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**CHAPTER 3. PERSONNEL PRACTICES**

**ARTICLE I. INTRODUCTION**

**Sec. 3-01. Scope.**

- (1) **Affiliate Employers.** This Chapter is not intended to supplant statutory or constitutional authority granted to or vested in an affiliate employer. Nevertheless, the Board sees value in a uniform set of employment policies for all employees on the Whiteside County payroll. Therefore, affiliate employers are invited and encouraged to adopt this Chapter, either in whole or in part.
- (2) **Collective Bargaining.** Benefits described in this Chapter are not extended to employees in a collective bargaining unit whose bargaining agent has negotiated, is negotiating or is authorized to negotiate a collective bargaining agreement with the Board and/or an affiliate employer, unless the terms of a fully ratified and binding agreement state otherwise.

**Sec. 3-02. Engagement.** Distribution of this Chapter, in whole or in part, does not constitute an offer of employment nor should this Chapter be interpreted expressly or by implication to constitute a contract for employment or to evidence the existence of a contract of employment.

**Sec. 3-03. At-will employment.** Unless stated to the contrary in a written contract between the employer and an employee, employment with the County is of an “at-will” nature, allowing either the employer or the employee to terminate employment, pursuant to law.

**Sec. 3-04. Amendments.** This Chapter and any and all companion rules, regulation and/or addenda may be changed, unilaterally, at any time, by the Board. The county administrator shall make a good faith effort to apprise all County employees of amendments to this Chapter and related instruments.

**Sec. 3-05. Administration.** The county administrator’s office is the Board’s point-of-contact regarding the interpretation of this Chapter.

**Sec. 3-06. Definitions.** The following definitions control, unless a term is added or re-defined within a particular Article.

- (1) “Affiliate Employers” shall mean elected officers of the county, boards and commissions of the County or other individuals or bodies with constitutional or statutory authority to hire, fire and direct employees using funds appropriated and budgeted by the County Board.
- (2) “Annual Salary” shall mean an annual sum, paid to an exempt employee in increments, as described herein, during a county fiscal year or contract year.
- (3) “Approved Work Time (AWT)” shall mean the number of hours an employee is budgeted or assigned to work in a pay period. For FLSA-exempt employees, AWT shall mean the number of hours in a pay period which an exempt employee typically works, not to exceed 80 hours.

- (4) "Board" shall mean the Whiteside County Board.
- (5) "Class Specification" shall mean a description of a position's general duties, pre-requisites, and essential job functions approved by the Board.
- (6) "Collective bargaining" has the same meaning as found in Illinois Public Labor Relations Act.
- (7) "Compensatory time off" shall mean authorized time offered by or awarded to an employee to compensate in whole or in part for time worked in excess of an employee's approved work time.
- (8) "Elected Officers of the County" shall mean the following elected offices of Whiteside County: County Clerk, County Recorder, State's Attorney, Circuit Clerk, County Sheriff, County Coroner, County Treasurer and the Regional Superintendent of Schools - Regional Office of Education #55.
- (9) "Employee" shall mean a full-time / part-time / temporary employee, volunteers and interns of the County Board or affiliate employers who abide by these policies.
- (10) "Employer" shall mean the Board or an affiliate employer. Note: There are instances when the Board and an affiliate employer are co-employers.
- (11) "Exempt Employee" shall mean an employee whose job duties have been evaluated and found to be eligible for exemption of the minimum wage and overtime provisions of the FLSA, and are not required to be paid extra (i.e., time and ½ ) for hours worked in excess of 40 hours per work week.
- (12) "FLSA" shall mean the Fair Labor Standards Act.
- (13) "Full-time Employee" shall mean an employee with an approved work time of 70 hours or more that is projected and expected to work at least 1,820 hours in a calendar year, including compensable time off.
- (14) "Grade" shall mean a group of class specifications determined by the Board to be equivalent in scope and difficulty.
- (15) "I.M.R.F." shall mean the Illinois Municipal Retirement Fund.
- (16) "Interns" shall mean students having an appointment with a particular county function. The purpose of the internship is to afford students of government and other professional areas with actual work experience. Interns receive no benefits.
- (17) "Overtime" shall mean work time in excess of 40-hours in a work week.
- (18) "Part-time Employee. An employee with an approved work time less than those stated for a full-time employee.
- (19) "Pay Period" shall mean a bi-weekly cycle of two consecutive work weeks.
- (20) "Personnel File" shall mean a central maintained by the county administrator's office for managing human resource2s. Personnel file shall not include working files which may be managed by affiliate employers or internal investigation files maintained by the employer.
- (21) "Temporary employee" shall mean an employee hired for a specific short-term assignment with and whose service will cease on a specific date or when the specific assignment is completed. Temporary employees are prohibited from working more than 1,000 hours in a calendar year.
- (22) "Termination" shall mean a voluntary or involuntary termination of employment, including retirement, with the County of Whiteside, Illinois or an affiliate employer.
- (23) "Work Week" shall mean seven (7) consecutive 24-hour periods beginning on Monday morning at 12:00.01AM.
- (24) Volunteers. (Reserved)

**Sec. 3-07 through 3-19. (Reserved).**

## **ARTICLE II. CORE POLICIES**

**Sec. 3-20. Core policies.** The Board shall establish and maintain a set of core policies. Though these policies are not binding on affiliate employers, the Board intends these or similar policies are followed throughout the County for purposes of consistency and risk management.

### **DIVISION 1. ETHICAL POLICIES**

(See Supplements for ethical standards of county elected officials)

#### **Sec. 3-21. Definitions.**

- (1) "Campaign for elective office" means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities
  - A. relating to the support or opposition of any executive, legislative or administrative action,
  - B. relating to collective bargaining, or
  - C. that are otherwise in furtherance of the person's official duties.
- (2) "Candidate" means a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in section 1-3 of the Election Code.
- (3) "Collective bargaining" has the same meaning as found in Section 3 of the Illinois Public Labor Relations Act.
- (4) "Compensated time" means any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment except for holidays, vacation periods, personal time, compensatory time off or when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, "compensated time" includes any period of time when the officer is on premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.
- (5) "Compensatory time off " means authorized time offered by or awarded to an employee to compensate in whole or in part for time worked in excess of an employee's approved work time as described in the County's personnel policies.
- (6) "Contribution" has the same meaning as that term as defined in section 9-1.4 of the Election Code.
- (7) "Employee " means a person employed by the County of Whiteside, whether on a full-time or part-time basis or pursuant to a contract, whose duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed, but does not include an independent contractor.
- (8) "Employer" means the County of Whiteside.

- (9) "Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.
- (10) "Leave of absence" means any period during which an employee does not receive
- A. compensation for employment,
  - B. service credit towards pension benefits, and
  - C. health insurance benefits paid for by the employer.
- (11) "Officer" means a person who holds, by election or appointment, an office created by statute or ordinance, regardless of whether the officer is compensated for service in his or her official capacity, except the Whiteside County State's Attorney and the Whiteside County Circuit Clerk.
- (12) "Political activity" means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities
- A. relating to the support or opposition of any executive, legislative or administrative action, or
  - B. relating to collective bargaining, or
  - C. that are otherwise in furtherance of the person's official duties.
- (13) "Political organization" means a party, committee, association, fund, or other organization that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code, but only with regard to those activities that require filing with the State Board of Elections or a county clerk.
- (14) "Prohibited political activity" means:
- A. Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.
  - B. Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fund-raiser, political meeting, or other political event.
  - C. Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.
  - D. Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
  - E. Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
  - F. Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.
  - G. Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
  - H. Initiating for circulation, preparing, circulating, reviewing, or totaling any petition on behalf of a candidate for elective office or for or against any referendum question.
  - I. Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
  - J. Preparing or reviewing responses to candidate questionnaires.

- K. Distributing, preparing for distribution or mailing campaign literature, campaign signs or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
  - L. Campaigning for any elective office or for or against any referendum question.
  - M. Managing or working on a campaign for elective office or for or against any referendum question.
  - N. Serving as a delegate, alternate or proxy to a political party convention.
  - O. Participating in any recount or challenge to the outcome of any election.
- (15) "Prohibited source" means any person or entity who:
- A. is seeking official action by an officer or by an employee, or by the officer or another employee directing that employee; or
  - B. does business or seeks to do business with the officer, with an employee, or with the officer or another employee directing that employee; or
  - C. conducts activities regulated by the officer, by an employee, or by the officer or another employee directing that employee; or
  - D. has interests that may be substantially affected by the performance or nonperformance of the official duties of the officer or employee.

**Sec. 3-22. Prohibited political activities; officers of the county.**

- (1) Officers of the County shall not intentionally perform any prohibited political activity during any compensated time.
- (2) Officers of the County shall not intentionally misappropriate any County property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.
- (3) At no time shall any officer of the County require an employee to perform any prohibited political activity:
  - A. as part of that employee's County duties, or
  - B. as a condition of employment, or
  - C. during any time off that is compensated.
- (4) An officer of the County shall not offer or award an employee additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise, in consideration for the employee's participation in any prohibited political activity.

**Sec. 3-23. Prohibited political activities; employees of the county.**

- (1) Employees shall not intentionally perform any prohibited political activity during any compensated time, as defined herein.
- (2) Employees shall not intentionally misappropriate any County property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.
- (3) At no time shall any employee requiring another employee to perform any prohibited political activity:
  - A. as part of that employee's County duties, or

- B. as a condition of employment, or
  - C. during any time off that is compensated.
- (4) An employee shall not be offered or awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise, in consideration for the employee's participation in any prohibited political activity.
- (5) Nothing in this Section prohibits activities that are otherwise appropriate for an employee to engage in as a part of his or her official employment duties or activities that are undertaken by an employee on a voluntary basis as permitted by law.

**Sec. 3-24. Gift ban.**

- (1) Except as permitted by this Section, no officer or employee, and no spouse of or immediate family member living with any officer or employee (collectively referred to herein as "recipients"), shall intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or ordinance.
- (2) No prohibited source shall intentionally offer or make a gift that violates this Section.
- (3) Exceptions. This Section is not applicable to the following:
- A. Opportunities, benefits, and services that are available on the same conditions as for the general public.
  - B. Anything for which the officer or employee, or his or her spouse or immediate family member, pays the fair market value.
  - C. Any contribution that is lawfully made under the Election Code or activities associated with a fund-raising event in support of a political organization or candidate.
  - D. Educational materials and missions.
  - E. Travel expenses for a meeting to discuss business.
  - F. A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great-aunt, great-uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's betrothed.
  - G. Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as:
    - 1. the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;
    - 2. whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and
    - 3. whether to the actual knowledge of the recipient, the individual who gave the gift, also at the same time, gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.

- H. Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are consumed on the premises from which they were purchased or prepared or catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.
- I. Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.
- J. Intra-governmental and inter-governmental gifts. For the purpose of this Act, "intra-governmental gift" means any gift given to an officer or employee from another officer or employee, and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.
- K. Bequests, inheritances and other transfers at death.
- L. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

Each of the exceptions listed in this Section is mutually exclusive and independent.

- (4) Disposition of gifts. An officer or employee, his or her spouse or an immediate family member living with the officer or employee, does not violate this Ordinance if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

**Sec. 3-25. Penalties.**

A person is guilty of an ordinance violation with a fine of up to \$500.00 if that person intentionally violates any provisions in this Section. In addition to any other penalty that may apply, whether criminal or civil, a director, a supervisor, or an employee who intentionally violates any provision of this Section is subject to discipline, including immediate discharge.

(Ordinance # 10 adopted May 18, 2004)

**Sec. 3-26. Safety.**

The County of Whiteside considers its employees to be its most important assets. The County of Whiteside will at all times endeavor to maintain safe and healthy working conditions for all employees.

(Ordinance adopted July 2006)

**Sec. 3-27 through 3-29. (Reserved)**

**Sec. 3-30. Confidentiality.**

- (1) Clinical Records (including medical bills)- Employees may have access to confidential clinical or medical records or may hear confidential medical information in the course of their work. Such information is not to be repeated or discussed except in the course of performing required work-related duties.
  - A. Only those employees involved in the care or supervision of a specific patient shall access that patient's clinical record.
  - B. Only those involved employees involved in processing and maintaining billing records related to a client's or employees medical care shall have access to the private health information contained in said records.

- C. Unless lawfully subpoenaed or exempted by law, clinical records, or copies thereof, including billing records containing private health information, will not be released to anyone, except to the patient, their lawful representative, or a patient-authorized 3<sup>rd</sup> party (authorization in writing). Patients may access their clinical records during normal office hours. All requests for clinical records shall be reviewed by the appropriate Coordinator/Supervisor/Director. Those parts of a patient's clinical record which were provided by another healthcare facility will not be released by this Department. (Patients should request that clinical information from the healthcare facility from which the record originated.)
  - D. Clinical records including billing records which contain private medical information will be kept locked when not being utilized. Keys will be kept by Supervisory Staff (i.e., Coordinators, Supervisors, Directors, & the Administrator). The following clinical information shall be secured after business hours: clinical records, clinical field notes, patient intake forms, minutes of patient care meetings, performance improvement data, clinical notes prior to filing in a clinical record, & signed physician orders.
  - E. Information contained in performance improvement reports will not contain individual patient or employee information.
- (3) Personnel Records. (Reserved)
  - (4) Legal Records. Employees may have access to County records that may be subject to confidentiality and/or disclosure laws, or, if mishandled, could lead to a conflict of interest. Therefore, information related to Department records shall not be discussed extraneously.
    - A. Only those employees assigned to a specific program or activity shall have access to County records related to that specific program or activity.
    - B. Unless lawfully subpoenaed, copies of County records will not be released without the presentation of a written request for information, pursuant to the Freedom of Information Act.

**Sec. 3-31. Conflicts of interest.** Employees with employment/business interests outside of the County, shall administer their duties solely in the best interests of the Department and shall refrain from transactions where the employee cannot, in good faith, act with undivided loyalty to the County.

**Sec. 3-32. Informed consent (clinical only)** - Upon admission, and during the course of care, employees shall provide patients and their family/caretaker understandable information in order to enable the patient/family/caretaker to make informed decisions regarding the care being recommended or provided. Employees shall encourage patient/family/caretaker participation in the care planning process. If a patient/family/caretaker refuses all or part of their care plan, when permitted by law, the expected consequences of such actions must be explained.

**Sec. 3-33. Secondary employment.**

- (1) Non-exempt employees. The demands associated with full-time employment with the county or an affiliate employer have primacy over other employment relationships, particularly in the area of mandatory overtime.
- (2) Exempt employees.
  - A. All employment relationships extraneous to those between the employee and the county or an affiliate employer are considered secondary to County demands.

- B. Employees shall apprise their immediate supervisor of all current secondary employment relationships. (See “Conflicts of Interest”.)

**Sec. 3-34 through 3-49. (Reserved).**

**DIVISION 2. SEXUAL HARASSMENT**

**Sec. 3-50. Statement of policy.**

- (1) **Declarations.** By policy and practice, Whiteside County will not tolerate the sexual harassment of any employee by any other employee of this County. Sexual harassment is an unlawful employment practice in violation of Title VII of the Federal Civil Rights Act of 1964 as well as the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. In addition, sexual harassment subjects the harasser to liability for any such unlawful conduct.
- (2) **Scope.**
  - A. This policy shall apply to all employees of the public agency known as Whiteside County, including elected department heads, members of the Whiteside County Board, and both union and non-union employees, as delineated and described in the Whiteside County Code and revisions and addendums thereto.
  - B. This policy does not apply to boards, commissions and councils appointed by the Chair of the Whiteside County Board, nor to the employees of said boards, commissions and councils.

**Sec. 3-51. Definitions.**

- (1) *Sexual harassment*, as used in this policy, means unwelcome sexual advances, requests for sexual favors, or any other visual, verbal or physical conduct of a sexual nature when:
  - A. submission to the conduct is made either explicitly or implicitly a condition of the individual's employment;
  - B. submission to or rejection of the conduct is used as the basis for an employment decision affecting the harassed employee or;
  - C. the harassment has the purpose or effect of unreasonably interfering with the employee's work performance or creating an environment which is intimidating, hostile or offensive to the employee.
- (2) *The accused*, as used in this policy, shall mean one or more employees that allegedly committed sexual harassment.
- (3) *The complainant*, as used in this policy, shall mean an employee who is accusing one or more employees of sexual harassment.
- (4) *Remediation team* as used in this policy, shall mean a two-person team comprised of the county administrator and the department head who has supervisory authority over the person that has been accused of sexual harassment.

**Sec. 3-52. Examples of sexual harassment.** Each employee must exercise their own good judgment to avoid engaging in conduct that may be perceived by others as sexual harassment. The following are non-exclusive examples of actions deemed inappropriate and in violation of this policy:

- (1) A supervisor tells an employee or implies that they will be promoted or receive a salary increase by providing any form of sexual favor to or by dating the supervisor.
- (2) A supervisor downgrades an employee's performance rating because they turned down the supervisor's request for any sexual favor or a date.

- (3) An employee gives unwelcome hugs, massages or makes other unwelcome physical contact with another employee.
- (4) An employee tells sexually offensive or degrading jokes or stories.
- (5) An employee uses sexually oriented profanity.
- (6) An employee makes offensive gestures of a sexual nature or repeatedly stares at another.
- (7) An employee makes unwelcome comments about the appearance or anatomy of another.
- (8) The work place contains pictures of naked or scantily clothed men or women, or sexually explicit pictures or text.
- (9) An employee interferes with another's movement by blocking or standing in an uncomfortably close proximity.
- (10) An employee repeatedly asks another for a date after being turned down in a manner that does not invite a further invitation.

**Sec. 3-53. Bringing a complaint.** The county takes allegations of sexual harassment very seriously. It will actively investigate all complaints. All complaints will be handled with the utmost discretion. The complaint should be presented as promptly as possible after the alleged harassment occurs.

- (1) *Step 1.* An employee of the county or an employee of a county official who believes that they have been the victim of sexual harassment shall bring the matter to the attention of their supervisor.
  - A. If their supervisor is the accused, the complainant should immediately proceed to Step 2.
  - B. The supervisor shall endeavor to informally remedy the complaint to the satisfaction of the complainant.
  - C. The supervisor shall report to the complainant the steps taken to remedy the complaint.
- (2) *Step 2.* If the remedies described in Step 1 do not resolve the complaint, the complainant shall apprise either member of the remediation team.
  - A. If either member of the remediation team is the accused, that member shall be replaced by a department head or the county board chair, as determined by the other member of the remediation team.
  - B. If both members of the remediation team are the accused, the complainant shall take the following steps:
    1. If the complainant is a non-union employee, the complainant shall seek relief through the county's personnel practices committee.
    2. If the complainant is a union employee, the complainant shall follow the grievance provisions outlined in their collective bargaining agreement.

**Sec. 3-54. Investigating a complaint.** Cases involving sexual harassment are particularly sensitive and demand special attention to issues of confidentiality. Therefore, the information gathered during resolution will not be released or divulged to any third parties, except as provided or required by law. In general, the procedure in resolving complaints can, but will not necessarily, include any of the following items:

- (1) Initial interview. An initial interview involving the employee making the complaint and the remediation team will be scheduled. Important data to be provided by the complainant includes the following:
  - A. A description of the specific offensive conduct;
  - B. Identification of all person(s) who engaged in the conduct and all potential witnesses;
  - C. The location and time the conduct occurred;

- D. Whether conduct of a similar nature has occurred on prior occasions;
  - E. Whether there are any documents which would support the complaining employee's allegations;
  - F. What impact the conduct had on the complaining employee.
- (2) After the initial interview, the complainant shall decide if they wish to proceed further. If so, then a written statement of complaint, signed by the employee, shall be submitted to the remediation team.
  - (3) The accused will be confidentially contacted by the remediation team. The accused will be advised of the charges brought against them and shall be provided with a copy of the written statement of complaint. The accused will have an opportunity to fully explain their side of the circumstances to the remediation team and may also submit to the remediation team a written statement, if they desire.
  - (4) After the accused is interviewed, any witnesses identified by either the complainant or the accused may be interviewed by the remediation team.
  - (5) A joint interview involving the remediation team, the accused and the complainant may be scheduled if requested by either the complainant or the accused. Each party may have legal representation.
  - (6) The remediation team may request law enforcement to assist or take the lead in the investigation and may request the county board appoint special legal counsel in instances of conflict of interest.

**Sec. 3-55. Resolving a complaint.**

- (1) Once the investigation is completed, the remediation team shall render a finding. In addition, the remediation team may make recommendations to the employer, administrative or otherwise, based upon the information obtained in the investigation. The findings and additional recommendations, if any, shall be communicated to the complainant and the department head(s) over the accused.
- (2) In the event the employer finds merit in the findings and recommendations made by the remediation team, disciplinary action will be taken against the offending employee. This disciplinary action may, but need not necessarily, include:
  - A. Verbal or written reprimand;
  - B. Placing the offending employee on probation for a period of time to be identified;
  - C. Suspending the offending employee from work without pay;
  - D. Immediate termination;
  - E. Arrest (cannot be contested).
- (3) Under no circumstances will there be any retaliation against any employee making a complaint of sexual harassment. Retaliation shall be grounds for immediate termination.
- (4) The complainant shall be apprized of all disciplinary action(s) arising as a result of the complaint. All other matters shall remain confidential.

**Sec. 3-56. Grievances.** All actions taken by the employer described in the previous Section, except arrest, may be appealed, by either the complainant or the accused.

- (1) When the appellant is a non-union employee, appeals shall be directed to the county's personnel practices committee.

- (2) When the appellant is a union employee, appeals shall be directed to those processes and practices established and authorized by the employee's collective bargaining contract.

Adopted February 19, 2002

**Sec. 3-57. through 3-59. (Reserved).**

**DIVISION 3. EQUAL OPPORTUNITY - EMPLOYMENT AND PROMOTION**

**Editors Note:** Derived from Res. No. 22, adopted Dec. 20, 1983.

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**Sec. 3-60. Policy.** The county, its departments, or agencies acting in behalf of the county, in keeping with the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973 and the Illinois Human Rights Act will not discriminate. (Mo. of 11-17-77. Amended 08/16/05 by ord.)

**Sec. 3-61. Non-Discrimination in the delivery of services or benefits** - Employees shall practice non-discrimination, pursuant to the laws summarized below:

- (1) Title VI of the Civil Rights Act of 1964, and its implementing regulations, requires all services provided directly by the Department, or through contractual arrangement, be delivered without regard to race, color, religion, sex, disability or national origin.
- (2) Section 504 of the Rehabilitation Act of 1973, and its implementing regulations, requires all services provided directly by the Department, or by contract, to be delivered as to not discriminate on the basis of disability in admissions, access, treatment, or employment.
- (3) The Age Discrimination Act of 1975, and its implementing regulations, requires all services provided directly by the County, or by contract, to be delivered as to not discriminate, on the basis of age, in the provision of services, unless age is a factor necessary to normal operations or an identified, population-based public health objective.
- (4) Title II of the American with Disabilities Act of 1990. The County will not, on the basis of disability, exclude or deny a qualified individual, with a disability, from participation in, or benefits of, services it provides. (Amended on 08/16/05 by ord.)

**Sec. 3-62. Non-discrimination in employment.** It is the policy of Whiteside County that all recruiting, hiring, training, compensation, overtime, job classification and assignments, working conditions, promotions, transfers, employee treatment and all other terms, conditions and privileges of employment shall be maintained and conducted in a manner which does not discriminate on the basis of race, color, religion, national origin, ancestry; age (from 40 to 70 years), sex, marital status; physical or mental handicap unrelated to ability to perform essential job functions, military status, sexual orientation or unfavorable (except dishonorable) discharge from military service. (Amended 08/16/05 by ord.)

**Sec. 3-63. Retaliation prohibited.** It is the policy of Whiteside County not to discriminate or retaliate in any manner against any person because of such person's opposition to any practice declared unlawful under Title VII of the Civil Rights Act of 1964 or the Illinois Human Rights Act; or because of the filing of a charge, giving of testimony or assistance, or participating in any manner in any investigation, proceeding or hearing under Title VII of the Civil Rights Act of 1964 or the Illinois Human Rights Act.

**Sec. 3-64. Guidelines adopted, by reference.** It County policy to adhere to the validly adopted guidelines on discrimination as are published and amended by the equal employment opportunity commission and the Illinois Department of Human Rights. Such guidelines as are currently published and which may be subsequently amended, are hereby incorporated in the equal employment policy of the County by reference.

**Sec. 3-65. Designation; duties and responsibilities.** The county administrator shall administer the equal opportunity program. This person shall be responsible for creating and maintaining an atmosphere for equality of opportunity and contractual practices among employers and community. Specifically, this person is charged with the following:

- (1) To develop the county's affirmative action goals and objectives.
- (2) To assist in identifying and solving EEO problems.
- (3) To design and implement internal audits and reporting systems for measuring the effectiveness of county programs, indicating need for remedial action, and determining the degree to which the county goals and objectives have been attained.
- (4) To serve as liaison between the county and EEO enforcement authorities.
- (5) To serve as liaison between the county and minority, women's and handicap organizations.
- (6) To inform management of developments in EEO field.
- (7) To regularly confer with managers, supervisors and employees to assure that the county's EEO policies are observed.
- (8) To assist in the evaluation of employees and job applicants to assure that minorities, women and the handicapped are given equal opportunity.
- (9) To advise managers and supervisors whether their employment practices comply with state and federal law.
- (10) To report to the Board all internal and external complaints of discrimination against the county.
- (11) To post and keep on county premises the notice required to be posted by Title VII of the Civil Rights Act of 1964. Such posting shall be made at such places where bulletins and notices to employees and applicants for employment are customary and generally posted and displayed.

Adopted December 20, 1983

**Sec. 3-66 through 3-69. (Reserved).**

#### **DIVISION 4. SUBSTANCE ABUSE - GENERAL POLICIES**

**Sec. 3-70. General provisions.** An employee under the influence of a drug or alcohol while on the job can be a serious safety risk to himself, to other employees and in some instances the general public. The possession, use or sale of an illegal drug or alcohol in the workplace or on the job site is unacceptable from the standpoint of safety, job performance and efficient operations. Whiteside County intends to maintain a safe working environment for its employees and to protect county property, equipment and operations. The Drug-Free Work Place Act of 1988 and the county's concern for all of its employees makes it imperative that this policy be adopted. Therefore, this policy has been established with regard to use, possession or sale of alcohol or drugs while at the job site. This policy is based on the principle of "reasonable cause to suspect."

**Sec. 3-71. Definitions.** The following definitions shall apply in the interpretation of this policy:

- (1) *Under the influence:* The employee is affected by a drug or alcohol or the combination of a drug and alcohol in any detectable manner. The symptoms of influence are not to be confined to those consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by a professional opinion, a scientifically valid test and, in some cases such as alcohol, by a layperson's opinion.

- (2) *Legal drug*: Prescribed drugs and over-the-counter drugs which have been legally obtained and are being used for the purpose of which they were prescribed or manufactured.
- (3) *Illegal drug*: Any drug which is not legally obtainable or which is legally obtainable but has not been legally obtained. The term includes prescribed drugs not being used for prescribed purposes. It also includes marijuana.
- (4) *Reasonable cause*: That quantity of proof or evidence that is more than a hunch, but less than probable cause. Reasonable cause must be based on specific, objective facts and any rationally derived inferences from the facts about the conduct of an individual that would lead the reasonable person to suspect that the individual is or has been using drugs.
- (5) *Alcohol*. Possession, use or being under the influence of alcohol by an employee while at work or on the job site is prohibited.
- (6) *Illegal drugs*. Possession, use or being under the influence of an illegal drug by an employee while at or on the job site is prohibited.

**Sec. 3-72. Possession of illegal drugs or alcohol.** The county may conduct searches for illegal drugs or alcohol on the job site when there is reasonable cause to suspect that such drugs or alcohol are present. The county may advise the union steward or the union representative that a search will be conducted where applicable. Searches of employee's personal property or vehicles will not be conducted by the county without specific, objective evidence relating such property or vehicles to the incident under investigation. Searches may include an employee's personal property, including, but not limited to, the employee's automobile, clothing, lunch box, cooler and similar items, but only when specific, objective evidence exists relating such items to the incident under investigation. The employee is expected to cooperate in the conducting of such a search.

**Sec. 3-73. Legal drugs.** An employee's use of a legal drug can pose a significant risk to the safety of the employee or others. The use of, or being under the influence of, any legally obtained drug while at work or on the job site is prohibited if such use or influence may affect the safety of the employee, his or her co-workers or members of the public. An employee who has reason to believe or has been informed that the use of a legal drug may present a safety risk to himself or others is to report such drug use to their immediate supervisor to determine job-related consequences.

**Sec. 3-74. Drug and alcohol testing:**

- (1) The employer may require a blood test, urinalysis or other drug/alcohol testing of an employee whom the county has reasonable cause to suspect of using or being under the influence of a drug or alcohol while at work or on the job site. This may include an employee who has been involved in an accident and is reasonably suspected to be under the influence. A documented summary of the facts supporting the order shall be made available to the employee prior to the actual test. When applicable, such documentation shall also be provided to the union representative at the time of the issuance of the order, if the union representative is readily available. The county agrees to contact the union steward or union representative, if that individual (or individuals) is readily available, at the earliest possible time prior to or contemporaneously with issuing the request for an employee to submit to a drug or alcohol test under this policy, and shall permit the union steward or union representative a reasonable amount of time (not to exceed one and one-half (1 1/2) hour) to travel to and consult with the employee prior to the employee submitting to the drug test.
- (2) Specimen samples shall be sealed in front of the person providing the sample, labeled and checked against the identity of the employee to ensure the results match the tested specimen. Samples shall be stored in a secured and refrigerated atmosphere until testing or delivery to the testing lab and representative.

- (3) If an alcohol test reveals that there is a concentration of one-tenth of one percent of alcohol (or lower, when required) in the employee's blood stream (alcohol concentration shall mean either grams of alcohol per milliliters of blood or grams of alcohol per 210 liters of breath), the employee will automatically be deemed "under the influence" of alcohol within the meaning of this substance abuse policy and, therefore, may be subject to discipline under this policy.
- (4) The testing or processing phase shall consist of an initial screening test and a confirmation test.
- (5) The sample is first tested using the initial drug screening procedure. An initial positive test result will not be considered conclusive; rather, it will be classified as "confirmation pending." Notification of test results to the county shall be held until the confirmation test results are obtained.
- (6) A specimen testing positive will undergo an additional confirmatory test. The confirmation procedure shall be technologically different and more sensitive than the initial screening test (i.e., gas chromatography/mass spectrophotometry (GC/MS test)).
- (7) The drug screening tests selected shall be capable of identifying marijuana, cocaine and every major drug of abuse including heroin, amphetamines and barbiturates. Personnel utilized for testing will be certified as qualified to collect samples or adequately trained in collection procedures.
- (8) Concentrations of a drug at or above the following levels (in terms of nanograms/milliliter (ng/ml)) shall be considered a positive test result when using the initial immunoassay drug screening test:

A. *Initial Test*

Marijuana metabolite . . . .	100
Cocaine metabolite . . . . .	300
Opiate metabolites . . . . .	300 (*25 ng/ml is immunoassay-specific for free morphine)
Phencyclidine . . . . .	25
Amphetamines . . . . .	1,000

Concentrations of a drug at or above the following levels shall be considered a positive test result when performing a confirmatory gas chromatography/mass spectrophotometry test on a urine specimen that tested positive using a technologically different initial screening method:

B. *Confirmatory Test*

Marijuana metabolite . . . . .	15 (as Delta-9-tetrahydrocannabinol-9-carboxylic acid)
Cocaine metabolite . . . . .	150 (as Benzoylcegonine )

Opiates:

Morphine . . . . .	300 (25 ng/ml if immunoassay-specify for free morphine)
Codeine . . . . .	300 (25 ng/ml if immunoassay-specify for free morphine)
Phencyclidine . . . . .	25

Amphetamines:

Amphetamines . . . . .	500
Methamphetamine . . . . .	500

- (9) The laboratory selected to conduct the analysis shall be capable of quality control, documentation, chain-of-custody, technical expertise and demonstrate proficiency in urinalysis.
- (10) Employees having a negative drug test result shall receive a memorandum stating that no illegal drugs were found. If the employee requests such, a copy of the letter will be placed in the employee's personnel file. Any initial drug test wherein the level of purported drugs is reported below that specified within the scale set forth under "Initial Test" shall be considered a negative drug test by the county and no action whatsoever shall be taken against said employee under this policy.
- (11) Any employee who broaches the confidentiality of testing information shall be subject to discipline.
- (12) Each step in the collecting and processing of the drug testing shall be documented to establish procedural integrity and the chain of custody.
- (13) Where a positive result is confirmed, specimens shall be maintained in secured, refrigerated storage for a period of time not less than one year.
- (14) All records pertaining to a county-required drug test shall remain confidential and shall not be provided to other employers or agencies without the written permission of the person whose records are sought, unless applicable governmental regulations, statutes or directives specify otherwise.
- (15) All drug tests administered pursuant to this policy shall be for the sole purpose of fulfilling the goals of this policy and shall not be utilized for any other purpose. The drug tests obtained pursuant to this policy shall be confidential in nature, shall be solely for employment purposes, and shall not be utilized in any civil or criminal proceeding.
- (16) If an employee is required to leave work to take a drug/alcohol test, the county will pay the employee for time lost from scheduled work for that day, provided the employee has negative test results.

**Sec. 3-75. Disciplinary action**

- (1) Automatic termination will result if an employee possesses or uses alcohol while on the job or possesses, uses, sells or purchases an illegal drug while on the job.
- (2) Violation of any of the provisions of this substance abuse policy will be considered "just cause." If, as a result of the investigation and/or completion of a positive alcohol or drug test, just cause is present, discipline shall be imposed as shown in Table 3-55(2).

**Table 3-75 (2)**

<i>Offense</i>	Discipline
First offense	Up to 30-day suspension, mandatory enrollment in a rehabilitative program, and periodic random drug testing for two years from the effective date of the suspension.
Second offense	Immediate termination

- (3) An employee's refusal to consent to either a drug/alcohol search or a drug/alcohol test under the provisions of this policy may result in disciplinary action under this policy and such refusal shall be considered a positive test hereunder.
- (4) An employee found to be "under the influence," as described in this policy, will be immediately relieved from duty and referred to a professional counselor for assessment under an authorized rehabilitative program. Failure of the employee to promptly enter treatment if recommended by the counselor and to successfully complete such treatment (including treatment on an on-going basis) will result in termination of employment. An employee will be reinstated subject to satisfactorily fulfilling his obligations under the treatment program. Should a counselor determine that treatment

is unnecessary, then the employee will be subject to a disciplinary suspension and a second such occurrence of being found to be "under the influence" shall result in immediate termination of employment.

- (5) An employee who has been referred by a professional counselor for chemical dependency treatment or who is participating in a chemical dependency treatment program under an authorized rehabilitative program may be requested or required to undergo testing during the chemical dependency treatment or evaluation and for up to two years following completion of any prescribed chemical dependency program.
- (6) An employee who has successfully gone through treatment under the rehabilitative program and who subsequently is found to be "under the influence" as described in this policy may be immediately terminated.

**Sec. 3-76. Policy notes.**

- (1) *Note 1:* An employee being disciplined or terminated for just cause for either an unsatisfactory work record or unsatisfactory job performance may not avoid such discipline by seeking help through the employee assistance program on an after-the-fact basis.
- (2) *Note 2:* An employee required to complete an authorized rehabilitation program pursuant to this policy shall be responsible, either personally or through his insurance, for the cost of such program.
- (3) *Note 3:* To ensure that the integrity of the county's law enforcement system is above reproach, the Whiteside County Sheriff's Department and the Whiteside County State's Attorney's office shall have more stringent drug testing/substance abuse policies and are, therefore, exempt from this policy.

Adopted December 17, 1991

**Sec. 3-77 through 3-79. (Reserved).**

**DIVISION 5. SUBSTANCE ABUSE - CDL**

**Sec. 3-80. Purpose and scope.**

- (1) It is the overall intention of Whiteside County to provide a safe, healthy, drug and alcohol-free work environment for its CDL drivers.
- (2) To assure this environment is maintained, Whiteside County has adopted the following policy, which complies with the Federal Motor Carrier Safety Regulation requirements on drug and alcohol abuse as set forth in 49 CFR Parts 40 and 382.
- (3) All CDL drivers are subject to drug testing as required in 49 CFR Parts 40 and 382. When drugs or drug testing are mentioned in this policy, such references shall encompass the following:
  - A. marijuana
  - B. cocaine
  - C. opiates
  - D. phencyclidine
  - E. amphetamines.
- (4) All CDL drivers are subject to alcohol testing under certain conditions described below. The precursors for alcohol testing are as follows:
  - A. whenever a driver is performing a safety sensitive function.
  - B. just prior to performing a safety sensitive function.
  - C. immediately after performing such functions as required in 49 CPR Parts 40 and 382.

- (5) The employer, having actual knowledge that a driver has tested positive or has adulterated or substituted a drug/alcohol test, shall not permit the driver to perform safety-sensitive functions.
- (6) Searches. Under this employer's independent authority, the employer may conduct reasonable searches for illegal drugs or alcohol on the employer's premises or in employer-owned or leased motor vehicles. Searches of drivers and their personal property may be conducted when there are reasonable grounds to believe the driver is in violation of this policy. All drivers are expected to cooperate in such searches. A driver's refusal to cooperate or consent to such searches may result in disciplinary action, including termination.
- (7) The employer will maintain a pre-employment screening program designed to prohibit the hiring of anyone who uses any illegal drugs.

**Sec. 3-81. Definitions.**

- (1) ADULTERATED SPECIMEN. A specimen that contains a substance that is not expected to be present in human urine or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.
- (2) ALCOHOL. The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- (3) ALCOHOL SCREENING DEVICE (ASD). A breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration and placed on the Conforming Products List for such devices.
- (4) ALCOHOL USE. The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.
- (5) BREATH ALCOHOL TECHNICIAN (BAT). An individual who instructs and assists individuals in the alcohol testing process and operates an EBT. A BAT may also act as a Screening Test Technician (STT) who instructs and assists individuals in the alcohol testing process and operates an ASD.
- (6) CFR shall refer to the Code of Federal Regulations.
- (7) CANCELED OR INVALID TEST. A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or in which 49 CFR Part 40 otherwise requires a test to be cancelled. A cancelled test is neither a positive nor a negative test.
- (8) COMMERCIAL DRIVERS LICENSE (CDL) means a valid license issued in accord with the standards contained in 49 CFR Part 383, to an individual which authorizes the individual to operate a class of commercial motor vehicle.
- (9) COMMERCIAL MOTOR VEHICLE means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle -
  - A. has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
  - B. has a gross vehicle weight rating of 26,001 or more pounds; or
  - C. is designed to transport 16 or more passengers, including the driver; or
  - D. is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.

- (10) CONSORTIUM is the Mid-West Truckers Association Drug and Alcohol Testing Consortium. The Consortium is a testing agent that provides and coordinates the provisions of random drug tests and coordinates the reporting of random drug testing, as described in this policy.
- (11) CONFIRMATION (or confirmatory) TEST.
- In drug testing, a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method of cocaine, marijuana, opiates, amphetamines, and phencyclidine.
- In alcohol testing, a second test, that provides quantitative data of alcohol concentration.
- (12) DILUTE SPECIMEN. A specimen with creatinine and specific gravity values that are lower than expected for human urine.
- (13) DOT means the U.S. Department of Transportation.
- (14) DRIVER means any person who operates any commercial motor vehicle including but not limited to: 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 the employer. Driver includes both applicants for employment (subject to pre-employment testing) and current drivers employed by this employer.
- (15) EMPLOYER means the County of Whiteside, Illinois. The term employer includes an employer's officers, designated representatives or management personnel.
- (16) 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) of Evidential Breath Measurement Devices, and identified on the CPL as conforming with model specifications available from NHTSA's Traffic Safety Programs.
- (17) FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA). The federal agency responsible for the administration of federal regulations for commercial motor vehicle drivers.
- (18) INITIAL TEST (or screening test). In drug testing, the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites. In alcohol testing, an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in a breath or saliva specimen.
- (19) LICENSED MEDICAL PRACTITIONER means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, state, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.
- (20) MEDICAL REVIEW OFFICER is a licensed physician (M.D. or D.O. responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results. The medical review officer must be knowledgeable of and have clinical experience in controlled substances abuse disorders, including detailed knowledge of alternative medical explanations for laboratory confirmed drug test results. The medical review officer must be knowledgeable about issues relating to adulterated and substituted specimens as well as the possible causes of specimens having an invalid result.
- (21) PRIMARY SPECIMEN is a part of the urine specimen that is tested by a first laboratory for a drug or drug metabolite.

- (22) REFUSAL TO TEST (alcohol or controlled substances) means that a driver:
- A. Fails to show up for any test within a reasonable time after being directed to do so by the employer or to remain at the testing site until the testing process is complete. This includes the failure of a driver to appear for a test or to be transported for testing when called by the Consortium or the employer;
  - B. Fails to provide a urine specimen or fails to attempt to provide a saliva or breath specimen for any drug or alcohol test as required by this policy and 49 CFR Parts 382 and 40;
  - C. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring in providing a specimen;
  - D. Fails to sign the certification at Step 2 of the Alcohol Testing Form;
  - E. Fails to provide a sufficient amount of urine or a sufficient amount of breath, when directed; unless it has been determined, through a required medical evaluation, that there was an adequate medical explanation for the failure;
  - F. Fails or declines to take a second test the employer or collector has directed the driver to take;
  - G. Fails to undergo an additional medical examination or evaluation as directed by the medical review officer as part of the verification process, or as directed by the employer concerning the evaluation as part of the shy bladder or insufficient breath procedures;
  - H. Fails to cooperate (e.g., leaves the test site before the testing process is completed, refuses to empty pockets) with any part of the drug or alcohol testing process; or
  - I. Verbally refuses to test as required by this policy and 49 CFR Parts 382 and 40.
  - J. See POST-ACCIDENT Testing, this Division.
  - K. When the medical review officer reports to the employer/consortium a driver has a verified adulterated or substituted drug test result. Driver admission to adulteration or substitution shall be considered a positive verified test.
- (23) SAFETY-SENSITIVE FUNCTION means the time period when a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety Sensitive Functions shall include:
- A. All time at an employer or shipper plant, terminal, facility or other property, or any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
  - B. All time inspecting equipment as required by 49 CFR Parts 392.7 and 392.8 or otherwise inspecting,
  - C. servicing or conditioning any commercial motor vehicle at any time;
  - D. All time spent at the driving controls of a commercial motor vehicle in operation;
  - E. All time, other than driving time, in or upon any commercial motor vehicle except time resting in a sleeper berth (a berth conforming to requirements of 49 CFR Part 393.76);
  - F. All time loading and 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
  - G. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

- (24) SCREENING TEST TECHNICIAN (STT). A person who instructs and assists individuals in the alcohol testing process and operates an alcohol screening device (ASD).
- (25) SPLIT SPECIMEN. A part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the driver requests it to be tested following a verified positive, adulterated or substituted test of the primary specimen.
- (26) SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION (SAMHSA). A federal agency under the Department of Health and Human Services (DHHS) responsible for the certification of laboratories used as part of the drug testing program.
- (27) SUBSTANCE ABUSE PROFESSIONAL means a licensed physician (M.D. or D.O.) or a licensed or certified psychologist, licensed or certified social worker, or a licensed or certified employee assistance professional; or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol & Other Drug Abuse). They must be knowledgeable about and have clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders, must be knowledgeable about and amenable to employer interests in safety-sensitive duties and, must be knowledgeable about 49 CFR Parts 382 and 40, the DOT SAP Guidelines and stay current on any changes to these materials.
- (28) SUBSTITUTED SPECIMEN. A urine specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.
- (29) TESTING AGENT. A person who instructs and assists individuals at a collection site and who receives and makes a screen examination of the urine specimen provided by individuals. The employer may have more than one testing agent.
- (30) VERIFIED TEST. A drug test result from a DHHS/SAMHSA-certified laboratory that has undergone review and final determination by the medical review officer.

**Sec. 3-82. Prohibited conduct.**

- (1) Use/Misuse. 49 CFR Parts 382 and 40 prohibit the use/misuse of controlled substances and/or alcohol by drivers of commercial motor vehicles.
- (2) The employer can suspect use/misuse based on any or all of the following reasons:
  - A. Reasonable cause.
  - B. Information provided by the driver's previous employer(s).
  - C. A traffic citation for driving a commercial motor vehicle while under the influence of alcohol or drugs.
  - D. The employer has gained sufficient knowledge of a driver's use/misuse of alcohol or drugs if the driver admits to alcohol or drug use which is prohibited by this policy.
- (3) Unlawful Acts. The unlawful manufacture, distribution, dispensation or possession of drugs are prohibited on this employer's premises, in any employer-owned or leased commercial motor vehicle, or other location at which the driver is to perform work.
- (4) Possession of Sufficient Quantities. No driver, at any work site, in any employer-owned or leased vehicle, will possess any quantity of a controlled substance or alcohol, lawful or unlawful, which in sufficient quantity could result in impaired performance.
  - A. Exception: a substance administered by or under the direction of a licensed medical practitioner, as stated elsewhere in this policy.

- B. Exception: alcohol possession not intended for human consumption or products containing alcohol which, when ingested would not impair driving ability while performing safety-sensitive functions.

(5) Reporting for Duty/Remaining on Duty; Prohibited Conditions

- A. No driver will report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses drugs or alcohol, on or off duty, except as provided below:

- 1. A driver may use a substance administered by or under direction of a licensed medical practitioner who has advised the driver that the substance will not adversely affect the driver's ability to safely perform safety-sensitive functions. If the employer requires written verification from the licensed medical practitioner or pharmacist that the substance will not adversely affect their ability to safely perform a safety-sensitive function, the driver shall promptly provide such written verification to the employer.
- 2. A driver may use an over-the-counter substance that will not adversely affect the driver's ability to safely perform safety-sensitive functions. The driver may be required to inform the employer of any prescribed or over-the-counter substances which may impair their ability to perform a safety-sensitive function.

If the substance should adversely affect their ability to perform a safety-sensitive function, or, if the driver does not promptly provide written verification from the licensed medical practitioner or pharmacist, the employer will temporarily remove or reassign the driver from a safety-sensitive function, if deemed appropriate by the employer.

- B. No driver will report for duty, remain on duty or perform safety-sensitive functions if the driver tests positive or has adulterated or substituted a drug/alcohol test.

(6) Consumption of Alcohol.

- A. Consumption of alcohol is prohibited while the driver is performing a safety-sensitive function.
- B. No driver shall report for duty or remain on duty, requiring the performance of safety-sensitive functions, while consuming or having consumed alcohol within four hours of reporting for such duties, or having a blood alcohol content of .04 or greater.
- C. No driver required to take a post-accident alcohol test shall use alcohol for up to eight hours after the accident or until a post-accident test is completed.

(7) Refusal to Test. No driver shall refuse to submit to a drug or alcohol test when required in accordance with 49 CFR Parts 382 and 40.

- A. It is a violation of this policy when a driver refuses to submit to a test described in this policy.
- B. A driver shall not be permitted to perform or continue to perform safety-sensitive functions when he/she refuses to submit to a required drug or an alcohol test, as described in this policy.

**Sec. 3-83. Types of testing** - Drivers shall be subject to six types of drug and/or alcohol testing:

- (1) **PRE-EMPLOYMENT TESTING.** Offers of employment by the County will be contingent upon a satisfactory pre-employment drug test. The pre-employment drug test shall be a part of the pre-employment physical required by the employer. *(Reporting Attachment A must be completed by the driver)*

- A. The employer is not required to pre-employment test a driver if the driver has participated in a qualified drug and alcohol testing program that meets the requirements of 49 CFR 382 and 40 within the previous 30 days and, while participating in that program, either was drug tested within the past six months (from date of application with the employer) or has participated in a random drug and alcohol testing program for at least the previous 12 months (from date of application with the employer). The employer will assure that no previous employer of the driver of whom the employer is aware of has records of a violation of 49 CFR Part 382 or the drug testing rule of any other DOT agency within the previous six months.
  - 1. Reporting Attachment B must be signed by the driver in order to get this information
  - 2. In order to find out if the conditions of the exceptions above apply, the employer shall send or fax the reporting Attachment B to the co/previous employer through which the driver participates or participated in its drug and alcohol testing program. The employer shall obtain and retain from the co/previous employer the completed reporting Attachment B which includes the information in the preceding paragraph and the following: the name and address of the program, verification the driver participates or participated in the program, verify the program conforms to 49 CFR Part 40, verify the driver is qualified under the rules of 49 CFR Part 382, including the driver has not refused to be tested for drugs, the date the driver was last tested for drugs, and the results of any tests taken within the previous six months, and any other violations as stated in Section 3.
  - 3. If the employer cannot verify the above information, it shall conduct a pre-employment drug test on the driver.
- (2) RANDOM TESTING. All CDL drivers covered by this policy will be will be subject to random drug testing implemented and managed by the employer's testing agent. The testing agent shall randomly select a sufficient number of drivers for testing each calendar year to equal an annual rate of not less than a minimum annual percentage for random alcohol (currently 10 per cent) and drug testing (currently 50 per cent) as determined by the FMCSA Administrator.
  - A. On a monthly basis the testing agent will, from the total group, randomly select by a computer-based random number generated program that is matched with the membership numbers, the drivers' names and their social security numbers.
  - B. Once the testing agent makes the monthly selections, the resulting list will be forwarded to the County Engineer. If any of the employer's drivers are selected, the employer will be given a date before which the driver must be tested per the random selection process. Failure of this employer to ensure the random testing is conducted within the time allotted will cause the employer to be out of compliance with the random testing requirement of Section 382.305 of the Federal Motor Carrier Safety Regulations.
    - 1. If a driver selected is on a leave of absence and will not be back in the month selected, the employer will notify the testing agent and the driver will be excused from testing for that month. The employer shall maintain records as evidence that the excused driver did not work that month. **(added February 2004)**
    - 2. If a driver is excused from the test, the employer will document on the random notice why the driver was not tested. (Documentation is required for IDOT auditing purposes.) **(Added February 2004)**
  - C. This employer shall ensure that random drug tests are conducted unannounced.

- (3) POST-ACCIDENT. The employer shall provide the driver with necessary post-accident information, procedures and instructions prior to the driver operating a commercial motor vehicle, so that the driver will be able to comply with the requirements of this section. *(See Reporting Attachment D)*
- A. A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by this employer as a refusal to test.
  - B. As soon as possible following an accident involving a commercial motor vehicle on a public road, a post-accident drug and alcohol test shall be conducted when either of the two circumstances below applies:
    - 1. If an accident involves a fatality;
    - 2. If a driver receives a citation for a moving traffic violation and either the accident involves bodily injury to a person who as a result of the accident immediately receives medical treatment away from the scene of the accident, or, one or more motor vehicles incur disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.
      - a. If the alcohol test is not conducted within two hours following the accident, the employer shall prepare and maintain on file a record stating why the alcohol test was not promptly administered. *(See Reporting Attachment C)*
      - b. If the alcohol test is not conducted within eight hours following the accident, the employer shall cease all attempts to complete the alcohol test and shall prepare and maintain a record stating why the alcohol test was not promptly administered. *(See Reporting Attachment C)*
      - c. If a post-accident drug test is not conducted within 32 hours following the accident, the employer shall cease all attempts to conduct the drug tests and prepare and maintain on file a record stating why the drug test was not promptly administered. *(See Reporting Attachment C)*
  - C. Nothing 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 accident scene for the period necessary to obtain assistance in response to the accident, or to obtain necessary medical care.
  - D. Drug and/or breath or blood alcohol tests conducted by federal, state or local officials, having independent authority for the test, shall be considered to meet the post-accident testing requirements, provided such testing conforms to the applicable federal, state or local drug and/or alcohol testing requirements and that the results are obtained by the employer.
- (4) REASONABLE CAUSE TESTING.
- A. All persons designated by this employer who supervise the employer's drivers must complete supervisory training in accordance with Part 362.603.
  - B. When the designated person(s) has reasonable suspicion that a driver has violated any portion of Section 3 of this Policy, that driver shall be required to submit to an alcohol and/or drug test. This employer's determination that reasonable suspicion exists to require the driver to undergo an alcohol and/or drug test must be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech or body odor of the driver.

- C. Alcohol testing is authorized only when observations of the driver are made during, just before or just after the period of the work day the driver is required to be in compliance with Part 382. The driver may be required to undergo reasonable suspicion alcohol testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased such functions.
  - D. If a reasonable cause alcohol test is not conducted within two hours after observing the driver, the employer shall prepare and maintain on file a record stating the reason why the test was not promptly administered. If the test is not conducted within eight hours after observing the driver, this employer shall cease attempts to conduct the test and prepare and maintain on file a record stating the reasons why the test was not administered.
  - E. No driver shall report for duty or remain on duty when this employer's designated person(s) has observed the driver as under the influence of alcohol or impaired by alcohol. This employer shall not permit the driver to perform or continue to perform safety-sensitive functions until an alcohol test is conducted and the driver's alcohol test result is less than .02 or 24 hours have elapsed since this employer's first suspicion of the driver being under the influence of or impaired by alcohol.
  - F. Refusal to submit to a reasonable cause test shall be considered a positive test.
  - G. The reasonable cause observation form must be completed and signed by at least one of this employer's designated person(s) who made the observations either within 24 hours of the observed behavior or before the drug test results are released, whichever is earlier. (*See Reporting Attachment F*)
- (5) RETURN TO DUTY TESTING. The Return to Duty Testing provisions of this Section do not apply to a driver who refuses to submit to a pre-employment drug test or who receives a positive pre-employment drug test result, if this employer does not intend to hire the driver. Additionally, this Section will not apply if the employer has chosen not to rehire a driver who previously violated a provision of this policy.
- A. Unless terminated as permitted under the "Disciplinary Actions" provisions of this policy, any CDL driver who has engaged in conduct prohibited in Section 3 of this policy or any other DOT drug and alcohol regulation shall be advised by the employer of the resources available in evaluating and resolving problems associated with the misuse of alcohol and/or drugs by providing the driver with the name, address and telephone number of one or more substance abuse professionals and/or substance abuse treatment facilities.
  - B. Initial Clinical Assessment Required. The driver shall be required by the employer to have an initial face-to-face clinical assessment and evaluation by a substance abuse professional in order to determine what assistance is needed for the driver to resolve problems associated with alcohol and/or drug use. The driver shall provide the employer a copy of a letter from the substance abuse professional to the employer stating recommendations of assistance for the driver.
  - C. Follow-up Clinical Assessment Required. The driver shall have a face-to-face follow-up evaluation to determine if the driver has actively participated in the assistance programs (educational and/or treatment) identified during the clinical assessment and whether the driver has demonstrated successful compliance with the initial assessment and evaluation recommendations. Successful compliance could mean full or partial completion of the evaluation recommendations.
    - 1. If the substance abuse provider feels the driver has not successfully complied with the recommendations of assistance, the substance abuse professional must provide a letter to the employer stating so. The driver will not be allowed to return to safety-sensitive

functions and the employer may take disciplinary action against the driver, up to and including termination.

2. If the substance abuse professional feels the driver has successfully complied or is continuing to comply with the recommendations of assistance, the substance abuse professional must state so in a letter to the employer: The letter should include:
    - a. requirements for further recommendations of assistance and follow-up evaluations if the substance abuse professional believes that ongoing services are needed to assist the driver in maintaining sobriety or abstinence from drug use after the driver returns to safety-sensitive functions.
    - b. the substance abuse professional's follow-up testing plan for the driver.
  3. The employer shall fax or mail a copy of the substance abuse professional's letter to the Township Officials of Illinois, which will forward a copy to the Consortium. The Medical Review Officer appointed by the Consortium will assist the employer in determining whether the driver has complied with the substance abuse professional's recommendations. If the employer deems the driver is ready for the driver to return to safety-sensitive functions, a return to duty test will be scheduled.
  4. The substance abuse professional may direct the driver to undergo both a drug and alcohol return to duty test if the substance abuse professional determines that return to duty testing for both drugs and alcohol are necessary for the driver. If the alcohol test result is less than .02, and the drug test result is negative, the driver may return to safety-sensitive functions.
  5. The employer may choose to have all return to duty drug tests conducted under direct observation.
- (6) FOLLOW-UP TESTING. Drivers subject to return to duty testing will be subject to unannounced follow-up drug and/or alcohol tests following the driver's return to safety-sensitive functions.
- A. The number and frequency of such tests shall be determined by the substance abuse professional.
  - B. The substance abuse professional may direct the driver to undergo both drug and alcohol tests if the substance abuse professional determines that follow-up testing for both drugs and alcohol are necessary for that driver.

**Sec. 3-84. Drug (urine) specimen collection.**

- (1) General. All drug testing procedures will be followed in accordance with 49 CFR Part 40. All of the following shall be rechecked following each collection.
- (2) Tampering. Any conduct that clearly indicates an attempt to tamper with a specimen will cause a new collection under direct observation to take place immediately. If the driver has tampered with the specimen, a new collection under direct observation will take place immediately.
- (3) Collection Area. (Random, On-Site Collection).
  - A. On-site facilities with a toilet bowl and stall shall be used. The stall will be visually inspected by the employer or the testing agent in order to ensure that no foreign or unauthorized substances are present, to ensure other persons are not present, to ensure all soaps, disinfectants, cleaning agents or other possible adulterants have been removed from the stall or, if not removable, otherwise secured. All areas outside the general area of the stall that could conceal contaminants shall be secured.

- B. Bluing agents shall be put in the toilet bowl and the tank.
- C. The driver shall appear at the collection site at the time specified by the employer.
  - 1. If the driver does not appear at the specified time, the testing agent shall notify the employer to determine how long it should take for the driver to arrive at the collection site. If the driver has not arrived by that time, the testing agent shall inform the employer that the driver has not reported for testing.
  - 2. When the driver arrives at the collection site, the testing process will begin without undue delay.
- D. To ensure security, only one collection will be conducted at a time. The driver must have positive identification either by photo identification or by the identification of the driver by the employer representative.
- E. The testing agent will explain the collection procedures to the driver and show the driver the instructions on the back of the Federal Drug Testing Custody and Control Form (hereinafter called CCF).
- F. The driver will be instructed to remove and leave with the collector, or in a mutually agreeable location, any outer clothing (such as a coat, hat, coveralls) along with any briefcase, purse or other personal belongings. The driver may retain his/her wallet. The driver will be directed to empty his/her pockets and display the items in them. If the collector determines none of the items could adulterate the specimen, the driver may return the items into his/her pockets. If there is any material that could adulterate a specimen, the testing agent must determine whether the material was accidentally brought in or intentionally brought in to adulterate the specimen.
  - 1. If it was accidental, the testing agent will retain the material and return it to the driver when the testing process is complete.
  - 2. If it was intentional, a direct observation test will take place immediately.
- G. The driver will be instructed not to list any medications that he/she is currently taking on the CCF (unless it is the driver's copy). The collector shall complete Step 1 of the CCF. The driver shall wash and dry his/her hands before providing the specimen. Thereafter, the driver will have no further access to water or other materials until the specimen is given to the testing agent.
- H. The driver will select a collection kit and the seal on the collection container will be broken in front of the testing agent.
- I. The driver will be instructed to go into the stall, provide at least 45 ml of urine, not flush the toilet and return to the testing agent with the specimen.
- J. The driver will collect the specimen in private, except in the case of an observed or monitored collection.
  - 1. Direct Observation. The testing agent shall explain to the driver the reason for a direct observation test, except when the employer is required to do so. If the testing agent is not the same gender as the driver, a same gender observer selected by the testing agent will watch the driver urinate into the collection container. The observer will continue to watch the specimen until it is given to the testing agent.

2. Monitored Collection. A monitored collection will only be conducted if a multi-stalled restroom is used and all sources of water or potential adulterants cannot be secured. The testing agent/observer must be the same gender, unless he or she is a medical professional. The driver shall provide the urine specimen behind a closed stall door with the testing agent/observer standing outside of the stall door listening to the driver urinate into the collection container. If the testing agent/observer hears sounds or makes other observations of the driver attempting to tamper with a specimen, another collection will take place immediately under direct observation.
- K. After the specimen has been collected by the driver and submitted to the testing agent, the testing agent will perform all of the following:
1. ensure there is at least 45 ml of urine in the collection container.
  2. assure the temperature of the specimen is within the range of 90-100 degrees. (If the temperature is out of that range, a new collection under direct observation will take place immediately.)
  3. assure, through visual inspection, the absence of an obvious foreign object/material in the specimen (unusual color or presence of foreign objects).
  4. Check for other signs of tampering.
- L. The tabs on the specimen bottles will be broken in front of the testing agent and the driver. The driver will give the specimen container to the testing agent and the testing agent will pour the urine from the specimen container into the specimen bottles to create a primary specimen and a split specimen. The driver should observe both specimen bottles at all times until the lids/caps are secured and the tamper-evident bottle seals are put over the lids/caps. The driver is to initial the tamper-evident bottle seals on the bottles for proof that it is her/her specimen. The driver will also be required to sign the CCF as proof that the specimen identified as having been collected is in fact the driver's. The testing agent will complete the CCF and place the specimen bottles and Copy 1 of the CCF in the pouches of the plastic bag and secure both pouches. The driver will then be dismissed from the collection site.
- (5) Collection Area. (Clinical) In those instances where the collection of urine, breath or blood samples takes place in a clinical environment, the testing agent is responsible for providing a collection environment and process equal to or superior to the collection environment and processes previously described in this Section.
- (6) Shy Bladder. After a driver's first unsuccessful attempt to provide a minimum of 45 ml of urine, the shy bladder time starts. Any insufficient specimen shall be discarded. The driver will be urged to drink up to 40 oz. of fluids, reasonably through a period of up to 3 hours; however, it is not considered a refusal to test if the driver chooses not to drink fluids. If the driver does not provide a sufficient amount of specimen within 3 hours, the collection will be discontinued and the employer will be notified. The testing agent or the employer will consult with the medical review officer, then direct the driver to obtain, within 5 working days, an evaluation from a licensed physician, acceptable to the medical review officer, who has expertise in the medical issues associated with the driver's inability to provide an adequate amount of specimen. The physician must provide to the medical review officer a written statement of his/her recommendations and the basis for them.
- (7) If the driver has a medical condition that could have prevented him/her from providing a sufficient amount of urine, and the medical review officer agrees with the physician's recommendation, the medical review officer will report the test result as a cancelled test. If the driver does not have a

medical condition that could have prevented him/her from providing a sufficient amount of urine and the Medical review officer agrees with the physician's recommendation, the medical review officer will report the test result as a refusal to test.

- (8) Urine Specimen Handling. Both specimens are then sent by overnight delivery to the DHHS/SAMHSA-certified laboratory for drug testing. All results will be reviewed by the medical review officer.

**Sec. 3-85. Management of urine drug test results.**

- (1) Negative results will be released by the medical review officer to the employer.
- (2) Before a laboratory-confirmed positive test, an adulterated test, a substituted test or an invalid test result is released, the medical review officer will conduct a verification interview with the driver by telephone unless:
  - A. the driver declines to discuss the test result; or,
  - B. the medical review officer or the employer cannot make contact with the driver within 10 days of the medical review officer receiving the laboratory result; or,
  - C. more than 72 hours have passed since the employer has contacted the driver to call the medical review officer.
- (3) Interview. Drivers are hereby forewarned that any medical information given to the medical review officer (medical conditions, medications or other substances affecting the performance of safety-sensitive functions the driver reports having or using) may be provided to third parties (the employer, a substance abuse professional evaluating a driver as part of the return to duty process, DOT, another federal safety agency or any other safety agency) if the medical review officer determines the information is likely to result in the driver being medically unqualified to perform safety-sensitive functions or is likely to pose a significant safety risk if the driver is allowed to continue performing safety-sensitive functions.
  - A. During the verification interview, if the driver can give the medical review officer a legitimate medical explanation for an apparent positive, adulterated or substituted test result, as determined by the medical review officer, the test result will be a cancelled test with no further testing needed unless a negative result is needed for pre-employment, return to duty or follow-up testing.
  - B. If the driver cannot give the medical review officer a legitimate medical explanation, as determined by the medical review officer, the primary specimen test result shall be reported and in all ways be considered as a positive verified test result.
  - C. If the test result is invalid or contains an unexplained interfering substance and the driver cannot give the medical review officer an acceptable explanation or a valid prescription the test result will be reported as a cancelled test with a second collection to take place immediately with the driver under direct observation.
  - D. All verified positive tests, refusal to test and cancelled test results will be released by the medical review officer to the employer.
- (4) DILUTE SPECIMENS: The employer will treat a positive drug test result that is dilute the same as a positive drug test result.
- (5) SPLIT SPECIMEN TESTS:
  - A. A driver who requests a test of his/her split specimen shall reimburse the employer for testing costs.

- B. When a driver is notified of a positive drug test or a refusal to test because of adulteration or substitution, the driver has 72 hours from the time of notification to request a test of the split specimen through the employer. The employer will request the medical review officer to prepare the documentation and forward it to the laboratory that is storing the split specimen. That laboratory will then prepare the documentation and send both the split specimen and the documentation to another DHHS/SAMHSA laboratory for the split specimen testing.
- C. Pending the results of the split specimen test, the driver shall not perform safety-sensitive functions.
- D. If the driver is unable to request split specimen testing within 72 hours, the driver may present to the employer information documenting that serious illness, injury, or other serious circumstances prevented the driver from making a timely request. If the employer concludes there is a legitimate explanation for the driver's failure to notify within 72 hours, the employer shall order testing of the split specimen.
- E. If the split specimen reconfirms the positive, adulterated or substituted result, the positive or refusal to test result will stand. If the split specimen fails to reconfirm the positive, adulterated or substituted result, both the primary specimen and the split specimen test results will be cancelled.
- F. If a driver requests the testing of a split specimen and that specimen is not available for testing, the testing results of the primary specimen shall be cancelled. The driver shall submit to another specimen collection

**Sec. 3-86. Alcohol testing procedures.**

- (1) All alcohol testing procedures will be followed in accordance with 49 CFR Part 40.
- (2) All alcohol testing will be administered by a BAT/STT who has met the qualification training requirements in 49 CFR Part 40.
- (3) If both a drug and alcohol test is to be conducted on the driver, the alcohol test must be completed before the urine collection process begins.
- (4) To ensure the security of the alcohol testing site, all alcohol testing will be performed off-site. The employer shall assure the availability of credentialed clinical capacity for alcohol testing.
- (5) Driver's Cooperation.
  - A. Reasonable Cause Testing. The employer shall transport the driver to the testing agent. Transport shall be performed in a manner which respects the driver's privacy.
  - B. Driver identification shall be by photo ID or by the identification of the driver by the employer representative.
- (6) The BAT/STT will explain the testing procedures and show the instructions on the back of the DOT Alcohol Testing Form (**hereinafter called "ATF"**) to the driver. The BAT/STT shall complete Step 1 on the ATF. The driver will then be directed to complete Step 2 on the ATF and sign the certification. If the driver refuses to sign the certification, the BAT/STT will document on the ATF that the driver refused to test and the employer will be immediately notified.
- (7) The BAT/STT will collect specimens from the driver pursuant to established, clinically approved protocols.
- (8) For the breath alcohol tests, the driver will be shown the results. The results will also be affixed to the ATF with tamper-evident tape.

- A. If the result is less than .02 alcohol concentration, the BAT shall complete the ATF. The BAT must transmit the alcohol test result using Copy 1 of the ATF immediately by telephone, electronic means or in person to the employer.
  - B. If the alcohol concentration is .02 or greater, a confirmation test shall be conducted with an EBT not less than 15 minutes nor more than 30 minutes after the completion of the screening test. During that time, the driver will be asked not to eat, drink, belch or put anything into his/her mouth to prevent an accumulation of mouth alcohol that could lead to an artificially high reading on the confirmation test.
  - C. The BAT/STT will note in the remarks of the ATF that these instructions were given and will also note on the ATF if the driver chose to ignore the instructions.
- (9) The confirmation test.
- A. If the confirmation test is conducted more than 30 minutes after the result of the screening test, the BAT shall note in the remarks on the ATF the reason the confirmation test could not be conducted within the 15-30 minute time frame. The confirmation test will still be conducted.
  - B. If the screening test was conducted by a STT or if the confirmation test is to be conducted by a different BAT, the STT or BAT who conducted the screening test shall complete and sign Step 3 on the ATF and give the driver Copy 2 of the ATF. A new ATF will be used by the BAT who will be conducting the confirmation test.
  - C. The BAT will collect specimens from the driver pursuant to established, clinically approved protocols.
    - 1. If the confirmation test result is less than .02 alcohol concentration, the BAT shall sign and date Step 3 on the ATF. The BAT must transmit the alcohol test result using Copy 1 of the ATF immediately by telephone, electronic means or in person to the employer.
    - 2. If the confirmation test result is .02 or greater alcohol concentration, the driver shall be directed to sign Step 4 on the ATF. If the driver does not sign, the BAT will note in the remarks on the ATF of the driver's failure to sign Step 4. The driver's failure to sign Step 4 will not be considered a refusal to test. The BAT must immediately notify the employer by any means of an alcohol test result of .02 or greater to ensure the result is immediately received by the employer.
    - 3. If a screening or confirmation test is invalid, the BAT/STT will inform the driver that the test is cancelled and note the problem on the remarks line on the ATF. If a new screening or confirmation test is capable of being done, a screening test will be repeated or a retest will be conducted for the confirmation test on the driver.
- (10) INABILITY TO PROVIDE AN ADEQUATE AMOUNT OF SALIVA OR BREATH. If a driver is unable to provide sufficient saliva to complete a test on the saliva ASD to activate the device, the BAT/STT shall conduct a new test using a new saliva ASD. If the driver refuses to complete the new test, the BAT/STT shall terminate testing and immediately notify the employer. If a new test is conducted and the driver is still not able to provide sufficient saliva to complete the test, the employer shall be immediately notified and the alcohol test will then be administered by a BAT using an EBT. If a driver is unable, or alleges he/she is unable to provide an amount of breath sufficient to give a reading on the EBT, the BAT should again instruct the driver to attempt to provide an adequate amount of breath and the proper way to do so. If the driver refuses to make a second attempt, the BAT shall discontinue the test and immediately notify the employer. If the driver does make an attempt again and fails to provide an adequate amount of breath, the BAT

may provide another opportunity to the driver if the BAT feels there is a strong likelihood the driver could provide a sufficient amount of breath. If the driver fails to provide an adequate amount of breath, the BAT shall note the failure on the remarks of the ATF and immediately notify the employer. The employer will then direct the driver to obtain, within 5 days, an evaluation from a licensed physician who is acceptable to the employer and has expertise in the medical issues associated with the driver's inability to provide a sufficient specimen. The employer will tell the physician the driver was required to take a DOT breath alcohol test but was unable to provide a sufficient amount of breath and the consequences for refusing to take the required alcohol test. The employer must also tell the physician to provide to the employer a signed statement of the physician's conclusions and the basis for them. If the physician determines the driver has a medical condition that could have prevented him/her from providing a sufficient amount of breath, the test will be cancelled. No further testing will be required except when the driver needs a test result of less than .02 for a return to duty or a follow-up test. If the physician determines the driver does not have a medical condition that could have prevented him/her from providing a sufficient amount of breath, it will be considered a refusal to test. The employer shall notify the driver of the physician's conclusions.

**Sec. 3-87. Alcohol-related conduct.** ALCOHOL-RELATED CONDUCT. No driver tested under this policy who is found to have an alcohol concentration of .02 or greater, but less than .04, shall perform or continue to perform safety-sensitive functions, including driving a CMV, nor shall the employer allow a driver to perform or continue to perform safety-sensitive functions, including driving a CMV, until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following the administration of the alcohol test.

**Sec. 3-88. Access to records.**

- (1) All records pertaining to the employer's drug and alcohol testing program maintained by the employer shall be kept in a secure location with controlled access and shall be maintained according to 49 CFR 382.401.
- (2) Records, including drug and alcohol test results, shall only be released in the following circumstances:
  - A. Drivers are entitled to copies of their records pertaining to their use of drugs and alcohol, including any records pertaining to their drug and alcohol tests. The employer shall promptly provide records requested by the drivers. Access to the driver's records shall not be conditional upon payment for records, other than those they are specifically requesting.
  - B. Records to subsequent employers shall be made available upon receipt of a written authorization from the driver. The employer will only disclose information that is expressly authorized by the terms of the driver's authorization request. This employer shall provide such information and results requested promptly to the subsequent employer at no charge.
  - C. The employer may disclose drug and alcohol information pertaining to a driver to the decision maker in lawsuit, grievance or other proceeding initiated by or on behalf of the driver, and arising from the results of a drug and/or alcohol test administered according to this policy or from this employer's determination that the driver engaged in conduct prohibited in Section 3 (including, but not limited to workers' compensation, unemployment compensation or other proceeding relating to a benefit sought by the driver). In addition, the employer may disclose information in criminal or civil actions resulting from the driver's performance of safety-sensitive functions, in which a court of competent jurisdiction determines that the drug and alcohol test information sought is relevant to the case and issues an order directing the employer to produce the information. The employer may release the

information to the decision-maker in the proceeding only with a binding stipulation that the decision-maker to whom it was released will make it available only to parties in the proceeding. The employer must notify the driver in writing of any information released to the decision-maker in the criminal or civil proceeding.

- (3) The employer shall only release information regarding a driver's record as directed by the specific written consent of the driver to an identified person. Release of that information by the person receiving the information is permitted only in accordance with the terms of the driver's consent.
- (4) Records shall be accessible and copies shall be made available in all of this employer's facilities to the U.S. Secretary of Transportation, any DOT agency, or any state or local officials with regulatory authority over the employer or any of the employer's drivers.
- (5) Information related to the employer's administration of a post-accident alcohol and/or drug test administered following an accident under investigation by the National Transportation Safety Board (NTSB) shall be made available when requested by the NTSB. In the event the employer chooses to rehabilitate a driver with a positive alcohol result of .04 or greater, or a refusal to test, the employer may make available the alcohol result and/or documentation to the Township Officials of Illinois.

**Sec. 3-89. Alcohol and drug prevention.**

- (1) Each driver will receive a copy of this drug and alcohol abuse policy, which includes all requirements under 49 CFR Part 382.601. Some of those requirements include:
  - A. the name(s) of the person or people that can answer drivers' questions about the drug and alcohol program and testing;
  - B. what period of the workday the driver is required to be in compliance; what drivers are required to comply with the federal regulations and this policy;
  - C. what conduct is prohibited under the drug and alcohol policy;
  - D. what procedures are used to test for drugs and alcohol; and
  - E. educational information concerning the effects and consequences of drug and alcohol use on the driver's personal health, safety and work environment, including signs and symptoms of a drug and alcohol problem.
- (2) Each driver will be required to sign a Drug & Alcohol Policy Receipt Certificate (*See Reporting Attachment G*) certifying that they received a copy of the drug and alcohol abuse policy which includes the required content as stated above. This employer will provide a copy of the Drug & Alcohol Policy Receipt Certificate to each driver and keep the original. Federal regulations require that the drivers be made aware of the effects of drug and alcohol use on the driver's health, work and personal life. It is the driver's responsibility to report to work fit for duty, and remain fit throughout the workday in order to perform in a safe, efficient and productive manner. The driver will also be made aware of the signs and symptoms of a drug and/or alcohol problem (potential affects on his/her co-worker(s)) and shall be made aware of ways to intervene when a drug and/or alcohol problem is suspected, including referral to management and referral to drug and/or alcohol abuse hotlines and help-lines maintained by this employer.
- (3) When a driver suspects a co-worker is under the influence of drugs and/or alcohol, the driver should refer the co-worker's name to management, who shall respond accordingly.
- (4) Any driver who feels he/she may have a drug and/or alcohol use problem may come forward for assistance as long as it is before the driver's notification of an impending drug and/or alcohol test

and before the driver performs a safety-sensitive function. The employer shall provide the driver with referrals of where the driver can go for assistance. The driver will be removed from any safety-sensitive function, and if no other position is available, will be put on unpaid leave of absence until such time the driver has completed all evaluations and education or treatment program required by the substance abuse professional.

- A. The employer will not take any adverse action against the driver and will allow him/her sufficient opportunity to seek an evaluation and education or treatment to establish control over his/her drug and/or alcohol problem.
  - B. The employer will require the driver to complete a return to duty test for drugs and/or alcohol. If the result(s) is negative, the driver may return to performing safety-sensitive functions for the employer. The driver will then be subject to follow-up drug and/or alcohol tests as prescribed by the substance abuse professional after returning to duty. All costs associated with the evaluations and the education or treatment program will be the responsibility of the driver. The return to duty testing and follow-up testing will be pre-paid by the employer, to be immediately reimbursed by the driver.
- (5) The employer shall maintain and make available general information regarding the ill-effects of use/misuse of drugs and alcohol. Said information shall be displayed wherever this policy is displayed.

**Sec. 3-90. Disciplinary action options.**

- (1) A violation of this policy will result in termination.
- (2) If this employer proves a driver is engaging in prohibited conduct as stated above, the driver shall be subject to termination.
- (3) Any driver who faces criminal action as a result of engaging in activities as stated above will be immediately suspended without pay until the court makes a final determination.
  - A. If the driver is convicted, the driver will be immediately terminated.
  - B. If the driver is found not guilty, the driver will be placed back into a safety sensitive function. No retroactive pay will be given to the driver.
- (4) The employer may advise a driver who violates this policy of the resources available in evaluating and resolving problems associated with the misuse of drugs and/or alcohol, even though the driver is terminated.

**Sec. 3-91. Rehire.**

- (1) If the employer so chooses, prior to being eligible for rehire, a driver who has previously violated this policy shall go to a substance abuse professional for an initial face-to-face clinical assessment and evaluation to determine what assistance is needed for the driver. The substance abuse professional must provide a letter to the employer stating the specific recommendations of assistance the driver must follow.
- (2) When the driver has successfully complied with the substance abuse professional's recommendations, the driver shall go to the substance abuse professional for a face-to-face follow-up evaluation. The substance abuse professional shall confer with or obtain documentation from the appropriate education and/or treatment program the driver was referred to and determine if the driver has demonstrated successful compliance with his/her initial evaluation recommendations.

- A. If the driver has shown successful compliance with the substance abuse professional's recommendations, the substance abuse professional will provide a letter to the employer stating such and shall include the follow-up testing plan for the driver.
  - B. If the driver has not shown successful compliance with the substance abuse professional's recommendations, the substance abuse professional will provide a letter to the employer stating such and the driver will not be considered for rehire until the driver has shown successful compliance with the substance abuse professional's recommendations.
- (3) All costs associated with the evaluations, rehabilitation, pre-employment testing and following testing will be the responsibility of the driver. The pre-employment and follow-up testing costs shall be pre-paid by this employer, to be immediately reimbursed by the driver.

*Addenda (Not Codified: To Be Maintained by the County Engineer)*

- 1. *Drug and Alcohol Information*
- 2. *Information concerning the effects of alcohol and drug use on an individual's health, work, and personal life.*
- 3. *Reporting Forms/Attachments prescribed by the CDL Drug and Alcohol Policy.*

**Sec. 3-92 through 3-124 (Reserved).**

## **DIVISION 6. COMPUTER USE**

### **Sec. 3-125. General systems policy**

- (1) All computer equipment and software purchased and maintained by the County is the property of Whiteside County. Therefore, no software shall be installed on any County computer without County approval. In this regard, County approval shall mean approval from the appropriate department head/elected official and the Management Services Administrator.
- (2) Users are responsible for the security of their workstations and must be aware that their "User IDs" are attached to all workstation actions/transactions, regardless of who actually uses the workstation. Department Heads/Elected Officials shall maintain policies to assure security issues are adequately addressed. These assurances should include, at a minimum, the following:
  - A. Workstations shall be logged off the network when users are absent for prolonged periods of time, overnight and weekends; and
  - B. Passwords are not "shared" or easily accessible.
- (3) Users are required to inform the Management Services Department of any virus that is detected, configuration change, or unusual behavior of a computer or applications.
- (4) The use of any County system for generating, soliciting, transmitting or storing harassing, threatening, intimidating, obscene or profane data is prohibited.

### **Sec. 3-126. Management services department**

- (1) The Management Services Department charged with ensuring the County's computer network runs efficiently and without disruption. Therefore, all file servers running County applications shall be maintained by the Management Services Department.
- (2) In order to assure system uniformity and prevent service disruptions, individual workstation settings will be established and maintained by the Management Services Department.
- (3) Hardware and software installation priorities will be determined by Management Services. Management Services shall prioritize requests which are submitted, however, *mission critical* requests will take precedence.

- (4) The Management Services Department will install and maintain the hardware and software required to provide County-access to the World Wide Web.
- (5) The Management Services Department will develop and maintain a County electronic messaging system. In this respect, no other form of electronic messaging, e-mail or any other system for contacting County personnel shall be installed on County equipment.
- (6) All County computers that connect to outside services, including, but not limited to the Internet or e-mail services, must adhere to connection protocols maintained by the Management Services Department.

**Sec. 3-126. Anti-virus policy**

- (1) Anti-virus software will be installed, maintained and updated on file servers. The software is to remain active during the server's operation, with file scanning done on a daily basis.
- (2) Workstations will have memory resident anti-virus software installed and configured to scan data/file downloads/e-mail attachments. The software is to run continually during the computer's operation and all files on the system are to be scanned for viruses at least once a week.
- (3) All incoming e-mail will be scanned for viruses. Programs will not be executed nor will any files be opened by applications prone to macro viruses without prior scanning.
- (4) All data imported to a computer (from CD, floppy disk, e-mail, or file transfer) must be scanned before being used.
- (5) Any machine thought to be infected by a virus will immediately be disconnected from all networks. The machine will not be reconnected until the Management Services Department verifies the virus has been removed. When applicable, anti-virus software will be used to remove a virus from an infected file or program. If anti-virus software fails to remove the virus, all software on the computer will be deleted, including boot records if necessary. The software will then be reinstalled from uninfected sources and scanned again for viruses.
- (6) Known harmful Internet (Web) sites may be filtered (banned) at the discretion of the Management Services Administrator.

**Sec. 3-127. Electronic messaging (E-mail)**

- (1) The primary use of the County's electronic messaging system shall relate to the facilitation of County business as authorized by a Department Head/Elected Official.
- (2) All sent and received electronic messages are the property of the County and are subject to inspection by the respective department head/elected official and the Management Services Department.
- (3) Many types of electronic messages are public records, subject to public inspection and reproduction under the Freedom of Information Act.
- (4) The County's messaging system shall not be used for any prohibited political activity.

**Sec. 3-128. World wide web**

- (1) The County will control access to the World Wide Web. Therefore, no workstation shall be equipped with individual modems, except for those required for dial-in software maintenance. These workstations shall have the Web Browsers removed or disabled.
- (2) It shall be the responsibility of the individual department head to determine the users who shall have access to the World Wide Web.

- (3) The primary use of the World Wide Web shall relate to the facilitation of County business, research and education efforts, as authorized by the respective department head/elected official. Use of the World Wide Web may be monitored by the Management Services Department and/or the respective department head/elected official.

**Sec. 3-129. Authorization.** All Internet and external E-mail services shall be authorized by the appropriate department head. Signed authorizations will be maintained by the Management Services Department.

**Sec. 3-130 through 3-149. (Reserved).**