

**Subject: Substance Abuse Policy for Campbell County**

The health and safety of the general public at-large, residents of the area, their children, and our work force (employees and other service providers) is one of the most serious concerns of the Campbell County Board of Commissioners, (herein after Board). Drug use and alcohol misuse can pose a serious threat to our health and safety. It has been estimated that people who abuse alcohol or drugs have two times as many accidents, three times as many vehicular accidents, use three times as much sick leave and have twice the health insurance costs as those who do not.

A considerable amount of money covers absenteeism, accidents, equipment damage, and insurance premiums. It has been estimated that American companies spend over one hundred billion dollars each year on the consequences of substance abuse in the workforce. The financial cost of substance abuse is substantial: however, the emotional impact of losing a friend, co-worker, child, or family member to drugs or alcohol is even greater. In fact, there is no way to calculate the enormity of this kind of loss.

Each of us reacts differently to drugs and alcohol, but one thing is clear -- these substances affect our judgment and our ability to perform. The danger of abusing these substances becomes especially clear when you add a motor vehicle to this picture.

In an effort to prevent the effects of substance abuse in the transportation industry, the Federal Highway Administration of the Department of Transportation, the DOT, has expanded its current drug and alcohol regulations for motor carriers. These regulations can be found in Title 49, the Code of Federal Regulations, Part 382, entitled, "Controlled Substances & Alcohol Use and Testing," and Part 40, entitled, "Procedures for Transportation Workplace Drug Testing Programs".

The Board will comply with these regulations. The Board is committed to maintain a drug free work environment, in particular for Operators (as defined later in this document). Therefore, the Board has adopted the following substance abuse policy, and drug and alcohol testing program.

**Policy Statement**

Specifically, it is the policy of the Board that the use, sale, manufacture, purchase, transfer, possession, or the presence of any prohibited substance in an Operator's body system, including alcohol levels above those established herein, while engaged in County business or while performing Operator functions is strictly prohibited (except medications prescribed by a licensed physician) and the Operator will be terminated if in violation of the policy. The Board will notify and cooperate with law enforcement agencies in the investigation of any Operator suspected of manufacture, possession or trafficking of illicit or inappropriate drugs.

Additionally, all current and future Operators will be subject to the drug and alcohol testing program as set forth in this document. Any Operator or Operator Applicant who tests positive during the drug and alcohol testing will be terminated or precluded from employment or service with the Board. Any Operator/Operator Applicant who refuses to comply with a proper request to submit to testing, or fails to cooperate in the testing process, will be considered to have tested positive. The program procedures are designed not only to detect violations of this policy but to secure fairness to each Operator/Operator Applicant.

Every effort will be made to maintain the dignity of Operators/Operator Applicants involved. Disciplinary action will, however, be taken as necessary.

Neither this policy nor any of its terms are intended to create a contract of employment, or to alter the existing contractual relationship in any way. This policy is effective January 1, 1996 and supersedes all prior policies and statements related to Operators drug and alcohol abuse.

**Grace Period**

There is a sixty-day grace period prior to the implementation of random testing and testing based on reasonable suspicion as reflected in the announcement of the program. During this time, employees who need counseling and/or rehabilitation are encouraged to seek help. If an Operator should approach the Board for assistance through rehabilitation for drug abuse or alcohol abuse prior to a testing request by the Board, all possible and positive considerations for a medical leave of absence for treatment and/or counseling will be pursued. The Board is not required under these rules to provide rehabilitation or pay for treatment. If an Operator returns to duty the Board must ensure that the Operator: 1) has been evaluated by a substance abuse professional; 2) has complied with any recommended treatment; 3) has taken a return-to-duty alcohol test (with a result less than 0.02) and drug test (with a negative result); and 4) is subject to unannounced drug and alcohol tests above and beyond the normal random testing program. These additional testing requirements are at the cost of the Operator. If an Operator is terminated, the Board will not be obligated to provide assistance beyond the last day of employment. If a problem with controlled substances or alcohol abuse occurs at any time after the grace period, appropriate action will be taken in accordance with policy. The sixty-day grace period shall not apply to post-accident or pre-employment testing.

## Scope

**Operators Subject To Testing** -- All Operator Applicants required to have a CDL license for substitute, full-time or part-time positions at the Board and Operators being considered for, or currently performing duties requiring a CDL license are subject to testing. This applies to every person who operates a commercial motor vehicle in interstate or intrastate commerce, and is subject to the Commercial Driver's License requirements of 49 CFR Part 383. Additionally, all Operator Applicants for substitute, full-time or part-time positions at the Board and Operators being considered for, or currently performing duties involving the operation of graders or mowing machines on or near public highways are subject to testing.

The definition of "Operator" under these policies and procedures includes regular employees, as well as part-time drivers, substitute drivers, leased drivers and independent contractors who perform the following Operator functions:

1. Who drive vehicles over 26,000 pounds GVWR,
2. Who drive trailers over 10,000 pounds GVWR if the gross weight rating is more than 26,000 pounds,
3. Vehicles designed to carry 16 or more passengers (including the driver),
4. Any size vehicle used to transport hazardous materials (required to have a placard), and
5. Who operate graders or mowing machines on or near public highways.

Substitute Operators are Operators who randomly perform Operator functions on behalf of or to replace a Primary Operator, as defined above, when he/she is unable to fulfill duties.

**Alcohol** -- means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol. Because alcohol is a legal substance the policies and procedures define specific prohibited alcohol-related conduct.

**Controlled Substance** -- The U.S. Department of Transportation (DOT) requires testing for amphetamines, cannabinoids, cocaine, opiates, phencyclidine, and illegal substances or non-prescribed drugs.

## Prohibited Conduct

The Board prohibits any alcohol misuse and/or any drug use that could affect performance of operators' functions, including:

1. Use while performing Operator functions.
2. Use during 4 hours before performing Operator functions.
3. Reporting for duty or remaining on duty to perform Operator functions with an alcohol concentration of .02 or greater or under the influence of illicit drugs.
4. Possession of alcohol or illicit drugs, unless the alcohol is manifested and transported as part of a shipment. This includes the possession of medicines containing alcohol (prescription or over-the-counter), unless the packaging seal is unbroken.
5. Use during the 2 1/2 hours following an accident, or until he/she undergoes a post accident test.
6. Refusal to take required test/tampering or adulteration of specimen collections.

7. No Operator shall report for duty, remain on duty or perform an Operator function, if the Operator tests positive for controlled substance.

*Note: An Operator found to have an alcohol concentration of .02 or greater but less than .04 shall not perform, nor be permitted to perform, Operator functions for at least 24 hours, or until alcohol concentration level is less than .02.*

**Use of Controlled Substance** includes but is not limited to:

1. Use of any drug, except by doctor's prescription;
2. Testing positive for drugs; and
3. Refusing to take a required test.

**Consequences and Disqualification's --**

1. The Operator shall not perform or be permitted to perform an Operator function if any of the above listed prohibitions are violated.
2. Any Operator violating these prohibitions will be terminated from the Operator position regardless of employment status.
3. Any Operator terminated for violating these prohibitions shall not be eligible to re-apply for employment or service as an operator for a minimum of three (3) years. Other restrictions such as evidence of counseling, adherence to counseling certifications, more stringent testing, and other restrictions may apply.
4. Violation of these policies and procedures of the Board shall likewise constitute a violation of the policies of the Campbell County Board of Education and the Campbell County Highway Department, respectively.

**Testing Circumstances**

**Costs**

The Board will be fiscally liable for costs of drug and alcohol testing and collection fees related to pre-employment testing of employees and primary Operator Applicants, and will be fiscally responsible for random and post accident drug and alcohol testing of Operators, except that each Substitute Operator shall pay a fiscal year fee, as set forth below, in consideration for all random drug and alcohol collection and testing.

Each Substitute Operator shall pay a fee to the Board that is equal to one half (50%) the cost of a random drug test, including collection fees and one quarter (25%) the cost of a random alcohol test, including collection fees. This fee is non-refundable and shall become the property of the Board.

The Board will not be fiscally liable for confirmation testing or split specimen testing costs for any Operator or Substitute Operator unless such confirmation or split specimen test result is negative. The Board may, however, make payment for confirmation testing and the Operator shall reimburse the Board 100% of the costs associated with confirmation tests with a positive result.

**Pre-employment Testing**

All Operator Applicants for substitute, full-time or part-time Operator positions, and all persons

transferring from non Operator positions to Operator positions at the Board will be directed to submit to a Controlled Substance Test.

A drug test will be conducted during the application process and a negative drug test result must be received before a final offer of employment is made.

### **Post-accident Testing**

If any Operator, in the course of performing Operator functions, is involved in an accident that involves a fatality or any accident in which the Operator is issued a citation under state or local law for a moving traffic violation arising from the accident then that Operator will be required to submit to an Alcohol and Controlled Substance Test. Testing will be administered immediately following the accident or as soon as medically and legally possible.

The alcohol test must be administered within 2 1/2 hours following the accident and in no case shall more than 8 hours elapse before the test is administered. It is the Operator's responsibility to notify the Board immediately to insure actions are taken to meet the testing requirement.

*Note: Sheriffs Department cannot do testing to meet requirements of DOT regulations.*

The Operator must refrain from using alcohol for 2 1/2 hours following the accident, or until he/she submits to an alcohol test, whichever comes first.

The drug test must be administered within 32 hours following the accident. The Operator must remain available for testing, or the Board will consider the Operator to have refused to submit to testing.

*Note: Nothing in this requirement should be construed as to require the delay of necessary medical attention for injured people following an accident.*

### **Random Testing**

All Operators of the Board will be subject to random testing for alcohol and controlled substances. Random testing will be done on percentage basis in a fair and equal manner.

For alcohol testing an Operator shall only be tested while the Operator is performing Operator functions, immediately prior to performing, or immediately after performing Operator functions, except for Substitute Operators. Substitute Operators are hereby given notice that they are considered "On Call" for performance of duty at all times; therefore, Substitute Operators may be tested at any time.

For drug testing an Operator may be tested at any time the Operator is at work or on call for the Board.

Selection of operators for random testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with operators' social security number, payroll identification number, or other comparable identifying number.

Each time a random selection process for Drug and Alcohol testing is performed, every Operator will have an equal chance of being selected. Random tests will be unannounced and spread reasonably throughout the year. Operators, when notified that they have been selected for random testing, will proceed immediately to the collection site.

### **Reasonable Suspicion Testing**

Any Operator who, in the performance of Operator Functions, or while engaging in the Board business, acts in an abnormal manner sufficient to cause reasonable suspicion that he/she has violated this policy, he/she will be required to submit to an alcohol and/or a controlled substance test upon the approval and direction of the Supervisor or other designated officer of the Board.

## **Alcohol Testing Methodology**

### **Breath Alcohol Technician (BAT)**

Alcohol testing will only be performed by a certified Breath Alcohol Technician (BAT) trained and certified in the principles of Evidential Breath Testing Devices (EBT) methodology, operation, and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures required for obtaining a breath sample, and interpreting and recording EBT results.

### **Evidential Breath Testing Devices (EBT)**

Alcohol testing will only be performed using evidential breath testing devices (EBT's) approved by the National Highway Traffic Safety Administration (NHTSA).

Alcohol testing must be by a BAT. All alcohol testing will be conducted in a location that affords visual and aural privacy to the individual being tested. Unauthorized persons will not be permitted access to the testing location when a test is in progress.

Alcohol testing results will be recorded using only the U.S. Department of Transportation Breath Alcohol Testing Form.

## **Alcohol Testing Procedures**

Using the Evidential Breath Testing Device the certified Breath Alcohol Technician will open an individually sealed mouthpiece and attach it to the EBT. The Operator will be instructed to blow into the mouthpiece forcefully until an adequate amount of breath has been obtained. The EBT will record the result and display it on the device immediately. The result will be recorded on the Breath Testing Form and attached to the form with tamper proof tape. When the result is less than 0.02, no further testing is authorized and the result will be transmitted to the Board in a confidential manner and will be stored to insure confidentiality is maintained.

When the result is 0.02 or greater, a confirmation test must be performed to verify the initial test. The confirmation test will be conducted no less than 15 minutes and no more than 20 minutes

after the initial test. In the event the initial and confirmation test results are different, the confirmation test result is deemed to be the final result upon which any action under the terms of this policy shall be based.

Following the completion of the test, the BAT will date the form and sign the certification on the form. The Operator will sign the certification and fill in the date on the form. This insures that each Operator is attesting to the fact that the reported result is specific to the Operator.

Refusal to test or sign certification will be treated the same as if the result is 0.04 or greater.

The Board will maintain alcohol and drug test results in a secure and confidential manner, so the disclosure of information to unauthorized persons does not occur. Operator information shall only be released as required by law or as expressly authorized.

1. An Operator shall have access to any of his/her alcohol and drug testing records upon written request.
2. The Board must allow any DOT authorized agency access to facilities and records in connection with the Board's alcohol misuse and drug abuse prevention program.
3. When requested, the Board shall disclose post-accident testing information to the National Transportation Safety Board as part of an accident investigation.
4. The Board will make records available to a subsequent employer upon receipt of a written request from the Operator.
5. The Board may disclose information to the Operator or to the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual. This may include worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the Operator.

If an Operator attempts but fails to provide an adequate amount of breath the Board will be immediately notified and will direct the Operator to obtain, as soon as practical, an evaluation from a licensed physician who is acceptable to the Board concerning the Operator's medical ability to provide an adequate amount of breath. If the physician determines that there is a medical reason that prevents the Operator from providing an adequate amount of breath, he/she will provide the Board with a written statement of the basis for his or her conclusion. If the physician determines there is no medical reason to prevent the Operator from providing the adequate amount of breath, he/she will provide the Board with a written statement of the basis for his or her conclusion and it will be regarded as a refusal to take the test. The terms of this policy will then be administered.

## **Specimen Collection Procedures**

Specific guidelines will be followed in urine specimen collections for the purpose of drug testing. In accordance with the Department of Health and Human Services (DHHS) guidelines, a clear and well-documented procedure for collection, shipment and accession of urine specimens from the Board to the laboratory have been established. Procedures will account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen.

The Board may choose to do urine specimen collections in-house or utilize the services of an outside source, which may be a doctor's office, clinic, hospital or other facility that meets security requirements as specified by DHHS guidelines. The collection site will be a secure location to allow for maximum privacy, which includes a toilet for completion of urination, a source of water for washing hands and, where practicable, excluded from the area provided for urination. No other person will be present or gain access to the collection area during the collection process. All specimens must remain in the direct control of the collection site person. No one other than the collection site person may handle specimens prior to their being placed securely in the mailing container.

When reporting to a collection site for specimen collection each Operator will be required to provide a photo I.D. Operators will be asked to remove all unnecessary outer garments (i.e., coat or jacket), and secure all personal belongings (individual may retain his/her wallet).

Operators will be allowed to provide his/her specimen in the privacy of a stall.

A split sample method of collection will be used. At least 45 ml of urine must be collected, 30 ml to be used as the primary specimen and 15 ml to be used as the split specimen. Both bottles will be shipped in a single container.

If the collection site person believes tampering or adulteration has occurred, a second specimen shall be collected immediately under the direct observation of a same gender collection site person. Both samples will be sent to the lab.

Refusal to test will be handled the same as a verified positive result.

In all cases the Operator and the collection site person shall keep the specimen in view at all times prior to being sealed and labeled. The specimen will be labeled with tamperproof seals and the Operator will sign appropriate places on the Chain of Custody and initial the seal on the bottle attesting to the fact that the specimen is specific to the individual providing the sample.

## **Testing Methodology**

Only laboratories certified by the Department of Health and Human Services (DHHS) will be used for drug urinalysis.

Every specimen is required to undergo an initial screen followed by confirmation of all positive

screen results. This screen-confirmation process utilizes highly sophisticated techniques to detect minute levels of prohibited substances in urine.

### **Reporting of Results**

The laboratory is required to report the test results directly to the Board's Medical Review Officer (MRO) within 5 working days. The report shall indicate the drug/metabolites tested for, whether the results are positive or negative, the specimen number assigned by the Board and the drug testing laboratory identification number.

### **Review of Results/MRO**

The medical review officer (MRO) is a licensed physician and possesses knowledge of drug disorders. The MRO may be an employee of the Board or one contracted to provide the services required. The MRO will review and interpret positive results obtained from the laboratory. The MRO through a verification process will assess and determine whether alternate medical explanations could account for the positive test results. The MRO may conduct medical interviews of the Operator, review the Operator's medical history and review any other relevant bio-medical factors. Additionally, the MRO will examine all medical records and data made available by the tested individual, such as evidence of prescribed medications.

The MRO will give the individual testing positive an opportunity to discuss the test results prior to making a final decision. After the final decision is made, the MRO will notify the Board as prescribed below.

If during the course of an interview with an Operator who has tested positive, the MRO learns of a medical condition which could, in the MRO's reasonable medical judgment, pose a risk to safety, the MRO may report that information to the Department of Transportation (DOT) or to the Board.

The MRO will notify each Operator who has a confirmed positive test that the Operator has 72 hours in which to request a test of the split specimen. If the Operator makes such a request, the MRO will direct, in writing, the laboratory to provide the split specimen to another certified laboratory for analysis. If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or intestable, the MRO will cancel the primary specimen results and report cancellation and the reasons for it to the DOT, the Board, and the Operator. Requests for testing of the split sample and associated costs are the responsibility of the Operator.

If the MRO, after making and documenting all reasonable efforts is unable to contact the tested person, the MRO will contact a designated management official of the Board to arrange for the Operator to contact the MRO prior to going on duty. Within 5 days after a documented contact by designated management official of the Board instructing the Operator to contact the MRO, the Operator has not done so; the MRO will verify the test positive and report it to the Board.

## **Discipline and Consequence**

### **Pre-employment/Pre-duty**

An Operator Applicant for substitute, full-time, part-time or a transfer from non Operator to an Operator position with a verified positive controlled substance test result and/or a confirmed breath test result of 0.02 or greater will be denied the opportunity to fill the Operator position at that time.

### **Reasonable Cause**

Any Operator of the Board subject to the terms of this policy, as a result of reasonable cause testing, with a verified positive controlled substance test result and/or an alcohol breath test with a confirmed test result of 0.04 or greater will be terminated from duty.

If the confirmed alcohol breath test result is 0.02 or greater but less than 0.04 the Operator will be subject to disciplinary action.

### **Post-accident**

Any Operator of the Board subject to the terms of this policy, as a result of a post-accident test, with a verified positive controlled substance test result and/or a confirmed alcohol breath test with a confirmed test result of 0.04 or greater will be terminated from duty.

If the confirmed alcohol breath test result is 0.02 or greater but less than 0.04 the Operator will be subject to disciplinary action.

### **Random**

Any Operator of the Board subject to the terms of this policy, as a result of a random test, with a verified positive controlled substance test result and/or a confirmed alcohol breath test with a confirmed test result of 0.04 or greater will be terminated from duty.

If the confirmed alcohol breath test result is 0.02 or greater but less than 0.04 the Operator will be subject to disciplinary action.

Supervisory Training as required by DOT will be provided to supervisors.

Educational materials as required by DOT will be provided to all operators in Operator positions.

### **Conflict with Other Laws or Court Action**

If any provision of this policy or the application thereof, to any person or circumstance is held to be invalid, the invalidation shall not affect any other provisions or the application of this program and to this end the provisions of the program are declared to be severable.

**Revisions**

This policy may be revised to reflect changes in state and federal laws, or for minor housekeeping (such as contact persons or class titles), without further approval and reissue of the full policy. No substantive changes under local authority shall be made without further approval.

Any questions regarding this policy should be directed to the Board official designated below:

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Name