

**TOWNSHIP OF WEST BRADFORD
RESOLUTION #95-14**

**A RESOLUTION AMENDING RESOLUTION #91-12
TO PROVIDE A DRUG AND ALCOHOL USE AND
TESTING POLICY.**

Whereas, The Board of Supervisors of West Bradford Township is gravely concerned about alcohol abuse and illegal drug use. Such use and abuse adversely affect work quantity and quality, jeopardize employee health and can create an unacceptable dangerous work environment. Therefore, to promote a safe, healthy and productive work environment, the township intends to implement the attached substance abuse policy and;

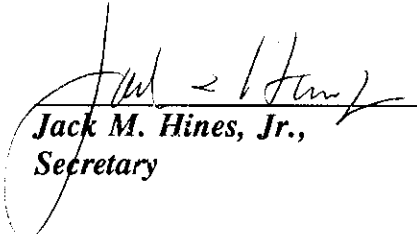
Whereas, The United States Department of Transportation has issued regulations which require the township to conduct drug and alcohol testing of drivers and;

Whereas, The township intends to comply freely with the Department of Transportation's drug and alcohol regulations;

Now, therefore be it and it hereby is resolved, by the Board of Supervisors of West Bradford Township, to adopt the attached Drug and Alcohol Use and Testing Policy and attachments consisting of sixteen (16) pages to be a part of the Personnel Policy for West Bradford Township, as adopted by Resolution #91-12.

Resolved this 12th day of September, 1995.


Attest:


**Jack M. Hines, Jr.,
Secretary**

**TOWNSHIP OF WEST BRADFORD
BOARD OF SUPERVISORS:**


Kenneth E. Klunk, Chairman


Mark J. Blair, Vice Chairman


John A. Haiko, Member

Attachments

WEST BRADFORD TOWNSHIP
DRUG & ALCOHOL USE & TESTING POLICY

I. Purpose

The Board of supervisors of West Bradford Township (hereinafter the Township) is gravely concerned about alcohol abuse and illegal drug use. Such use and abuse adversely affect work quantity and quality, jeopardize employee health and can create an unacceptable dangerous work environment. Therefore, to promote a safe, healthy and productive work environment, the Township intends to implement the following substance abuse policy.

The United States Department of Transportation (DOT) has issued regulations which require the Township to conduct drug and alcohol testing of drivers.

The Township intends to comply freely with the DOT drug and alcohol regulations as stated in this policy. In addition, if the DOT regulations are amended, the Township will comply with the amended regulations automatically without reissuing this policy.

Alcohol and Drug testing will be conducted on any current and/or prospective driver and/or an employee/prospective employee with a Commercial Drivers License (CDL) who performs safety sensitive functions and operates a vehicle in excess of 26,000 pounds and/or a vehicle designed to carry 16 passengers (including the driver).

II. Definitions

For purposes of this Policy and the Township's drug and alcohol testing program, "*safety-sensitive function*" means any of the following: (i) driving; (ii) the time spent waiting to be dispatched; (iii) inspecting, servicing or conditioning equipment; (iv) being in or on a commercial motor vehicle; (v) loading or unloading, including supervising or assisting in loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle; giving or receiving receipts for a shipment being loaded or unloaded; (vi) securing the vehicle and taking all of the other precautionary measures required by DOT's regulations following an accident (49 C.F.R. 392.40 and 392.41); (vii) repairing, obtaining assistance, or attending a disabled vehicle.

For purposes of this Policy and the Township's drug and alcohol testing program, "*Township business*" includes, but is not limited to, work performed on or in Township property including a Township vehicle, and work performed on or in a non-Township vehicle being used for conducting Township business; the term also includes meal and break times.

For purposes of this Policy and the Township's drug and alcohol testing program, "*refusing to be tested*" means any of the following: (i) failing to provide an adequate urine specimen for a drug test without a valid medical explanation; (ii) failing to provide adequate breath for an alcohol test without a valid medical explanation; (iii) failing to submit to a test as directed; or (iv) engaging in any conduct which clearly obstructs the testing process.

For purposes of this Policy and the Township's alcohol testing program, an alcohol test will be considered "positive" when the alcohol concentration level registers 0.02 or greater.

"*Under the influence*" means, with respect to drugs, the presence in an employee's system of any detectable amount of a drug, or its metabolites, and speech, actions or an appearance which lead a supervisor to reasonably suspect that the employee's ability to perform his or her job safely and effectively has been impaired by drugs.

The term "*drugs*" includes any and all controlled substances, such as but not limited to, marijuana, cocaine, amphetamines, PCP, opiates. The term "*drugs*" also includes prescription and over-the-counter medications which are being abused.

III. Prohibitions

The following employee conduct is prohibited: (i) drivers are prohibited from using, being under the influence of, or possessing illegal drugs; (ii) drivers are prohibited from using or being under the influence of legal drugs that are being used illegally; (iii) drivers are prohibited from using or being under the influence of legal drugs whose use can adversely affect the ability of the driver to perform his or her job safely; (iv) drivers are prohibited from selling, buying, soliciting to buy or sell, transporting, or possessing illegal drugs while on Township time or property; (v) drivers are prohibited from using alcohol within four (4) hours of driving or performing any other safety-sensitive function; (vi) drivers are prohibited from using or being under the influence of alcohol at any time while driving or performing any other safety-sensitive function; (vii) drivers are prohibited from possessing any amount of alcohol (**including possessing medications which contain alcohol**) while on duty or driving; (viii) testing positive for drugs and/or alcohol; (ix) refusing to be tested for drugs and/or alcohol; (x) failing to submit to a drug and/or alcohol test as directed by the Township; (xi) failing to stay in contact with the Township and its medical review officer while awaiting the results of a drug test; (xii) violating any applicable federal and/or state requirement governing the use of drugs or alcohol; (xiii) doing anything to obstruct the Township's goals with respect to drug and alcohol testing.

A driver who violates these prohibitions will be subject to disciplinary action mandated by the DOT. Drivers who violate these prohibitions will also be subject to disciplinary action by the Township, up to and including discharge. In addition, any driver who is convicted by the judicial system of a felony for a drug or alcohol-related matter will be subject to disciplinary action up to and including termination of employment.

IV. Tests Required

Testing for DOT affected employees will be conducted under the following circumstances:

Pre-employment/pre-duty - (before a driver - applicant is hired or an existing non-DOT employee performs DOT duties). The applicant will be informed to report for a drug test and asked to sign a general consent and release to be tested. All offers to hire an applicant or transfer an existing employee to a driving position are contingent upon the applicant/employee signing the consent and release form for drug testing; signing the Township's authorization form to obtain past drug test results from previous employers during the last 2 years; taking the required drug and alcohol test and having negative results on both tests; passing required physical exams; complying with any other conditions or requirement of the Township.

Post Accident Testing - A driver must submit to a post-accident drug and alcohol test as soon as possible after an accident which:

- Involves a fatality
- The driver receives a citation for a moving violation and either a person is injured and receives immediate medical treatment away from the scene or one or more vehicles are damaged and must be transported away from the scene.
- If a law enforcement official conducts a test at the scene, the driver must inform the Township. A refusal to submit to a post-accident test is equal to a positive test result.

Random Testing - Random testing of drivers will be conducted at the 50% rate for drug tests and the 25% rate for alcohol tests.

Random testing will be unannounced and the driver must report to the collection site immediately after receiving notice of their selection.

Refusal to report to the collection site or submit to the test will be equal to a positive test result.

Reasonable Suspicion Testing

Any affected employee must report to a collection site and provide a specimen if, in the opinion

of a Township official (who has received training covering the indications of probable drug and/or alcohol abuse), there is reasonable cause to suspect the use of drugs and/or alcohol. Their observations must be documented.

Specimen collection for reasonable suspicion testing will take place under the following circumstances:

- Based upon their appearance, speech, body odor or actions, a supervisor reasonably suspects that the employees' ability to work may be impaired by alcohol and/or drugs; or the withdrawal effects of alcohol and/or drugs.

Employees who refuse to be tested are subject to discipline up to and including discharge, depending upon the circumstances.

The driver will be escorted to the collection site by an agent of the Township and arrangements will be made for them to be transported to his/her home after the specimen is collected.

A driver who is directed to take a reasonable suspicion test will be placed on unpaid suspension pending the test results. If the result is negative the driver will be reimbursed for the time of suspension. A positive test result will result in disciplinary action up to and including termination from the time of suspension.

Return to Duty Testing

After a previous positive test, if the employee is not terminated, the employee must take a return to duty test and have a negative result before they can be considered for job assignment.

Follow-up Testing

After a previous positive test, if the employee is not terminated, the employee must participate in unannounced testing for 1 year after their reinstatement. A minimum of 6 specimens and a maximum of 12 specimens will be collected.

V. Test Procedures

A. Split sample urine specimens will be collected at a designated collection site under circumstances according to DOT/FEDERAL regulations (Part 40 of Title 49) designed to prevent sample switching and tampering. Urine specimens will be sealed and sent to the designated NIDA certified laboratory for testing. Detailed records will be kept to prevent misidentification of samples.

B. The following protocol will apply to all specimen collections:

1. The applicant/employee will provide a urine sample at the assigned collection site at the appointed time.
2. The applicant/employee will participate in the chain of custody procedures in order to insure accurate collection by:
 - providing photo identification,
 - completing and signing consent, release of information and Chain of Custody forms,
 - following DOT/FEDERAL urine collection procedures in cooperation with the collection site.
3. Under split specimen procedures, the donor must provide 45 ml. in a specimen container. The collector will pour 30 ml. into one bottle and seal it, the remaining sample of 15 ml. will be sealed in a second bottle. Both bottles will be sent to the laboratory. The bottle with 30 ml. will be the primary specimen and the second bottle will be held by the laboratory and analyzed only after a verified positive by the MRO and the employee requests the analysis within 72 hours of notification by the MRO.
4. If the applicant/employee refuses to provide the specimen for drug testing, the situation will be considered equal to a positive test and the same consequences will apply.

C. All positive urine screens will be confirmed through GC/MS testing (Gas Chromatography/Mass Spectrometry) before any discipline is imposed or hiring decisions are made.

D. A Medical Review Officer (MRO) will review all DOT regulated drug tests performed by the laboratory. The MRO is to determine whether positive test results indicate illegal drug use or whether other medical explanations could account for the result. The MRO will inform the employee of his findings.

On all "positive" drug screen test results, the MRO will make two attempts on two consecutive days to first contact the applicant/employee and review his findings. If the applicant/employee cannot be reached during the above mentioned time frame, the Township management will be contacted and informed to contact the applicant/employee and have such person make themselves available to be contacted by the MRO to review his findings. If the applicant/employee does not make themselves available to be contacted by the MRO, the consequences to the applicant/employee will be equal to that of a positive test result, which is immediate discipline, up to and including termination.

E. Alcohol Tests

All alcohol tests conducted under this Policy require that the driver provide a breath specimen. The driver must provide either a breath or blood specimen, as directed by a law enforcement officer after an accident.

Alcohol tests will be administered using a breath specimen, taken by a breath alcohol technician (BAT) using an approved breath testing device (EBT), except in cases of on-scene post-accident testing conducted by federal, state, or local officials.

Before being tested by the Township, each driver will be required to (i) present his/her personal identification, and (ii) execute a DOT "Breath Alcohol Test Form" provided by the BAT. A driver who refuses to provide his/her identification, provides a false identification, refuses to execute the DOT "Breath Alcohol Test Form", or who otherwise refuses or fails to cooperate will be treated as though he/she had tested positive and will be subject to disciplinary action, up to and including discharge, in addition to the penalties imposed by DOT.

Prior to each alcohol breath test conducted by the Township, the BAT will instruct the driver on how the test will be performed.

To protect each driver, the BAT will attach to the testing device an individually-sealed mouthpiece in the driver's view. The driver will then be directed to blow forcefully into the breath testing device until an adequate amount of breath has been maintained.

In the event that a driver is unable to provide an adequate amount of breath for the initial or confirmatory test after several attempts to do so, the driver will be required to submit to an evaluation by a licensed medical physician to determine whether a valid medical condition exists. If the physician determines that a valid medical condition does exist, the test result will be reported to the Township as "negative". If the physician determines that a valid medical condition does not exist, the result be reported to the Township as a "confirmed positive".

In the event that the driver provides an adequate breath specimen and the initial test registers an alcohol concentration level that is less than 0.02, the test result will be recorded as a "negative" and no additional tests will be required at that time.

In the event that the driver provides an adequate breath specimen and the initial test registers an alcohol concentration level of 0.02 or greater, a second, confirmatory test will be performed. In the event that the driver provides adequate breath specimen and the confirmatory test registers less than 0.02, the test result will be reported to the Township as "negative".

If the driver is not terminated, they must be evaluated by a Substance Abuse Professional (SAP) and follow the suggestions for treatment made by the SAP. Prior to returning to work, the driver must submit to a return to duty test and the results must be negative.

VI. Consequences

- The consequence of testing positive for drugs is:

Termination; or

A 10-day suspension without pay, after which a repeat drug screen will be required and must prove negative; and/or

Referral to a drug/alcohol counselor at the Township's expense for an evaluation. If the counselor concludes that the employee has a drug or alcohol problem, the employee shall be required to enter an approved counseling/treatment program, successfully complete the program and consent in writing to the disclosure by the program of its recommendations, and dangers it perceives in connection with the employee's continued performance of his or her job and whether the employee is complying with and has successfully completed the program.

- The consequence of testing positive for alcohol is:

DOT prohibits any driver whose confirmatory test registers 0.02 or more but less than 0.04 from performing or from continuing to perform any safety-sensitive function until the driver's next regularly-scheduled duty period, but for no less than 24 hours, and may be subject to additional disciplinary action by the Township, up to and including discharge.

A driver who, after providing an adequate breath specimen, has a confirmatory test which registers 0.04 or greater will, at a minimum be suspended without pay until his/her next regularly-scheduled duty period, but for no less than 24 hours, and will be subject to additional disciplinary action by the Township, up to and including discharge.

VII. Confidentiality and Privacy

The Township will attempt to insure that all aspects of the testing process are as private and confidential as reasonably practical. Actual test results will be provided to supervisors and managers who have a need to know such information, to the person tested and any person permitted or required by law or regulation to receive such information. Except as required by law, test results will not be disclosed to co-workers, an employee's family, uninvolved supervisors, or law enforcement authorities without the specific permission of the person tested.

The Township will, however, inform the police of trafficking in illegal drugs by employees and will turn over any illegal drugs confiscated on Township property to the police.

VIII. Voluntary Treatment and Counseling

Employees who request treatment or leaves of absence for treatment will not be subject to discipline; employees may not, however, escape discipline by first requesting such treatment or leaves after being selected for testing or violating Township policies and rules. Such requests for treatment will be kept confidential in accordance with federal and state law.

Any employee who feels he or she may have a substance abuse problem is urged to contact the Township Manager. Such employees will not be disciplined or retaliated against. We are interested in a safe workplace, and a healthy and productive workforce, not in punishing employees who come to us for help.

IX. Employee Assistance and Training Program

Every employee will be notified of the Township policy at the time of their employment and during the education/training program.

- A. The Township will provide an education and training program for its employees and supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause. The education program will include the following:
- B. Display and distribution of informational material;
- C. Display and distribution of community service agencies and Substance Abuse Professionals (SAP's) providing employee assistance;
- D. Display and distribution of the Township's policy regarding the use of prohibited drugs.

Training for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause will include at least one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use and an additional 60 minutes on alcohol abuse.

X. Discipline for Possessing, Using, Selling, Buying or Transferring Drugs or Alcohol

Employees caught possessing, using, selling, buying, or transferring drugs or alcohol while at work, on Township premises, or while using Township Vehicles will be terminated.

Employees arrested for selling drugs to, or buying them from another employee will be suspended without pay and if convicted, terminated. Depending on the circumstances, employees arrested for and convicted of other drug offenses may also be terminated.

ATTACHMENT A

I hereby acknowledge that I have received a copy of TOWNSHIP OF WEST BRADFORD's Drug and Alcohol Policy, that I have read and fully understand its contents, that I understand I may be subject to drug and/or alcohol testing, and that I may be disciplined or terminated for testing positive or refusing to cooperate in testing.

SIGNED: _____
Employee

DATE: _____

ATTACHMENT B

**CONSENT FORM FOR
ALCOHOL AND DRUG SCREENING**

NAME _____
(Print)

ADDRESS _____
street city state zip code

I freely consent to tests of my urine for evidence of marijuana, cocaine, amphetamine, opiate, PCP. I freely consent to tests of my breath and/or (blood, if required by the DOT regulations) for evidence of alcohol.

I also consent to the release of test results and other relevant medical information to Township management, the designated Medical Review Officer and Lancer Compliance Services. Further, I release TOWNSHIP OF WEST BRADFORD, designated collection site(s), Lancer Compliance Services, designated laboratories and their officers, directors and agents, from any and all liability to me which they might otherwise have arising out of or related to such testing or their reporting of the test results to Township management or to other persons permitted or required by law or regulation to receive such information.

AGREED:

REFUSED:

Signature

Signature

Reasons for Refusal: _____

Signature

Date

Time

Witness Signature

Date

ATTACHMENT C

**APPLICANTS AUTHORIZATION
TO OBTAIN PAST DRUG AND ALCOHOL TEST RESULTS**

I, _____, understand that as a condition of hire with TOWNSHIP OF WEST BRADFORD I must give the Township written authorization to receive the results of all DOT-required drug and/or alcohol tests (including any refusals to be tested) from **ALL** of the companies for which I have worked as a driver, or for which I took a pre-employment drug and/or alcohol test, during the past two (2) years. I also authorize the Township to contact and receive results from any consortium that represents the companies I worked for or applied to. I understand that my signing of this authorization does not guarantee me a job or guarantee that I will be offered a position with the Township.

Listed below are **ALL** of the companies for which I worked as a driver, or to which I applied as a driver during the past two (2) years. I authorize the Township to obtain from those companies, and I authorize those companies to furnish the Township, the following information concerning my drug and alcohol tests: (I.) all positive drug test results during the past two (2) years; (II.) all alcohol test results of 0.04 or greater during the past two (2) years; (III.) all alcohol test results of 0.02 or greater but less than 0.04 during the past two (2) years; (IV.) all instances in which I refused to submit to a DOT-required drug and/or alcohol test during the past two (2) years.

The following is a list of **ALL** of the companies for which I worked as a driver, or to which I applied for work as a driver, during the past two (2) years:

<u>name & address</u>	<u>Dates worked for/applied to</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

APPLICANT CERTIFICATION:

I have read and understand this authorization to release my past drug and alcohol test results. I certify that all of the information which I have furnished on this form is true and complete, and that I have identified **ALL** of the companies for which I have either worked, or applied for work, as a driver during the past two years.

Signature of applicant

Print name

Date

Social Security #

Date of Birth

ATTACHMENT D

REQUEST FOR PAST TEST RESULTS

To: *(name of previous employer)*
From: *(name and title of representative)*
Subject: Request to obtain past drug and alcohol test results
Date: *(date)*

_____ has advised us that he/she ___ worked for your as a driver, or that he/she
(applicant's name)
___ applied to your for work as a driver, during the previous two (2) years.

(Social Security #)

(Date of Birth)

Regulations of the Federal Highway Administration (FHWA) (49 C.F.R. 382.413) require us to obtain from your and require your to provide us, information concerning the above-named driver's past drug and alcohol test results (including refusals to be tested).

In accordance with FHWA's regulations, therefore, we are providing you with the driver's written authorization directing your to provide us with the following information concerning this driver:

- all positive drug test results during the past two (2) years;
- all alcohol test results of 0.04 or greater during the past two (2) years;
- all alcohol test results of 0.02 or greater but less than 0.04 during the past two (2) years;
- all instances in which the driver refused to submit to a DOT-required drug and/or alcohol test during the past two (2) years.

Please send this information to TOWNSHIP OF WEST BRADFORD, Attention: Township Manager as soon as possible either by facsimile FAX # (610) 269-3016 or by mail. As required by the FHWA, the information which you furnish will be treated as strictly confidential.

Thank you for your cooperation.

ATTACHMENT E

REASONABLE SUSPICION CHECKLIST

EMPLOYEE NAME: _____ DATE: _____
TIME: _____

CHECK ALL BOXES WHICH APPLY. FILL OUT AS COMPLETELY AS PRACTICAL.
=====

Breath smells like alcohol: _____

Breath/hair/hands/clothes smell like marijuana: _____

Bodily odors masked by gum/mints/cologne, etc.: _____

Eyes bloodshot: _____ Eyes glassy: _____ Eyelids swollen: _____

Eyes watery: _____ Pupils dilated: _____ Pinpoint pupils: _____

Face flushed: _____ Face pale: _____ Unusual sweating: _____

Speech slurred: _____ Incoherent: _____ Rambling: _____

Won't stop talking: _____ Won't talk: _____

Voice unusually loud/soft: _____

Stumbles, staggers or falls when walking: _____

Sways, sags or leans on support when standing: _____

Movements jerky/uncoordinated: _____

Acts sleepy: _____

Acts hyperactive/moves very slowly: _____

Sudden, marked mood swings: _____

Sudden, marked changes in activity level: _____

Unusually quarrelsome or irritable: _____

Doesn't seem to care about anything: _____

Describe any recent changes in attendance: _____

Describe any recent changes in quantity and quality of work: _____

Describe any suspicious accidents/errors: _____

Describe any other reasons why employee has been selected for testing: _____

What is employee's explanation of behaviors/appearance? _____

Supervisor Signature

Date

ATTACHMENT F

WEST BRADFORD TOWNSHIP
1385 Campus Drive
Downingtown, PA 19335

Date: _____

LAST CHANCE AGREEMENT

In consideration of WEST BRADFORD TOWNSHIP's willingness to continue to employ me, I, _____ agree:
(print name)

1. To abstain from using, possessing or trafficking in illegal drugs at any time;
2. Not to report to work under the influence of alcohol and not to possess or consume alcohol while at work or working; or 4 hours prior to reporting for work.
3. To devote my best efforts to an earnest and sincere effort at rehabilitation and to follow my counselor and therapist's directions and recommendations;
4. To authorize persons involved in counseling, diagnosing, and treating me to disclose to my employer my progress and cooperation, my drug and alcohol use, and any dangers they perceive in connection with me performing my job duties;
5. To cooperate in a test of my breath, blood or urine for evidence of alcohol/drug use on completion of rehabilitation; and
6. To cooperate in up to six (6) unannounced, tests of my breath, blood or urine for evidence of alcohol/drug use in the twelve (12) months following reinstatement to my job.

I understand and agree that I may be terminated from my job without recourse if I violate or revoke any paragraphs of this Agreement.

I understand that this Agreement is not a guarantee of employment and that I may be terminated for lack of work, attendance or performance problems, rule violations or other reasons, notwithstanding my compliance with this Agreement.

Signature

Date