

**TOWNSHIP OF WASHINGTON
FRANKLIN COUNTY, PENNSYLVANIA**

RESOLUTION # 231

DRUG AND ALCOHOL PERSONNEL POLICY

This Policy is established by Resolution of the Board of Supervisors Washington Township, Franklin County, adopted December 4, 1995. The Policy shall be effective January 1, 1996, and shall continue in effect until amended or terminated by resolution of the Board of Supervisors.

SECTION 1. PURPOSE

- A. To comply with the requirements of employers pursuant to the federal legislation concerning commercial drivers licenses (CDL) pursuant to the Omnibus Transportation Employee Testing Act of 1991 and the federal regulations thereto insofar as they apply to this Township.
- B. To conform the employment policies of this Township with the requirements of said law and regulations.

SECTION 2. APPLICATION

This Policy shall apply only to those employees and applicants for employment who are required to have a CDL license for their employment by the Township and who are assigned to operate Township owned, leased or borrowed vehicles or equipment requiring CDL licensure.

SECTION 3. FEDERAL REGULATIONS

The regulations of the Federal Highway Management Administration are hereby adopted by reference insofar as they apply to this Township and this Policy.

SECTION 4. POLICY ESTABLISHED

Employees shall not use, sell, possess, or receive alcohol or illegal drugs, or distribute or sell prescription drugs while on duty. Violation of these rules will subject the employee to discipline and/or dismissal pursuant to the provisions of Section 7 of this policy, subject to any applicable provisions and procedures of the collective bargaining agreement in effect, if any.

Prescription drugs must be kept in their original container identifying the drug, dosage, date of prescription and physician. Employees are required to notify their designated supervisory personnel if they are taking a prescription drug and shall file with the Township a statement on a form provided by the Township from the doctor who issued such prescription stating whether or not such prescription drug will impair the employee's ability to operate a CDL vehicle or equipment. The term "illegal drugs" shall include drugs for which the employee does not have a valid prescription, and cocaine, phencyclidine (PCP), marijuana, opiates (including Heroin), amphetamines, and such other illegal drugs as may be identified from time to time.

SECTION 5. TESTS ESTABLISHED

The following drug and alcohol test procedures shall be applicable to all employees and applicants for employment to whom this Policy applies:

- A. Pre-Employment: All applicants for employment shall be tested for drugs prior to acceptance for employment by the Township. Any applicant testing positive shall not be considered for employment.

- B. Random: The Township will implement a random testing procedure which meets the requirements of the federal regulations. The procedure shall include township-paid tests of affected employees on a random basis and shall be conducted without any advance notice; but shall be done not less than on a quarterly basis. The number of affected employees selected shall be at least 50% of the employees for drug testing and 25% of the employees for alcohol testing annually; provided, however, that the requirements of this Policy shall be satisfied if the above percentages are selected from a pool of employees which includes the Township's employees.

- C. Reasonable Cause: Any employee giving reasonable cause to believe that he or she is in violation of the Policy Established in Section 4 above shall be subjected to township-paid testing immediately upon observation of such reasonable cause by trained supervisory personnel. Reasonable cause shall be limited to behavior or conduct

observed at the workplace or en route to a workplace during working hours. Observation shall be by supervisory personnel who have received at least one hour of training in drug use detection and one hour of training in alcohol use detection. Supervisory personnel making reasonable cause observations shall make and file with the Township a written report on a form provided by the Township of the attendant circumstances. Such reports shall be confidential.

- D. Post Accident: Any employee involved in an accident as defined herein shall be tested at the Township's expense for drugs as soon after an accident occurs as possible, but not later than thirty-two (32) hours, and for alcohol as soon after an accident as possible, but not later than eight (8) hours. Provided:
1. Testing should not take precedence over needed medical treatment or other needed emergency measures;
 2. If for any reason the tests cannot be obtained within the times provided, the tests shall not be administered. However, refusal to submit to a test or interfering with the successful completion of such a test shall be deemed a positive test result in accordance with Section 6 below;
 3. No employee shall consume alcohol or illegal drugs between the time of the accident and the test administration;
 4. An accident shall include any occurrence involving a CDL vehicle where the following conditions occur:
 - (a) there is a fatality regardless of fault; or
 - (b) there is issuance of a citation to the Township CDL employee for a moving violation, and (i) bodily injury of any person involved requiring transportation of the injured person away from the accident scene for treatment or (ii) vehicular damage requiring the vehicle to be towed from the scene.

SECTION 6. TEST STANDARDS

Any refusal or failure by the CDL Employee or Applicant to submit to any test required by this policy or the applicable law, shall be deemed to be a positive result. Refusal to submit to a test under this Policy shall include any act or omission which prevents, thwarts, or frustrates the objectives of this Policy, including without limitation the following: (1) refusal to submit in a timely fashion to testing; (2) refusal or failure by the employee or applicant to complete, sign or initial the required testing form; (3) refusal or failure without good cause to provide any sample or provide an adequate sample for testing; and/or (4) failure or refusal to otherwise cooperate with the testing process in a way which prevents the completion of any required test.

- A. Alcohol Testing. Alcohol testing shall be conducted using federally approved breathalyzer. Any employee receiving a test result of greater than .02 but less than .04 breath alcohol level shall be removed from safety sensitive duties as defined in the act and the regulations, for 24 hours. Any test result of greater than .04 breath alcohol level shall be considered a positive test and shall subject the employee to the disciplinary provisions of Section 7 of this policy.
- B. Drug Testing. Drug testing shall be conducted by urine sample which shall be analyzed at a federally approved testing facility. Any test result showing the presence of illegal drugs shall be considered a positive test and shall subject the employee to the disciplinary provisions of Section 7 of this Policy. Any employee testing positive for illegal drugs may request a split sample of the same specimen to be retested, at the employee's expense. Employees should speak with the Medical Review Officer about such requests.

SECTION 7. POSITIVE TESTS/RETURN TO CDL DUTY

An employee who tests positive for a drug and/or alcohol test will be allowed to return to CDL duty if this is the employee's first positive test and the employee, prior to returning to CDL duty:

1. Consults such drug and alcohol abuse professionals to whom the employee has been referred at the employee's expense;

2. Completes all recommended treatment at the employee's expense; and
3. Completes all necessary drug and/or alcohol tests at the employee's expense and obtains negative results.

Any subsequent positive result to a drug and/or alcohol test by this same employee within five (5) years will subject that employee to immediate dismissal by the Township.

SECTION 8. FOLLOW-UP

When an employee who tests positive for a drug and/or alcohol test returns to CDL duty, that employee shall be subject to and pay for unannounced follow-up drug and/or alcohol tests as directed by the Substance Abuse Professional for a period of sixty (60) months following return to CDL duty. At least six (6) unannounced follow-up drug and/or alcohol tests shall be conducted in the first twelve (12) months following return to CDL duty. Such tests shall be conducted as directed by the assigned Substance Abuse Professional. A positive result on any test administered during this probationary period automatically subjects the employee to immediate dismissal.

SECTION 9. TEST RESULTS

Employees will be notified of their positive test results. Test results shall be retained by the Medical Review Officer responsible for analyzing the employee's test results. Said results shall be held in strictest confidence and shall be accessible only to the employee, the employer, and such other persons authorized by law and shall not be released to any other person except with the written consent of the employee. The results of tests made known to the Township may be released to future employers in accordance with the federal regulations.

SECTION 10. CONFIDENTIALITY OF DOCUMENTS

All files, documents, and records of the Township related to the application of this Policy to individual employees shall be deemed and kept confidential by the Township.

SECTION 11. RECORDKEEPING

All of the records relating to the administration and results of the Township's alcohol and drug testing program for its CDL drivers will be maintained for a minimum period of five (5) years, except that individual negative test results will be maintained for a minimum of twelve (12) months.

Tests will be conducted by a licensed facility and will be analyzed by a Medical Review Officer. The Medical Review Officer who is appointed shall be a licensed doctor of medicine or osteopathy with knowledge of drug and alcohol abuse disorders and who is employed by the Township, or group which the Township has joined, to conduct alcohol and drug testing in accordance with the federal regulations. The Medical Review Officer shall be the sole custodian of individual test results. The Medical Review Officer shall retain the reports of individual test results for a minimum of five (5) years.

The Township shall retain in the employee's personnel file information indicating only the following:

1. The employee submitted to a drug and/or alcohol test;
2. The date of such test;
3. The location of such test;
4. The identity of the person or entity performing the test; and
5. The test result (e.g., "positive" or "negative".)

The Township will also maintain an annual calendar year summary of the records related to the administration and results of the testing program for its drivers under the federal regulations.

SECTION 12. ACCESS TO TEST RESULTS AND FINDINGS

No person may obtain the individual test results retained by the Medical Review Officer, and no Medical Review Officer shall release the individual test results of any employee to any person, without first obtaining written authorization from the tested individual, unless otherwise required by law.

SECTION 13. EMPLOYEE ASSISTANCE PROGRAM

The Township shall establish the following:

- A. A list of consultative and treatment services available in the area for drug and alcohol abuse problems. Said list shall be given to each employee or posted at a place readily accessible to employees.
- B. A list of educational and training resources available in the area for drug and alcohol abuse problems. Said list shall be given to each employee or posted at a place readily accessible to employees.
- C. A place or service for referring employees who test positive for drugs or alcohol for consultation and treatment.
- D. A one hour training and educational program for employees.
- E. One hour training each in drug and alcohol detection and related matters for supervisory personnel. Said training programs shall include the following components:
 1. Effects of drug and alcohol abuse on health and safety;
 2. Manifestations of abuse and abuse detection;
 3. Documentation of training and implementation of this Policy.

SECTION 14. CDL INFORMATION CONTACT

The following entity is designated by the Township for the purpose of providing information to employees concerning the federal laws and regulations governing the testing of CDL employees and for implementing and monitoring the Township's compliance with the federal testing program.

PSATS CDL Drug and Alcohol Testing Program
3001 Gettysburg Road
Camp Hill, PA 17011
Phone: 1-800-235-7579
FAX: 1-717-763-9732.

Designation of the PSATS Program as available to provide information to the Township's employees

shall continue for as long as the Township is a member in good standing in the PSATS Program.

SECTION 15. MISCELLANEOUS

- A. This Policy shall be implemented with the constitutional and legal rights of the employees subjected to it.
- B. This Policy shall not be deemed to be a covenant of employment or other form of covenant or contract between the Township and any employee.
- C. Any collective bargaining agreement entered by the Township subsequent to the adoption of this Policy shall conform with the provisions of this Policy.
- D. Any agreement for the sharing, leasing, lending, or other transfer of CDL employees between the Township and any other municipality or private enterprise shall address in writing the status of said employees as to whether they are employees of the receiving entity during the period of the transfer.
- E. Any contract for services involving CDL employees shall expressly state whether the contracting party is an independent contractor or employee/agent of the Township.
- F. The definition of terms shall be as contained in the relevant federal regulations.
- G. A copy of this Policy shall be delivered to every employee and applicant for employment who is subject to it and to all supervisory personnel. Such employee shall sign an acknowledgement of receipt of the Policy.
- H. A copy of the controlling law and federal regulations shall be maintained in the Township offices and shall be accessible to employees, upon request.
- I. This Policy will be limited by any applicable federal or state law or municipal ordinance. Any portion of this Policy which directly conflicts with such a law or ordinance will not be implemented but shall be severable and shall not affect the validity and enforcement of the remainder of the Policy.

- J. Employees agree to release the Township from liability arising out of the Township's administration of this Policy and its administration of the program established pursuant to the federal law or regulations regarding the Township's responsibility for CDL drivers.

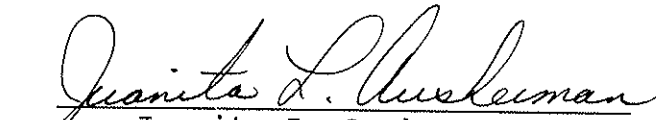
SECTION 16. RESCINDING OF CONFLICTING RESOLUTIONS

Any previously adopted resolutions with provisions in conflict with this Resolution shall be rescinded.

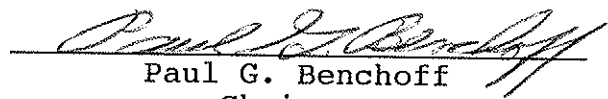
DULY RESOLVED this 4th day of December 1995, by the Board of Supervisors of Washington Township, Franklin County, Pennsylvania, in lawful session duly assembled.

ATTEST:

TOWNSHIP OF WASHINGTON
FRANKLIN COUNTY, PENNSYLVANIA



Juanita L. Ausherman
Secretary



Paul G. Benchhoff
Chairman

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