

Second Chance Programs and the Return to Duty Process

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April 14-16, 2026



U.S. Department of Transportation
Federal Transit Administration

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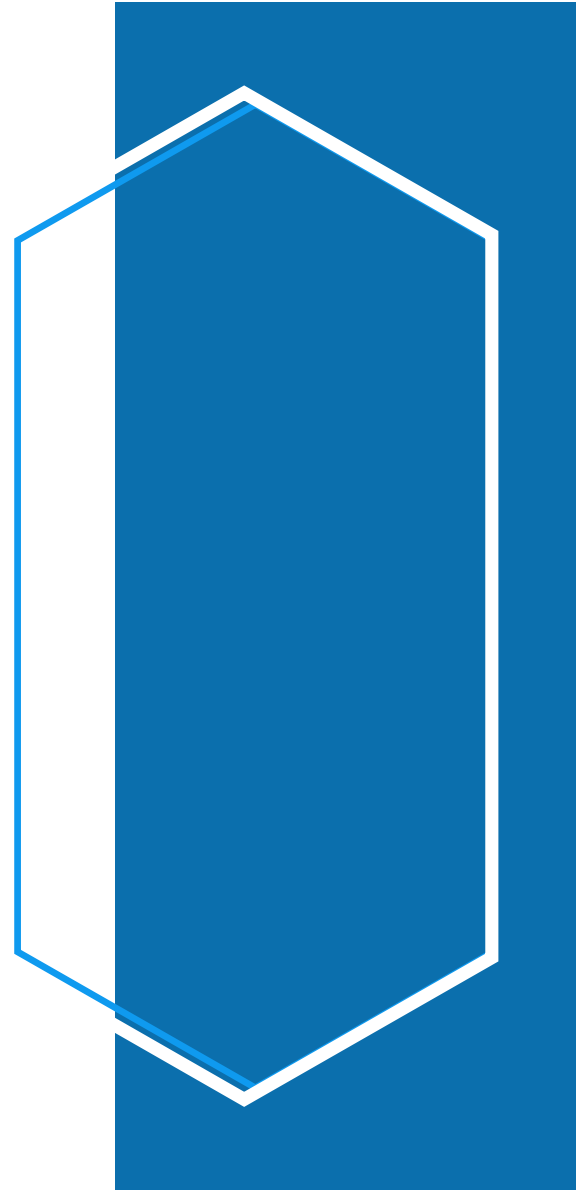


The Basics

What is “second chance”? Who are SAPs?
How do I make a SAP referral?



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“Second Chance” Basics

- Not a Part 40 term; Common industry parlance
- Not required
- Not suggested
- Not discouraged
- Employer’s choice to have 2nd chance program and when to implement



Overview of Second Chance

1. Violation occurs.
2. Employee is removed from safety-sensitive functions.
3. Employee is referred to Substance Abuse Professionals (SAPs).
4. Initial meeting is held between the SAP and employee.
5. The employee participates in education and/or treatment.
6. The SAP and employee hold follow-up meeting.
7. The SAP determines if the employee complied with education and/or treatment plan.
8. If the employee complied, the employer decides whether to return employee to safety-sensitive functions.
9. Return-to-duty testing occurs.
10. Follow-up testing occurs.

SAP Referrals (40.287)

- SAP referrals must occur after a DOT violation.
 - Refusal to take a drug or alcohol test
 - Verified positive drug test
 - Alcohol result of 0.04 or greater
 - Other violations (e.g., alcohol use w/in four hours prior to SS duty)
- SAP referrals occur whether or not the employee is offered a second chance.
- Applicants with a pre-employment test violation must be given a SAP referral.

Referral No-Nos

- Only safety-sensitive employees with DOT violations are referred to SAPs.
- Alcohol result of less than 0.04?
 - **No SAP referral!**
- The employee tested positive on a non-DOT test?
 - **No SAP referral!**
- The employee violated a company provision?
 - **No SAP referral!**
- In these cases (and under employer's authority), refer to an "EAP," "Counselor" or similar to avoid confusion.

What's a SAP?

- **Who are they? (40.281)**
 - Professionals with specific credentials defined by Part 40 (e.g., licensed physicians, social workers, psychologists) with experience and CEUs.
- **What do they do? (40.291)**
 - Initial evaluation
 - Recommendations for education and treatment
 - Follow-up evaluation and aftercare recommendations
 - Testing schedule
- **How do they do it?**
 - Clinical experience and regulatory knowledge
- **A SAP is not an advocate for employer or employee. Their role is to protect public's interest in public safety.**

Best Practice: Make Thoughtful SAP Referrals

- Check to make sure SAPs are still qualified before referrals.
- Talk to your SAPs.
 - Do they understand the technical aspects of Part 40's Return-to-Duty process?
 - Do they understand the SAP's role as gatekeeper for the Return-to-Duty Process?
 - How many cases have they overseen? Did the SAP ever have a case where they determined the employee did not comply with their education/treatment recommendations?
- As the employer, you are responsible for your service agents' compliance.

Make Thoughtful SAP Referrals, cont.

- Once the employee has been evaluated, no changes allowed.
 - “As an employer, you must not seek a second SAP's evaluation if the employee has already been evaluated by a qualified SAP.” 40.295(b)
 - “As the employer, you must not impose additional testing requirements (e.g., under company authority) on the employee that go beyond the SAP's follow-up testing plan.” 40.307(d)(4)
- Thus, especially if you have second-chance, make informed referrals.

The SAP Process

Initial meeting, education and/or treatment, follow-up meetings, aftercare, and the SAP's perspective



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What is a SAP Evaluation?

- A SAP evaluation is a form of substance abuse evaluation – but not all substance abuse violations are SAP evaluations. “SAP evaluation” is not a generic term.
- A SAP evaluation is a specific form of substance abuse evaluation that occurs after a DOT violation.
- The ultimate focus of a SAP evaluation is **public safety**.



Overview of SAP Functions (Part 40, Subpart O)

- Conduct initial evaluation with referred employee.
- Recommend education and/or treatment.
- Send initial evaluation report to employer.
- Assess employee's participation in education and/or treatment.
- Hold follow-up evaluation with referred employee.
- If employee demonstrated successful compliance, determine follow-up testing plan and any aftercare recommendations.
- Send follow-up evaluation report and testing plan to employer.



Example Elements of a SAP Evaluation

- Employee's understanding for referral in their own words
- Substance history, usage patterns
- Family configuration and substance/psychiatric history
- Social supports – family, social and spiritual orbit
- Employment history
- Current mental status and daily functioning
- Medical history
- Legal and financial history
- Responsibility for problem
- Administration of objective diagnostic tools – typically the SASSI (Substance Abuse Subtle Screening Inventory) or the MAST (Michigan Alcohol Screening Test)

Treatment Programs – Levels of Care

- Medical detoxification
- Residential treatment
- Partial hospitalization
- Intensive outpatient
- 1:1 Outpatient therapy
- Sober living facility or halfway house
- Combinations of above
- Self help/12 step adjunctively to treatment
- Generally covered by medical insurance

Educational Programs

- Not standardized by DOT at present
- DUI risk education courses
- 1:1 Substance abuse education modules
- Online risk management courses
- Didactic education (reading materials, films from the FTA)
- Self help groups
- Church based counseling
- Difficult to find
- Generally NOT covered by medical insurance



High Risk – Initial DER Letter



CHICAGO TRANSIT AUTHORITY

567 West Lake Street
Chicago, Illinois 60661-1498
TEL 312 664-7200
www.transitchicago.com

DATE: January 6, 2026
TO: Denise Rosado, Senior Manager Drug and Alcohol Compliance
Chicago Transit Authority, 567 W. Lake Street, Chicago, IL, 60661
FROM: Mark T. Ketterson, LCSW, Substance Abuse Professional
RE: A. Driver
SS#: 000-00-XXXX BADGE #: 0000
VIOLATION: ETOH 0.122 DATE :01/04/2026 FTA TEST TYPE: Random
FORMAT: Face-to-Face

Dear Ms. Rosado,

A face-to-face initial evaluation was conducted on the above referenced CTA employee on the date of this letter. This employee was referred to me for evaluation after the violation noted above per General Rules 7 a,b,c – Obedience to Rules 14 a,e – Personal Conduct; 24 Use of Best Judgment; Executive Orders 89-00 and 89-20; Collective Bargaining Agreement Attachment H and CTAF/TA Drug/Alcohol Policy. Based upon my evaluation of the employee, I am recommending the plan of intervention noted as follows:

A. Driver was referred following the presence of alcohol in his system at an unacceptable level. He was cooperative in relating his substance history and completing testing as directed. The employee will be referred to Little Company of Mary for inpatient medical detoxification followed by residential care. When the employee is deemed medically able to step down from 24-hour care, he will transfer to the Intensive Outpatient Program, attending five days weekly, four hours daily. Length of stay to be determined by ongoing review with treating staff. Once he has stepped down to half days, he is recommended to test weekly at a CTA designated location.

Upon demonstration by the employee of successful compliance with the recommended intervention, I will be conducting a second evaluation and will recommend a plan of ongoing continuing care and testing at that time.

Sincerely,

Mark T. Ketterson, LCSW, Substance Abuse Professional
312-681-2216



A. Driver was referred following the presence of alcohol in his system at an unacceptable level. He was cooperative in relating his substance history and completing testing as directed. The employee will be referred to Little Company of Mary for inpatient medical detoxification followed by residential care. When the employee is deemed medically able to step down from 24-hour care, he will transfer to the Intensive Outpatient Program, attending five days weekly, four hours daily. Length of stay to be determined by ongoing review with treating staff. Once he has stepped down to half days, he is recommended to test weekly at a CTA designated location.



Lower Risk – Initial DER Letter



CHICAGO TRANSIT AUTHORITY

567 West Lake Street
Chicago, Illinois 60661-1498
TEL 312 664-7200
www.transitchicago.com

DATE: January 12, 2026
TO: Denise Rosado, Senior Manager Drug and Alcohol Compliance
Chicago Transit Authority, 567 W. Lake Street, Chicago, IL, 60661
FROM: Mark T. Kettererson, LCSW, Substance Abuse Professional
RE: B. Driver
SS#: 000-00-XXXX BADGE: 00000
VIOLATION: THC DATE: 01/02/2026 FTA TEST TYPE: Random
FORMAT: Face-to-Face

Dear Ms. Rosado,

A face-to-face initial evaluation was conducted on the above referenced CTA employee on the date of this letter. This employee was referred to me for evaluation after the violation noted above per General Rules 7 a,b,c – Obedience to Rules 14 a,e – Personal Conduct; 24 Use of Best Judgment; Executive Orders 89-08 and 89-20; Collective Bargaining Agreement Attachment H and CTA/FTA Drug/Alcohol Policy. Based upon my evaluation of the employee, I am recommending the plan of intervention noted as follows:

B. Driver was referred to following a non-negative result for THC at a low quantitative level. The employee admitted to a single usage secondary to significant issues in his home life that have led to an unusual amount of stress. There appears to be a limited substance history beyond this current occurrence. Standardized SASSI testing yielded a reading of low probability for a substance abuse disorder. The employee is taking responsibility, stating "I made a really stupid mistake"

The recommendation is twofold. The employee will be referred to P. Provider, Ph.D. for a minimum of eight sessions of individual therapy in order to improve his coping skills and decision making. He will also be referred to IDS Group Chicago for six hours of substance abuse risk education. He is also recommended to test weekly at a CTA designated location.

Upon demonstration by the employee of successful compliance with the recommended intervention, I will be conducting a second evaluation and will recommend a plan of ongoing continuing care and testing at that time.

Sincerely,

Mark T. Kettererson, LCSW, Substance Abuse Professional
312-681-2216

I certify I am a qualified Substance Abuse Professional per 49 CFR Part 40 with experience in the diagnoses and treatment of substance related disorders and that I have to the best of my knowledge complied with DOT regulations in the evaluation of this employee. I have no financial interest in any treatment providers referred to through the Drug and Alcohol Program at the Chicago Transit Authority.

B. Driver was referred to following a non-negative result for THC at a low quantitative level. The employee admitted to a single usage secondary to significant issues in his home life that have led to an unusual amount of stress. There appears to be a limited substance history beyond this current occurrence. Standardized SASSI testing yielded a reading of low probability for a substance abuse disorder. The employee is taking responsibility, stating "I made a really stupid mistake"



Follow-Up Evaluation

- Clinical Concerns
 - Successful compliance with treatment/educational recommendations
 - Understanding of consequences of future violations
 - Insight and understanding of responsibility for violation
- Administrative Concerns
 - Letter of determination to DER to document compliance
 - Follow-up testing plan communicated to DER

Testing and Aftercare

- **Follow-Up Testing (40.307):**
 - Minimum of 6 tests in first 12 months
 - Testing may occur up to 60 months
 - SAP determines number of tests
 - SAP determines drug, alcohol, or both
 - Employer determines dates

- **Aftercare (40.303):**
 - If the SAP prescribes aftercare recommendations, who will monitor compliance?



CHICAGO TRANSIT AUTHORITY

557 West Lake Street
Chicago, Illinois 60661-1498
TEL 312 664-7200
www.transitchicago.com

DATE: March 08, 2026
TO: Denise Rosado, Senior Manager Drug and Alcohol Compliance
Chicago Transit Authority, 567 W. Lake Street, Chicago, IL, 60661
FROM: Mark T. Ketterson, LCSW, Substance Abuse Professional
RE: A. Driver
SS#: 000-00-XXXX BADGE #: 0000
VIOLATION: ETOH 0.122 DATE :01/04/2026 FTA TEST TYPE: Random
INITIAL SAP EVALUATION: January 6, 2026
TREATMENT PROVIDER: Little Company of Mary Hospital TREATMENT DATES: 01/08/2026 to 03/27/2026
FORMAT: Face-to-Face

Dear Ms. Rosado,

A face-to-face follow-up evaluation was conducted on the above-referenced employee on the date of this letter. This employee received an initial evaluation on the date noted above, having been referred to me following the noted Rule Violation. After review of initial Phase testing and completion of recommended intervention, it would appear that this employee has demonstrated successful compliance with the recommended intervention as summarized below.

A. Driver participated in treatment at Little Company of Mary as directed. Initially spending five days in detoxification followed by two weeks in residential care before stepping down to daily outpatient care. The employee was described by his treating provider as participating fully in his care and taking ownership of his difficulties. Once he transferred to outpatient care he continued to attend regularly with no misses and was described as making significant progress with his issues. He has followed through with external AA meetings and is currently working with a sponsor. His testing remained negative for the trial weeks of his suspension.

Should you decide to return this employee to duty, I would recommend a follow up testing plan as outlined on the attached page. I would recommend the employee address continuing care needs as follows: The employee has entered the weekly aftercare group at Little Company and should continue attending for six months. He is also involved in recovery group meetings and should continue with those as well.

Sincerely,
Mark T. Ketterson, LCSW
312-661-2216

Should you decide to return this employee to duty, I would recommend a follow up testing plan as outlined on the attached page. I would recommend the employee address continuing care needs as follows: The employee has entered the weekly aftercare group at Little Company and should continue attending for six months. He is also involved in recovery group meetings and should continue with those as well.



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557 West Lake Street
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DATE: March 08, 2026
TO: Denise Rosado, Senior Manager Drug and Alcohol Compliance
Chicago Transit Authority, 567 W. Lake Street, Chicago, IL, 60661
FROM: Mark T. Ketterson, LCSW, Substance Abuse Professional
RE: A. Driver
SS#: 000-00-XXXX BADGE #: 0000
VIOLATION: ETOH 0.122 DATE :01/04/2026 FTA TEST TYPE: Random
INITIAL SAP EVALUATION: January 6, 2026
FORMAT: Face-to-Face

Dear Ms. Rosado,

I am recommending that this employee be tested for a period of four years following return to duty. This testing should consist of both a drug and an alcohol screening for each testing unit. My recommendation for the quantity of testing yearly is as follows:

10 tests in the first year following Return to Duty
6 tests in the second year following Return to Duty
8 tests in the third year following Return to Duty
2 tests in the fourth year following Return to Duty

Sincerely,
Mark T. Ketterson, LCSW
312-661-2216

I am recommending that this employee be tested for a period of four years following return to duty. This testing should consist of both a drug and an alcohol screening for each testing unit. My recommendation for the quantity of testing yearly is as follows:

10 tests in the first year following Return to Duty
6 tests in the second year following Return to Duty
8 tests in the third year following Return to Duty
2 tests in the fourth year following Return to Duty

I certify I am a qualified SAP per 49 CFR Part 40 with experience in the diagnosis and treatment of substance related disorders and that I have to the best of my knowledge complied with DOT regulations in the evaluation of this employee. I have no financial interest in any treatment providers referred to through the Drug and Alcohol Program at the Chicago Transit Authority.



CHICAGO TRANSIT AUTHORITY

567 West Lake Street
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DATE: March 22, 2026
TO: Denise Rosado, Senior Manager Drug and Alcohol Compliance
Chicago Transit Authority, 567 W. Lake Street, Chicago, IL, 60661
FROM: Mark T. Kettererson, LCSW, Substance Abuse Professional
RE: B. Driver
SS#: 000-00-XXXX BADGE: 00000
VIOLATION: THC DATE: 01/02/2026 FTA TEST TYPE: Random
INITIAL SAP EVALUATION: January 12, 2026
TREATMENT PROVIDER: P. Provider, PhD. IDS Group Chicago
DATES: 02/12/2026 ongoing
03/01/2026 to 03/15/2026
FORMAT: Face-to-Face

Dear Ms. Rosado,
A face-to-face follow-up evaluation was conducted on the above-referenced employee on the date of this letter. This employee received an initial evaluation on the date noted above, having been referred to me following the noted Rule Violation. After review of Initial Phase testing and completion of recommended intervention, it would appear that this employee has demonstrated successful compliance with the recommended intervention as summarized below.
B. Driver was cooperative throughout his suspension period. He participated in individual therapy as recommended. His provider has described him as a hardworking and insightful client who has shown significant progress with his issues. He also participated in six hours of risk education as noted and shared that the information was personally helpful to him. He tested weekly as directed with no further non-negative results. Upon examination today he appears alert and notably more relaxed than when first evaluated. He continues to take responsibility, stating "You will never see me in here again, this has been a real wake up call."

Should you decide to return this employee to duty, I would recommend a follow up testing plan as outlined on the attached page. I would recommend the employee address continuing care needs as follows. No formal recommendation, however Mr. Driver has elected to continue his counseling with his provider electively and is encouraged to do so.

Sincerely,
Mark T. Kettererson, LCSW
312-681-2216

I certify I am a qualified SAP per 49 CFR Part 40 with experience in the diagnosis and treatment of substance related disorders and that I have to the best of my knowledge complied with DOT regulations in the evaluation of this employee. I have no financial interest in any treatment providers referred to through the Drug and Alcohol Program at the Chicago Transit Authority.

Should you decide to return this employee to duty, I would recommend a follow up testing plan as outlined on the attached page. I would recommend the employee address continuing care needs as follows: No formal recommendation, however Mr. Driver has elected to continue his counseling with his provider electively and is encouraged to do so.



B. Driver



CHICAGO TRANSIT AUTHORITY

567 West Lake Street
Chicago, Illinois 60661-1498
TEL 312 664-7200
www.transitchicago.com

DATE: March 22, 2026
TO: Denise Rosado, Senior Manager Drug and Alcohol Compliance
Chicago Transit Authority, 567 W. Lake Street, Chicago, IL, 60661
FROM: Mark T. Kettererson, LCSW, Substance Abuse Professional
RE: B. Driver
SS#: 000-00-XXXX
VIOLATION: THC DATE: 01/02/2026 FTA TEST TYPE: Random
INITIAL SAP EVALUATION: January 12, 2026
FORMAT: Face-to-Face

Dear Ms. Rosado,
I am recommending that D. Driver be tested for a period of two years following return to duty. This testing should consist of a drug screening only for each testing unit. My recommendation for the quantity of testing yearly is as follows:
8 tests in the first year following Return to Duty
2 tests in the second year following Return to Duty

Sincerely,
Mark T. Kettererson, LCSW
312-681-2216

I certify I am a qualified SAP per 49 CFR Part 40 with experience in the diagnosis and treatment of substance related disorders and that I have to the best of my knowledge complied with DOT regulations in the evaluation of this employee. I have no financial interest in any treatment providers referred to through the Drug and Alcohol Program at the Chicago Transit Authority.

I am recommending that D. Driver be tested for a period of two years following return to duty. This testing should consist of a drug screening only for each testing unit. My recommendation for the quantity of testing yearly is as follows:
8 tests in the first year following Return to Duty
2 tests in the second year following Return to Duty

For Your Consideration

- Not everyone who has a violation has a drug or alcohol problem
- The SAP evaluation is essential because it will determine the type of treatment and duration, monitoring while in treatment, determination for return to safety-sensitive duty, continuing care plan, and follow up testing schedule
- Public safety
- Employers should be mindful of an employee's privacy and handle all communications respectfully
- Employers must adhere to applicable confidentiality requirements in Part 40

Return-to-Duty

Steps to take after conclusion of education and/or treatment and the SAP has issued their follow-up evaluation report



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Deciding to Return an Employee to Safety-Sensitive Functions (40.305)

- An employee may never return to the performance of safety-sensitive functions unless:
 - The SAP's follow-up evaluation letter clearly states the employee has complied with the SAP's recommendations.
 - The employee undergoes return-to-duty testing with a negative/ <0.02 result.
- Ultimately, it is the employer's decision on whether to return the employee to a safety-sensitive position.

Review SAP Letters

- Make sure the Initial Evaluation Report and the Follow-up Evaluation Report have all items required by 40.311.
- Make sure both reports do not include misleading typos, confusing turns of phrase or contradictory language.
- Have the SAP correct any mistakes.

Review Follow-Up Testing Plans

- Make sure the plan includes at least the minimum number of tests (6 over 12 months).
- Make sure the plan does not exceed 60 months.
- Make sure the plan is clear.
 - Does it clearly state that follow-up testing is for drugs, alcohol, or both?
 - If the plan is stated in more than one place, is the plan consistent?



Compliant Follow-Up Testing

Auditors pay special attention to the following:

- Is the SAP's plan being accurately followed? Did the employer perform too many tests or too few tests?
- Is testing unpredictable? If the employee only goes for follow-up testing at the beginning of the month, there is a compliance issue.
- Are follow-up drug tests always observed? If a test was not observed, was an immediate retest required?



Follow-Up Testing & Leaves of Absence

- Whenever the employee is removed from a safety-sensitive position, testing is paused. (40.307(e))
- This often affects the timing of testing stated in the SAP's follow-up testing plan.
- Example:
 - Joe Doe is prescribed 1 follow-up drug test per month for 24 months after returning to duty (24 tests over 2 years).
 - After 6 months and 6 successful tests, Mr. Doe goes on medical leave for 3 months.
 - Testing is paused and resumes when he returns for a total of 24 tests over an elapsed time of 27 months.
- Keep track of any pauses in testing and document the reasons for them.

Record Keeping

- §40.333 states employers must keep the following records for five years:
 - Records of alcohol test results indicating an alcohol concentration of 0.02 or greater
 - Records of verified positive drug test results
 - Documentation of refusals to take required alcohol and/or drug tests (including substituted or adulterated drug test results)
 - SAP reports
 - All follow-up tests and schedules for follow-up tests.
- How long must records related to an original violation be retained when an employee successfully returns to duty and then undergoes follow-up testing?

Thank you!

Mark Ketterson, LCSW, SAP

321-681-2216

CTA, Chicago

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