

Employee Relations

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**STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

NUMBER: 201
EFFECTIVE DATE: 05/19/08
REVISED: 03/16/10
REVISED: 07/06/10
AUTHORITY: BOC
COUNTY MANAGER: PAW

SUBJECT: Fair Employment Practices

- I. PURPOSE:** It is the policy of the employer to provide equal employment opportunity for all applicants and employees.
- II. POLICY:** The **employer** recognizes the fundamental rights of applicants and employees to be assessed on the basis of merit. Recognition of seniority and current employment with the **employer** may also be considered. Therefore, it is the policy of the employer to provide equal employment opportunity for all applicants and employees. The **employer** does not sanction or tolerate discrimination in any form on the basis of race, color, religion, age, gender, sexual orientation, national origin, ancestry, disability, veteran status, domestic partnership, or genetic information.

The **employer** will:

16. Recruit, hire, train, and promote for all job classifications without regard to race, color, religion, age, gender, pregnancy, sexual orientation, national origin, ancestry, veteran status, domestic partnership, genetic information, or disability, as well as to ensure that all compensation, benefits, transfers, layoffs, return from layoffs, **employer**-sponsored training, social, and recreation programs will be administered in conformance with the **employer's** policy.

17. Comply with all applicable laws prohibiting discrimination in employment including Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Equal Employment Opportunity Act of 1972, the Immigration Reform and Control Act of 1986, the Americans with Disabilities Act, as amended, the Genetic Information Nondiscrimination Act of 2008, the applicable Nevada Revised Statutes on Equal Employment Opportunity (NRS 613), and any other applicable federal, state, and local statutory provisions.

18. Provide reasonable accommodation wherever the need for such is known by the **employer**, and/or the applicant or employee indicates a need for such reasonable accommodation, provided that the individual is otherwise qualified to perform the essential functions of the assigned job and the employee's performance of the assigned job duties does not pose a threat to the safety of him/herself or others.

Hold all managers and supervisors responsible for ensuring that personnel policies, guidelines, practices, procedures, and activities are in compliance with federal and state fair employment practices, statutes, rules, and regulations.

SCOPE: This policy applies to all persons involved in the operation of the employer and prohibits harassment, discrimination, and retaliation by any employee, including supervisors and coworkers, volunteers, customers or clients of the employer, and any vendor or other service provider with whom the employer has a business relationship. The employer will not tolerate instances of harassment, discrimination, or retaliation, whether or not such behavior meets the threshold of unlawful conduct. While single incidents of alleged harassment, discrimination, or retaliation may not be sufficiently severe or pervasive to rise to the level of being a violation of the law, the employer nevertheless prohibits such conduct and may impose appropriate disciplinary action against any employee engaging in such.

Equal Employment Opportunity Officer Designated:

The primary responsibilities for ensuring fair employment practices for the **employer** are promoted and adhered to are assigned to the **employer's** designated Equal Employment Opportunity (EEO) Officer. The **employer's** designated EEO Officer will also serve as the Americans with Disabilities (ADA) Coordinator, unless otherwise noted, and as such, also has responsibility for coordinating the **employer's** compliance with federal and state disability laws. The EEO Officer shall be designated by the **County Commissioners or County Manager**. The name and work telephone number of the designated individual will be posted on bulletin boards at **employer** work sites (*reference: Notice – Designation of Equal Employment Opportunity Officer*). In the event the designated EEO Officer is unavailable, County Manager is designated as the alternative EEO Officer.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

**STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

NUMBER: 202
EFFECTIVE DATE: 05/19/08
REVISED: 03-16-10
REVISED: 08-03-10
AUTHORITY: BOC
COUNTY MANAGER: _____

SUBJECT: Anti-Harassment

I. Policy: The Employer promotes a productive work environment and does not tolerate verbal, physical, written, or graphical conduct/behavior(s) that harasses, disrupts, or interferes with another's work performance or that creates an intimidating, offensive, or hostile environment based on that person's race, color, religion, age, gender, sexual orientation, national origin, ancestry, disability, veteran status, genetic information, domestic partnership, or any other basis that is inappropriate or offensive.

II. Prohibited Conduct. Behavior(s)

The employer will not tolerate any form of harassment, including any conduct/ behavior(s) on the part of employees, volunteers, clients, customers, vendors, contractors, etc., that impairs an employee's ability to perform his/her duties. Examples of prohibited conduct/behavior(s) include, but are not limited to:

19. Offensive verbal communication including slurs, jokes, epithets, derogatory comments, degrading or suggestive words or comments, unwanted sexual advances, invitations, or sexually degrading or suggestive words or comments.
20. Offensive written communications including notes, letters, notices, emails, texts, or any other offensive message sent by electronic means.
21. Offensive gestures, expressions and graphics including leering, obscene hand or finger gestures, sexually explicit drawings, derogatory posters, photographs, cartoons, drawings, or displaying sexually suggestive objects or pictures.
22. Physical contact when the action is unwelcomed by recipient including brushing up against someone in an offensive manner, unwanted touching, impeding or blocking normal movement, or interfering with work or movement.
23. Expectations, requests, demands, or pressure for sexual favors.

III. Training

The **employer** will provide training every two (2) years to all employees on the prevention of discrimination and prohibited conduct/behavior(s) in the workplace. All new employees will be provided a copy of this policy upon hire and the contents will be discussed during the new hire orientation process. New employees will participate in training on the prevention of discrimination and prohibited conduct/behavior(s) within thirty (30) days of hire. A copy of this policy will be made available to applicants upon request.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

**SUBJECT: Dealing w/Allegations of Discrimination and/or Prohibited
Conduct/Behavior(s)**

I. Process

Employees or applicants who believe they are being discriminated against or subjected to any form of prohibited conduct/behavior(s) as described in this policy by another (e.g. employee, client, customer, vendor, contractor, etc.) because of their race, color, religion, age, gender, sexual orientation, national origin, ancestry, disability, veteran status, genetic information, or domestic partnership, as well as those who believe they have witnessed another employee, client or member of the public being subjected to prohibited conduct/ behavior(s), have an affirmative duty to bring the situation to the attention of the **employer**. Employees covered by a collective bargaining agreement may opt to use the process described in this policy or in an applicable grievance procedure delineated by their collective bargaining agreement, but may not use both.

II. Employee Responsibilities

Employees who believe they personally are being or have been subjected to prohibited conduct/behavior(s) and/or are the target of any form of prohibited conduct/behavior(s), or have witnessed any other employee being subjected to these behaviors, should immediately:

25. Identify the offensive conduct/behavior(s) to the alleged harasser and request that the behavior cease.

Note: An employee is **NOT** required to talk directly to the alleged harasser or to the employee's supervisor. It is **critical**, however, that the employee contact one of the individuals listed in sections 2 or 3 below if s/he believes s/he is being targeted or has witnessed what the employee believes to be prohibited conduct/behaviors(s) directed to or committed by another employee(s), client(s), customer(s), vendor(s), contractor(s), etc.
26. If the employee feels uncomfortable in speaking directly to the alleged harasser or if the employee requested the prohibited conduct/behavior(s) to cease, but the request did not produce the results desired, the employee should report the conduct/behavior(s) as soon as possible to a supervisor or manager or to the **employer's** designated EEO Officer or the HR Representative.
27. Employees who believe the EEO Officer has engaged in prohibited conduct/behavior(s) should bring such concerns to the attention of the alternate EEO Officer or to any County Commissioner. The County Commissioner will designate an objective person to conduct an investigation of such allegations. Employees may also report the conduct/behavior(s) to the County Manager or the **employer's** attorney.
28. An employee who witnesses or obtains information regarding prohibited conduct/behavior(s) by his/her immediate supervisor is required to report the incident to the EEO Officer or HR Representative.
29. Applicants are encouraged to contact the designated EEO Officer or the alternate.

III. Supervisor/Manager Responsibilities

Regardless of whether the employee involved is in the supervisor's or manager's department and regardless of how s/he became aware of the alleged prohibited conduct/behavior(s), all supervisors and managers must immediately report all allegations or complaints or observations of such conduct/behavior(s) to the EEO Officer, HR Representative, Elected Official, Department Head, or County Manager. A supervisor's or manager's failure to immediately report such activities, complaints, or allegations will result in discipline, up to and including termination.

- The persons(s) involved, including all witnesses;
- A written record of specific conversations held with the accused and any witnesses; and
- All pertinent facts, including date(s), time(s), and locations(s).

A supervisor's or manager's failure to immediately report such activities, complaints, or allegations will result in discipline, up to and including termination.

IV. Investigation

Upon being made aware of allegations or complaints of prohibited conduct/behavior(s), the **employer** will ensure that such allegations or complaints are investigated promptly. The **employer** treats all allegations or complaints seriously and expects all employees to be candid and truthful during the investigation process.

The **employer** will make efforts to ensure that all investigations are kept as confidential as reasonably possible. Employees will be strongly advised to refrain from discussing the subject content with others, particularly while the investigation is in progress. Employees may be required to provide information to regulatory agencies and/or the employee's union representative or attorney. The **employer** will release information obtained only to those individuals necessarily involved in the investigation and the administration of the complaint with a business need-to-know, or as required by law.

The employer will communicate to the individual who made the initial complaint, as well as the individual against whom the complaint was made, **whether the allegations were substantiated or not**.

If evidence arises that a participant in the investigation made intentionally false statements, that employee will be disciplined, up to and including possible termination.

If it is determined that a violation of this policy has occurred, the **employer** will take remedial action against the perpetrator commensurate with the severity of the offense. Such remedial action may include, but is not limited to, a counseling, verbal warning, written reprimand, transfer, demotion, suspension without pay, and/or termination. The **employer** will also initiate action to deter any future prohibited conduct/behavior(s) from occurring.

With regard to disability-related complaints, the EEO Officer (when appropriate, working with the supervisor and/or the complainant) shall propose a resolution to the complaint based upon the findings of such investigation. Such resolution will include reasonable accommodation when the **employer** determines that such a reasonable accommodation can be provided by the **employer**.

V. Prohibition Against Retaliation

Retaliation is adverse treatment which occurs because of opposition to prohibited conduct/behavior(s) in the workplace. The **employer** will not tolerate any retaliation by management or by any other employee against an employee who exercises his/her rights under this policy. Any employee who believes s/he has been harassed, retaliated or discriminated against in any manner whatsoever as a

result of having filed a complaint, assisted another employee in filing a complaint, or participated in an investigative process should immediately notify the EEO Officer or the alternate. The **employer** will promptly investigate and deal appropriately with any allegation of retaliation.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

SUBJECT: Employee Bullying

I. Definition

The **employer** defines bullying as repeated mistreatment of one or more persons by one or more perpetrators that takes one of the following forms:

- a. Verbal abuse;
- b. Offensive conduct/behaviors (including nonverbal, physical, and cyber bullying) which are threatening, humiliating, or intimidating, or
- c. Work interferences, such as sabotage, which prevents work from getting done

II. Purpose

The purpose of this policy is to communicate to all employees, including supervisors and managers, that the **employer** will not tolerate bullying behavior. Employees found in violation of this policy may be subject to disciplinary action.

III. Prohibited Conduct

The **employer** considers the following types of behavior examples of bullying (this list is not all-inclusive):

- a. *Verbal Bullying:* Slandering, ridiculing or maligning an employee or his/her family; persistent name calling which is hurtful, insulting, or humiliating.
- b. *Physical Bullying:* Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to an employee's work area or property.
- c. *Gesture Bullying:* Non-verbal threatening gestures or glances which convey threatening messages.
- d. *Cyber Bullying:* Repeatedly tormenting, threatening, harassing, humiliating, embarrassing, or otherwise targeting an employee using email, instant messaging, text messaging, or any other type of digital technology.
- e. *Workplace Interference:* Sabotaging which prevents work from getting done; deliberately tampering with a person's work area or property; assigning menial tasks outside of a person's normal job duties.

IV. Dealing with Allegations of Bullying

Process

Employees or applicants who believe they are being bullied by another (e.g. employee, customer, vendor, contractor, etc.), as well as those who believe they have witnessed

another employee, client or member of the public being subjected to bullying behavior, have an affirmative duty to bring the situation to the attention of the **employer**.

Supervisor/Manager Responsibilities

A supervisor/manager is required to report this information to his/her EEO Officer, Department Head, or County Manager immediately.

Investigation

Upon being made aware of allegations or complaints of bullying, the **employer** will ensure that such allegations or complaints are investigated where deemed necessary.

The **employer** will make efforts to ensure that all investigations are kept as confidential as reasonably possible. The **employer** will release information obtained only to those individuals necessarily involved in the investigation and the administration of the complaint, or as required by law. The individual who made the initial complaint, as well as the individual against whom the complaint was made, will be made aware of the final determination by the **employer**.

If it is determined that bullying has occurred, the **employer** will take appropriate action.

V. Prohibition Against Retaliation

The **employer** will not tolerate any retaliation by management or by any other employee against an employee who exercises his/her rights under this policy. Any employee who believes s/he has been retaliated or discriminated against in any manner whatsoever as a result of having filed a complaint, assisted another employee in filing a complaint, or participated in an investigative process should immediately notify the EEO Officer or the alternate. The **employer** will promptly investigate and deal appropriately with any allegation of retaliation

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

**STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

NUMBER: 205
EFFECTIVE DATE: 05/19/08
REVISED: 01-20-09 & 3-16-10
REVISED: 4-5-11
AUTHORITY: BOC
COUNTY MANAGER: PAW

SUBJECT: Employment Disabilities

I. Purpose of Policy

The **employer** recognizes that the preceding sections of its personnel policy relating to fair employment practices encompass its commitment to fair and equitable treatment of all employees and applicants, including those with disabilities. The **employer** also recognizes that there are specific issues relating to individuals with disabilities that must be individually addressed. The **employer** acknowledges its responsibility to ensure that individuals in the workplace can efficiently and safely perform the essential functions of their jobs without posing a direct threat to themselves and others.

II. Policy

It is the **employer's** policy to comply proactively with the applicable employment provisions of disability laws, including the American with Disabilities Act (ADA), as amended. The **employer** does not tolerate discrimination against any qualified individual with a disability in regard to any terms, conditions, or privileges of employment and prohibits any type of harassment or discrimination based on the physical or mental disability, history of disability, or perceived disability of an individual holding or seeking employment with the **employer**.

The **employer** is committed to provide *reasonable* accommodation wherever the need for such is known to the **employer** and whenever the employee or applicant indicates a need for *reasonable* accommodation, provided that the individual is otherwise qualified to perform the essential functions of the assigned job and the employee's performance of the assigned job duties does not pose an obvious threat to the safety of him/herself or others.

III. Determination of Disability

In determining whether an employee or an applicant has a disability under the law, the employee/applicant must have a physical or mental impairment that substantially limits one or more life activities, have a record of such an impairment, or is regarded as having such an impairment.

1. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, concentrating, thinking, communicating, and working.
2. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respirator, circulatory, endocrine, and reproductive functions.

IV. Disability-Related Inquiries

The **employer** shall adhere to the provisions of applicable laws regarding an **employer's** limitations on making disability-related inquiries or requiring medical examinations.

The **employer's** restrictions regarding disability-related inquiries and medical examinations apply to **all** employees/applicants, whether or not they have disabilities. A disability-related question to an applicant may be a violation of law, even though the applicant may not have a disability.

The **employer** may require the employee to provide a fitness-for-duty certification from an appropriate medical provider whenever the **employer** has reason to believe the employee may be unable to perform the essential functions of his/her job. (Reference: Policy 220 Genetic Information Nondiscrimination Act (GINA)).

V. Confidentiality of Medical Records

The **employer** shall treat any medical information or genetic information obtained from a disability-related inquiry or medical exam, as well as any medical information voluntarily disclosed by an employee, as a confidential medical record. Confidential medical records also include medical information from voluntary health or wellness programs. The **employer** will share such information only with appropriate supervisors, managers, first aid and safety personnel, and officials investigating compliance claims on a need-to-know basis. Such information may be disclosed to appropriate **employer** personnel or outside consultants and attorneys in relation to any employment issue between the employee and the **employer**, if the medical records are relevant to any such dispute. Any medical information shall **not** be kept in or with the employee's personnel or "site" file. Such medical information shall be kept in a separate secure confidential medical file.

VI. Accommodation

1. Accommodation for Applicants

Whenever an applicant requests accommodation in applying for, testing, or interviewing for a position with the **employer**, the ADA Coordinator shall determine whether the applicant's condition constitutes a disability under the disability laws. The **employer's** ADA Coordinator shall then determine whether the request for accommodation for a covered disability is reasonable or if another type of accommodation can be provided. In making that determination of reasonableness, the ADA Coordinator may consider whether granting such requests might impose an undue hardship on the **employer**.

2. Accommodation for Employees

When the **employer** has some objective reason to believe an employee may need some type of accommodation to perform his/her essential job functions, the **employer** must initiate an interactive process with the employee to find out what accommodation the employee might need. Also, whenever an employee approaches his/her supervisor, the **employer's** ADA Coordinator, or any other manager within the **employer** requesting some type of accommodation, the **employer** will initiate the interactive process. Whenever a manager or supervisor becomes aware that an employee has requested or may require some type of accommodation, the manager/supervisor should promptly notify the ADA Coordinator. Upon learning of the employee's request for accommodation, the ADA Coordinator shall arrange to meet with the supervisor and the employee to discuss his/her accommodation request, the need for any reasonable documentation of the disability and the associated functional limitations, and the impact of the proposed accommodation on the **employer**. Review of an employee's particular situation by a medical review officer will assist the organization in determining appropriate accommodation. References:

- ADA Reasonable Accommodation Checklist (Form 205 F);
- ADA Employee Request for Accommodation (Form 205 F1);
- ADA Accommodation Request—Employee Release (Form 205 F2);
- ADA Accommodation Request—Health Care Provider Information (Form 205 F3);
- ADA Accommodation Approval Letter (Form 205 F4);
- ADA Accommodation Denial Letter (Form 205 F5)

VII. Requirements of Other Laws

The **employer** may make disability-related inquiries and require medical exams that are required or necessitated by applicable laws or regulations; e.g., federal safety regulations, OSHA requirements, etc.

VIII. Glossary of ADA-Related Terms

1. An **“essential function”** is a fundamental job duty of the position held or desired. A function is essential if the job exists to perform that function, a limited number of other employees are available to perform the function, or the function requires special skill or expertise. Determinations as to essential functions must be made on a case-by-case basis and are normally determined based on such factors as:
 - The written job description prepared before advertising or interviewing applicants for the job;
 - In the **employer’s** judgment, the amount of time spent performing the function;
 - Input as to the actual work experience of past employees in the job or current employees in similar jobs; and
 - The nature of the work operation and the consequences of not having the function performed.

Marginal functions associated with any job should not be considered essential functions. Punctuality and regular work hours may not be an essential function of some jobs. For example, if the job functions can be performed without the presence of a supervisor, adhering to established work hours may not be an essential function. Therefore, reasonable accommodations to the contrary may be necessary.

2. A **“disability-related inquiry”** is a question (or series of questions) likely to elicit information about a disability. Generally, disability-related inquiries are not allowed during the hiring process. Examples of disability-related inquiries not permitted include:
 - a. Asking whether the employee/applicant currently has or has ever had a disability, how s/he became disabled, or inquiring about the nature or severity of an employee’s/applicant’s disability;
 - b. Asking an employee/applicant a broad question about his/her impairments that is likely to elicit information about a disability;
 - c. Asking an employee/applicant whether s/he is currently taking any prescription drugs or medication; and
 - d. Asking about an employee’s/applicant’s genetic information.

Other examples of prohibited disability-related questions include, but are not limited to, asking about an employee's/applicant's prior workers' compensation history, and asking an employee's/applicant's coworker, family member, doctor, or other person about the employee's/applicant's disability.

Questions that are not likely to elicit information about a disability are not prohibited under the ADA. These types of inquiries include asking employees/applicants about their general well-being, whether they can perform the essential job functions, whether they currently use illegal drugs. The **employer** may also ask an employee, but not a job applicant, about non-disability-related impairments such as how s/he broke his/her arm.

3. A **“medical examination”** is a procedure or test usually given by a health care professional or in a medical setting that seeks information about an individual's physical or mental impairments or health. Medical examinations include, but are not limited to:

- Vision tests conducted and analyzed by an ophthalmologist or optometrist; blood, urine, and breath analyses to check for alcohol use;
- Blood pressure screening and cholesterol testing; nerve conduction tests;
- Range-of-motion tests that measure muscle strength and motor function;
- Pulmonary function tests;
- Psychological tests designed to identify a mental disorder or impairment; and
- Diagnostic procedures such as x-rays, CAT scans, and MRI's.

Procedures and tests that employers may require that are generally not considered medical examinations include:

- Blood and urine tests to determine the **current** illegal use of drugs;
- Physical agility and physical fitness tests;
- Tests that evaluate an employee's/applicant's ability to read labels or distinguish objects as part of a demonstration of the ability to perform actual job functions.

4. Under the ADA, an **“employee”** is an individual employed by an employer. Generally, an individual is an employee if the employer controls the means and manner of his/her work performance. Where more than one entity controls the means and manner of how an individual's work is done, the individual may be an employee of each entity.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

**STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

NUMBER 206
EFFECTIVE DATE: 05/19/08
REVISED: 11-17-09 & 08/03/10
REVISED: 1-18-11
AUTHORITY: BOC
COUNTY MANAGER: PAW

SUBJECT: Drug and Alcohol-Free Workplace

I. Policy: The employer recognizes that substance abuse in our nation and our community exacts staggering costs in both human and economic terms. Substance abuse can be reasonably expected to produce impaired job performance, lost productivity, absenteeism, accidents, wasted materials, lowered morale, rising health care costs, and diminished interpersonal relationship skills.

1) The employer is committed to:

- a) Maintaining a safe and healthy workplace for all employees;
- b) Assisting employees who recognize they have a problem with drugs or alcohol and to help provide appropriate treatment;
- c) Periodically providing employees with information about the dangers of workplace drug abuse; and
- d) When appropriate, taking disciplinary action for failure to comply with this policy.

2) The employer strictly prohibits the following behavior:

- a) The use, sale, attempted sale, manufacture, attempted manufacture, purchase, possession or cultivation, distribution and/or dispensing of illegal drugs by an employee at any time and in any amount. This prohibition includes the use or possession of prescription medicines for which the individual does not have a valid prescription and the inappropriate use of prescribed medicines for which the employee has a valid prescription. In addition, the employer prohibits employees from possessing open containers of alcoholic beverages while on the employer's premises and/or while on duty and from working with a blood-alcohol level of .02 or more at any time, except as provided in policy # 005 Use of Public Buildings & Property.
- b) Bringing alcohol, illegal drugs, and other substances which may impair the safety or welfare of employees or the public onto the premises controlled by the employer or placing in vehicles or equipment operated on behalf of the employer.

- c) Driving an organizational vehicle while on or off duty with a blood alcohol level of .02 or more or under the influence of an illegal drug, regardless of the amount.
- d) Public Safety personnel performing job-related functions which require possession and/or transportation of such substances are exempt from this section.

3) Reporting Requirements

- a). A supervisor who receives information or is a witness to any use of drugs or alcohol by an employee which violates employer's policies or the law, is required to report this information to his/her Department Head, County Manager or County Administrative Officer/Personnel Director immediately. The information reported must include:
 - The persons(s) involved, including all witnesses;
 - Any information gathered, such as actual observation of drug /alcohol use, the presence of paraphernalia, observation of any unusual physical signs or behaviors;
 - A written record of specific conversations held with the accused and any witnesses;
 - All pertinent facts, including date(s), time(s), and locations(s).
 - b). A Department Head is required to report this information to his/her immediate supervisor, e.g., the County Manager, Administrative Officer/Personnel Director, and may not conduct a formal investigation, release findings, or administer discipline prior to this disclosure and without specific authorization to do so.
 - c). An employee who witnesses or obtains information regarding illegal drug/alcohol use by his/her immediate supervisor is required to report the incident to that individual's supervisor.
- 4) Specimen collection, drug testing procedures, sample collection, and alcohol testing procedures will comply with all applicable provisions of federal and state law.
 - 5) A positive test result for alcohol or drugs will be grounds for disciplinary action, up to and including possible termination.
 - 6) Employees in safety-sensitive positions as defined in 49 CFR Part 382, et seq., are subject to the Federal Department of Transportation (DOT) (49 CFR Part 40) and the Federal Motor Carrier Safety Regulations (FMCSR), as prescribed by the Federal Motor Carrier Safety Administration (FMCSA) (49 CFR Parts 382, 383, 387, 390-397, and 399) see policy HR 206A , as well as the employer's Drug and Alcohol-Free Workplace Policy.

II. Employee Responsibilities

Each employee is responsible for reviewing and complying with the employer's Drug and Alcohol-Free Workplace Policy (reference: Employer Personnel Policies – Acknowledgment and Receipt).

- 1) Each employee is responsible for meeting standards for work performance and safe on-the-job conduct.
- 2) Employees shall not report to work under the influence of alcohol, illegal drugs, or misused prescription or over-the-counter drugs.
- 3) Employees who suspect they may have a substance abuse problem are encouraged to seek counseling and rehabilitation from a substance abuse professional or other treatment provider. The employer's medical insurance policy or other preferred programs may provide for payment of some or all of the treatment costs.
- 4) Each employee must report the facts and circumstances of any criminal drug or alcohol conviction that occurred while on duty or which may impact the employee's ability to perform the duties of his/her job. If duties involve driving a vehicle, the employee must report to his/her supervisor a conviction for driving under the influence (DUI), and/or revocation or suspension of the driver's license pending adjudication. Notification to employer must occur before resuming work duties or immediately after the conviction or revocation/suspension. Failure to notify employer will result in disciplinary action, up to and including possible termination. The supervisor shall immediately forward the notification to notify the employer's attorney.
- 5) Each employee must report the facts and circumstances of any criminal drug or alcohol conviction that occurred while on duty or which may impact the employee's ability to perform the duties of his/her job. If duties involve driving a vehicle, the employee must report to his/her supervisor a conviction for driving under the influence (DUI), and/or revocation or suspension of the driver's license pending adjudication. Notification to employer must occur before resuming work duties or no later than five (5) days after the conviction or revocation/suspension. Failure to notify employer will result in disciplinary action, up to and including possible termination. The supervisor shall immediately forward the notification to notify the employer's attorney.
- 6) Employees in department safety-sensitive positions identified by the employer are subject to random drug and alcohol testing as provided in policy # 206A Vehicle Operators Drug and Alcohol Policy.
- 7) Employees must act as responsible representatives of the employer and as law-abiding citizens. It is every employee's responsibility to report violations of this policy to his/her immediate supervisor, County Manager or to County Administrative Officer/Personnel Director. Such reporting is critical in preventing serious injuries or damage to the employer's property.

- 8) Employees who are required to submit to a drug/alcohol test must complete and sign the consent form (reference: Drug/Alcohol Test Informed Consent).
- 9) Public Safety employees and applicants for Public Safety positions are also subject to the Public Safety Department's Drug Testing Policy

III. Department Head Responsibilities: The department head or his/her designee is responsible for:

- 1) Authorizing the testing of employees.
- 2) Coordinating drug and/or alcohol testing.
- 3) Requesting completion of the consent form (reference: Drug/Alcohol Test Informed Consent).
- 4) Notifying employees of positive test results and their right to a retest of the same sample.
- 5) Implementing disciplinary action against employees who fail to comply with provisions outlined in this policy.
- 6) Notifying the employer's attorney of an employee's conviction of a federal or state criminal drug and/or alcohol statute violation.
- 7) Ensuring that the drug and/or alcohol test forms and results are kept confidential and only provided to employees with a business need for the information.
- 8) Notifying employees in department safety-sensitive positions that they are subject to random drug and/or alcohol testing.

IV Supervisor Responsibilities: Supervisors are responsible for:

- 1) Determining if reasonable suspicion exists to warrant drug and/or alcohol testing and detailing, in writing, the specific facts, symptoms, or observations that are the basis for the reasonable suspicion.
- 2) Submitting the documentation to the department head or designee.
- 3) Complying with the appropriate provisions outlined in this policy that apply to supervisory personnel.

V Employer Responsibilities: Employers are responsible for:

- 1) Providing communication and training on this policy to include a training program to assist supervisors to recognize the conduct and behavior that gives rise to a reasonable suspicion of drug and/or alcohol use by employees and how to effectively intervene.
- 2) Receiving and maintaining employee drug and alcohol testing records and files from all sources and assuring that they are kept confidential.
- 3) Making drug and/or alcohol testing and notice forms available.
- 4) Notifying appropriate department heads of positive results of drug and alcohol tests.
- 5) Administering the contract with a third party to provide drug and alcohol testing services.
- 6) Overseeing the administration of the employer's Drug and Alcohol-Free Workplace Policy.
- 7) Notifying department heads of their employees randomly selected for drug and/or alcohol testing.
- 8) Ensuring the administration of all pre-employment drug testing for positions identified as safety-sensitive (see policy Vehicle Operators Drug and Alcohol Policy # 206A).

VI Employee Education

The employer maintains information relating to the hazards of and treatment for drug- and alcohol-related problems. Proactive training and information shall be sponsored by the employer periodically. Any employee may voluntarily seek advice, information, and assistance. Medical confidentiality will be maintained consistent with this policy.

VII Employee Assistance and Voluntary Referral

- 1) The employer strongly encourages employees who suspect they have substance abuse problems to voluntarily refer themselves to a treatment program. A voluntary referral is defined as being one that occurs prior to any positive test for illegal drugs or alcohol under this policy and prior to any other violation of this policy, including a criminal conviction of that individual for a drug- or alcohol-related offense. A decision to participate in the employee assistance program will not be a protection or defense from discipline.
- 2) Any employee who voluntarily requests assistance in dealing with a personal drug and/or alcohol problem may do so through a private treatment program for drug and alcohol problems. An employee who is being treated for substance abuse in a recognized rehabilitation program may, if the Americans with Disabilities Act applies, be entitled to reasonable accommodation so long as the employee is conforming to the requirements of the program and is abstaining from the use of controlled substances and/or alcohol.

- 3) The cost of the drug or alcohol rehabilitation or treatment program shall be borne by the employee and/or the employee's insurance provider. All information regarding an employee's participation in treatment will be held in strict confidence. Only information that is necessary for the performance of business will be shared by the employer's management. Employees are limited to treatment for substance abuse one time only under this policy.

VIII Searches

1. If the employer suspects that an employee or on-site contractor is in possession of illegal drugs, alcohol, or contraband in violation of this policy, the employer may search employer vehicles, lockers, desks, and work area. By entering into or being present at a job site while on employer time or representing the employer in any way, an individual is deemed to have consented to such searches. If an individual is asked to submit to a search and refuses, that individual will be considered insubordinate and will be escorted off the job site and disciplined, as appropriate. The employer may take whatever legal means are necessary to determine whether alcohol or illegal drugs are located or being used on employer property. The employer may call upon law enforcement authorities to conduct an investigation if deemed necessary.
2. Searches will be conducted by management personnel and may or may not be conducted in the presence of the person whose property or work area is searched. Any suspected contraband will be confiscated and may be turned over to law enforcement as appropriate. Any person whose property is confiscated will be given a receipt for that property by the employer's representative conducting the search.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES

NUMBER 206A
EFFECTIVE DATE: 1-18-11
REVISED:
AUTHORITY: BOC
COUNTY MANAGER: PAW

SUBJECT: VEHICLE OPERATORS DRUG AND ALCOHOL POLICY

I. Statement of Purpose

Storey County is the employer referenced throughout this policy.

The employer seeks to operate a drug and alcohol-free workplace that is in compliance with the Federal Department of Transportation (DOT) (49 CFR Part 40) and the Federal Motor Carrier Safety Regulations (FMSCR), as prescribed by the Federal Motor Carrier Safety Administration (FMCSA) (49 CFR Parts 382, 383, 387, 390-397, and 399). Therefore, it is the policy of the employer that all employees who perform safety-sensitive functions as defined in this policy, including employees required to maintain commercial driver's licenses (CDL), be drug and alcohol free.

To further this goal, the employer has implemented this Vehicle Operators Drug and Alcohol Policy. The Policy provides the employer with reasonable measures to ensure that an employee's drug or alcohol use does not jeopardize the employer's successful operations, the employer's workplace, its employees, or the general public.

II. Coverage

The Vehicle Operators Drug and Alcohol Policy covers all employees who are required to obtain and maintain a CDL as a qualification for their position. All employees covered by this Policy are referred to as "drivers" for the purposes of this Policy. A CDL is required for all drivers that operate a vehicle:

1. In excess of 26,000 pounds Gross Vehicle Weight Rating (GVWR); or
2. Designed to carry 16 or more passengers (including the driver); or
3. Of any size which is used in the transportation of a placardable amount of hazardous material.

This includes, but is not limited to: full-time, part-time, casual, intermittent, or occasional drivers. Mechanics who operate commercial vehicles to test their operations are specifically covered by this Policy.

III. Education and Training

In an ongoing effort to prevent and eliminate substance abuse in the workplace, the employer provides drivers with information and referral resources regarding substance abuse. In addition, supervisors receive a minimum of sixty (60) minutes of training on controlled substance use and sixty (60) minutes of training on alcohol misuse to include the identification of actions, appearance, and conduct of a driver that may indicate drug use and/or alcohol misuse.

IV. Safety-Sensitive Functions

Pursuant to the FMSCA, safety-sensitive functions mean any of the following on-duty functions.

On-duty means all the time from the time a driver begins to work or is required to be in readiness to work until the time s/he is relieved from work and all responsibility for performing work. On-duty work includes:

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, servicing, or conditioning any commercial motor vehicle or equipment 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;
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.

V. Prohibited Conduct

The following conduct is prohibited for purposes of this program. No driver shall:

1. Consume alcohol while performing safety-sensitive functions;
2. Perform a safety-sensitive function within four (4) hours after using alcohol;
3. Have an alcohol concentration of .02 or greater just before, during, and just after performing his/her safety-sensitive functions.
 - If a driver has a blood alcohol content (BAC) of .02 to .039, the driver will be immediately removed from all safety-sensitive functions for a period of twenty-four (24) hours.
 - If a driver has a BAC of .04 or greater just before, during, or just after performing a safety-sensitive function, the immediate consequences shall include the driver being removed from safety-sensitive functions and referred to an evaluation by a Substance Abuse Professional (SAP).

In addition, the employer may take additional disciplinary action against a driver who has a test result of .02 or greater;
4. Use alcohol for eight (8) hours following an accident or until the driver undergoes a post-accident test, whichever comes first;
5. Possess alcohol while on duty, unless the alcohol is manifested and transported as a part of the shipment;
6. Use or possess any drug, except when use is pursuant to the instructions of a physician or dentist who has advised the driver that the substance does not adversely affect the driver's ability to operate a commercial motor vehicle.

NOTE - Prescription Drugs: Drivers may take over-the-counter or prescription drugs under the guidance of a physician in the course of medical treatment.

A driver should ask his/her physician or pharmacist whether the use of the prescription drug or over-the-counter drug could adversely affect his/her ability to perform safety-sensitive functions. Drivers must follow all manufacturers' directions or package inserts when taking any over-the-counter or prescription drugs.

In addition, the employer requires a driver to report that s/he is using any over-the-counter or prescription drug if the use of the drug could affect the safe performance of his/her safety-sensitive functions;

7. Test positive for drugs;
8. Refuse to submit to a post-accident, random, reasonable suspicion, or follow-up drug or alcohol test;
9. Switch, adulterate, or commit any other misconduct pertaining to any breath, urine, or saliva sample;
10. Fail to provide an adequate sample for testing without a valid medical explanation;
11. Disclose to individuals, other than on a need-to-know basis, information pertaining to alcohol and/or drug testing referrals, results of such testing or treatment referrals;
12. Fail to sign the *DOT Alcohol Testing Form (ATF)* (see *Form 206 F4*) or *Federal Drug Testing Custody and Control Form (CCF)* (see current form on website www.health.org/workplace);
13. Fail to consent and sign the *Drug/Alcohol Test Informed Consent Form* (see *Form 206A F3*);
14. Fail to consent and sign the *Consent to Release of Drug / Alcohol Information-Drug / Alcohol Testing Form* (see *Form 206A F 2*);
15. Fail to report to the collection site in the time allocated;
16. Leave the scene of an accident without a valid reason before submitting to a post-accident test;
17. Engage in any other conduct that clearly obstructs the testing process; and
18. Use illicit drugs on or off duty.

VI. Consequences for Violation of the DOT/FMCSA Drug and Alcohol Policies

The Federal DOT/FMCSA mandate certain immediate consequences whenever a driver engages in prohibited conduct. These consequences include removal from duty and referral to a SAP. *In addition, it is important to note that the Employer may apply additional consequences, up to and including termination, for violation of this Policy and DOT/FMSCA. A driver who is removed from performing safety-sensitive functions may be suspended, without pay.*

A. Consequences for Drivers for a Confirmed Violation of this Policy

Specific immediate consequences shall occur whenever a driver:

1. Has a verified, positive drug test¹ or an alcohol test result of .04 or greater.²
2. Consumes alcohol while performing or four (4) hours before performing a safety-sensitive function.

3. Consumes alcohol within eight (8) hours following an accident or before s/he is tested, whichever occurs first.
4. Refuses to submit³ to any required random, post-accident, reasonable suspicion, or follow-up test.
5. Possesses drugs or alcohol in violation of this Policy.

The immediate consequences are:

1. The driver will be immediately removed from performing all safety-sensitive functions.
2. The driver may be disciplined, up to and including termination.
3. The driver will be referred for evaluation by a SAP. When an employee has a verified, positive, adulterated or substituted test result, or has otherwise violated this Policy, the employer shall not return the employee to the performance of safety-sensitive functions until or unless the employee completes the return-to-duty process provided in this Policy.

If the employer decides to continue employing a driver who has violated this Policy or DOT/FMCSA, the following shall occur:

1. The driver will receive, from the employer, information on resources available to the driver to resolve and evaluate any problems associated with substance abuse.
2. Before being returned to his/her safety-sensitive functions, the driver must undergo a return-to-duty drug and/or alcohol test.
3. If the driver required treatment as recommended by a SAP, the driver must complete the treatment and be re-evaluated by a SAP before submitting to a return-to-duty test.
4. If the driver required treatment as recommended by a SAP, the driver will be subject to unannounced follow-up drug and/or alcohol tests.

B. Consequences for Job Applicants

1. Applicants who fail a pre-employment test will be denied employment.
2. A current employee (who is transferring to a covered position) who fails a pre-employment test will not receive the position. In addition, the employer may refer the employee to a SAP for evaluation and treatment and may take additional disciplinary actions.

C. Failure of a Post-Accident Test

A driver who has a positive drug or alcohol test result following an accident, as provided in *Section VII. D.* of this Policy, will be terminated from employment.

D. DOT Penalties

NOTE: *Employer discipline is likely in addition to the DOT penalties.*

Any driver who violates the DOT/FMCSA drug and alcohol rules will be subject to civil or criminal penalties. (see *Appendix D* of this Policy).

In addition, 49 CFR §383.51 also provides penalties for drug and alcohol-related conduct of commercial motor vehicle drivers (see *Appendix D* of this Policy).

The following are “disqualifying” offenses:

1. Driving a commercial motor vehicle while under the influence of drugs or alcohol.
2. Refusing to submit to a test as required by any state or jurisdiction in the enforcement of federal or state law.
3. Leaving the scene of an accident involving a commercial motor vehicle.

First Offenders: A driver who is convicted of driving a commercial motor vehicle while under the influence of drugs or alcohol for the first time will be disqualified for a period of one (1) year provided the vehicle was not transporting hazardous materials. If the vehicle was transporting hazardous materials, the driver will be disqualified for a period of three (3) years.

In addition, a driver who is convicted of the use of a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing drugs (controlled substances) is disqualified for life.

Second Offenders: A driver who is convicted of driving a commercial motor vehicle while under the influence of drugs or alcohol for a second time will be disqualified for life. Ten (10) years after the violation, if the driver has voluntarily enrolled in and successfully completed an appropriate treatment program, the driver may apply for reinstatement of his/her CDL.

Third Offenders: If a reinstated driver is convicted of another drug-related or alcohol-related offense, s/he will be permanently disqualified for life, and will not be eligible to re-apply for a reduction of the lifetime disqualification.

E. Employer-Imposed Penalties and Actions

All violations of this Policy (even a first offense) will serve as the basis for discipline, up to and including termination. The severity of the penalty imposed by the employer will depend on the circumstances of each case. However, drivers need to be aware that any offense, including but not limited to possession, sale or use of controlled substances or illegally used drugs on employer premises or while on duty is likely to result in immediate termination.

In addition to any disciplinary action imposed for a violation of this Policy, or while such actions are held in abeyance, the employer may, at its sole discretion, refer the driver for appropriate assessment, counseling, and/or a treatment program as applicable. However, the employer reserves the right to make the final decision.

VII. Alcohol and Drug Testing

The methods used to determine the presence of alcohol and/or drugs in the driver’s system under the DOT/FMCSA regulations include a urine⁴, breath, and/or saliva test. All alcohol and drug testing will be conducted in accordance with DOT procedures for transportation workplace drug and alcohol testing programs, 49 CFR Part 40. Any employee who refuses to submit to discovery testing for alcohol or drugs pursuant to this Policy will be deemed to have failed the test and will be subject to disciplinary action, up to and including termination. Drivers will be subject to the following types of alcohol and drug testing:

- Pre-employment testing
- Reasonable cause testing
- Post-accident testing

- Random testing
- Return-to-duty testing
- Follow-up testing

A. Testing Forms

1. The *Federal Drug Testing Custody and Collection Form (CCF)* (see current form on website www.health.org/workplace) must be used for each drug test under this Policy, and the *DOT Alcohol Testing Form (ATF)* (see *Form206A F 4*) must be used for each alcohol test under this Policy.
2. Tests under the Vehicle Operators Drug and Alcohol Policy must be conducted prior to and separate from any other drug or alcohol tests. The employer shall not use the CCF or the ATF in non-DOT Drug and Alcohol Testing Programs.

B. Pre-Employment Testing

1. All driver applicants⁵ whom the employer intends to hire or use to perform safety-sensitive functions must give their consent and submit to a urine drug test (see *Form 206A F4*).
2. The employer may choose not to require pre-employment drug testing for a driver applicant if the employer can verify the individual:
 - a. Has participated in a valid controlled substance testing program that meets the requirements of 49 CFR Part 382, within the previous thirty (30) days; and
 - b. Was tested for controlled substances within the past six (6) months from date of application with the employer while participating in the program, or participated in a random testing program within the previous twelve (12) months from the date of application with the employer.
 - c. After obtaining the driver applicant's written consent via completion of the *Consent to Release of Drug / Alcohol Information Drug / Alcohol Testing Form* (see *Form206A F2*), the employer will verify that no former employer of the driver applicant in the preceding two (2) years has knowledge or records that the individual:
 1. Had an alcohol test with a result of .04 alcohol concentration or greater; or
 2. Had a verified positive-controlled substance test result; or
 3. Refused to be tested; or
 4. Violated other DOT drug and alcohol testing regulations.
3. With respect to a driver applicant's violation of a DOT drug and alcohol regulation, the employer shall obtain documentation of the driver applicant's successful completion of return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process, the employer shall obtain this information from the employee. Refer to 49 CFR 40.25 for guidance, if unable to obtain this information.
4. As the employer, the employer shall also ask the employee whether s/he has tested positive or refused to test on any pre-employment drug or alcohol test administered

by an employer to which the employee applied for, but did not obtain safety-sensitive transportation work covered by Federal Highway Safety Administrator's Drug and Alcohol Testing Rules during the past two (2) years. If the employee admits that s/he had a positive test or a refusal to test, the employer shall not use the employee to perform safety-sensitive functions until and unless the employee documents successful completion of the return-to-duty process.

5. If information is requested from another employer, the employer shall, after reviewing the employee's specific written consent, immediately release the requested information to the employer making the inquiry.

As an employer requesting the information required, the employer shall maintain a written confidential record of the information the employer obtained of the good faith efforts the employer made to obtain the information. The employer shall retain this information for three (3) years from the date of the employee's first performance of safety-sensitive functions for the employer.

6. The employer may, but is not required to, conduct pre-employment alcohol testing. If such tests are conducted, the employer shall comply with the requirements of 49 CFR 382.301.

C. Reasonable Suspicion Alcohol and/or Drug Testing

A driver shall be required to submit to an alcohol and/or drug test when the employer has reasonable suspicion the driver has violated the prohibitions of the alcohol and/or drug policy.

- ***Determining Reasonable Suspicion***

A supervisor shall determine that reasonable suspicion exists that requires the driver to undergo testing based on directly making specific contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. In addition, the observations for drug use may include indications of the chronic use and/or the withdrawal effects of controlled substances.

- ***Timing of a Reasonable Suspicion Test***

- 1) Alcohol testing is authorized only if the observations are made during, just preceding, or just after the driver performs safety-sensitive functions. A driver shall be directed to undergo reasonable suspicion testing only while the driver is performing safety-sensitive functions, just before the driver is performing safety-sensitive functions, or just after the driver has ceased performing such functions.
- 2) Alcohol testing shall occur as soon as possible after the observed conditions or event. If the test is not administered within two (2) hours, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If the alcohol test is not administered within eight (8) hours, the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

3) Drug testing shall occur as soon as possible after the observed conditions or event. If the test is not administered within thirty-two (32) hours, the employer shall cease attempts to administer the drug test and shall state in the record the reasons for not administering the test.

- *Documentation of a Reasonable Suspicion Test*

A written record of the driver’s conduct that creates reasonable suspicion shall be prepared and signed by the supervisor(s) who made the observations within twenty-four (24) hours of the observed behavior or before the results of the test are released, whichever is earlier (see *Documentation Reasonable Suspicion Drug / Alcohol Testing Form* [See *Form 206A F6*]).

- *Transportation of Driver for Reasonable Suspicion Testing*

A driver who is required to submit to reasonable suspicion testing shall be transported by the employer to the location of the test. After the driver submits to the test, the employer shall provide transportation for the driver to his/her home. The driver shall be placed on leave with pay, pending test results.

D. Post-Accident Testing

No requirements in this section shall be construed to require the delay of necessary medical attention for injured people following an accident, or to prohibit a driver 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.

Drivers who are involved in an accident shall be sent for an alcohol and drug test following the accident whenever:

1. The accident involved a fatality; or
2. The driver received a citation for a moving traffic violation⁶ arising from the accident, and the accident involved:
 - a. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - b. One or more of the vehicles involved in the accident was towed away from the scene.

Type of Accident Involved	Has Citation Been Issued to the CMV Driver?	Must Test be by employer?
Human fatality	Yes	Yes
	No	Yes
Bodily injury with immediate medical treatment away from the scene	Yes	Yes
	No	No
Disabling damage to any motor vehicle requiring tow away	Yes	Yes

	No	No
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- The Employer’s Responsibility

1. The employer shall provide drivers with necessary post-accident report information, procedures, and instructions before the driver operates a commercial motor vehicle to allow drivers to comply with the testing requirements.
2. The employer is responsible for adhering to the following post-accident timeline, including any recording requirements.

Time Lapsed	Action Required
2 hours	ALCOHOL – If the driver has not submitted to an alcohol test at this time, the employer will prepare and maintain on file, a statement of the reasons the test was not promptly administered.
8 hours	ALCOHOL – The employer shall cease attempts to administer an alcohol test and prepare and maintain on file, a statement of the reasons why the test was not promptly administered.
32 hours	DRUGS – If the driver has not submitted to a drug test at this time, the employer shall cease attempts to administer the test and prepare and maintain on file, a statement of the reasons why the test was not promptly administered.

3. In the event that federal, state, or local officials conduct a breath or blood test for the use of alcohol and/or urine tests for the use of drugs following an accident, these tests shall be considered to meet the DOT requirements, providing the tests conform to applicable federal, state, or local testing requirements and that the results of the tests are obtained by the employer. The employer shall provide transportation for the driver to the location of the test. After the driver submits to the test, the employer shall provide transportation for the driver to his/her home.

- Driver’s Responsibility

A driver is obligated to complete a post-accident report form, to follow the post-accident instructions supplied by the employer, and to see that the alcohol and/or drug test(s) are conducted.

1. A driver must submit to an alcohol test as soon as practical, but not later than eight (8) hours after the accident.
2. A driver must submit to a drug test as soon as practical, but not later than thirty-two (32) hours following the accident.

3. In the event a driver is so seriously injured that the driver cannot provide a blood, breath, or urine specimen at the time of the accident, the driver must provide necessary authorizations, as soon as the driver's physical condition allows, to enable the employer to obtain hospital records or other documents that indicate whether there were drugs or alcohol in the driver's system when the accident occurred.
4. In the event federal, state, or local officials conducted alcohol and/or drug testing following an accident as provided in *Section D.3. "Employer's Responsibility,"* the driver will be required to sign a release allowing the employer to obtain the test results from such officials.
5. A driver who is subject to a post-accident test must remain readily available for testing. A driver who leaves the scene before the test is administered or who does not make himself/herself readily available may be deemed to have refused to be tested and such refusal shall be treated as a positive test. Further, the driver, subject to a post-accident test, must refrain from consuming alcohol for eight (8) hours following the accident, or until the driver submits to an alcohol test, whichever comes first.
6. For safety reasons, a driver required to submit to post-accident testing will be placed on leave of absence, with pay, pending receipt of the post-accident testing result.

E. Random Testing

All drivers are subject to random alcohol and drug testing.

1. Random Selection Process

- a. The selection of drivers for random alcohol and drug testing shall be made from a random number table or a computer-based random number generator that is matched with the driver's social security number. Random testing will be unannounced and the dates for administering the tests will be spread reasonably throughout the year; and
- b. The employer will drug test, at a minimum, fifty percent (50%) of the average number of driver positions each calendar year. The employer will alcohol test, at a minimum, ten percent (10%) of the average number of driver positions each calendar year.

(Optional) The employer utilizes a Consortium/Third-party Administrator (C/TPA) to conduct random testing for alcohol and controlled substances. The total number of drivers to be calculated shall be based on the total number of drivers covered by the C/TPA at the same minimum annual percentage rate.

2. Timing for Random Testing

- a. Random drug testing will be performed at any time while the driver is at work;
- b. Random alcohol testing will be performed just before, during, or just after the driver is performing safety-sensitive functions; and
- c. A driver selected for random testing shall proceed immediately to the test site. A driver who engages in conduct, which does not lead to testing as soon as possible after notification, may be considered to have refused to test and such refusal shall be treated as a positive test.

F. Return-to-Duty Process and Testing**1. Referral**

A driver, who has violated a DOT Drug and Alcohol Regulation, shall be provided by the employer or through a C/TPA or other Service Agent a listing of SAP's including their names, addresses, and telephone numbers of SAP's who are readily available to the employees and acceptable to the employer.

2. SAP and Treatment Services for Employees

- a. The employer may, but is not required to, offer an employee an opportunity to return to a position performing DOT safety-sensitive functions following a violation of a DOT drug or alcohol regulation.
- b. Before the employee again performs a safety-sensitive function following a violation, the employer must ensure that the employee receives an evaluation by a SAP, and that the employee successfully complies with the SAP's evaluation recommendations.
- c. Payment for SAP evaluations and services shall be the responsibility of the employee, or as otherwise covered in the employer's health care benefits, and/or governed by existing management/labor agreements.

3. SAP Evaluation/Recommendations

- a. Once an employee with a DOT Drug and Alcohol Regulation violation has been evaluated by a SAP, neither the employee nor the employer can seek a second SAP evaluation in order to obtain another recommendation.
- b. If the employee, contrary to (a) above, does obtain a second SAP evaluation, the employer may not rely on it.

4. Changing a SAP Initial Evaluation

- a. Except as provided in (b) below, no one may change in any way the SAP's evaluation or recommendations for assistance.
- b. The SAP who made the initial evaluation may modify his/her initial evaluation and recommendations based on new or additional information (e.g., from an education or treatment program).

5. Additional Treatment, Aftercare Services

The employer, upon receiving recommendations from a SAP for an employee who has resumed the performance of safety-sensitive functions,) may, in addition to follow-up tests:

- a. Require the employee to participate in the recommended services as a part of the return-to-duty agreement with the employee;
- b. Monitor and document the employee's participation in the recommended services; and
- c. Make use of SAP and employee assistance program (EAP) services in assisting and monitoring the employee's compliance with the SAP recommendations.

G. Follow-Up Testing

If the employer decides to permit the employee to return to the performance of safety-sensitive functions, the employee must take a return-to-duty test after the SAP has determined that the employee has successfully complied with the prescribed treatment and/or education. The employer must direct a collection under direct observation if the drug test is a return-to-duty test or follow up test.

The employee must have a negative drug test and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive functions.

All drivers who have committed a violation of DOT Drug or Alcohol Regulations will be subject to a written follow-up drug and/or alcohol testing plan prepared by the SAP. A copy of this plan shall be presented directly to the Designated Employer Representative (DER).

Follow-up testing applies during the period following completion of a treatment program. The driver will be subject to a minimum of six (6) unannounced, follow-up drug and/or alcohol tests over the following twelve (12) months following the employee's return to safety-sensitive functions.

The SAP can require additional testing up to a maximum of sixty (60) months from the date the driver returns to duty. Likewise, the SAP can terminate the additional follow-up testing that was ordered in excess of the minimum twelve (12) month period.

A driver whose follow-up alcohol test result is .02 to .039 must be removed from any safety-sensitive functions for twenty-four (24) hours. This test result is not a violation of the DOT/FMCSA regulations. The employer may also impose additional disciplinary action.

The employer shall carry out the SAP's follow-up testing requirements. The employee shall not be permitted to perform safety-sensitive functions, unless follow-up testing is completed as directed by the SAP.

The employer shall schedule follow-up tests at its discretion and shall ensure the tests are unannounced without any discernable pattern as to their timing and that the employee is not given advance notice.

There shall be no substitution of any other tests (e.g., those carried out under the random testing program) conducted on the employee for this follow-up testing requirement.

A cancelled follow-up test does not constitute a completed test. Any follow-up test that was cancelled must be re-collected.

- *Timing of a Follow-Up Alcohol Test*

Follow-up alcohol testing shall be conducted just before, during, or just after the driver performs safety-sensitive functions.

- *Timing of a Follow-Up Drug Test*

Follow-up drug testing may be performed at any time while the driver is at work. The driver does not have to be performing a safety-sensitive function.

H. Test Results (Invalid)

If the employer receives a drug test result indicating that the employee's specimen was invalid and that a second collection must take place under direct observation:

1. Immediately direct the employee to provide a new specimen under direct observation;
2. Do not attach consequences to the finding that the test was invalid, other than collecting a new specimen under direct observation;
3. Do not give any advance notice of this test requirement to the employee;
4. Instruct the collector to note on the *Federal Drug Testing Custody and Control Form* (CCF) the same reason (e.g. random test, post-accident test) as for the original collection.

I. Report of a Dilute Specimen

1. If the MRO informs the DER that a positive drug test was dilute, the DER shall treat the test as a verified positive test and must not direct the employee to take another test based on the fact that the specimen was dilute.
2. If the MRO informs the DER that a negative test was dilute, the employer will take the following action:
 - a. If the MRO directs the employer to conduct a recollection under direct observation (*i.e.*, because the creatinine concentration of the specimen was equal to or greater than 2mg/dL, but less than or equal to 5mg/dL, the employer must do so immediately.
 - b. Otherwise (*i.e.*, if the creatinine concentration of the dilute specimen is greater than 5mg/dL), the employer may, but is not required to, direct the employee to take another test immediately.
 - i. Such recollections must not be collected under direct observation, unless there is another basis for use of direct observation (see § 40.67 (b) and (c))
 - ii. The employer must treat all employees the same for this purpose. The employer may, however, establish different policies for different types of tests (*e.g.*, conduct retests in pre-employment situations, but not in random test situations). The employer must inform their employees in advance of the employer's decisions on these matters.
 - c. The employer must ensure that the employee is given the minimum possible advance notice that he or she must go to the collection site; the employer must treat the result of the test as the test result of record. If the result of the test the employer directed the employee to take is also negative and dilute, the employer is not permitted to make the employee take an additional test because the result was dilute. Provided, however, that if the MRO directs the employer to conduct a recollection under direct observation the employer must immediately do so.

J. Cancelled Drug or Alcohol Test

A cancelled drug or alcohol test is neither positive nor negative.

1. The employer must not attach to a cancelled test the consequences of a positive test or a violation of a DOT Drug or Alcohol Testing Regulation (e.g., removal from a safety-sensitive position).
2. The employer must not use a cancelled test as evidence of a negative test to authorize the employee to perform safety-sensitive functions (i.e., in the case of a pre-employment, return-to-duty, or a follow-up test).
3. The employer must not direct a re-collection from an employee, except when conducting a pre-employment return-to-duty or a follow-up test, or in other provisions of the regulations that require another test to be conducted as provided in 49 CFR 40.159(a) (5) when a drug test result is invalid, and 40.187(b) when a split specimen laboratory result failed to reconfirm Drug(s)/Drug Metabolite(s) not detected.
4. A cancelled test does not count toward compliance with DOT requirements for the number of tests needed to meet the employer's minimum random testing rate.
5. A cancelled DOT test does not provide a valid basis for a non-DOT test.
6. A cancelled alcohol test must be reported to the DER and treated as if the test never occurred.

K. Insufficient Amount of Urine for Drug Test

1. When a collector informs the DER that an employee has not provided a sufficient amount of urine for a drug test, the DER must, after consulting with the MRO, direct the employee to obtain within five (5) working days an evaluation from a licensed physician, who is acceptable to the MRO, and who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen.
2. When the MRO indicates to the DER that a test is cancelled due to a medical condition that has, or with a high degree of probability could have precluded the employee from providing a sufficient amount of urine, the employer shall take no further action with the employee. The employee shall remain in the random testing pool.

L. Insufficient Amount of Saliva or Breath for an Alcohol Test

1. When a STT informs the DER that the employee has not provided a sufficient amount of saliva for an alcohol-screening test, the DER must immediately arrange to administer an alcohol test to the employee using an EBT or other breath-testing device.
2. When a BAT or SAT informs the DER that the employee has not provided a sufficient amount of breath, the employer must direct the employee to obtain, within five (5) working days, an evaluation from a licensed physician who is acceptable to the employer, and who has expertise in the medical issues raised by the employee's

failure to provide a sufficient specimen. The DER must provide the physician with the following information and instructions:

- a. That the employee was required to take a DOT breath alcohol test, but was unable to provide a sufficient amount of breath to complete the test;
 - b. The consequences for refusing to take a required alcohol test include removal from performing all safety-sensitive functions, referral for evaluation by a SAP, and disciplined up to and including termination;
 - c. The physician must provide the DER with a signed statement of his/her conclusion regarding the employees failure to provide a sufficient amount of saliva or breath for an alcohol test; and
 - d. That the physician, in his/her reasonable medical judgment, must base those conclusions on requirements listed in 49 CFR 40.265.
3. Upon receipt of the report from the examining physician, the DER must immediately inform the employee and take appropriate action based upon Federal Highway Administration Regulations.

M. Addressing “Correctable Flaws” in Alcohol Testing

1. If a BAT or STT reports to the DER that a correctable flaw has occurred, and another testing device is not available for the new test at a testing site, the DER shall make reasonable efforts to ensure that the test is conducted at another test site as soon as possible.
2. All other problems must be addressed by a BAT, STT, employer, or other Service Agent administering the process, or the test must be cancelled.

N. Fatal Flaws

The employer must cancel an alcohol test if any of the following “fatal flaws” occur. The test is cancelled and must be treated as if the test never occurred. These problems are:

1. In the case of a screening test conducted on saliva ASD or a breath tube ASD:
 - a. The STT or BAT reads the result either sooner than or later than the time allotted by the manufacturer.
 - b. The saliva ASD does not activate, or
 - c. The device is used for a test after the expiration date printed on the device or on its package.

O. Alcohol Confirmation Test Result

The employer shall take the following steps with respect to the receipt and storage of alcohol test results information:

1. If the test results are not in writing (e.g., by telephone or electronic means), the DER shall identify and record the BAT sending the results.
2. Store all test results information in a way that protects confidentiality.

P. Direct Observation

The employer must direct an immediate collection under direct observation with no advance notice to the employee, if:

1. The laboratory reported to the MRO that the specimen is invalid, and the MRO reported to the employer that there was not an adequate medical explanation for the result; or
2. The MRO reported to the employer that the original positive, adulterated, or substituted test result had to be cancelled, because the test of the split specimen could not be performed.
3. The laboratory reported to the MRO that the specimen was substituted with a creatinine concentration greater than or equal to 2mg/dL and less than 5mg/dL and the MRO reported the specimen to the employer as negative and dilute.

Q. Stand-Down Employee

The employer is prohibited from standing down an employee following the MRO's receipt of a laboratory report of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test pertaining to the employee prior to the MRO completing the verification process. Note: To obtain a waiver to this prohibition, the employer shall send a written request which includes all of the information required to the Federal Motor Carrier Safety Administrator, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

R. Service Agents

1. If the employer uses a Service Agent to perform the tasks necessary to comply with the DOT drug and alcohol testing requirements, it shall ensure the Service Agent complies with 49 CFR Part 40 (Q), Roles and Responsibilities of Service Agents.
2. The employer shall ensure that Service Agents used meet qualifications required for their specialty area, and may require Service Agents to present documentation that they meet these requirements.
3. The employer shall obtain information required from their Service Agents. For example, the employer must not assume that "no news is good news" and permit an applicant to perform safety-sensitive functions before receiving the test results.
4. The employer must not permit the Service Agent to also serve as the DER.

S. Designated Employer Representative (DER)

The employer shall provide to collectors, BAT's and STT's, the name and telephone number of the appropriate DER and C/TPA to contact about any problems or issues that may arise during the testing process.

T. Payment for the Test of a Split Specimen

1. The employer is responsible for making sure that the MRO, first laboratory, and second laboratory perform testing of split specimens in a timely manner once the employee has made a timely request for a test or split specimen.

2. The employer must not condition compliance with this requirement on the employee's direct payment to the MRO, or laboratory, or the employee's agreement to reimburse the employer for the costs of testing. The employer may seek payment or reimbursement of all the costs for the split specimen from the employee.

U. SAP Information Provided by Agent Employer

The employer, through a C/TPA or other Service Agent, shall provide to each employee, (including an applicant or new employee) who violates a DOT Drug or Alcohol Regulation, a listing of SAP's with their addresses and phone numbers who are readily available to the employee and acceptable to the employer. The employee shall not be charged any fee for compiling or providing this list.

V. Confidentiality and Release of Information

1. The employer shall not release individual test results or medical information about an employee to third parties without the employee's specific written consent.
 - a. A third party is any person or employer to whom other subparts of 49 CFR 40 do not explicitly authorize or require the transmission of information in the course of the drug and alcohol testing process.
 - b. Specific written consent means a statement signed by the employee that s/he agrees to the release of specific information to an explicitly identified, person or employer at a particular time. Blanket releases of information (e.g., all test results) or release of information to a category of parties (e.g., other employers who are members of a C/TPA, companies to which the employee may apply for employment) are prohibited.
2. The employer may release information pertaining to an employee's drug or alcohol test without the employee's consent in certain legal proceedings as provided for in 49 CFR 40.323.
3. The employer shall, upon request of DOT agency representatives, provide the following:
 - a. Access to the employer's facilities for DOT agency drug and alcohol program functions.
 - b. All written, printed, and computer-based drug and alcohol program records and reports (including copies of name-specific records or reports), files, materials, data, documents/documentations, agreements, contracts, policies, and statements.
4. If requested by the National Transportation Safety Board as part of an accident investigation, the employer shall provide information concerning post-accident tests administered after the accident.
5. If requested by a federal, state, or local safety agency with regulatory authority over the employer or the employee, the employer shall provide drug and alcohol test records concerning the employee.

W. Record Retention Requirements

1. The employer shall keep the following records for a period of five (5) years:

- a. Records of employee alcohol test results indicating an alcohol concentration of 0.02 or greater;
 - b. Records of employee's verified positive drug test results;
 - c. Documentation of refusals to take required alcohol and/or drug tests (including substituted or adulterated drug test results);
 - d. SAP reports; and
 - e. All follow-up tests and schedules for follow-up tests.
2. The employer shall keep records of information concerning drug and alcohol test results obtained from previous employers on employees that perform safety-sensitive functions for three (3) years.
 3. The employer shall keep records of the inspection, maintenance, and calibration of EBT for two (2) years.
 4. The employer shall keep records of negative and cancelled drug test results and alcohol results with a concentration of less than 0.02 for one (1) year.
 5. The employer shall maintain these records described in 1 through 4 above in a location with controlled access.
 6. If the employer decides to have their Service Agent retain these records, the employer shall ensure the records can be produced at the employer's place of business in the time required by the FMCSA (e.g., within two (2) days of a request by the FMCSA inspector).

VIII. Reservation of Rights

The employer reserves the right to interpret, change, or rescind this Policy in whole or in part, with or without notice, subject to any state and federal laws and relevant collective bargaining agreements.

Provisions within the Federal Department of Transportation (DOT), Federal Motor Carrier Safety Regulations (FMCSR), and state law will supercede any conflicting language in this policy manual.

Nothing in this Policy creates a binding employment contract nor modifies an existing contract.

i. DEFINITIONS

For the purposes of the Vehicle Operators Drug and Alcohol Policy, the following definitions shall apply:

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.

Air Blank. In evidential breath testing devices (EBT's) using gas chromatography technology, a reading of the device's internal standard. In all other EBT's, a reading of ambient air containing no alcohol.

Alcohol. The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

Alcohol Concentration. The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath.

Alcohol Confirmation Test. A subsequent test using an EBT following a screening test with a result of 0.02 or greater that provides quantitative data about the alcohol concentration.

Alcohol Test. A test using an evidential breath test device (EBT) or a non-evidential breath test device (such as a saliva test); the method of testing used to detect the level of alcohol. Both a screening test and a confirmation test must be used to establish a positive test result.

Alcohol Screening Test. An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Alcohol Testing Site. A place selected by the employer where employees present themselves for the purpose of providing breath or saliva for an alcohol test.

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

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

Blind Specimen or Blind Performance Test Specimen. A specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from an employee specimen.

Blood Alcohol Concentration (BAC). The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

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

Canceled Test. A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which 49 CFR Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

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)* (see current form on website www.health.org/workplace).

Collection Container. A container into which the employee urinates to provide the specimen for a drug test.

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

Collector. A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the *Federal Drug Testing Custody and Control Form (CCF)* (see current form on website www.health.org/workplace).

Commercial Motor Vehicle. A motor vehicle used in commerce to transport passengers or property, if the motor vehicle: (1) has a gross vehicle weight rating (GVWR) in excess of 26,000 pounds, or (2) is designed to carry 16 or more passengers (including the driver), or (3) of any size, which is used in the transportation of a placardable amount of hazardous material.

Confirmation Test. For alcohol testing, means a second test using an evidential breath test device, following a screening test with a result of .02 or greater, that provides quantitative data of alcohol concentration.

For drug testing, means a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screen test, and that uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy, generally a Gas Chromatography/Mass Spectrometry (GC/MS).

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.

Confirmed Drug Test. A confirmation test result received by an MRO from a laboratory.

Consortium/Third-party Administrator (C/TPA). A service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPA's typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members.

Designated Employer Representative (DER). An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive functions and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer. Service agents cannot act as DER's.

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

DOT, the Department, DOT Agency. These terms encompass all DOT agencies, including, but not limited to, the United States Coast Guard (USCG), 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 Research and Special Programs Administration (RSPA), and the Office of the Secretary (OST). These terms include any designee of a DOT agency.

Driver. 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 who are either directly employed by, or under lease to, an employer or who operate a commercial motor vehicle at the direction of, or with the consent of the employer.

Drugs. The drugs for which tests are required are: marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates.

Drug Test. A urinalysis (urine) test that includes specimen collection and testing by a Department of Health and Human Services (DHHS) certified laboratory. Both a screening test and a confirmation test must be used to establish a positive test result.

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, 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.

Employer. A person or entity employing one or more employees (including an individual who is self-employed) subject to DOT agency regulations requiring compliance with this Policy. The term includes an employer's officers, representatives, and management personnel. Service agents are not employers for the purposes of this Policy.

Evidential Breath Testing Device (EBT). A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations, placed on NHTSA's Conforming Products List (CPL) for "Evidential Breath Measurement Devices," and identified on the CPL as conforming with the model specifications.

HHS. The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

Illegally Used Drug. Any prescribed drug that is legally obtainable, but has not been legally obtained or is not being used for prescribed purposes, all designer drugs, and any other over-the-counter or non-drug substances (e.g., airplane glue) being used for other than their intended purpose. (Note: A designer drug is a man-made drug, or combination of drugs, which is similar in basic scientific properties to a drug or controlled substance and is produced in a clandestine laboratory.)

Initial Drug Test (Screening Drug Test) The 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 urine specimen is adulterated, diluted, substituted, or invalid.

Invalid Drug Test. The result reported by an HHS-certified laboratory in accordance with the criteria established by 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 this part.

Limit of Detection (LOD). The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

Limit of Quantitation. For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

Medical Review Officer (MRO). A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

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.

Non-negative Specimen. A urine specimen that is reported as adulterated, substituted, positive (for drug(s)) or drug metabolites(s)), and /or invalid.

Office of Drug and Alcohol Policy and Compliance (ODAPC). The office in the Office of the Secretary, DOT, that is responsible for coordinating drug and alcohol testing program matters within the Department, and providing information concerning the implementation of 49 CFR Part 40.

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 drug metabolites, or affects the reagents in either the initial or confirmatory drug test.

Positive Result. The result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.

Reasonable Suspicion of Drug and/or Alcohol Use. Reasonable suspicion means such suspicion that will justify a supervisor in referring a driver for an alcohol and/or drug test. It is the amount of suspicion sufficient to convince a trained supervisor under the circumstances to believe that:

- a. The driver has violated the Vehicle Operators Drug and Alcohol Policy; or
- b. The actions, appearance, or conduct of an on-duty driver are indicative of the use of drugs or alcohol.

The suspicion must be based in fact on specific, contemporaneous, articulable observations by a trained supervisor(s) concerning the appearance, behavior, speech, or body odors of the driver.

For reasonable suspicion of alcohol misuse, such observations must be made during, just preceding, or just after the period of the work day that the driver is performing a safety-sensitive function. Reasonable suspicion is more than mere speculation but less than absolute certainty.

Reconfirmed. The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

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

Screening Test. In alcohol testing, it means an analytical procedure to determine whether a driver may have a prohibited concentration in his/her system (breath or saliva test). In drug testing, it means an immunoassay screen to eliminate “negative” urine specimens from further consideration.

Screening Test Technician (STT). A person who instructs and assists employees in the alcohol testing process and operates an Alcohol Screening Device (ASD).

Service Agent. Any person or entity, other than an employee of the employer, who provides services specified under this part (49 CFR Part 40) to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BAT's, STT's, laboratories, MRO's, SAP's, and C/TPA's. To act as service agents, persons and employers must meet the qualifications set forth in applicable sections of 49 CFR Part 40. Service agents are not employers for purposes of 49 CFR Part 40.

Split Specimen Collection. A collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Stand-down. The practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.

Substance Abuse Professional (SAP). A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare. (Note: To act as SAP under the DOT drug testing program, the individual must meet the requirements for credentials, basic knowledge, qualification training, continuing education, and documentation listed in 49 CFR 40.281.)

Substituted Specimen. 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.

Verified Test. A drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.

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SUBJECT: Reasonable Alcohol & Drug Testing

I. Reasonable Suspicion Testing

- 1) When any supervisor has reasonable suspicion that an employee may be under the influence of alcohol or drugs, the employee in question will be directed by the department head or designee or the employer's Administrative Officer/Personnel Director to submit to drug and/or alcohol testing.
- 2) The supervisor shall be responsible to determine if reasonable suspicion exists to warrant drug and/or alcohol testing and shall be required to document, in writing, the specific facts, symptoms, or observations which form the basis for such reasonable suspicion. When possible, the documentation will be forwarded to the department head or designee to authorize the drug and/or alcohol test of an employee (*reference: Suggested Steps for Reasonable Suspicion Drug-Alcohol Testing and Documentation for Reasonable Suspicion Drug/Alcohol Testing*).
- 3) The department head or designee or the employer's Administrative Officer/Personnel Director shall direct an employee to undergo drug and/or alcohol testing if there is reasonable suspicion that the employee is in violation of this policy. The employee will be suspended with pay pending results of the test.
- 4) Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to:
 - a) Information provided either by reliable and credible sources or independently corroborated.
 - b) The first line supervisor or another supervisor/manager receives information from a reliable and credible source as determined by the department head that an employee is violating the employer's policy.
 - c) Direct observation of drug or alcohol use.
 - d) The first line supervisor or another supervisor/manager directly observes an employee using drugs or alcohol while an employee is on duty. Under these circumstances, a request for testing is mandatory.
 - e) Employee Admits using drugs or alcohol prior to reporting to work or while at work.
 - f) Drug or alcohol paraphernalia possibly used in connection with illicit drugs or alcohol found on the employee's person or at or near the employee's work area may trigger a request for testing.
- 5) Evidence that the employee has tampered with a previous drug and/or alcohol test.

a. The following behaviors will also contribute toward reasonable suspicion and, collectively or independently, on a case-by-case basis may provide a sufficient reason for requesting a drug and/or alcohol test:

b. A pattern of abnormal or erratic behavior.

This includes, but is not limited to, a single, unexplainable incident of serious abnormal behavior or a pattern of behavior which is radically different from what is normally displayed by the employee or grossly differing from acceptable behavior in the workplace.

c. Presence of physical symptoms of drug and/or alcohol use.

The supervisor observes physical symptoms that could include, but are not limited to, glassy or bloodshot eyes, slurred speech, poor motor coordination, or slow or poor reflex responses different from what is usually displayed by the employee or generally associated with common ailments such as colds, sinus problems, hay fever, and diabetes.

d. Violent or threatening behavior.

First Incident: If an employee engages in unprovoked, unexplained, aggressive, violent, and/or threatening behavior against any person, the department head may request that the employee submit to drug and/or alcohol testing.

Second Incident: Whether or not an employee has previously received formal counseling or disciplinary action for unprovoked, unexplained, aggressive, violent, or threatening behavior, upon a second or subsequent episode of similar behavior/conduct, the department head will request that the employee undergo drug and/or alcohol testing.

e. Absenteeism and/or tardiness.

If an employee has previously received disciplinary action for absenteeism and/or tardiness, a continued poor record that warrants a second or subsequent disciplinary action may, in combination with other relevant behaviors, result in drug and/or alcohol testing.

An employee who is required to submit to reasonable suspicion testing will be provided transportation by the employer to the location of the test. After the employee submits to the test or if the employee refuses to be tested, the employer will provide transportation for the employee to his/her home.

II Post-Accident Testing

1. Each employee involved in an OSHA-recordable accident will be tested for drugs and/or alcohol as soon as possible after the accident, but after any necessary emergency medical attention has been provided. OSHA-recordable accidents are those accidents that result in:

a. Death;

b. Days away from work;

c. Diagnosis by a physician or other licensed health care professional as a significant injury or illness;

- d. Medical treatment other than first-aid treatment;
- e. Loss of consciousness; or
- f. Restricted work or transfer to another job.

Additionally, any accident in which there is property damage estimated to be valued at or in excess of five hundred dollars (\$500.00) will trigger a post-accident test (An employee may be suspended with pay pending the results of this test and with or without pay pending any subsequent investigation). An employee who is required to submit to post-accident testing will be provided transportation by the employer to the location of the test.

- 2. In the event an employee is so seriously injured that s/he cannot provide a blood, breath, or urine specimen at the time of the accident, the employee must provide necessary authorization, as soon as the employee's physical condition allows, to enable the employer to obtain hospital records or other documents that indicate whether there were drugs or alcohol in the employee's system when the accident occurred.
- 3. In the event federal, state, or local officials conducted drug and/or alcohol testing following an accident, the employee will be required to sign a release allowing the employer to obtain the test results from such officials.
- 4. An employee who is subject to a post-accident test must remain readily available for testing. An employee who leaves the scene before the test is administered or who does not make him/herself readily available may be deemed to have refused to be tested, and such refusal shall be treated as a positive test. Further, the employee, subject to a post-accident test, must refrain from consuming alcohol for eight (8) hours following the accident or until the employee submits to an alcohol test, whichever comes first.

III Department Safety-Sensitive Positions

- 1. Storey County may conduct pre-employment testing for drugs and random testing for drugs and alcohol for positions identified as department safety-sensitive by the Administrative Officer/Personnel Director. Successfully passing these tests is a condition of future or continued employment. (Also, see policy 206A Vehicle Operators Drug and Alcohol Policy)
- 2. Department safety-sensitive positions mean employment positions which may, in the normal course of business:
 - a. Require the employee to operate the employer's vehicles or heavy equipment or private vehicle on company business on a regular and recurring basis; and/or
 - b. Involve job duties which, if performed with inattentiveness, errors in judgment or diminished coordination, dexterity, or composure, may result in mistakes that could present a real and/or imminent threat to the personal health and safety of the employee, coworkers, and/or the public, including positions that require use of dangerous tools/equipment; performance of job duties at heights; use of dangerous chemicals; or carrying firearms in the performance of job duties.

- c. The Administrative Officer/Personnel Director shall maintain a list entitled “List of Positions Designated as Department Safety-Sensitive.” The list shall be a public record. Before a position is included on this list, the Administrative Officer/Personnel Director shall post a notice in a conspicuous location accessible to employees at the work site affected that a position is to be included as department safety-sensitive for purposes of pre-employment drug testing and random drug and alcohol testing. The notice will afford an opportunity for comment within a twenty (20) calendar day period.
- d. The Administrative Officer/Personnel Director shall meet and consult with the recognized employee organization’s representative, where affected employees are represented, before a position is included on this list. The final determination to place a position on the list shall be made by the County Manager. The Administrative Officer/Personnel Director will maintain a master list of safety-sensitive positions subject to random testing.

IV Random Testing - (see policy Vehicle Operators Drug and Alcohol Policy # 206A)

V Return-to-Work Testing/Follow-Up Testing

- 1. If the **employer** agrees to continue employment, an employee who violates this policy and undergoes rehabilitation for drugs or alcohol will, as a condition of returning to work, be required to agree to follow-up testing as established by the employer’s Administrative Officer/Personnel Director and Department Head. The extent and duration of the follow-up testing will depend upon the safety and security nature of the employee’s position and the nature and extent of the employee’s substance abuse problem. The employer’s Administrative Officer/Personnel Director and Department Head will review the conditions of continued employment with the employee prior to the employee’s returning to work. Any such condition for continued employment shall be given to the employee in writing. The employer’s Administrative Officer/Personnel Director and Department Head may consider the employee’s rehabilitation program in determining an appropriate follow-up testing program.
- 2. Any employee subject to return-to-work testing that has a confirmed positive drug or alcohol test will be in violation of this policy and subject to termination.

VI Consequence of Refusal to Submit to Testing/Adulterated Specimen

- 1. An employee who refuses to submit to testing for drugs and/or alcohol will be subject to disciplinary action, up to and including termination. An employee who consents to a drug or alcohol test but fails to appear timely at the collection site, or who fails to give his/her urine sample after reasonable opportunity to do so, will be treated as a refusal to submit to a drug or alcohol test and is subject to disciplinary action up to and including termination.
- 2. Submission of an altered or adulterated specimen or substitution of a specimen by a specimen donor will be considered a refusal to comply with this policy and subject the employee to disciplinary action, up to and including termination.

VII Testing Guidelines

- 1. The employer will test for the following types of substances:

- Marijuana (THC)
 - Cocaine, including crack
 - Opiates, including heroin, codeine and morphine
 - Amphetamines, including methamphetamines
 - Phencyclidine (PCP)
2. In addition to testing for the above substances, CDL holders are subject to testing for the following substances:
 - a. 6-Acetylmorphine
 - b. MDMA (Ecstasy)

** NOTE: (see policy Vehicle Operators Drug and Alcohol Policy # 206A)
 3. Other drugs may be added to this list. Where applicable, the employer will follow federal testing procedures for drugs and alcohol set forth by the Federal Department of Transportation (DOT) 49 CFR Part 40 and the Federal Motor Carrier Safety Regulations (FMCSR). These regulations may be amended from time to time.
 4. An employer may test for alcohol.

VIII Option for Drug Retest

1. No later than seventy-two (72) hours after receipt of a positive drug test, an employee who tests positive may request a confirmatory retest of the same sample at his/her expense at a certified laboratory of his/her choice.
2. Upon request, the medical review officer will authorize the laboratory holding the employee's sample to release to a second laboratory, approved by the Department of Health and Human Services, a sufficient quantity of the sample to conduct a second testing analysis.
3. The employee will be required to authorize the laboratory to provide the employer with a copy of its test results. The accuracy of the test results will be verified by the laboratory conducting the analysis.

IX Confidentiality

All medical and rehabilitation records are confidential medical records and may not be disclosed without the prior written consent of the patient, authorizing court order, or otherwise as permitted by state and federal law. Positive test results may only be disclosed to the employee; the appropriate medical and substance abuse treatment providers; the employer's attorney; an employer representative necessary to respond to an alleged violation of this policy; individuals within the employer who have a need-to-know of drug and/or alcohol testing results; and a court of law or administrative tribunal in any adverse personnel action.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

SUBJECT: Discipline Related to Alcohol and Drug Abuse

I POLICY: Discipline for Violation of County Policy

1. Employees in violation of the provisions of this policy will be subject to disciplinary action, up to and including termination.
2. An employee may be found to have violated this policy on the basis of any appropriate evidence including, but not limited to:
 - a) Direct observation of illegal use of drugs, prohibited use of alcohol, or possession of illegal drugs or alcohol or related contraband;
 - b) Evidence obtained from a motor vehicle citation, an arrest, or a criminal conviction for use or possession of illegal drugs or for the use, or being under the influence, of alcohol on the job;
 - c) A verified positive test result; or
 - d) An employee's voluntary admission.
3. Prior to determining its course of action, the **employer** may direct an employee who has tested positive to submit to an evaluation by a substance abuse professional. The evaluation will attempt to determine the extent of the employee's use of or dependence on the abused substance(s) and, if necessary, recommend an appropriate program of treatment.
4. If an evaluation is conducted which results in a recommendation for treatment, continued employment may, but is not required, to be allowed if the recommended treatment is immediately begun and successfully completed. The treatment program may include, but is not limited to, rehabilitation, counseling, and after-care to prevent future substance use/abuse problems. The treatment program will **not** be at the **employer's** expense; however, employees may use benefits provided by applicable insurance coverage. Failure by the employee to enroll in the recommended treatment program, to consistently comply with the program's requirements, to complete it successfully, and/or to complete any continuing care program shall be grounds for immediate termination from employment. Employees are limited to substance abuse treatment one time only under this policy.
5. When an employee is required to undergo treatment under this policy, the employee may be required to comply with the following as a condition of continued employment:
 - a) Monitoring of the treatment program and the employee's participation by the **employer**;
 - b) Submission to return-to-work testing as required under this policy and continuing follow-up testing as provided in the *Return-to-Work Testing/Follow-Up Testing, policy HR 207*;

- c) Any other reasonable condition that the **employer** deems necessary to maintain a safe and healthy workplace for all employees.

Failure by the employee to enroll in a required treatment program, to consistently comply with the program requirements, to successfully complete the program, and/or to complete any continuing care program will be grounds for immediate termination of employment.

- 6. Disciplinary action will also be taken for any job performance or behavior that would otherwise be cause for disciplinary action.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

2008

SUBJECT: Prohibition of Workplace Violence

I Policy: The employer is committed to providing for the safety and security of all employees, customers, visitors, and property.

II Scope: This policy applies to all employees, including regular, part-time temporary, casual, provisional, and elected officials, as well as contract and temporary workers and anyone else on the employer's property.

III Implementation of Policy

27. The **employer** will not tolerate any form of workplace violence including acts or threats of physical violence, intimidation, harassment, and/or coercion, which involve or affect the **employer** or which occur on property owned or controlled by the **employer** or during the course of the **employer's** business. Examples of workplace violence include, but are not limited to, the following:

- nn. All threats (including direct, conditional, or veiled) or acts of violence occurring on premises owned or controlled by the **employer**, regardless of the relationship between the **employer** and the parties involved in the incident.
- oo. All threats of any type or acts of violence occurring off the **employer's** premises involving someone who is acting in the capacity of a representative of the **employer**.
- pp. All threats of any type or acts of violence occurring off the **employer's** premises involving an employee of the **employer**, if the threats or acts affect the legitimate interests of the **employer**.
- qq. Any acts or threats resulting in a criminal conviction of an employee or agent of the **employer** or of an individual, performing services for the **employer** on a contract or temporary basis which adversely affect the legitimate interests and goals of the **employer**.

28. Specific examples of conduct which may be considered threats or acts of violence include, but are not limited to, the following:

- rr. Hitting, shoving, or otherwise assaulting an individual;
- ss. Direct, conditional, or veiled threats of harm directed to an individual or his/her family, friends, associates, or property;
- tt. The intentional or malicious destruction or threat of destruction of the **employer's** property;
- uu. Harassing or threatening phone calls, text messages, notes, letters, or computer messages, or other forms of communication;
- vv. Harassing surveillance or stalking;
- ww. Unauthorized possession or inappropriate use of firearms, weapons, hazardous biological or chemical substances, or explosives.

29. The **employer** desires to detect and deter real, potential, or threatened violence. Every employee is required to report immediately any acts of violence or any threat of violence against any coworker, supervisor, manager, elected official, visitor, or other individual. Supervisory and managerial personnel who witness or become aware of any acts or threats of violence must notify their superior immediately. Every other person on **employer** property is encouraged to report incidents of threats or acts of violence of which s/he is aware.
30. Reports of violence or threatening behavior should be made to the Human Resources Department, an employee's immediate supervisor or manager, or any other supervisory or management employee. The **employer** is committed to ensuring that employees reporting real or perceived threats in good faith will not be subject to harassment or retaliation. Nothing in this policy alters any other reporting obligation established in the **employer's** policies or in state, federal, or other applicable law.

IV Violations

31. Violations of this policy by any employee will lead to disciplinary action, up to and including termination and/or appropriate legal action. The **employer** may also take appropriate disciplinary action against any employee who intentionally makes a false or malicious statement about coworkers or others.
32. Actions of law enforcement personnel which are necessary in the performance of their duties and are consistent with policies or sound law enforcement procedures shall not be considered to violate this policy. In addition, actions necessary for bona fide self-defense or protection of employees of the **employer** or of **employer** property shall not be considered to violate this policy.

V Temporary Restraining Orders

33. The **employer** may apply for an order for protection against harassment in the workplace under the terms of NRS 33.200 – 33.360 when it has reason to believe that:

- xx. A person knowingly threatens to cause or commits an act that causes:
- Bodily injury to him/herself or to another person;
 - Damage to the property of another person; or
 - Substantial harm to the physical or mental health or safety of a person;
- yy. If the threat is made or an act committed against the **employer**, any employee of the **employer** while performing employment duties, or against a person present at the **employer's** workplace; and
- zz. The threat would cause a reasonable person to fear that the threat will be carried out, or the act would cause a reasonable person to feel terrorized, frightened, intimidated, or harassed.
34. Such order of protection against harassment in the workplace may:
- aaa. Enjoin the alleged harasser from contacting the **employer**, an employee of the **employer** while performing his/her duties, and any person while the person is present at the **employer's** workplace;
- bbb. Order the alleged harasser to stay away from the workplace; and
- ccc. Order such other relief as the court deems necessary to protect the **employer**, the workplace of the **employer**, the **employer's** employees while performing their employment duties, and any other persons who are present at the workplace.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

**STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

NUMBER 210
EFFECTIVE DATE: 6/17/08
REVISED:
AUTHORITY: BOC
COUNTY MANAGER: PAW

SUBJECT: Employment of Relatives

- I **POLICY:** Pursuant to the provisions of NRS 281.210, no officer or appointing authority of the **employer** may employ in any capacity on behalf of the **employer** any relative of such person who is within the third degree of consanguinity or affinity. (*reference: Consanguinity/Affinity Chart.*) Existing employees may continue in their current position following the election of their relative to an appointing authority position.

In addition, no person shall be employed in a position if such employment would require supervision by a relative who is within the third degree of consanguinity or affinity. For purposes of this paragraph, supervision includes second or higher levels of supervision.

(Example: An employee reports to an immediate supervisor, who reports to a division manager, who reports to a department head. The employee may not be related within the third degree of consanguinity or affinity to the division manager or department head.)

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

2008

SUBJECT: Employee Dating

I. Policy

The **employer** recognizes that an environment where employees maintain clear boundaries between personal and workplace interactions is most effective for conducting business. This policy does not prevent the development of friendships or romantic relationships between employees. However, employees in supervisory/managerial positions are precluded from having a romantic relationship with any subordinate employee.

II. Employee Responsibilities

Employees are prohibited from engaging in physical contact that would in anyway be deemed inappropriate by a reasonable person while anywhere on **employer** property, whether or not such physical contact occurs during work hours.

III. Supervisor/Manager Responsibilities

Employees employed in supervisory/managerial positions are prohibited from engaging in a romantic relationship with a subordinate employee. Employees employed in supervisory/managerial positions need to be cognizant of their status as role models, their access to sensitive information, and their ability to influence others.

Violation of this policy could result in disciplinary action up to and including termination.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

SUBJECT: Code of Ethical Standards

I POLICY: The elected and appointed officers and employees of **employer** recognize that holding public office and/or employment is a public trust. To preserve that trust, we demand the highest code of conduct and ethical standards. The purpose of this policy is to define and establish the standards of ethical conduct that are required of public officials and employees so as to ensure their professional integrity in the performance of their duties.

- A) The officers and employees of **employer** shall comply with the following provisions. This list is not all-inclusive, but simply provides the basic level of conduct expected.
1. All elected and appointed officials and employees will conduct themselves with honesty and integrity in the course of performing their duties and responsibilities.
 2. They will act with care and diligence in the course of their employment.
 3. They will treat everyone, including coworkers, subordinates, supervisors, customers and the public, with the utmost respect and courtesy.
 4. They will comply with all applicable federal, state, and local laws.
 5. They will comply with any lawful and reasonable direction given by someone in the employee's agency who has authority to give the direction.
 6. They will maintain appropriate confidentiality.
 7. They will disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with their employment.
 8. They will use employer resources in a proper manner.
 9. They will not provide false or misleading information in response to a request for information that is made for official purposes in connection with their employment
 10. They will, at all times, act in a way that upholds the values and the integrity and good reputation of **employer**.
 11. They will comply with any other conduct requirement that is prescribed by the **employer**.
- B) In addition, consistent with the provisions of NRS 281A.400 and NRS 281.230, the **employer's** officials and employees are required to comply with the following:
1. No official or employee shall seek or accept any gift, service, favor, employment, engagement, perquisite, gratuity, or economic opportunity or advantage which would tend improperly to influence a reasonable person in his/her position to depart from the faithful and impartial discharge of his/her public duties.
 2. No official or employee shall use his/her position with the **employer** to secure or grant unwarranted privileges, preferences, exemptions, or advantages for him/herself, any member of his/her household, any business entity in which s/he has a significant pecuniary interest, or any other person.
 3. No official or employee shall participate as an agent of government in the negotiation or execution of a contract between the governmental entity and any private business in which s/he has a significant pecuniary interest.

4. No official or employee shall accept any salary, retainer, augmentation, expense allowance, or other compensation from any private source for the performance of his/her duties as an official or employee.
5. If an official or employee acquires, through his/her public duties or relationships, any information which by law or practice is not at the time available to the public generally, s/he shall not use such information to further his/her own current or future pecuniary interests or the current or future pecuniary interests of any other person or business entity.
6. No official or employee shall suppress any governmental report or other document or information because the release of such report or information has the potential to impact his/her own pecuniary interests or those with whom s/he has a business or personal relationship.
7. No official or employee shall use governmental time, property (including monies or funds), equipment, or other facility to benefit his/her personal or financial interests.
8. No official or employee shall attempt to benefit his/her personal or financial interest(s) by influencing or intimidating a subordinate.
9. No official or employee shall seek other employment or contracts through the use of his/her official position or the influence associated thereto.
10. An official or employee shall not, in any manner, directly or indirectly, receive any commission, personal profit, or compensation of any kind resulting from any contract or other transaction in which the **employer** is in any way interested or affected except:
 - a. A member of any board, commission, or similar body who is engaged in the profession, occupation, or business regulated by the board, commission, or body may, in the ordinary course of his/her business, bid on or enter into a contract with any governmental agency, except the board or commission of which s/he is a member, if s/he has not taken part in developing the contract plans or specifications and s/he will not be personally involved in opening, considering, or accepting offers.
 - b. A public officer or employee, other than an officer or employee described in a. above, may bid on or enter into a contract with a governmental agency if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, s/he has not taken part in developing the contract plans or specifications, and s/he will not be personally involved in opening, considering, or accepting offers.

Violations of any of the above provisions may result in disciplinary action, up to and including termination.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary

SUBJECT: Political Activity

I POLICY:

Employees shall not engage in political activity of any kind during working hours. This includes, but is not limited to: soliciting money, influence, service, or any other valuable thing to aid, promote, or defeat any political committee or the nomination or election of any person to public office. Wearing or displaying of apparel, buttons, insignia, or other items which advocate for or against a political candidate or a political cause is also an example of prohibited political activity during work hours. Furthermore, no person shall attempt to coerce, command, or require a person holding or applying for any position, office, or employment, including a citizen requesting service supplied by **employer**, to influence or to give money, service, or other valuable thing to aid, promote, or defeat any political committee, or to aid, promote, or defeat the nomination or election of any person to public office.

Employees may not participate in any of the above-mentioned activities off duty while wearing a uniform, name tag, or any other item identifying them as a representative of the **employer**.

Employees are expressly forbidden to use any **employer** resources, including but not limited to: interoffice mail, email, telephone, fax machines, the Internet, or copy machines to engage in any political activity outside the approved scope of the employees' official duties.

II Running for, or Holding, Political Office

While employees are encouraged to participate in the political process, they must understand the **employer** also has an obligation to provide service to the public.

Employees who are seeking, or who have been elected or appointed to public office, shall not conduct any business related to these activities while on duty. This includes all the items listed in the previous section, (i.e., political activity.)

If there is a conflict with, or the activities hinder the performance of the duties with **employer**, the employee will comply with one of the following: (final approval is at the **employer's** sole discretion)

- The employee will be expected to resign their position;
- The employee may apply and seek approval for use of accrued annual leave time,
or;
- The employee may request unpaid leave.

The maximum duration of paid or unpaid leave time approved will be 30 days. **Employers'** leave policies addressing continuation of health insurance, retirement benefits, accrual of additional leave time, and job and seniority status will be applied in this situation.

If there is any question regarding this policy, employees should contact their supervisor for clarification.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

SUBJECT: Solicitation

I POLICY:

1. Employee Activities

Distribution of literature by employees in work areas or solicitation by employees during work time on behalf of any club, society, labor union, religious organization, political party, philanthropic or similar organization, or for any purpose whatsoever is strictly prohibited. Distribution of information and correspondence related to the administration of a collective bargaining agreement by officers, consultants, and business representatives of a recognized employee organization may be allowed pursuant to the terms of a collective bargaining agreement.

2. Non-Employee Activities

Non-employees will not be allowed on the premises for the purpose of distribution of literature to employees or solicitation of employees at any time whatsoever, except as specifically provided below.

- a) Consultants and business representatives of recognized employee organizations are allowed access to employees as allowed by the specific terms of a current collective bargaining agreement.
- b) Representatives of employee benefit programs (e.g., supplemental insurance or deferred compensation) specifically approved by the **employer** for payment through payroll deduction may meet with employees during designated work time at designated places or on **employer** property as may be approved by the appropriate **employer** representative.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

2008

**STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

NUMBER 215
EFFECTIVE DATE: 06/17/08
REVISED:
AUTHORITY: BOC
COUNTY MANAGER: PAW

SUBJECT: Work Stoppage

I POLICY:

No employee will instigate, promote, encourage, sponsor, or engage in any strike, picketing, slowdown, concerted work stoppage, sick out, or any other intentional interruption of work. Any employee who violates the provisions of this section will be subject to disciplinary action, up to and including termination.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

2008

SUBJECT: **Outside Employment**

I Policy

In order to maintain a work force that is fit and available to provide proper services and carry out functions of the **employer**, employees are prohibited from engaging in outside employment which presents real or potential conflict with or negatively impacts their employment with the **employer**.

II Conflicting Employment

Outside employment may be classified as in conflict with the **employer's** interests if it:

1. Interferes with or negatively impacts the employee's ability to perform his/her assigned job.
2. Prevents the employee's availability for work beyond normal working hours, such as emergencies or peak work periods, when such availability is a regular part of the employee's job.
3. Is conducted during the employee's work hours.
4. Requires the services of other employees during their normally scheduled work hours.
5. Makes use of the **employer's** telephones, computers, supplies, or any other resources, facilities, or equipment.
6. Is represented as an activity of the **employer** or an activity endorsed, sanctioned, or recommended by the **employer**.
7. Takes advantage of the employee's employment with the **employer**, except to the extent that the work with the **employer** may demonstrate expertise or qualification to perform the outside work.
8. Requires the employee to schedule time off at specific times that could disrupt the operation of the **employer**.
9. Involves employment with a firm that has contracts or does business with the **employer**. Exceptions to this policy have been identified in policy 212, *Code of Ethical Standards*.

III Procedure

1. Each employee will determine whether s/he believes the proposed outside employment may conflict with his/her employment with the **employer**.
2. An employee must notify his/her Supervisor or Dept. Head of the outside employment if such outside employment may be reasonably perceived to be in conflict with his/her employment, or if the employee is unsure about a perceived conflict.
3. In order to determine if there is a conflict with the employee's duties, the supervisor or manager may request information, such as:
 - The outside **employer's** name;
 - Hours of proposed employment;
 - Job location; and
 - Duties to be performed. If the supervisor or manager turns down the request, the employee may request and the **employer** will grant a review by another person at a management level.
4. If there is a conflict with the employee's employment, the supervisor or manager will inform the employee, in writing, that the outside employment is not allowed and a copy placed in the employee's personnel file.
5. The supervisor or manager will advise County Administrative Officer of conflicts or perceived conflicts caused by an employee's outside employment.
6. The employee must terminate the outside employment if s/he wishes to remain an employee of the **employer**.
7. Employees who engage in outside employment which is prohibited by this policy are subject to discipline, up to and including termination.
8. Provisions of policies and procedures of the Fire/Sheriff's Department may provide additional restrictions or conditions for approval of outside employment and will remain in effect as they are currently written or as they may be modified.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

2008

SUBJECT: Dress and Grooming

I Policy

Each employee is expected to dress and groom appropriately for the job, presenting a clean, safe, and neat appearance. An employee unsure about whether attire or grooming is appropriate should consult with his/her supervisor.

The **employer** may also establish special requirements based on safety concerns. If the employee feels aggrieved by the dress and grooming requirements of his/her department, s/he may use the dispute resolution process provided in the **employer's** personnel policies.

In setting standards for dress and grooming, supervisors will consider the following factors:

1. The specific nature of the work and the work environment.
2. The attire of other employees engaged in similar work.
3. Safety considerations such as necessary precautions when working with or near machinery.
4. The nature of the employee's public contact, if any.
5. The effects on others of the attire or grooming such as heavy scents when coworkers have allergies.

II Enforcement

When the **employer** believes an employee's dress or grooming does not comply with established standards, the immediate supervisor will discuss the issue with the employee. If continued counseling fails to result in the desired response, the supervisor may initiate disciplinary action. An employee who disagrees with a supervisor's judgment on matters of dress and grooming shall address the issue with the next level Supervisor or County Administrative Officer or use the dispute resolution process described in the **employer's** personnel policies.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

SUBJECT: Children and Pet's in the Workplace

I Policy

To avoid disruptions to the employee and coworkers, potential distractions in serving members of the community and to reduce personal and property liability, employees are forbidden to bring children and/or pet's to the workplace. This policy is intended to address the presence of children and/or pet's while the employee is on duty and does not include official functions or activities promoted by **employer**.

Supervisors may grant a temporary exception to this rule, not to exceed one (1) work day, to accommodate the employee. If an exception is granted, it is the responsibility of the employee to supervise and control the movements of the child or pet. It is not acceptable to request an accommodation to bring sick children or pet's into the workplace.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

2008

**STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

NUMBER: 219
EFFECTIVE DATE: 08-03-10
REVISED:
AUTHORITY: BOC
COUNTY MANAGER: PAW

SUBJECT: Reporting Convictions

I. Policy:

- 1) All employees are required to immediately report convictions, guilty or nolo contendere plea, or deferred adjudications for felony, misdemeanor (excluding juvenile adjudication) or any lesser crime other than a minor traffic infraction. Convictions shall not automatically impact the employees' employment.
- 2) The employer will make an assessment of the effect of the conviction to the essential duties of the position the employee holds.

RESPONSIBILITY FOR REVIEW: The Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

**STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

NUMBER: 220
EFFECTIVE DATE: 4-5-11
REVISED:
AUTHORITY: BOC
COUNTY MANAGER: ___ PAW

SUBJECT: Genetic Information Nondiscrimination Act (GINA)

II. Policy:

Employers with 15 or more employees must comply with the federal regulations associated with the Genetic Information Nondiscrimination Act (GINA). When requiring employees or applicants to see a health care provider for work-related medical exams, pre-employment physicals, ADA accommodations, fitness-for-duty exams, or similar work-related medical exams, the employer must state to the applicant, employee, AND the health care provider that no genetic information is sought by or to be relayed to the employer under Title II provisions of GINA.

RESPONSIBILITY FOR REVIEW: The Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

**STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

NUMBER: 221
EFFECTIVE DATE: 08-03-10
REVISED:
AUTHORITY: BOC
COUNTY MANAGER: PAW

SUBJECT: Telecommuting

- I. **Purpose:** The purpose of this policy is to define the telecommuting program of the employer and the guidelines under which it will operate. Telecommuting is defined as working at an alternate worksite that is away from the main or primary worksite typically used by the employer. Telecommuting is a mutually agreed upon alternative work location between the telecommuting employee and employer. Telecommunicating is not an employee benefit, but rather a work alternative based upon the job content, satisfactory work performance, and work requirements of the department and employer.
- II. **Scope:** The policy applies to all employees, supervisors, and managers who are approved to telecommute as a work alternative. All supervisors, managers, and department heads must be familiar with the contents of this policy.
- A. **Requesting Permission to Telecommute**
- An employee who wishes to request a telecommuting arrangement shall submit a written request for approval to his/her supervisor. The form shall be approved by the appropriate department head before employee may telecommute.
- B. **Employee Rights and Responsibilities**
1. Except as specified in this policy or agreed to in the individual telecommuting agreement signed by the employee, employee rights and responsibilities are not affected by participating in telecommuting. An employee's compensation, benefits, and expected total number of hours worked will not change regardless of work location.
 2. No benefits provided by employer are enhanced or abridged by the implementation of a telecommuting agreement. All forms of telecommuting imply an employee-employer relationship. The employee is expected to adhere to all of the same policies, regulations, and performance expectations established for all employees of employer.
 3. Telecommuting employees must keep their supervisor informed of progress on assignments worked on at the alternative worksite, including any problems they may experience while telecommuting. The employee must generate a synopsis of activities and accomplishments for the workday in a prescribed format. Methods of planning and monitoring the work shall be at the discretion of the supervisor, department head, and/or employer.
 4. Office needs will take precedence over telecommute days. An employee must forgo telecommuting if needed in the office on the regularly scheduled telecommute day.
 5. The employee is responsible for providing an appropriate workspace, including all necessary equipment to perform their normal job functions unless otherwise stated in

the written agreement. Equipment supplied by employer is to be used for business purposes only. Any additional financial burden resulting from the telecommuting arrangement is solely the responsibility of the employee.

6. Telecommuting is not intended to serve as a substitute for child or adult care. If children or adults, in need of primary care, are in the alternate work location during employees' work hours, some other individual must be present to provide care.

C. Employer Rights and Responsibilities

1. Participation in a telecommuting agreement is at the sole discretion of the employer. Except as specified in this policy or agreed to in the individual telecommuting agreement, employer rights are not affected by an employee's participation in telecommuting.
2. The employer will determine the methods of planning, monitoring, receiving, and reporting the employee's activity and accomplishment. Employer must manage the work of employees in their area of responsibility and assure that employees receive the assistance they need to accomplish their responsibilities.
3. The employees will be given as much advance notice as possible if they will be needed in the office on the regularly scheduled telecommute day.
4. Each telecommuting agreement will be discussed and renewed at least annually, or whenever there is a major job change. Because telecommuting is selected as a feasible work option based on a combination of job characteristics, employee performance, and employer needs, a change in any one of these elements may require a review of the telecommuting agreement.
5. Employer may, upon request, inspect the employee's alternate workspace for safety and workers' compensation concerns.

D. Termination of Telecommuting Agreement

1. Employer and/or employee may terminate the telecommuting agreement for any reason, at any time. Whenever feasible, written notice will be provided, but this is not a requirement.
2. The opportunity to participate in a telecommuting agreement is offered only with the understanding that it is the responsibility of the employee to ensure a proper work environment is maintained, dependent care arrangements must not interfere with work, and personal disruptions such as non-business telephone calls and visitors must be kept to a minimum. Employees must notify their supervisor of any changes to their standard workweek (i.e. sickness, doctor visits, vacation). Failure to maintain a proper work environment, as determined by employer, provides cause for discipline and the termination of the employee's telecommuting agreement.
3. Approval for any telecommuting request is based upon employer and department requirements as determined by employer. Employees previously participating in a telecommuting agreement are not assured a telecommuting agreement in the future.

RESPONSIBILITY FOR REVIEW: The Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner if necessary.