** (FTA) Employee duties identified as:

- (1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.
- (2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Driver's License (CDL).
- (3) Maintaining a revenue service vehicle or equipment used in revenue service.

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- (4) Controlling dispatch or movement of a revenue service vehicle.
- (5) Carrying a firearm for security purposes.

*Specimen: Fluid, breath, or other material collected from an employee at the collection site for the purpose of a drug or alcohol test.*

*Specimen Bottle:* The bottle that, after being sealed and labeled according to the procedures in 49 CFR Part 40, is used to hold a primary (“A”) or split (“B”) specimen during the transportation to the laboratory. In the context of oral fluid testing, it may be referred to as a “vial,” “tube,” or “bottle.”

*Split Specimen:* In drug testing, the specimen that is sent to a first laboratory and stored with its original seal intact, and which is transported to a second laboratory for retesting at the employee’s request following MRO verification of the primary specimen as positive, adulterated or substituted.

*Split specimen collection:* A collection in which the single specimen collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

*Substance Abuse Professional (SAP):* A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

*Substituted specimen:* An employee's specimen not consistent with a normal human specimen, as determined by HHS (e.g., a urine specimen, with creatinine and specific gravity values that are so diminished, or so divergent that they are not consistent with normal human urine).

*Test Refusal:* The following are considered a refusal to test if the employee:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
- (2) Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine collection, fail to permit monitoring or observation of your provision of a specimen.

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- (5) Fail to provide a sufficient quantity of specimen without a valid medical explanation.
- (6) Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.
- (14) As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

*Undiluted (neat) oral fluid:* An oral fluid specimen to which no other solid or liquid has been added. For example: A collection device that uses a diluent (or other component, process, or method that modifies the volume of the testable specimen) must collect at least 1 mL of undiluted (neat) oral fluid.

*Urine specimen:* Urine collected from an employee at the collection site for the purpose of a drug test.

*Vehicle:* A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

*Verified negative test:* A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

*Verified positive test:* A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

*Validity testing:* The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the specimen, if the specimen was diluted, or if the specimen was altered.

#### **D. EDUCATION AND TRAINING**

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

#### **E. PROHIBITED SUBSTANCES**

- 1) Prohibited substances addressed by this policy include the following.
  - a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1308.11 through 1308.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. It is important to note that the use of marijuana in any circumstances remains completely prohibited for any safety-sensitive employee subject to drug testing under USDOT regulations. The use of marijuana in any circumstance (including under state recreational and/or medical marijuana laws) by a safety-sensitive employee is a violation of this policy and a violation of the USDOT regulation 49 CFR Part 40, as amended.

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a Fresno EOC Transit Systems supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.
- c. Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited.

## **F. PROHIBITED CONDUCT**

- 1) Illegal use of the drugs listed in this policy and as defined in 49 CFR Part 40, as amended is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty if they have used a prohibited drug as defined in 49 CFR Part 40, as amended.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.
- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having

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an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.

- a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:
  - i. The employee's alcohol concentration measures less than 0.02; or
  - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.
- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- 7) Fresno EOC Transit Systems, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.
- 8) Consistent with the Drug-free Workplace Act of 1988, all Fresno EOC Transit Systems employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the workplace including transit system premises and transit vehicles.

#### **G. DRUG STATUTE CONVICTION**

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the Fresno EOC Transit Systems management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in this policy.



## **H. TESTING REQUIREMENTS**

- 1) Drug testing and alcohol testing will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in this policy, and return to duty/follow-up.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under Fresno EOC Transit Systems authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.
- 3) All covered employees will be subject to drug testing and alcohol testing as a condition of ongoing employment with Fresno EOC Transit Systems. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in this policy.

## **I. DRUG TESTING PROCEDURES**

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- 2) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine and/or oral fluid specimen will be collected as described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary specimen. For those specimens that are not negative, a confirmatory test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the

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confirmatory test are at or above the minimum thresholds established in 49 CFR Part 40, as amended.

- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to Fresno EOC Transit Systems. If a legitimate explanation is found, the MRO will report the test result as negative.
- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Fresno EOC Transit Systems will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however Fresno EOC Transit Systems will seek reimbursement for the split sample test from the employee.
- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.

7) Observed collections

- a. Consistent with 49 CFR Part 40, as amended, collection under direct observation with no advance notice will occur if:
  - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Fresno EOC Transit Systems that there was not an adequate medical explanation for the result;
  - ii. The MRO reports to Fresno EOC Transit Systems that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
  - iii. The laboratory reported to the MRO that the urine specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the urine specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).
  - iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
  - v. The temperature on the original urine specimen was out of range;
  - vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
  - vii. All follow-up-tests; or
  - viii. All return-to-duty tests

Urine collections that are required to be directly observed will be conducted by a person of the same gender as the donor as required by 49 CFR Part 40.67.

**J. ALCOHOL TESTING PROCEDURES**

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.
- 2) A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) Fresno EOC Transit Systems affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

## **K. PRE-EMPLOYMENT TESTING**

- 1) All applicants for covered transit positions shall undergo drug testing prior to performance of a safety-sensitive function.
  - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
  - b. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.
  - c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
  - d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with this policy.
  - e. If a pre-employment test is canceled, Fresno EOC Transit Systems will require the applicant to take and pass another pre-employment drug test.
  - f. In instances where a FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.

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- g. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- h. Applicants are required (even if ultimately not hired) to provide Fresno EOC Transit Systems with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. Fresno EOC Transit Systems is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide Fresno EOC Transit Systems proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

#### **L. REASONABLE SUSPICION TESTING**

- 1) All Fresno EOC Transit Systems FTA/FMCSA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under Fresno EOC Transit Systems' authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.
- 2) Fresno EOC Transit Systems shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves

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and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in this policy.

- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the Fresno EOC Transit Systems.
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with this policy. Fresno EOC Transit Systems shall place the employee on administrative leave in accordance with the provisions set forth under this policy. Testing in this circumstance would be performed under the direct authority of the Fresno EOC Transit Systems. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority.** However, self-referral does not exempt the covered employee from testing under Federal authority as specified in this policy or the associated consequences.

#### **M. POST-ACCIDENT TESTING**

- 1) FATAL ACCIDENTS – A covered employee will be required to undergo drug and alcohol testing if they are involved in an accident with a transit vehicle, whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.
- 2) NON-FATAL ACCIDENTS - A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:

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- a. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
- b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.

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

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

#### **General Accident Procedures:**

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, 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 an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.



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In the rare event that Fresno EOC Transit Systems is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), Fresno EOC Transit Systems may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA/FMCSA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

## **N. RANDOM TESTING**

- 1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Individuals who may be covered under company authority will be selected from a pool of non-DOT-covered employees.
- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>.
- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under Fresno EOC Transit Systems authority.
- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under Fresno EOC Transit Systems' authority, a non-DOT random alcohol

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test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.

- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

## **O. RETURN-TO-DUTY TESTING**

Fresno EOC Transit Systems will terminate the employment of any employee that tests positive or refuses a test as specified in this policy. In the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety. The SAP will determine whether the employee will require a return-to-duty drug test, alcohol test, or both.

## **P. FOLLOW-UP TESTING**

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute

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a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

#### **Q. RESULT OF DRUG/ALCOHOL TEST**

- 1) Any covered employee that has a verified positive drug test, an alcohol test of 0.04 or above, or test refusal, will be immediately removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAPs) for assessment, and will be terminated.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. A test refusal is defined as any of the following circumstances:
  - a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
  - b. Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
  - c. Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
  - d. In the case of a directly-observed or monitored urine collection, fail to permit monitoring or observation of your provision of a specimen.
  - e. Fail to provide a sufficient quantity of specimen without a valid medical explanation.
  - f. Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
  - g. Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
  - h. Fail to cooperate with any part of the testing process.
  - i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine collection.

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- j. Possess or wear a prosthetic or other device used to tamper with the collection process.
- k. Admit to the adulteration or substitution of a specimen to the collector or MRO.
- l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- m. Fail to remain readily available following an accident.

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

- 4) An alcohol test result of  $\geq 0.02$  to  $\leq 0.039$  BAC shall result in the removal of the employee from duty for eight hours, or the remainder or the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a Non-DOT alcohol test with a result of less than 0.02 BAC.
- 5) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
  - a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;
  - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from Fresno EOC Transit Systems employment.
    - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in this policy; however, all follow-up testing performed as part of a return-to-work agreement required under this policy is under the sole authority of Fresno EOC Transit Systems and will be performed using non-DOT testing forms.
  - c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. All tests conducted as part of the return to work agreement will be conducted under company authority and will be performed using non-DOT testing forms.
  - d. A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal

**regulations and will not be considered as a positive test result in relation to the progressive discipline defined in this policy.**

- e. Periodic unannounced follow-up drug/alcohol testing conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in this policy.
  - f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with Fresno EOC Transit Systems.
  - g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- 6) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

**R. GRIEVANCE AND APPEAL**

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

**S. PROPER APPLICATION OF THE POLICY**

Fresno EOC Transit Systems is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

**T. INFORMATION DISCLOSURE**

- 1) Drug/alcohol testing records shall be maintained by the Fresno EOC Transit Systems Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.
- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration

records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.

- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need to know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Fresno EOC Transit Systems or the employee.
- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken.
- 11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the *Fresno EOC Transit Systems 'Board of Directors* on 11/07/2007.

This Policy was revised and adopted by the Fresno EOC Transit Systems Board of Directors on September 27, 2017.

This Policy was revised and adopted by the Fresno EOC Transit Systems Board of Directors on January 01, 2020.

This Policy was revised and adopted by the Fresno EOC Transit Systems Board of Directors on December 16, 2020.

*This Policy was revised and adopted by the Fresno EOC Board of Commissioners on XXXXXX XX, 202X*

*[APPLICABLE SIGNATURES]*

## Attachment A

Job Title	Job Duties	Testing Authority
Safety and Training Manager	<ul style="list-style-type: none"> <li>• Operation of non-revenue vehicle requiring CDL</li> </ul>	FTA
Maintenance Manager	<ul style="list-style-type: none"> <li>• Maintenance of a revenue service vehicle or equipment used in revenue service</li> </ul>	FTA
Transit Supervisors	<ul style="list-style-type: none"> <li>• Operation of revenue vehicle</li> <li>• Operation of non-revenue vehicle requiring CDL</li> </ul>	FTA
Dispatcher	<ul style="list-style-type: none"> <li>• Controlling dispatch or movement of revenue service vehicles</li> </ul>	FTA
Mechanic	<ul style="list-style-type: none"> <li>• Maintenance of a revenue service vehicle or equipment used in revenue service</li> </ul>	FTA
Road Safety Coordinator	<ul style="list-style-type: none"> <li>• Operation of revenue vehicle</li> <li>• Operation of non-revenue vehicle requiring CDL</li> </ul>	FTA
Commercial Drivers	<ul style="list-style-type: none"> <li>• Operation of revenue vehicle</li> <li>• Operation of non-revenue vehicle requiring CDL</li> </ul>	FTA



## **Attachment B Contacts**

Any questions regarding this policy or any other aspect of the substance abuse policy including but not limited to, SAP Referral Services, Drug and Alcohol Program Administrator (third party if applicable) contact information, and HHS Certified Laboratory should be directed to the following:

Fresno EOC Transit Systems Designated Employer Representative  
Fresno EOC Transit Systems Safety and Training Department  
Address: 3110 W. Nielsen Ave; Fresno, Ca. 93706  
Telephone Number: 559-486-6587 Fax Number: 559-485-5379

**EXECUTIVE COMMITTEE MEETING**

<b>Date:</b> April 8, 2024	<b>Program:</b> Program Planning & Development
<b>Agenda Item #:</b> 8	<b>Director:</b> Ana Medina
<b>Subject:</b> Grant Tracker	<b>Officer:</b> Michelle Tutunjian

**Recommended Action**

The information presented in the Grant Tracker is intended to keep the Board apprised of program grant activity.

**Background**

The below information are updates from the last grant tracker presented on March 4, 2024.

<b>Not Awarded</b>					
<b>Program</b>	<b>Name</b>	<b>Funder</b>	<b>Amount Requested</b>	<b>Summary</b>	<b>Not Awarded Reason</b>
Food Services – Food Distributions	Sierra Grant Program	Bank of the Sierra	\$5,000	Funding food distributions for 2023.	Too many applications to fund
Health Services	Fresno HOPE	Fresno HOPE Pathways Community Hub	\$325,000	Funding will support care coordination agencies employing community health workers, utilizing the Pathways Community HUB Institute™ Model.	Not Available

Fresno County Economic Opportunities Commission  
Grant Tracker  
Monday, April 8, 2024

2024 AWARDED								
Due Date	Program	Name	Funder	Amount Requested	Summary	Board Report Date	Date of Notice	Amount Awarded
1/31/2024	LCC - Local Conservation Corps (LCC)	FY2023 Community Project Funding/Congressionally Directed Spending	Congress Appropriations	\$500,000	This will fund vehicle and heavy equipment for in-the-field student learning.	1/22/2024	N/A	\$500,000
1/16/2024	Health Services - AFLP	2024-25 Title X Family Planning Services	Essential Access Health	\$464,531	Title X funding is awarded to subrecipients across the nation to provide low-income women and men below 250% of poverty with quality sexual and reproductive health care services.	1/22/2024	2/5/2024	\$464,531
11/27/2023	Health Services - Community Health Center	Mpox Community-Based Organization Grant	The CA Department of Public Health	\$55,000	Funding will support Mpox vaccine administration, vaccine outreach/education and testing activities to communities at-risk for Mpox.	N/A	3/19/2024	\$55,000
2/14/2024	Health Services	2024 Public Awareness and Community Outreach Campaign Services	The Office of Community Partnerships and Strategic Communications (OCPSC)	\$600,000	To effectively reach and engage Californians, especially those experiencing the greatest health and social inequities.	3/4/2024	3/18/2024	\$600,000
2/9/2024	Sanctuary and Support Services - LGBTQ+ Resource Center	American Rescue Plan Act for Community Based Organizations	City of Fresno	\$100,000	Funding will support general operating costs for the LGBTQ+ Resource Center.	N/A	3/7/2024	\$100,000
6/13/2023	Training and Employment	One Fresno Youth Jobs Corps Program Worksites	City of Fresno	\$300,000	Provision of work experience for Fresno youth for a 6-month period.	6/26/2023	2/1/2024	\$200,000
9/28/2023	Sanctuary and Support Services - Homeless Services	FY23 Continuum of Care Competition and Renewal or Replacement of Youth Homeless Demonstration Program Grants	US Department of Housing and Urban Development	\$2,350,438	To quickly re-house homeless individuals, families, persons fleeing domestic violence, and youth while minimizing the trauma and dislocation caused by homelessness; to promote access to and effective utilization of mainstream programs by homeless; and to optimize self-sufficiency among those experiencing homelessness.	2/21/2024	1/29/2024	\$2,019,622
1/31/2024	LCC - Local Conservation Corps (LCC)	Local Conservation Corps SB 1013	State of California Employment Development Department	\$799,665	Connect participants and applicants of Goods Job Challenge with resources, including high school equivalency programs and vocational plans.	3/18/2024	2/28/2024	\$799,665
6/20/2023	Training and Employment	CERF Economic Development Pilot	State of California Employment Development Department	\$150,000	Connect participants and applicants of Goods Job Challenge with resources, including high school equivalency programs and vocational plans.	3/18/2024	3/1/2024	\$150,000

2023 NOT AWARDED								
Due Date	Program	Name	Funder	Amount Requested	Summary	Board Report Date	Date of Notice	
11/15/2023	Health Services	Fresno HOPE	Fresno HOPE Pathways Community Hub	\$325,000	Funding will support care coordination agencies employing community health workers, utilizing the Pathways Community HUB Institute™ Model.	12/7/2023	3/26/2024	
8/7/2023	Food Services - Food Distributions	Sierra Grant Program	Bank of the Sierra	\$5,000	Funding food distributions for 2023.	N/A	3/12/2024	
6/27/2023	Health Services - Community Health Center	Community-Based Approaches to Reducing Sexually Transmitted Diseases	CDC	\$325,000	STI Testing on Community College Campuses, and free transportation to clinic if treatment is needed.	5/22/2023	1/17/2024	

PENDING GRANTS							
Due Date	Program	Name	Funder	Amount Requested	Summary	Board Report Date	Date of Notice
Grants In Progress							
4/2/2024	Sanctuary and Support Services - Homeless Services	FY25 Community Projects (Costa) - Homeless Meal Distribution	House Appropriations Committee	TBD	Homeless and Community Meal Distribution Program.	N/A	TBD
4/2/2024	Training and Employment	FY25 Community Projects (Costa) - Workforce Development	House Appropriations Committee	\$1,500,000	Workforce Training Program with a focus on energy efficiency, solar and electrification.	N/A	TBD
4/16/2024	Health Services - Tobacco Education Program	CG 24-10056 Advancing Tobacco Cessation in Community Clinics Project (ATCP) Cohort 3	California Department of Public Health, California Tobacco Control Program	\$81,000	The purpose of the Advancing Tobacco Cessation in Community Clinics Project (ATCP) Cohort 3 is to measurably reduce tobacco use within the funded clinic populations. Achieving this outcome will decrease tobacco use disparities and reduce the burden of tobacco-related diseases.	N/A	TBD
4/22/2024	Sanctuary and Support Services - CVAHT	OVC FY 2024 Services for Victims of Human Trafficking	Office for Victims of Crime (OVC)	\$440,000	The purpose of this program is to develop, expand, or strengthen victim service programs for victims of human trafficking, including those that provide trauma-informed services.	4/8/2024	9/30/2024
4/30/2024	Food Services - Free Meals for Kids	No Kid Hungry Summer Grant	No Kid Hungry	\$15,000	The No Kid Hungry Community Nutrition Grant Opportunity will provide funding to community organizations and government entities to maximize the child nutrition programs to ensure children and families have access to healthy meals at school and at home during the school year and/or summer months.	N/A	TBD
5/1/2024	Health Services - Dental Care for Kids	School-Based and School-Linked Initiatives to Improve Oral Health	CareQuest Institute	\$125,000	CareQuest Institute is seeking to fund projects that are engaging schools to address systemic barriers to oral health, inclusive of access, for children and their families.	N/A	TBD
3/22/2024	Stop the Violence	Gang Intervention Proposal for FUSD	FUSD	\$73,000	STV will conduct gang intervention programming and mentoring at FUSD school sites (sites to be determined)	N/A	TBD
Grants Submitted							
3/20/2024	Advancing Fresno County Guaranteed Income	Mayors for a Guaranteed Income Proposal	Mayors for a Guaranteed Income	\$15,000	Funds will help the GI program provide gift cards to evaluation survey respondents.	N/A	TBD
3/11/2024	Foster Grandparent Program	FY2024 AmeriCorps Seniors Q4 Foster Grandparent Program Continuation or Renewal	AmeriCorps	\$495,000	Funding will support the continuation of Foster Grandparents. Older adults 55+ and over volunteer to mentor and tutor for low-income students in Fresno County.	2/7/2024	6/1/2024
2/27/2024	Training and Employment - Valley Apprenticeship Connections (VAC)	Career Skills Training	Department of Energy	\$1,081,250	Funding for job training to gain industry-recognized certifications in energy efficiency sector.	1/22/2024	5/20/2024
3/4/2024	Food Services - Food Distributions	Kaiser Permanente Food & Nutrition Security Grant	Kaiser Permanente	\$25,000	Funding will expand capacity in rural communities to new partners and schools in Riverdale and Five Points providing 3,600 low-income families with nutritious, healthy, and fresh food commodities.	N/A	TBD

3/1/2024	Sanctuary and Support Services - LGBTQ+ Resource Center	2024 wayOut Grant	wayOUT	\$112,740	Funding will support general operating costs for the LGBTQ+ Resource Center, including case management, drop-in services, and mental health workshops.	N/A	4/1/2024
3/1/2024	Food Services - Food Distributions	Open Call Grant Application Clif Family Foundation	Clif Family Foundation	\$50,000	Funding for operational support with areas of focus: Strengthen our food system, Enhance equitable community health outcomes, Safeguard our environment and natural resources	N/A	TBD
2/1/2024	Foster Grandparent Program	FY2024 AmeriCorps Foster Grandparents Program Replacement and Expansion Opportunity	AmeriCorps	\$360,000	Funding will expand capacity to service low-income program participants in rural areas of Fresno County.	2/7/2024	4/1/2024
1/29/2024	Sanctuary and Support Services - CVAHT	Human Trafficking Victim Assistance	Cal OES	\$899,999	This grant will fund trauma-informed, supportive services for victims of human trafficking, including shelter, case management, and emergency assistance.	1/22/2024	TBD
1/9/2024	Sanctuary and Support Services - Homeless Services	Homeless, Housing, Assistance, and Prevention (HHAP)	County of Fresno Department of Social Services	\$4,368,334	Funding will support Bridge & Rapid Rehousing services.	1/22/2024	4/23/2024
10/6/2023	Health Services	Early Childhood Wraparound Services	CA Dept of Health Care Services	\$1,500,000	Funding for childhood wraparound services, could include home visitation or prenatal care.	9/25/2023	TBD
9/15/2023	Training and Employment - Summer Youth Internship Program	US Bank Letter of Interest	US Bank	\$75,000	Funding salaries for interns.	N/A	TBD
8/8/2023	Food Services - Food Distributions	Costco Charitable Giving Grant	Costco Wholesale	\$7,500	Funding food distributions for 2023.	N/A	TBD
11/1/2023	Sanctuary and Support Services - CVAHT	Slave 2 Nothing Grant	Slave 2 Nothing Foundation	\$45,000	Funding will support low-barrier emergency housing for victims of human trafficking.	N/A	5/3/2024

**EXECUTIVE COMMITTEE MEETING**

<b>Date:</b> April 8, 2024	<b>Program:</b> Human Resources
<b>Agenda Item #:</b> 9	<b>Director:</b> N/A
<b>Subject:</b> Human Resources Quarterly Summary Report	<b>Officer:</b> Nelson Dibie

**Recommended Action**

The information presented below is intended to keep the Board apprised with a high-level snapshot of Human Resources activity. The following information is provided in these reports:

**Background**

On a quarterly basis, staff provide the Committee with a high-level snapshot of Human Resources activity. A summary of findings and detailed reports are provided on the following:

- Employee Overview
  - Active Staff
  - Separations
  - Agency Demographics
- Talent Acquisition
  - New Hires
  - Promotions
  - Job Fairs
- Benefits Enrollments
  - Enrollment Details
- Safety & Worker’s Compensation
  - Injuries
  - Near Misses

**Fiscal Impact**

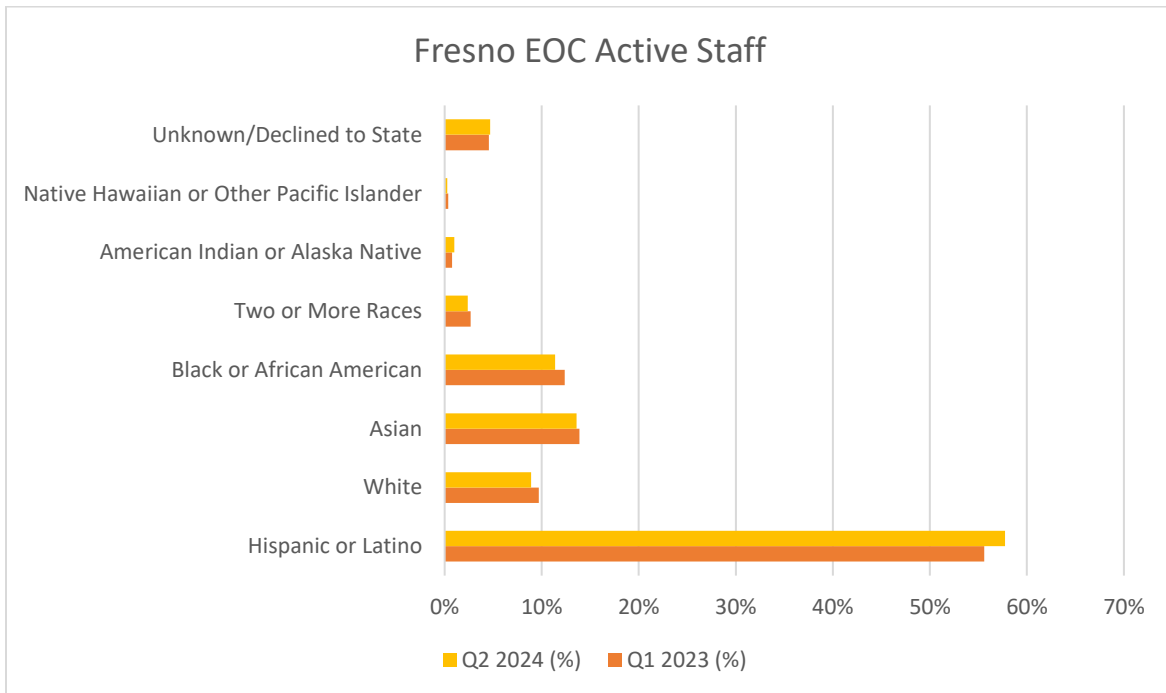
Action on this agenda item will have no fiscal impact.

# Fresno EOC Demographics

Quarter 1

January 1, 2024 through March 31, 2024

Fresno EOC Active Staff		
Ethnicity	Q1 2023 (%)	Q1 2024 (%)
Hispanic or Latino	56%	58%
White	10%	9%
Asian	14%	14%
Black or African American	12%	11%
Two or More Races	3%	2%
American Indian or Alaska Native	1%	1%
Native Hawaiian or Other Pacific Islander	0%	0%
Unknown/Declined to State	5%	5%
<b>Total</b>	<b>1050</b>	<b>1089</b>

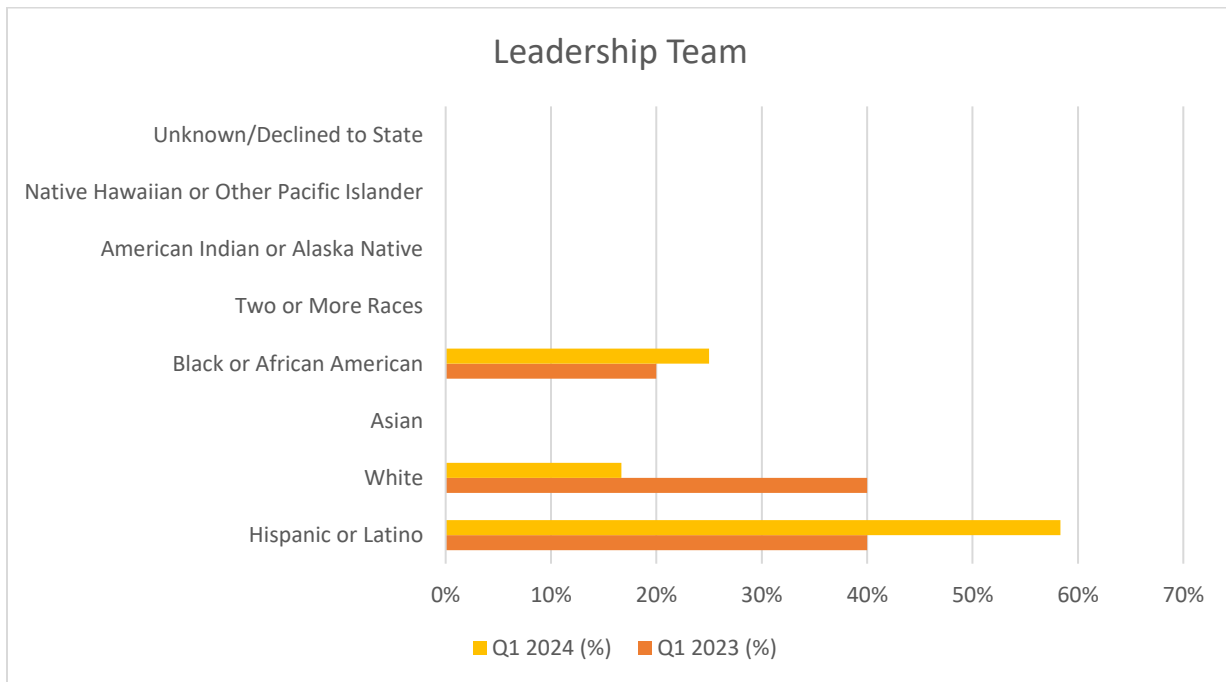


# Fresno EOC Leadership Team & Program Director Demographics

Quarter 1

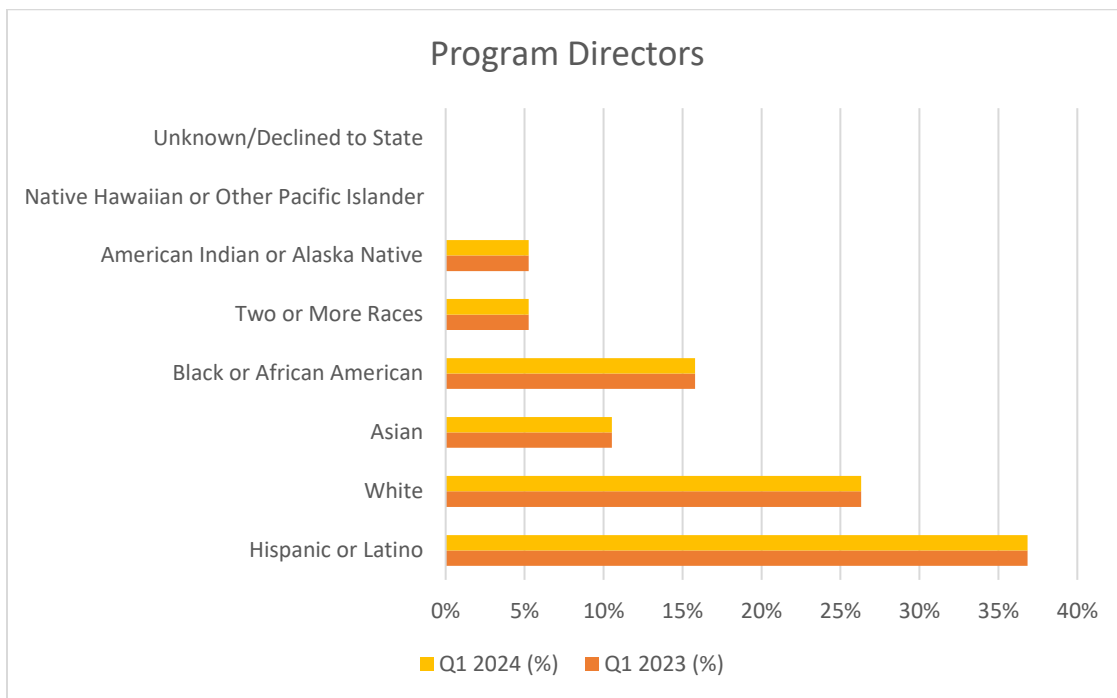
January 1, 2024 through March 31, 2024

Leadership Team		
Ethnicity	Q1 2023 (%)	Q1 2024 (%)
Hispanic or Latino	40%	58%
White	40%	17%
Asian	0%	0%
Black or African American	20%	25%
Two or More Races	0%	0%
American Indian or Alaska Native	0%	0%
Native Hawaiian or Other Pacific Islander	0%	0%
Unknown/Declined to State	0%	0%





Program Directors		
Ethnicity	Q1 2023 (%)	Q1 2024 (%)
Hispanic or Latino	37%	37%
White	26%	26%
Asian	11%	11%
Black or African American	16%	16%
Two or More Races	5%	5%
American Indian or Alaska Native	5%	5%
Native Hawaiian or Other Pacific Islander	0%	0%
Unknown/Declined to State	0%	0%

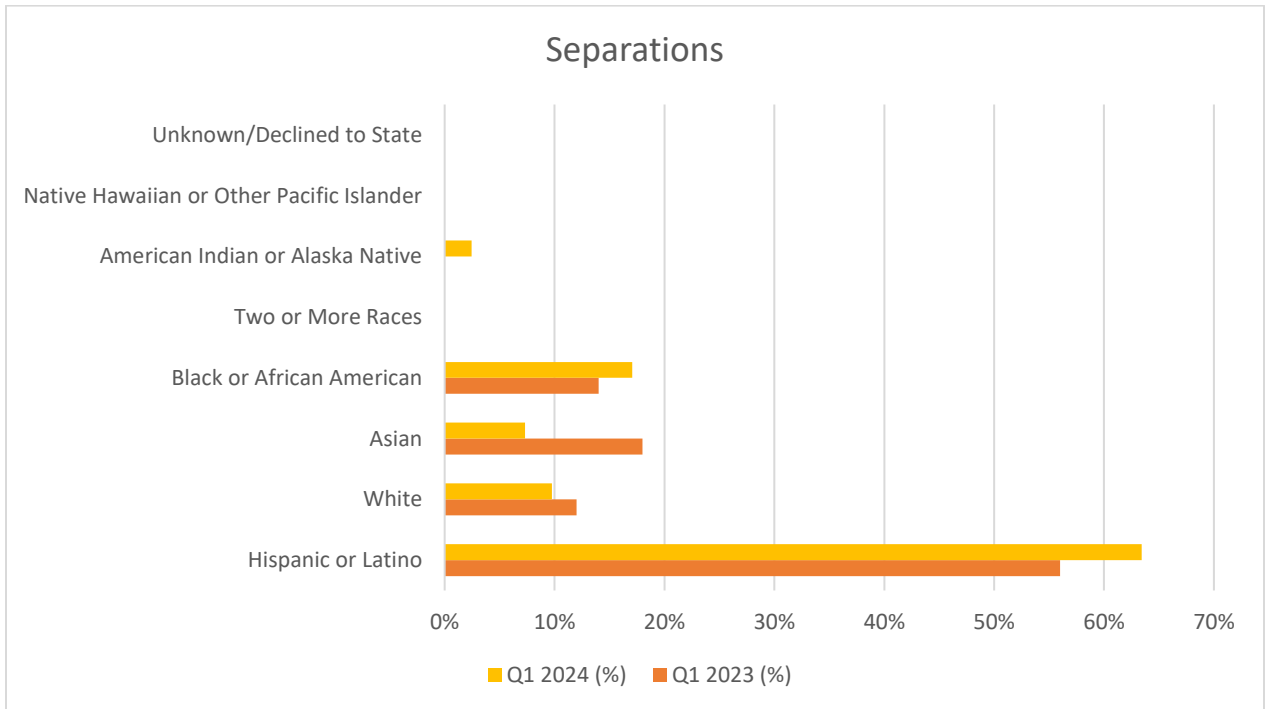


# Fresno EOC Separations

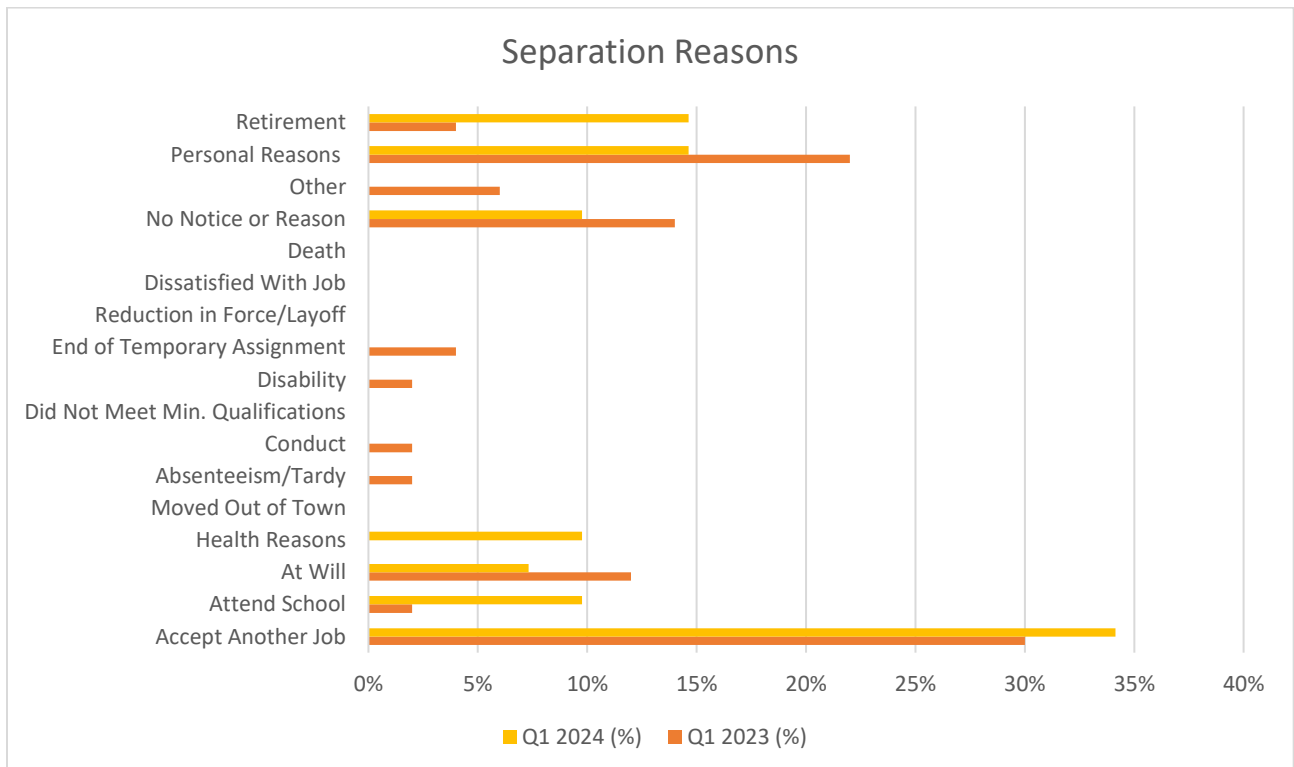
Quarter 1

January 1, 2024 through March 31, 2024

Fresno EOC Separations		
Ethnicity	Q1 2023 (%)	Q1 2024 (%)
Hispanic or Latino	56%	63%
White	12%	10%
Asian	18%	7%
Black or African American	14%	17%
Two or More Races	0%	0%
American Indian or Alaska Native	0%	2%
Native Hawaiian or Other Pacific Islander	0%	0%
Unknown/Declined to State	0%	0%
<b>Total</b>	<b>50</b>	<b>41</b>



Fresno EOC Separation Reasons		
Reason	Q1 2023 (%)	Q1 2024 (%)
Accept Another Job	30%	34%
Attend School	2%	10%
At Will	12%	7%
Health Reasons	0%	10%
Moved Out of Town	0%	0%
Absenteeism/Tardy	2%	0%
Conduct	2%	0%
Did Not Meet Min. Qualifications	0%	0%
Disability	2%	0%
End of Temporary Assignment	4%	0%
Reduction in Force/Layoff	0%	0%
Dissatisfied With Job	0%	0%
Death	0%	0%
No Notice or Reason	14%	10%
Other	6%	0%
Personal Reasons	22%	15%
Retirement	4%	15%
<b>Total</b>	<b>50</b>	<b>41</b>

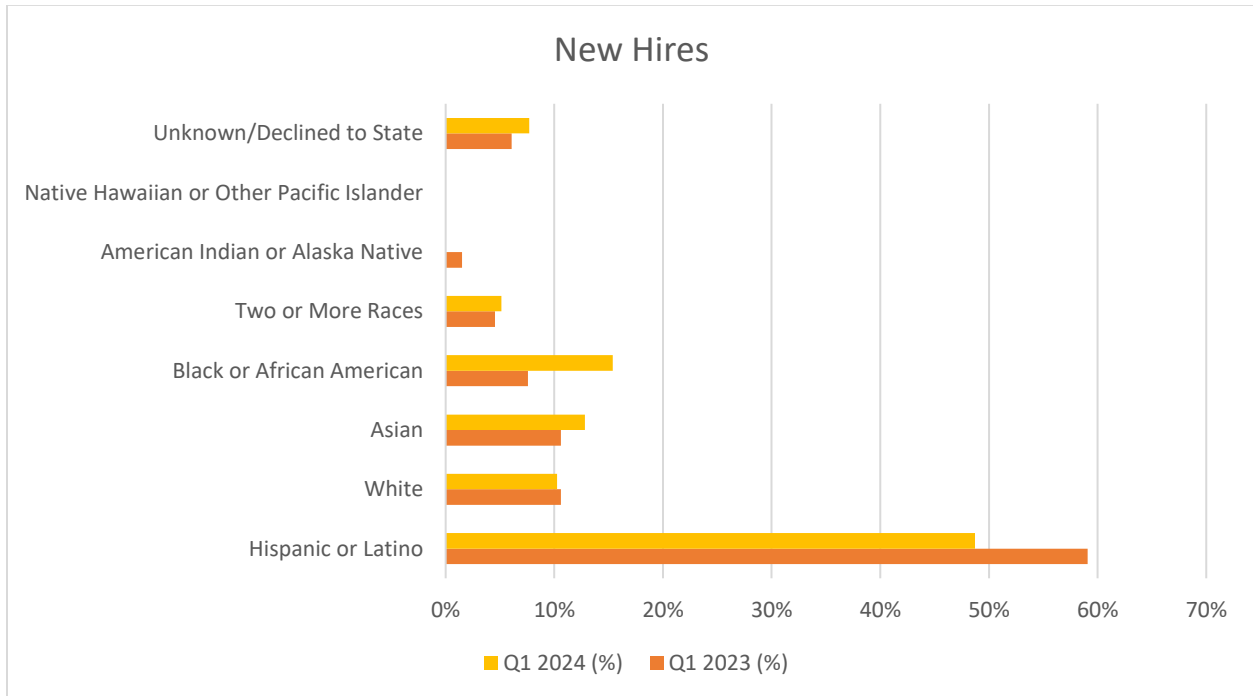


# Fresno EOC New Hires

Quarter 1

January 1, 2024 through March 31, 2024

Fresno EOC New Hires		
Ethnicity	Q1 2023 (%)	Q1 2024 (%)
Hispanic or Latino	59%	49%
White	11%	10%
Asian	11%	13%
Black or African American	8%	15%
Two or More Races	5%	5%
American Indian or Alaska Native	2%	0%
Native Hawaiian or Other Pacific Islander	0%	0%
Unknown/Declined to State	6%	8%
<b>Total</b>	<b>66</b>	<b>39</b>



**Time to Hire - Time to Fill January 1, 2024 - March 31, 2024**

VACANCY	PROGRAM/ DEPARTMENT	APPLICANT TYPE	GENDER	ETHNICITY	REQUISITION DATE	APPLICATION RECEIVED	DATE OF HIRE	TIME TO HIRE	TIME TO FILL
Navigation Center Coordinator	Navigation Assistance Center	Promotion	Female	Hispanic or Latino	02/27/2024	02/27/2024	3/11/2024	13	13
ECE Coordinator	Head Start 0 to 5	Promotion	Male	Not Specified	12/18/2023	2/4/2024	2/26/2024	22	70
ECE Coordinator	Head Start 0 to 5	Promotion	Female	Not Specified	12/18/2023	2/4/2024	2/26/2024	22	70
Quality Control Inspector	Energy Services	Promotion	Man / Male	Hispanic or Latino	03/06/2024	3/11/2024	3/11/2024	0	5
Administrative Assistant	Communications	New Hire	Woman / Female	Hispanic or Latino	11/22/2023	11/22/2023	01/16/2024	55	55
Administrative Assistant	Human Resources	New Hire	Woman / Female	Not Specified	02/08/2024	2/8/2024	02/13/2024	5	5
Administrative Assistant	Energy Services	New Hire	Woman / Female	Not specified	11/21/2023	11/22/2023	01/02/2024	41	42
Billing Analyst II	Energy Services	New Hire	Man / Male	Hispanic or Latino	03/07/2024	3/8/2024	3/11/2024	3	4
Construction Project Instructor	Energy Services	New Hire	Man / Male	Hispanic or Latino	01/31/2024	02/02/2024	02/26/2024	24	26
Database Analyst	Energy Services	New Hire	Woman / Female	Not Hispanic or Latino	01/21/2024	1/31/2024	03/11/2024	40	50
Diagnostic Technician	Energy Services	New Hire	Man / Male	Not Hispanic or Latino	11/17/2023	01/08/2024	02/13/2024	36	88
Driver in Training	Transit Systems	New Hire	Man / Male	Not Specified	02/23/2024	02/26/2024	03/11/2024	14	17
Driver in Training	Transit Systems	New Hire	Woman / Female	Hispanic or Latino	02/23/2024	02/23/2024	03/11/2024	17	17
ECE Specialist	Head Start 0 to 5	New Hire	Woman / Female	Hispanic or Latino	08/21/2023	9/14/2023	1/2/2024	110	134
Education Services Manager	Head Start 0 to 5	New Hire	Woman / Female	Hispanic or Latino	10/18/2023	11/03/2023	02/26/2024	115	131
ERSEA Assistant	Head Start 0 to 5	New Hire	Woman / Female	Not Hispanic or Latino	10/16/2023	10/19/2023	01/16/2024	89	92
Family Support Assistant I	Head Start 0 to 5	New Hire	Woman / Female	Hispanic or Latino	09/07/2023	10/18/2023	01/16/2024	90	131
Food Services Assistant I	Head Start 0 to 5	New Hire	Woman / Female	Hispanic or Latino	08/21/2023	10/10/2023	01/02/2024	84	134
Food Services Assistant I	Head Start 0 to 5	New Hire	Woman / Female	Not Hispanic or Latino	11/22/2023	12/23/2023	03/11/2024	79	110
FP Worker II	Food Services	New Hire	Prefer not to say	Not Specified	12/19/2023	01/30/2024	03/11/2024	41	83
Grant Writer II	Executive office	New Hire	Not Specified	Not Specified	10/12/2023	10/19/2023	01/02/2024	75	82
Para-Transit Driver	Transit Systems	New Hire	Woman / Female	Hispanic or Latino	11/02/2023	12/29/2023	01/29/2024	31	88
Para-Transit Driver	Transit Systems	New Hire	Woman / Female	Not Hispanic or Latino	11/02/2023	11/07/2023	02/13/2024	98	103
Para-Transit Driver	Transit Systems	New Hire	Man / Male	Hispanic or Latino	11/2/2023	12/28/2023	1/2/2024	5	61
Quality Assurance Analyst	Energy Services	New Hire	Woman / Female	Not Hispanic or Latino	12/19/2023	12/20/2023	01/02/2024	13	14
Recruitment Assistant	Human Resources	New Hire	Man / Male	Not Hispanic or Latino	02/22/2024	02/22/2024	03/04/2024	11	11
School Bus Driver	Transit Systems	New Hire	Man / Male	Hispanic or Latino	11/02/2023	12/07/2023	02/26/2024	81	116
Site Monitor	Sanctuary and Support Services	New Hire	Woman / Female	Not Specified	12/01/2023	12/05/2023	01/02/2024	28	32
Teacher Assistant I	Head Start 0 to 5	New Hire	Woman / Female	Hispanic or Latino	10/10/2023	11/09/2023	01/29/2024	81	111
Teacher I	Head Start 0 to 5	New Hire	Woman / Female	Not Hispanic or Latino	10/10/2023	10/15/2023	01/29/2024	106	111
Teacher I	Head Start 0 to 5	New Hire	Woman / Female	Not Hispanic or Latino	10/10/2023	10/18/2023	01/29/2024	103	111
Transitional Support Advisor	VAC	New Hire	Woman / Female	Hispanic or Latino	01/12/2024	01/20/2024	02/26/2024	37	45
WIC Nutrition Assistant Non-Certified	WIC	New Hire	Woman / Female	Hispanic or Latino	01/02/2024	01/02/2024	02/26/2024	55	55

**Time to Hire - Time to Fill January 1, 2024 - March 31, 2024**

VACANCY	PROGRAM/ DEPARTMENT	APPLICANT TYPE	GENDER	ETHNICITY	REQUISITION DATE	APPLICATION RECEIVED	DATE OF HIRE	TIME TO HIRE	TIME TO FILL
WIC Nutrition Assistant Non-Certified	WIC	New Hire	Woman / Female	Hispanic or Latino	01/02/2024	01/02/2024	03/11/2024	69	69
FP Worker I/Driver	Food Services	Internal Hire	Male	Not Hispanic or Latino	12/27/2023	01/05/2024	1/15/2024	10	19
FP Worker I/Driver	Food Services	Internal Hire	Male	Hispanic or Latino	12/27/2023	01/04/2024	1/15/2024	11	19
Warehouse Clerk	Food Services	Internal Hire	Male	Not Hispanic or Latino	01/03/2024	01/10/2024	1/16/2024	6	13
Family Support Assistant I	Head Start 0 to 5	New Hire	Woman / Female	Hispanic or Latino	09/07/2023	10/17/2023	01/16/2024	91	131
Custodian	Head Start 0 to 5	Promotion	Man / Male	Hispanic or Latino	10/10/2023	12/01/2023	1/29/2024	59	111
Executive Assistant	Human Resources	Promotion	Female	Hispanic or Latino	01/04/2024	01/08/2024	2/11/2024	34	38
Finance Director	Finance	Promotion	Woman / Female	Hispanic or Latino	02/20/2024	02/21/2024	2/25/2024	4	5
Food Service Supervisor	Food Services	Promotion	Male	Hispanic or Latino	12/20/2023	12/26/2023	1/1/2024	6	12
Quality Control Inspector	Energy Services	Promotion	Man / Male	Not Hispanic or Latino	03/06/2024	3/6/2024	3/11/2024	5	5
Recruitment Specialist	Human Resources	Promotion	Woman / Female	Hispanic or Latino	01/26/2024	01/31/2024	2/11/2024	11	16
Program Officer	Executive office	Rehire	Woman / Female	Not Hispanic or Latino	10/16/2023	11/01/2023	1/9/2024	69	105
Family Support Assistant I	Head Start 0 to 5	Transfer	Woman / Female	Hispanic or Latino	09/07/2023	10/19/2023	1/29/2024	102	144

Average time to Hire (in days): 46.68

Average time to Fill (in days): 63.13

New Hires: 31

Terminations 2

**Promotions: January 1,2024 - March 31, 2024**

<b>Vacancy</b>	<b>Program/ Department</b>	<b>Position Start Date</b>	<b>Ethnicity</b>	<b>Race Description</b>
Senior Accountant	Finance	02/12/2024	Not Hispanic or Latino	Asian
Senior Accountant	Finance	02/12/2024	Not Hispanic or Latino	Asian
Teacher Assistant III	Head Start	01/16/2024	Not Hispanic or Latino	White
Teacher Assistant III	Head Start	01/29/2024	Hispanic or Latino	Not Specified
Teacher II	Head Start	02/15/2024	Hispanic or Latino	Not Specified
Senior Supervisor - Public Lands Conservation	Local Conservation Corps	01/29/2024	Not Hispanic or Latino	American Indian or Alaska Native
Senior Data Support Technician	Transit	02/14/2024	Not Hispanic or Latino	Asian
Chief People and Culture Officer	Human Resources	02/11/2024	Not Hispanic or Latino	Black or African American
Billing Analyst II	Energy Services	03/11/2024	Hispanic or Latino	Not Specified
Quality Control Inspector	Energy Services	03/11/2024	Not Hispanic or Latino	White
Quality Control Inspector	Energy Services	03/11/2024	Hispanic or Latino	Not Specified
Finance Director	Finance	02/25/2024	Hispanic or Latino	Not Specified
Food Service Supervisor	Food Services	01/01/2024	Hispanic or Latino	Not Specified
Warehouse Clerk	Food Services	01/16/2024	Hispanic or Latino	Not Specified
Warehouse Clerk	Food Services	01/16/2024	Not Hispanic or Latino	Black or African American
Custodian	Head Start	01/29/2024	Hispanic or Latino	Not Specified
ECE Coordinator	Head Start	02/26/2024	Not Hispanic or Latino	Asian
ECE Coordinator	Head Start	02/26/2024	Hispanic or Latino	Not Specified
Executive Assistant	Human Resources	02/11/2024	Hispanic or Latino	Not Specified
Human Resources Specialist	Human Resources	02/11/2024	Hispanic or Latino	Not Specified

**Total Promotions: 20**  
**Internal Promotions 8**  
**Recruitment Process: 12**

**Recruitment Events January 1, 2024 - March 31, 2024**

Date	Event Name	Organization
2/3/2024	Early Education Job Fair	Office of Fresno County Superintendent of Schools
2/6/2024	17th Annual African American Student Leadership Conference	Office of Fresno County Superintendent of Schools
2/24/2024	Super Saturday Job Fair	Head Start 0 to 5
2/29/2024	Job and Training Fair	Workforce Connection
3/14/2024	Job Fair	Fresno Housing Authority (Mendota)
3/23/2024	Community Engagement Resource Fair	Saints Community Church of God in Christ

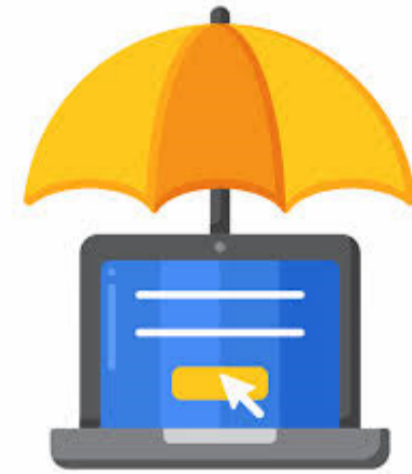
Job Fairs: 6



# Benefit Enrollment (As of 03/31/2024)

Year  
2024

MonthNumber  
Multiple selections



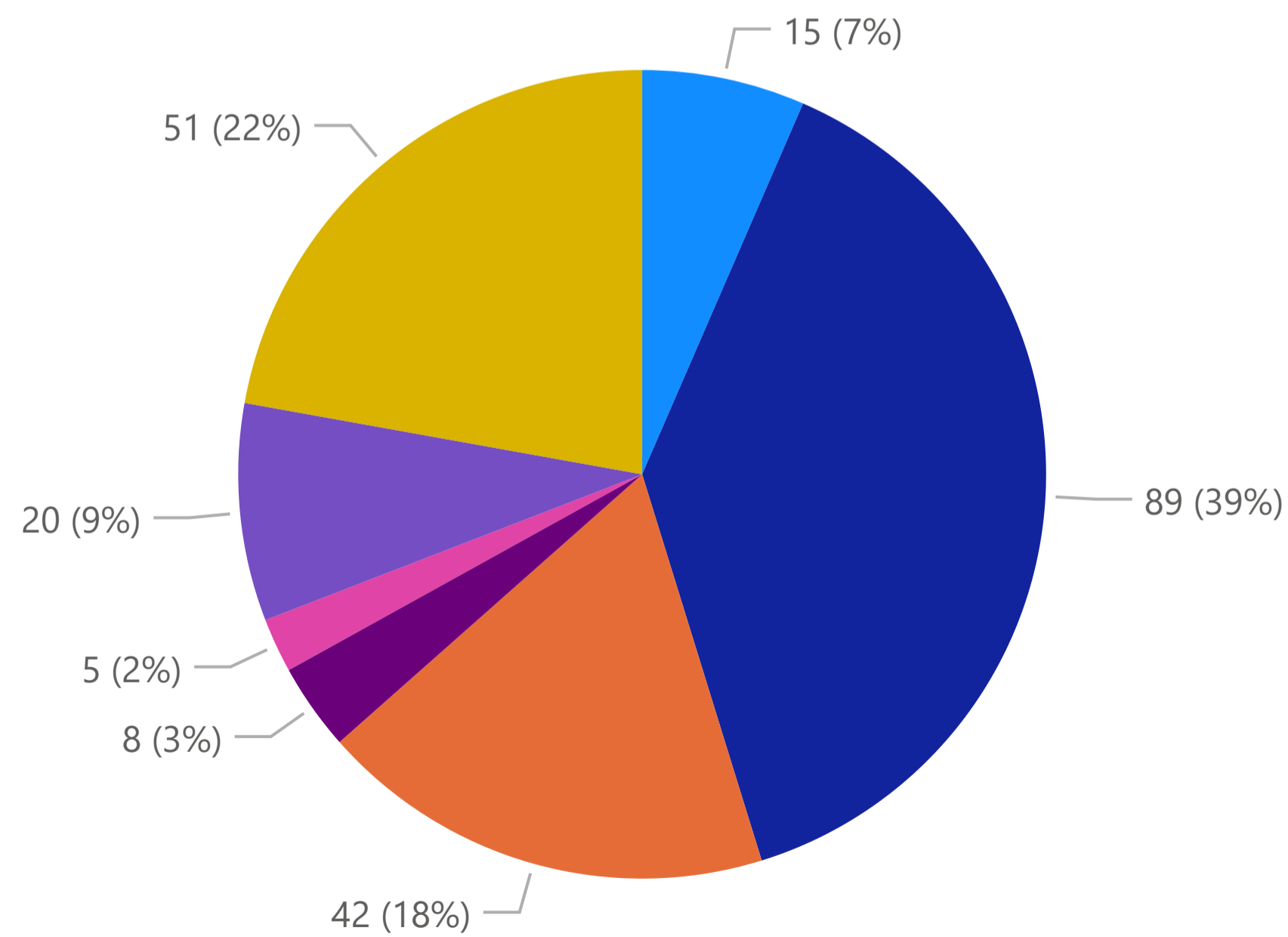
## Benefit Enrollment (%)

**80%**  
(Medical)

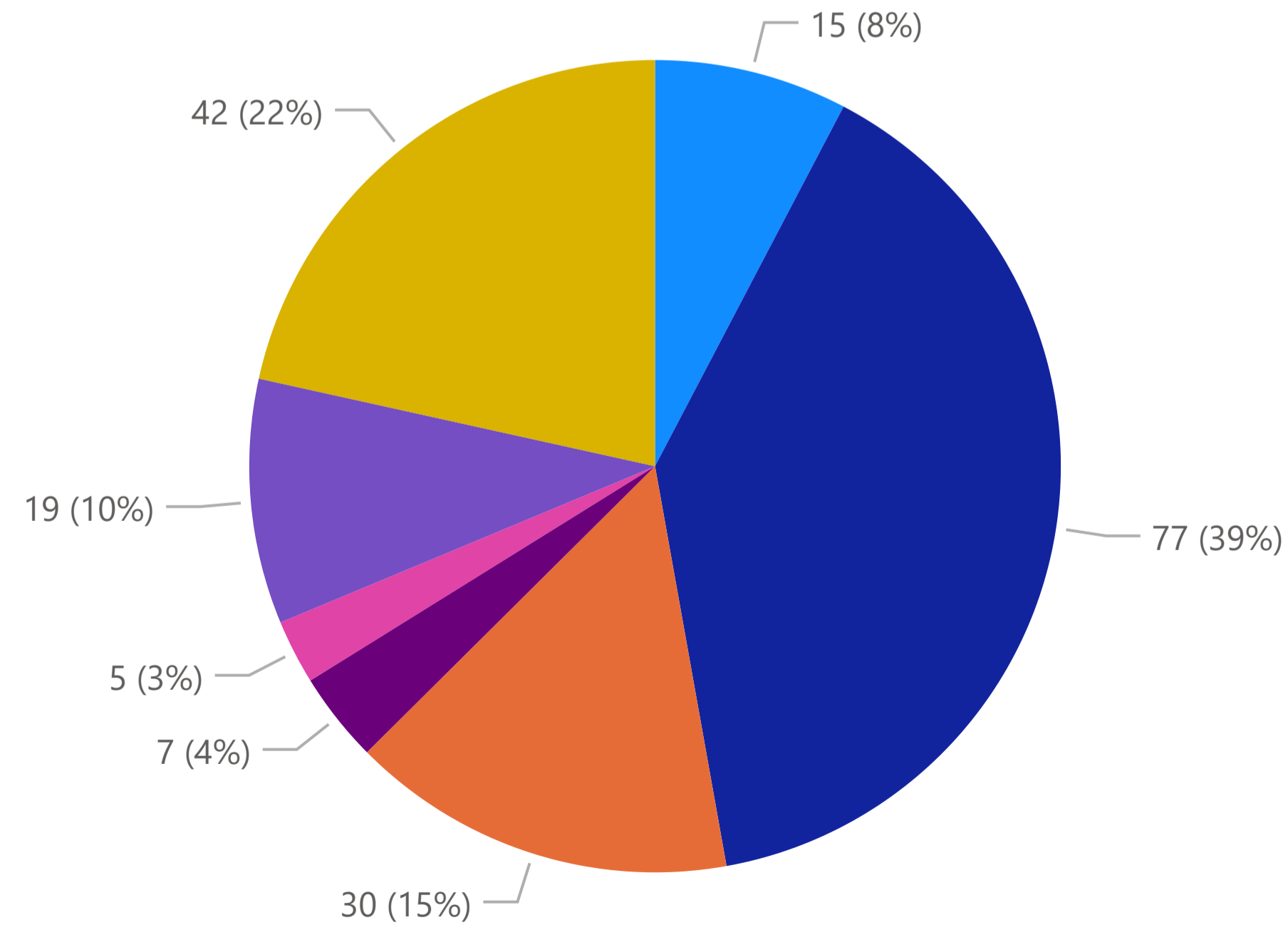
**82%**  
(Dental)



### Medical Plan Waived



### Dental Plan Waived



#### Waived Reason

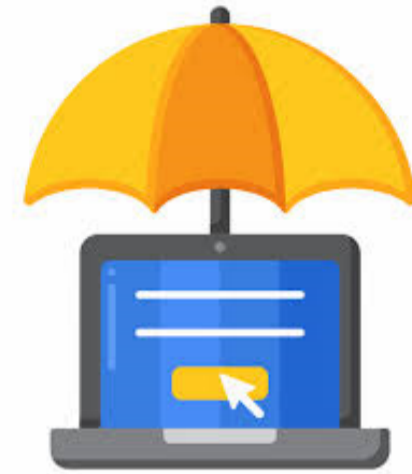
- -
- Choosing Not To Enroll - ZCHOIC
- Participating in a State Plan - STE...
- Participating in Another Employer...
- Participating in Domestic Partner's...
- Participating in Parent's Plan - PO...
- Participating in Spouse's Plan - S...

**Benefit Details**

# Benefit Enrollment (As of 03/31/2023)

Year  
2023

MonthNumber  
Multiple selections



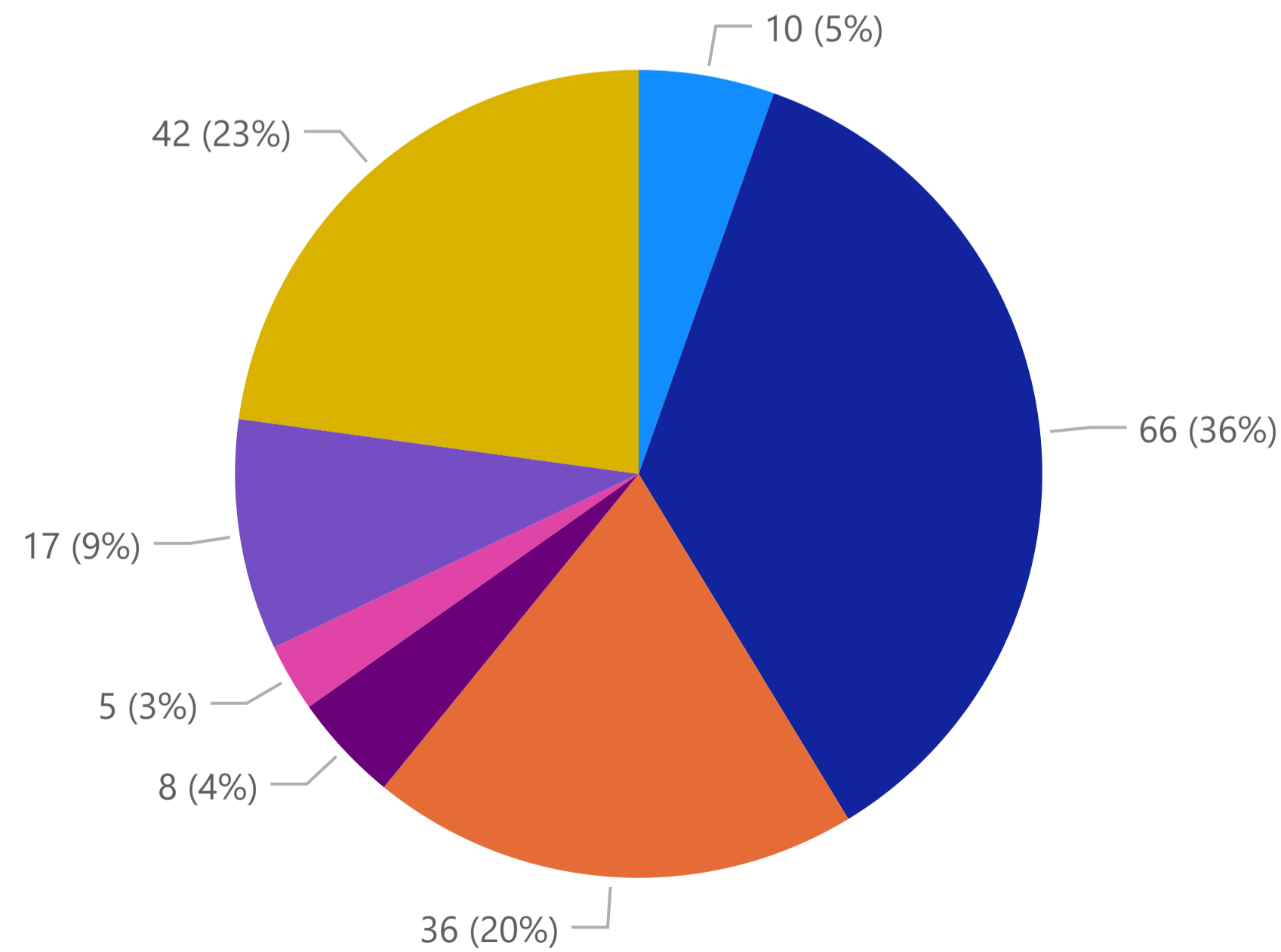
## Benefit Enrollment (%)

**82%**  
(Medical)

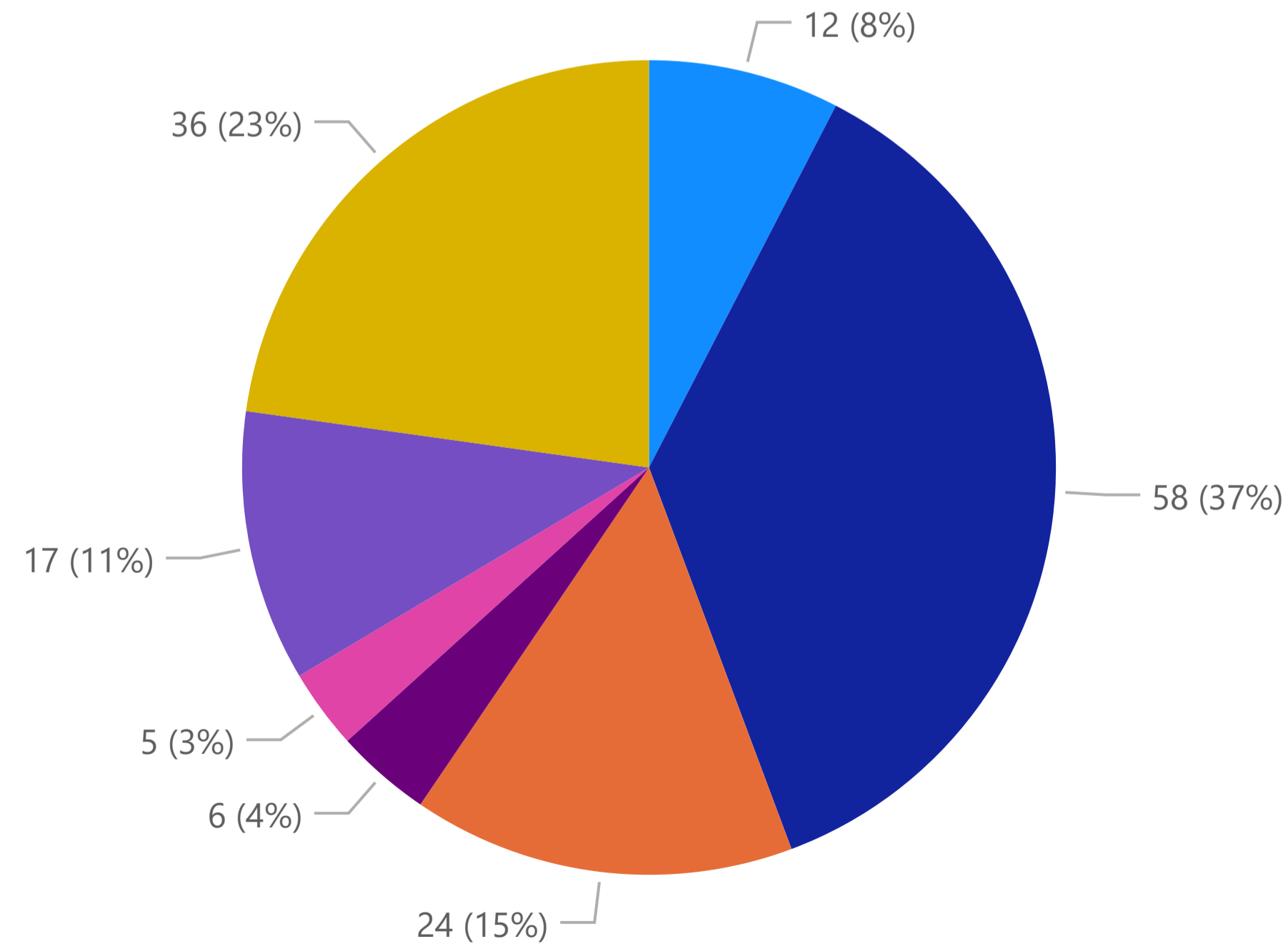
**85%**  
(Dental)



### Medical Plan Waived



### Dental Plan Waived



#### Waived Reason

- -
- Choosing Not To Enroll - ZCHOIC
- Participating in a State Plan - STE...
- Participating in Another Employer...
- Participating in Domestic Partner'...
- Participating in Parent's Plan - PO...
- Participating in Spouse's Plan - S...

**Benefit Details**



# Benefit Enrollment

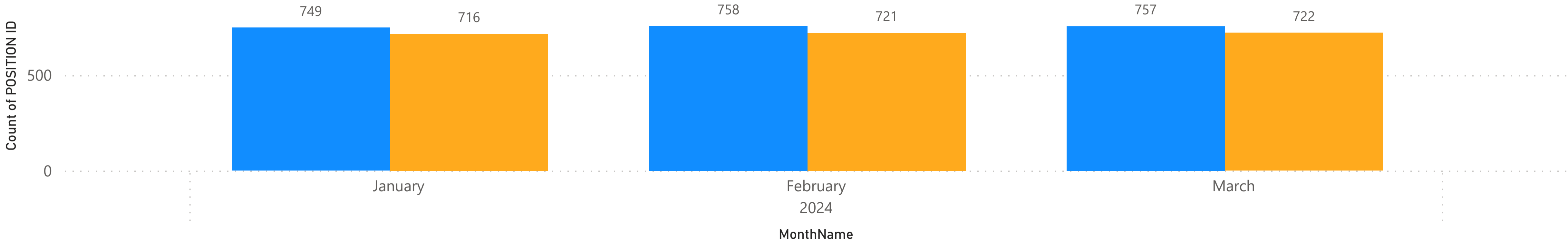
BUSINESS UNIT  
All

Year  
2024

MonthNubmer  
Multiple selections

## Medical and Dental Enrollments

PLAN TYPE ● Dental ● Medical



### Monthly Medical Enrollments

Year	MonthNubmer	YearMonth	Medical Enrollments
2024	1	2024-1	716
2024	2	2024-2	721
2024	3	2024-3	722

### Monthly Dental Enrollments

Year	MonthNubmer	YearMonth	Dental Enrollments
2024	1	2024-1	749
2024	2	2024-2	758
2024	3	2024-3	757



# Benefit Enrollment

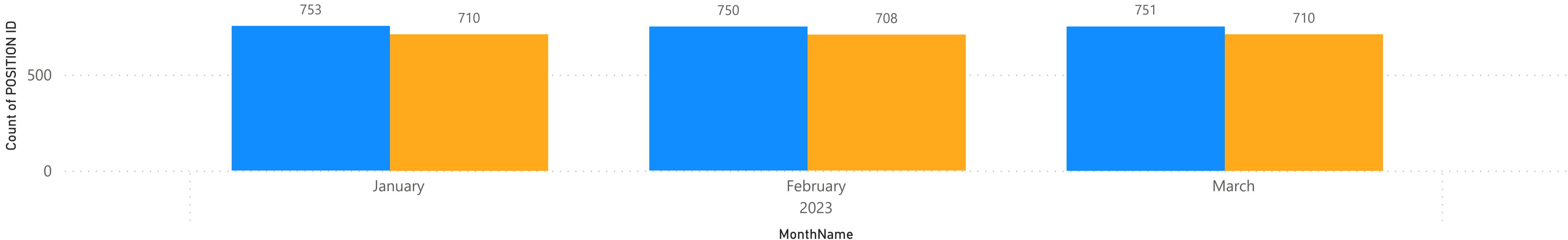
BUSINESS UNIT  
All

Year  
2023

MonthNubmer  
Multiple selections

## Medical and Dental Enrollments

PLAN TYPE ● Dental ● Medical



### Monthly Medical Enrollments

Year	MonthNubmer	YearMonth	Medical Enrollments
2023	1	2023-1	710
2023	2	2023-2	708
2023	3	2023-3	710

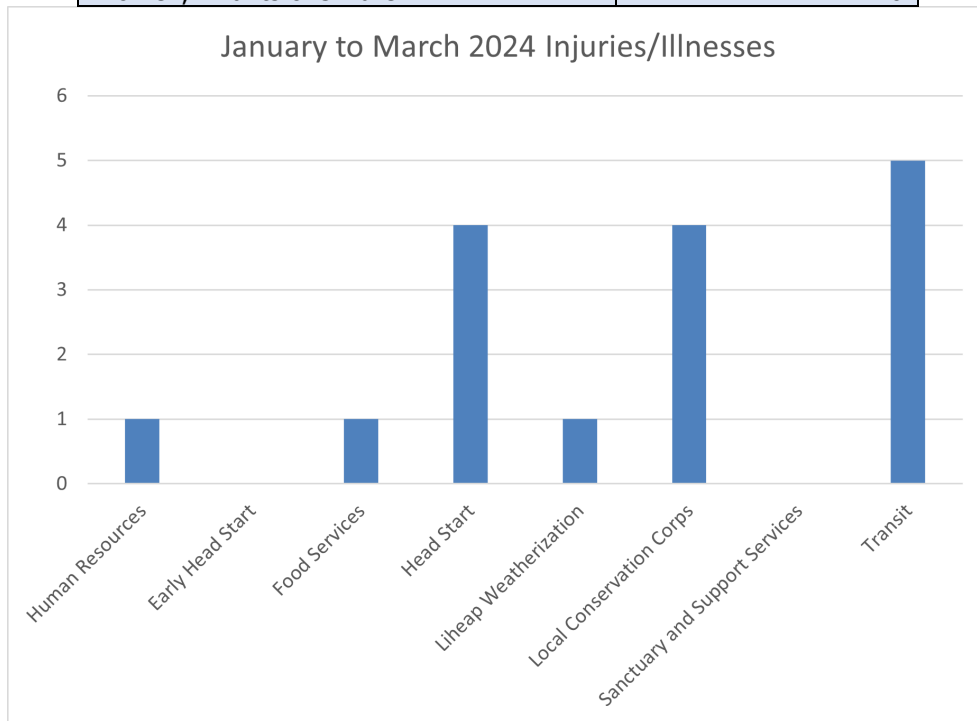
### Monthly Dental Enrollments

Year	MonthNubmer	YearMonth	Dental Enrollments
2023	1	2023-1	753
2023	2	2023-2	750
2023	3	2023-3	751

Fresno Economic Opportunities Commission  
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**Trending Data: By Program**

Departments	Injuries/Illnesses
Finance	0
AFLP	0
Early Head Start	0
Employment & Training	0
Energy Services	0
Executive Office	0
Food Services	1
Head Start	4
Health Services	0
Human Resources	1
Liheap Weatherization	1
Local Conservation Corps	4
Sanctuary and Support Services	0
Transit	5
Valley Apprenticeship Connection	0
Women, Infants & Children	0

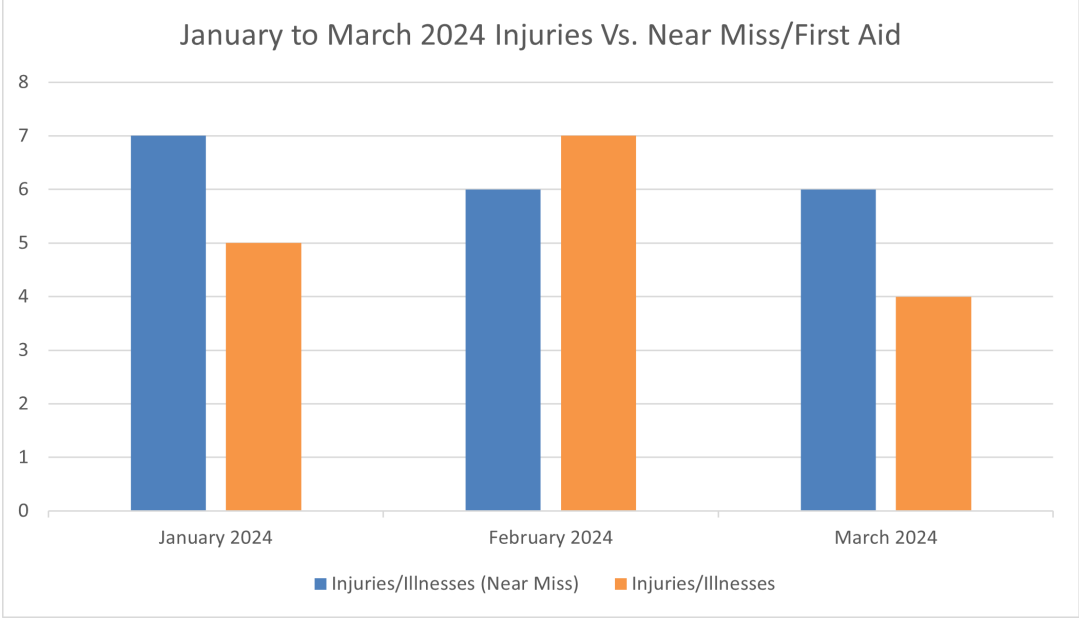


16 total of injuries/illnesses were reported. Transit with 5 injuries and Local Conservation Corps with 4.

Injuries by Month Vs. Near Miss

**Trending Data: By Month**

Month	Injuries/Illnesses (Near Miss)	Incidents: Injuries/Illnesses
January 2024	7	5
February 2024	6	7
March 2024	6	4



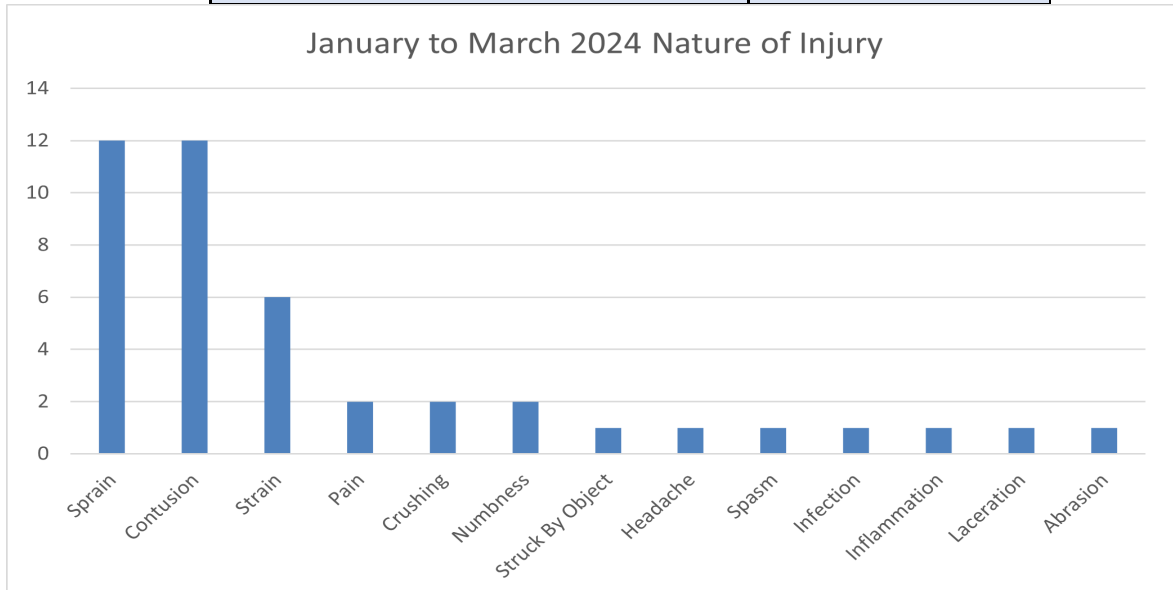
% of work-related incidents at Fresno EOC did not result in a claim filed.

*Near miss: Incident that did not result in a reportable claim, injury, illness, or damage but had the potential to do so.*

Nature of Injury YTD

**Trending Data: Nature of Injury**

Injury Nature	Occurrences
Strain	6
Contusion	12
Sprain	12
Pain	2
Inflammation	1
Trauma	0
Headache	1
Laceration	1
Infection	1
Crushing	2
Cut/Puncture/Laceration	0
Numbness	1
Stress	0
Struck By Object	1
Spasm	1
Abrasion	1

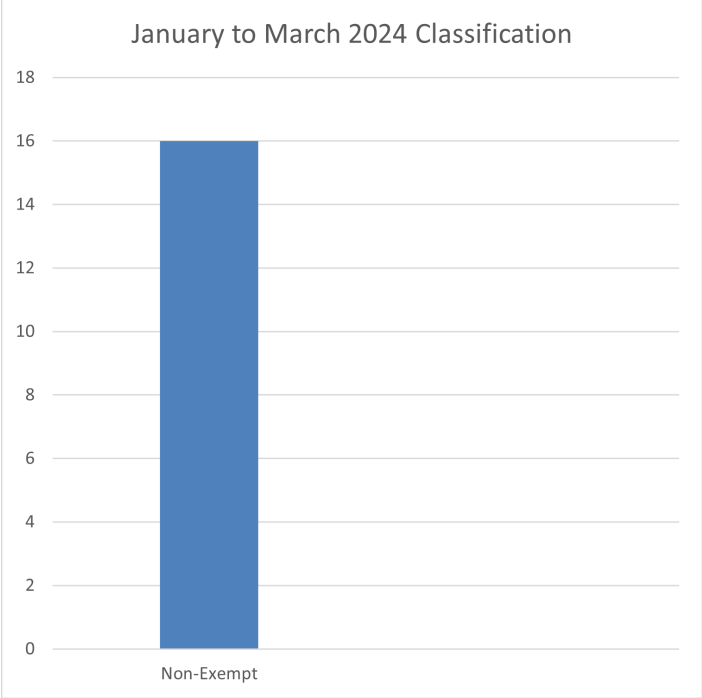


Most injury occurrences are a direct result of a sprain, while laceration claims filed continue to remain low.

Claims Based on Employee Job Classification

**Trending Data: By Classification**

Classifications	Injuries/Illnesses
No classification assigned	0
Exempt	0
Non-Exempt	16
Other	0



Out of 16 injury/illnesses reported, % of workers compensation claims were filed by non- exempt employees