

Summary of Changes Made to Loudon County Employees Policy & Procedures

Manual

Loudon County Policy and Procedure Manual:

- 1.) Probationary period changes:
 - a. Prohibition on use of sick and vacation leave applies only to new hires now, not promotions
 - b. Insurance waiting period is dealt with entirely separately and is not the first day of the month following the employee's first full month of employment
- 2.) Pre-employment drug testing is now limited to safety-sensitive positions
- 3.) General Updates
 - a. Estelle Herron's name inserted for Mayor references
 - b. GINA information added to EEO, harassment policies and to medical leave of absence sections
- 4.) Military leave statute now provides 20 paid days to reservists for military duty or training. Increased from 15 days pursuant to statutory change. TCA 8-33-109.
- 5.) Inclement weather policy added – requires use of paid vacation time when available for either office closure by Mayor or inability to report to work because of transportation, etc. issues. Essential offices (Sheriff's dep't and highway dep't) will remain open at all times and employees will work at regular rate unless they qualify for overtime.
- 6.) Sick Leave Changes
 - a. No accrual cap explanation added
 - b. No sick leave accrues while an employee is out on leave of absence
 - c. Extinguishment of sick leave bank is being presented simultaneously as the handbook, so only change here will be the addition of language forbidding donating sick leave to another employee
 - d. Addition of language that if an employee is out sick but receiving benefits from elsewhere (disability, worker's comp, etc.), the employee cannot use sick leave in an amount that results in the employee receiving more than regular compensation.
- 7.) Vacation Leave - Addition of language that if an employee is using vacation paid time but receiving benefits from elsewhere (disability, worker's comp, etc.), the employee cannot use vacation leave in an amount that results in the employee receiving more than regular compensation.
- 8.) Medical Leave of Absence – Now applies also to combination of injuries/illnesses and also contains GINA language stating that the County does not want to be provided (and is not asking for) genetic information from the employee.
- 9.) Ethics Policy – the entire Ethics Policy that is on file with the state is now in the policy manual. The version included is the version that Commission amended in 2010.

General Drug and Alcohol Abuse Policy

- 1.) Pre-employment drug screens are now only done on safety-sensitive positions
- 2.) General updates (references to Mayor as "her" not "him")
- 3.) Update drugs tested for in the expanded panel and cut-off levels for same based on new laboratory cut-off limits.
- 4.) The County no longer has an EAP program as part of its group health insurance program so all references to EAP are gone and replaced with counseling/rehabilitation resources.
- 5.) Collection site has been changed from the County's offices to the MRO's main office.
- 6.) The list of safety-sensitive positions has been updated.

Department of Transportation Drug and Alcohol Abuse Policy

- 1.) General updates (references to Mayor as "her" not "him")
- 2.) The County no longer has an EAP program as part of its group health insurance program so all references to EAP are gone and replaced with counseling/rehabilitation resources.
- 3.) Record retention updates as required by the FMCSA regulations.
- 4.) Review and update description of positions covered by the DOT policy.
- 5.) Drug Panel update – still a "5 panel test" for DOT, but DOT testing now requires 6-Acetylmorphine to be specifically tested under opiates and MDMA to be specifically tested for under amphetamines.

Testing Procedures

- 1.) Updates procedure to comply with new federal drug and alcohol testing regulations.

POLICY AND PROCEDURE

HANDBOOK

FOR

LOUDON COUNTY GOVERNMENT

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POLICY AND PROCEDURE HANDBOOK
FOR
LOUDON COUNTY GOVERNMENT

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PART 1. INTRODUCTION

Foreword

Section 1.1

The following provisions are promulgated pursuant to the Tennessee statutes on County Written Personnel Policies, T.C.A. § 5-23-101, *et seq.*, and shall be officially known and cited as the "Policy and Procedure Handbook for Loudon County Government" (hereinafter referred to as "Handbook").

This Handbook generally applies to all employees of the County of Loudon ("County" or "Loudon") (excluding employees of the Loudon County Board of Education), except those provisions which expressly only apply to certain employees. These provisions are the personnel policies of the County and are established to assist in maintaining compliance with applicable state and federal laws and utilization of human resources in a manner designed to maximize efficient and effective performance in providing appropriate service and leadership to the citizens of Loudon County and equitable treatment of County employees. In addition to this Handbook, the County and each Department or office of the County may adopt and publish other personnel policies and procedures so long as they do not conflict with or are inconsistent with the Handbook.

In accordance with the Tennessee statutes on County Written Personnel Policies, T.C.A. §5-23-101, *et seq.*, "County officials" may adopt separate "base personnel policies," as defined by that Act, for their individual offices even if such "base personnel policies" are inconsistent with or conflict with this Handbook, provided such policies are approved by an attorney as provided in T.C.A. § 5-23-101(a) and filed with the County Commission and County Clerk in accordance with T.C.A. § 5-23-101(c)(1) and (2).

It is the duty of each employee to maintain high standards of performance, cooperation, efficiency, and economy in the employee's work for the County. The County Mayor, supervising County officials (i.e., elected or appointed), Department Heads, and supervisors will organize and direct the work of their departments to achieve these objectives.

No provisions of this Handbook shall be construed as an employment agreement or legal contract. **Employment with Loudon County is "at will" and nothing in this Handbook shall be considered as a promise of employment for a definite duration.** Loudon County has the right to add, delete, or modify any of the provisions at its sole discretion without notice. It also has the right to not apply these policies in individual cases where application, in its opinion, is considered inappropriate. This Handbook is not intended to and does not bestow to employees any property or other rights to employment or employment benefits.

If after reading through this Handbook you have any questions, please discuss them with your supervising County official, supervisor or Department Head. They will be glad to help you in any way they can. Save this Handbook for future reference.

If any section or provision of this Handbook is held by any court to be invalid, the validity, force, and effect of any other section or provision is not affected unless it clearly appears that such other section or provision is wholly or necessarily dependent for its operation upon the invalid section or provision. If any section or provision of this Handbook is effectively made invalid by the enactment or change in federal, state, or local law, the section or provision shall be considered void.

**Conflicting Policies Superseded
Section 1.2**

This Handbook supersedes and replaces any prior Handbook and/or general policies of Loudon County. Except as provided for by the operation of state law, this Handbook supersedes and replaces any existing policies of the County's individual Departments to the extent that such policies are contrary to, inconsistent with or in conflict with this Handbook.

Classifications of Employees

Section 1.3

The following are the different classifications of employees and a brief explanation of what that classification means:

a. Regular Full-Time Employees (exempt and nonexempt employees) work a minimum of forty (40) hours a week or the minimum number of hours prescribed for the position in question, which, at a minimum, is at least thirty-two (32) hours a week, and maintain regular employment status. Regular full-time employees are eligible to participate in all benefits subject to the limitations contained herein or in the specific benefit policies and plans.

b. Regular Part-Time Employees (exempt and nonexempt employees) regularly work less than a full time schedule, which is generally forty (40) hours a week. The fact that a part-time employee may infrequently work forty (40) hours or in excess of their regularly scheduled hours in a week will not convert such employee to regular full-time status.

c. Temporary or Seasonal Employees (exempt and nonexempt employees) are hired for a specific limited duration and their employment is generally less than six (6) months. They will only work certain designated hours.

Temporary or seasonal and part-time employees are covered by Workers' Compensation Insurance and Social Security, and if nonexempt, are paid overtime for any time worked in excess of forty (40) hours in any work week. Temporary, seasonal and part-time employees are not entitled to any other benefits, including vacations, holidays, sick leave, medical or retirement benefits, except as required by law.

The term exempt and nonexempt refers to definitions provided in the Fair Labor Standards Act (FLSA). Nonexempt employees are entitled to overtime pay after working a certain number of hours in accordance with the FLSA. For most nonexempt workers, overtime compensation begins after forty (40) hours. See Section 3.2 for an explanation of overtime compensation and compensatory time in lieu of overtime. Exempt employees, which typically include executive, professional, and administrative positions, are not entitled to overtime pay.

PART 2. EMPLOYMENT POLICIES

Application for Employment

Section 2.1

All applicants for employment are required to submit their applications on forms provided for that purpose by the County.

All blanks on the application form must be filled in and all questions answered in full. Any applicant who makes a false, misleading, or materially deficient statement on the application or, who, in the course of the application process, makes false or misleading statements or who fails to disclose material information, will not be hired or, if discovered after employment, is subject to disciplinary action, up to and including termination.

The County reserves the right to designate certain positions as being of sufficient responsibility or sensitivity so as to require the satisfactory completion of a background check, after a contingent offer of employment, which may be based on public and private sources of information, including but not limited to criminal and motor vehicle records, as well as confirmation of work and educational history. If the County utilizes consumer reporting agencies to obtain consumer reports on an individual, it shall do so in conformity with the requirements of the Fair Credit Reporting Act.

Immigration Law Compliance

Section 2.2

Loudon County is committed to employing only United States citizens and aliens who are authorized to work in the United States and does not unlawfully discriminate on the basis of citizenship or national origin.

In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the form if they have not completed an I-9 within the past three years, or if their previous I-9 is no longer retained or valid.

Employees with questions or seeking more information on immigration law issues are encouraged to contact Employee Benefits. Employees may raise questions or complaints about immigration law compliance to the County Mayor without fear of reprisal.

Employment Examinations

Section 2.3

All applicants and employees, before being employed or promoted, shall take and satisfactorily complete any required employment examination for the position sought. All examinations will be job related and will fairly and impartially test the relative capacity of the applicant to discharge efficiently the duties of the position.

Examinations that may be required include a written test of required knowledge; an oral interview; a performance test of manual skills; a physical test of strength, agility, and fitness; a written test of mental ability; an evaluation of training and experience; and other similar examinations.

All applicants for certain positions, after an offer of employment is extended, may be required to undergo a medical examination to determine physical and mental fitness to perform the essential functions of the positions. All applicants for safety-sensitive positions are subject to pre-employment drug testing and existing employees must undergo drug testing in connection with a transfer or promotion to a "safety sensitive" position. All employees may be required to undergo periodic medical examinations, if job-related and justified by business necessity, to determine continued physical and mental fitness to perform the essential functions of the position in which they are employed. The medical examination will be conducted by a physician(s) designated by the County at the County's expense.

Failure of an applicant or employee to take or successfully complete any required examination is sufficient cause for disciplinary action, including rejection of an applicant and termination of an employee.

Probationary Period

Section 2.4

The probationary period for all new County employees shall be for a continuous period of six (6) months. It is a period of adjustment and trial period during which the employee's attitude, work performance, job compatibility, and other job related criteria are examined.

New employees who, in the opinion of the supervising County official or Department Head, do not satisfactorily complete the probationary period, will be terminated. New employees who are not performing adequately during the probationary period may be terminated at any time during such period and nothing contained herein requires the County to continue such an employee for the full six (6) months.

For promotions and transfers, if the employee does not satisfactorily complete the probationary period in the opinion of the supervising County official or Department Head, the employee will be returned to the former position, if available, or to another position at the County's discretion. If there is no other available position that the employee can perform, then the employee is subject to layoff or termination.

New or rehired employees begin accruing sick and vacation leave from their hire date, but are not entitled to utilize it until successfully completing the probationary period. New employees are also not eligible for holiday pay, bereavement leave, or any other paid time off benefits until satisfactory completion of the probationary period, except as otherwise stated herein or required by law.

Nothing herein is intended to alter the employment at-will relationship.

Promotions

Section 2.5

The County provides promotional opportunities, when possible, to qualified employees. Employees are encouraged to take advantage of these opportunities by qualifying themselves for advancement through further education and study, improvement of skills, by passing the appropriate employment examination or licensing/certification requirements, and by maintaining a high level of job performance, service, interest and loyalty.

Promotions to vacant positions will be based on merit, ascertained by evaluation of job performance and relative qualifications. Continuous service alone is not sufficient to warrant a promotion. Vacancies may be filled by the promotion of current employees, or in order to select the best available candidate, by recruitment of a new employee.

Transfers

Section 2.6

Any employee who successfully completes the probationary period may, at the discretion of the County, be transferred to the same or different position in a different department. Employees seeking a transfer must submit a written request to the supervising County official or Department Head. If a vacancy in that position exists or becomes available, an employee who has requested a transfer and who is qualified for the position will be considered in accordance with County policy. Transfer requests remain active only for a period of six (6) months from the original date of submission.

Termination of Employment

Section 2.7

All terminations of employment will be designated as one of the following types:

- (1) Resignation or voluntary quit;
- (2) Lay-off or reduction in force;
- (3) Discharge; or
- (4) Retirement.

At the time of termination and prior to receiving a final paycheck, all records, equipment, supplies and other items of County property in the employee's custody must be delivered to the supervising County official or Department Head. Any amount due to shortage or damage of the above shall be withheld from the employee's final compensation, subject to the requirements of the Fair Labor Standards Act ("FLSA").

Employees who resign are requested to give at least two (2) weeks prior notice. Retiring employees should give at least two (2) months notice of their intention to retire.

Resignation Or Voluntary Quit

Section 2.8

An employee may resign by submitting written notice of the reasons and the effective date to the supervising County official or Department Head. Two (2) weeks advance notice is requested. Unauthorized absence from work for a period of three (3) consecutive days may be considered a voluntary quit. County officials and Department Heads shall forward all notices of resignation to the County Mayor immediately upon receipt. With the written approval of the County Mayor and the supervising County official or Department Head, an employee may withdraw a notice of resignation up until the end of the last day provided in the notice.

Equal Employment Opportunity

Section 2.9

It is the policy of the County to provide equal employment opportunities in its employment, promotion, wages, benefits and all other privileges, terms and conditions of employment to all qualified persons without regard to race, color, religion, gender, age, national origin, handicap, disability, genetic information, military service or status as a veteran, in accordance with applicable federal and state laws.

Any applicant or employee who feels discriminated against in any term or condition of employment should promptly discuss the matter with the County Mayor, currently Estelle Herron, or Employee Benefits, currently Tammy Reynolds. Complaints or reports of sexual and other discriminatory harassment are to be directed to the County Mayor or to Employee Benefits, as detailed in Section 6.9 of this Handbook. Retaliation against employees who complain of, report, or cooperate in the investigation of any employment discrimination is strictly forbidden, and any individual who believes he or she is the subject of retaliatory conduct should **IMMEDIATELY** report the same to the County Mayor, currently Estelle Herron or Employee Benefits, currently Tammy Reynolds.

Disabilities

Section 2.10

It is the County's policy to comply with the Americans With Disabilities Act, as amended, (ADAAA) and other applicable laws prohibiting discrimination against qualified employees and applicants with respect to any terms, privileges, or conditions of employment because of a disability. This policy applies to all personnel and employment practices. The County endorses the mandate of the ADAAA and other applicable laws to remove barriers which prevent qualified individuals with disabilities from enjoying the same employment opportunities that are available to persons without disabilities.

Reasonable accommodations will be provided to qualified disabled applicants and employees with known limitations and who require an accommodation in order to perform essential job functions, unless such accommodation would cause an undue hardship.

Disabled employees and applicants are invited to identify any proposed reasonable accommodation that would enable them to safely perform the essential functions of the position to their supervising County official or Department Head, or to Employee Benefits, currently Tammy Reynolds. The County will consider all job accommodation requests, and respond to such requests within a reasonable period of time. Information regarding any disability and other medical information will be kept confidential in accordance with the ADAAA and retained in separate medical files.

Employee Records

Section 2.11

Employees are responsible for keeping the County advised of correct name, address, telephone number, social security number, and information relative to family status. The name, address and telephone number of an emergency contact is also essential. The information is used for maintaining proper records for payroll, Social Security, and insurance, including the administration of COBRA benefits.

A personnel file is maintained for each employee, and contains applications, personal data, enrollment forms, performance reviews, disciplinary actions, and other employment information. The file is used by the County Mayor, Employee Benefits, County officials, Department Heads, supervisors, or other authorized personnel. By law, the County must make these files available to certain state and federal government agencies upon request, or in connection with a lawsuit, and most personnel files are subject to public review in accordance with the Tennessee Public Records Act.

Employees may review their own personnel files during regular business hours in the presence of their supervising County official or Department Head, but may not remove originals of any documents or records.

A separate medical file is also maintained for each employee. This medical file is confidential and will not be disclosed except as required by law.

Governmental Records

Section 2.12

Generally, records maintained by the County are subject to public inspection in accordance with the Tennessee Public Records Act, Tenn. Code Ann. § 10-7-503 *et seq.* Employees may, however, acquire or use confidential information that is not subject to public inspection under the Act. To the extent permitted or required by law, this information should be kept confidential and not disclosed or discussed with anyone who is not authorized to receive it.

Employees must comply with all laws relating to governmental records. Employees should be aware that it is a crime to alter, falsify, destroy, remove, conceal or tamper with governmental records pursuant to T.C.A. § 39-16-504, which provides:

39-16-504. Destruction of and tampering with governmental records. – (a) It is unlawful for any person to:

- (1) Knowingly make a false entry in, or false alteration of, a governmental record;
- (2) Make, present, or use any record, document or things with knowledge of its falsity and with intent that it will be taken as a genuine governmental record; or
- (3) Intentionally and unlawfully destroy, conceal, remove, or otherwise impair the verity, legibility, or availability of a governmental record.

(b) A violation of this section is a Class A misdemeanor.

(c)(1) Upon notification from any public official having custody of government records, including those created by municipal, county or state government agencies, that records have been unlawfully removed from a governmental records office, appropriate legal action may be taken by the city attorney, county attorney or attorney general, as the case may be, to obtain a warrant for possession of any public records which have been unlawfully transferred or removed in violation of this section. (2) Such records shall be returned to the office or origin immediately after safeguards are established to prevent further recurrence of unlawful transfer or removal.

PART 3. COMPENSATION POLICIES

Hours of Work And Pay Day

Section 3.1

The County establishes hours of work for each position, based on the needs of service and the needs of the public. The starting and ending times of shifts varies by department and may vary during different times of the year. The normal work week for most employees, excluding the Sheriff's Office, consists of forty (40) hours.

Currently, hourly employees are paid every two (2) weeks and salaried employees are paid twice a month.

Overtime

Section 3.2

Overtime must be authorized by prior approval of the supervising County official, Department Head, supervisor, or County Mayor, or the employee is subject to discipline. Exempt employees are not entitled to overtime pay or compensatory time off. All nonexempt employees required to work overtime are paid one and one-half (1 ½) times the regular hourly rate for overtime work, which begins for most employees after working 40 hours in a work week. Payments made for occasional periods when no work is performed due to vacation, holiday, sick leave and the like are not included in an employee's regular rate of pay for purposes of computing overtime. To the extent possible and practical, overtime will be distributed equally within the department.

In lieu of overtime pay and at the discretion of the County, nonexempt employees may be granted compensatory time off at the rate of one and one-half (1 ½) hours off for every one (1) hour of overtime worked pursuant to a written agreement between the County and the employee. Employees may not accrue compensatory time off in excess of limits allowed under the FLSA. Upon termination of employment, employees will be paid for any accrued but unused compensatory time in accordance with the FLSA.

Exempt and nonexempt employees are defined by the FLSA. Exempt employees include executive, professional, and administrative employees as those terms are defined under the FLSA. Exempt employees will be paid a salary which is intended to cover all hours worked by the employee.

Recording Work Hours

Section 3.3

The County must maintain and keep various records in order to comply with the FLSA, the Family and Medical Leave Act, and other applicable laws. All employees must accurately record their hours of work in order to insure that adequate records of hours worked, time off, and accrued leave are kept, and to insure that employees are correctly paid in a timely manner.

Depending upon department and position, employees must record their hours worked on a time sheet, time card, or other time record. This should be done on a daily basis. Any changes/corrections to a time record must be made by the supervising County official, the employee's supervisor or Department Head.

Falsification of a time sheet, card or record will result in discipline, up to and including termination. Employees who are aware of but do not report falsifications of time records are also subject to discipline, up to and including discharge.

Deductions From Pay

Section 3.4

Deductions from pay shall be made only as required or permitted by law or regulation, or as authorized by the employee. The law requires that Loudon County make certain deductions from every employee's compensation. Among these are applicable federal, state, and local income taxes. Loudon County also must deduct Social Security taxes on each employee's earnings up to a specified limit that is called the Social Security "wage base." Loudon County matches the amount of Social Security taxes paid by each employee.

If you have questions concerning why deductions were made from your pay check or how they were calculated, the Finance Office can assist in having your questions answered.

Employees who believe that impermissible deductions from their pay have been made are encouraged to bring such complaints to the immediate attention of the Budget Director. Loudon County shall promptly investigate all such complaints. If the investigation reveals that impermissible deductions have been made from an employee's pay, Loudon County will repay the employee(s) in question and make any necessary changes to its practices and procedures. Employees shall not be retaliated against for bringing good faith complaints regarding deductions from pay to the attention of Loudon County. Employees are strongly encouraged to bring any complaints of retaliation for raising such complaints to the immediate attention of the Budget Director or the County Mayor.

PART 4. EMPLOYEE BENEFITS

Introduction To Benefits

Section 4.1

The following benefits are provided to eligible employees. Unless otherwise indicated, or except as required by law, they are provided only to regular full-time employees on the first day of the month following an employee's first full month of employment. These benefits are provided to show the County's appreciation for employees' hard work and continued service. However, this Handbook is not intended to give employees any contractual right to any of these benefits and they are subject to change or elimination at the County's sole discretion.

It is the employee's responsibility to notify Employee Benefits of any changes that may affect benefits such as the birth or adoption of children, pregnancy, changes in marital status, changes in designated beneficiaries, change in address, etc.

Medical, Dental and Life Insurance Benefits

Section 4.2

All regular full-time employees become eligible for medical, dental, vision and life insurance benefits after completing the number of days of continuous employment required by the applicable plan. At the current time, employees are eligible on the first day of the month following the employee's first full month of employment. The County's current medical benefits plan provides for hospital care, surgery, physicians fees, prescription drugs and x-rays subject to certain deductibles, co-insurance, exclusions and limitations. The dental plan provides coverage for exams, cleanings, x-rays, fillings, root canals, crowns, and bridgework, also subject to deductibles, co-insurance, exclusions and limitations. The group term life insurance plan provides life insurance for employees and their covered dependents. The County pays a substantial portion of the cost of these benefits for employees and their dependents.

Details about these plans are available for employees' inspection and are summarized in a booklet. The terms and conditions of the actual insurance policies will govern employees' entitlement to benefits. For assistance in obtaining copies of summary plan descriptions or complete plans, contact Employee Benefits.

Retirement Plan

Section 4.3

The County provides a retirement plan for all eligible employees pursuant to the Tennessee Consolidated Retirement System. It is administered by a Board of Trustees which supervises its operation, interprets the meaning of the specific provisions, determines eligibility for participation and benefits, and decides when benefits are to be paid in accordance with the terms of the Plan. The purpose of the Plan is to provide a basic benefit at retirement based on an employee's final compensation, contributions to the Plan, years of employment and age at retirement. Employees may also be eligible for social security retirement benefits.

Complete details about the Plan are available for employees' inspection. The terms and conditions of the actual Plan will govern employees' entitlement to benefits. Contact Employee Benefits for additional information.

Workers' Compensation Benefits

Section 4.4

Any employee injured in the course and scope of employment may be entitled to benefits under the Tennessee Workers' Compensation Act ("Act"). The County pays the full cost of this coverage. Employees will receive medical expenses and pay in accordance with such Act.

Employees injured on the job must immediately report the injury to their supervising County official or Department Head, regardless of how minor the injury seems at the time. The County maintains a list of at least three (3) reputable physicians from which an employee will select an attending physician. The County will assist employees in making the necessary medical appointments and the initial transportation to the physician if necessary. An employee who wishes to be examined by a physician not listed must first request and receive written permission from Employee Benefits in order for that physician's costs to be covered.

See the Medical Leave, Occupational Leave, and Family and Medical Leave policies for details regarding absences due to injuries and illnesses in the course and scope of employment.

Employees may be required to submit to post-accident drug and/or alcohol testing in conformity with the County's Drug and Alcohol policies, and may forfeit benefits in the event of a positive test.

Unemployment Compensation and Social Security

Section 4.5

All eligible employees of the County are covered under the benefits of the Tennessee Employment Security Act. The County pays the full cost of this program.

Under the Federal Insurance Contribution Act ("FICA"), a percentage of an employee's pay is deducted from each pay check. The County contributes to Social Security benefits by matching dollar for dollar the amount of this deduction. This benefit, though mandatory, is provided for each employee and amounts to a considerable investment in Old Age Retirement and Medicare benefits under Social Security.

PART 5. TIME-OFF BENEFITS AND LEAVES OF ABSENCE

Sick Leave

Section 5.1

Paid sick leave is a benefit and privilege and not a right or compensation, and will not be paid out at termination of employment. However, accrued but unused sick leave may be applied towards an employee's eligibility under the Tennessee Consolidated Retirement System ("TCRS"), subject to the terms and conditions of the TCRS.

All regular full-time employees accrue sick leave at the rate of one (1) day (eight (8) hours for employees who work forty (40) hours per week or a pro rata amount for employees who work less than forty (40) hours per week) per month for each completed month of service and paid sick leave may be accrued up to a maximum of twelve (12) days per fiscal year. The County's fiscal year begins July 1 and ends June 30. Sick leave begins accruing from the date of an employee's hire, but it may not be utilized until and unless an employee has completed his or her probationary period.

Employees may carry over sick leave from one fiscal year to another with no maximum number of sick days. For instance, an employee may accrue up to 12 days in a fiscal year. If the employee uses only 2 sick days during the year, the employee may carry over 10 sick days into the next fiscal year and will earn up to 12 sick days during the next fiscal year.

Paid sick leave may be used for the following reasons: personal illness or physical incapacity; illness or incapacity of the employee's immediate family member (current spouse, child or parent, including step relations) requiring the employee's personal care and attention; enforced quarantine of the employee in accordance with community health regulations; and for a doctor's appointment that cannot be scheduled for either before or after work. Sick leave does not accrue while an employee is on a leave of absence.

In order to utilize paid sick leave, employees must notify the supervising County official, Department Head or supervisor prior to the beginning of the scheduled work day of the reason for absence. Employees may be required to submit a medical statement signed by a licensed physician certifying that the employee has been incapacitated from work for the period of absence, stating the nature of the employee's sickness or injury, and stating that the employee is physically able to return to work and perform the job duties.

If the absence is due to illness or incapacity of a family member, written certification of the need for the employee to care for the family member is required for any absence in excess of three days. Verification may also be required for shorter absences upon notice by the employee's supervisor.

Employees are strictly forbidden from falsifying the reason for an absence. Abuse of the benefit may result in absences being unexcused, and employees are subject to discipline for violating this policy.

Paid sick leave may be taken as necessary, but may not be extended beyond the employee's number of accrued sick days at the time of the absence. Employees are not permitted to donate sick leave time to any other County employee.

Paid sick leave does not count as hours worked and is not included in an employee's regular rate for overtime purposes. Absences which are covered by paid sick leave and which qualify under the FMLA count toward an eligible employee's entitlement under the FMLA. At no time can paid sick leave, when used in conjunction with other paid benefits (such as worker's compensation benefits, disability benefits, etc.) be used in an amount which would result in an employee receiving an amount greater than the employee's regular compensation. If an employee is approved for disability benefits retroactively covering a period of time when the employee used paid sick leave, the County will not require the employee to pay back any overpayment of sick leave. However, from the date the County is informed of disability benefits approval, paid sick leave will only be approved in an amount sufficient to equal regular compensation by the employee.

Holidays

Section 5.2

The following holidays will be recognized as paid holidays for all regular full-time employees:

- New Years Day (January 1)
- Martin Luther King, Jr. Day (3rd Monday in January)
- President's Day (3rd Monday in February)
- Good Friday (Friday before Easter Sunday)
- Memorial Day (Last Monday in May)
- Independence Day (July 4)
- Labor Day (1st Monday in September)
- Veteran's Day (November 11)
- Thanksgiving Day (4th Thursday in November)
- Friday after Thanksgiving (4th Friday in November)
- Christmas Eve (December 24)
- Christmas Day (December 25)

Eligible employees receive a full day of regular pay and are excused from work. When a recognized holiday falls on a Saturday, the preceding Friday will be observed as the holiday. When a recognized holiday falls on a Sunday, the following Monday will be observed as the holiday. Holiday pay is not counted as hours worked or included in an employee's regular rate of pay.

Where possible, every eligible employee is given time off on recognized holidays, except those required to maintain essential or emergency County operations. When an employee is required to work on a recognized holiday, the employee will receive holiday pay calculated on the employee's regular schedule and, in addition, any work performed on the holiday is compensated at the employee's regular pay (i.e. double-time for the hours worked on normal schedule). Employees on a leave of absence for any reason are not entitled to paid holidays.

Unless prior approval of the supervising County official, Department Head or supervisor is obtained, an employee will not receive holiday pay unless the employee works the last scheduled shift before the holiday and the first scheduled shift after the holiday.

Vacation

Section 5.3

All regular full-time employees earn paid vacation at the employee's regular rate of pay after successfully completing the probationary period.

The amount of vacation an employee accrues each month is determined by the individual employee's number of years of continuous service with the County. Employees with zero (0) to four (4) years of continuous service accrue one (1) day (eight (8) hours for employees who work forty (40) hours per week or a pro rata amount for employees who work less than forty (40) hours per week) of vacation per month for each completed month of service up to twelve (12) days per fiscal year (July 1 through June 30). New or rehired employees begin accruing vacation from their employment date, but are not entitled to utilize it until successfully completing the probationary period. Employees with five (5) to nine (9) years of continuous service accrue one and one-quarter (1 $\frac{1}{4}$) days (ten (10) hours) of vacation per month for each completed month of service up to fifteen (15) days per fiscal year. Employees with ten (10) to fourteen (14) years of continuous service accrue one and one-half (1 $\frac{1}{2}$) days (twelve (12) hours) of vacation per month for each completed month of service up to eighteen (18) days per fiscal year. Employees with fifteen (15) to nineteen (19) years of continuous service accrue one and three-quarter (1 $\frac{3}{4}$) days (fourteen (14) hours) of vacation per month for each completed month of service up to twenty-one (21) days per fiscal year. Employees with twenty (20) or more years of continuous service accrue two (2) days (sixteen (16) hours) of vacation per month for each completed month of service up to twenty-four (24) days per fiscal year. Vacation accrual will be calculated on a pro rata basis for employees who work less than forty (40) hours per week.

All vacation must be pre-approved by the employee's Department Head who will schedule vacation so as to meet the operational requirements of the department. Vacation time may not be taken in less than one-half (1/2) day increments, except for FMLA purposes.

Requests for vacation should be made as far in advance as possible. If two or more employees request vacation for the same time period and the supervising County official or Department Head determines it will create a hardship or disrupt operations, the employee with the most seniority will be granted vacation first.

Paid vacation does not accrue while an employee is on a leave of absence. It may not be loaned or donated to another employee. Upon cessation of employment, employees are paid for any unused accrued vacation (not to exceed thirty (30) days) at the employee's regular rate of pay.

Vacation may be carried over up to a maximum of thirty (30) days. Effective January 1, 2008, accrued but unused vacation in excess of the 30 day "ceiling" shall, on January 1st of every calendar year, be converted into sick leave and be available for use pursuant to the terms and conditions of the sick leave policy (5.1).

Paid vacation is not counted as hours worked or included in an employee's regular rate for overtime purposes. An employee's use of paid vacation in situations that qualify for family or medical leave under the FMLA counts toward the employee's entitlement under the FMLA. At no time can paid vacation leave, when used in conjunction with other paid benefits (such as worker's compensation benefits, disability benefits, etc.) be used in an amount which would result in an employee receiving an amount greater than the employee's regular compensation. If an employee is approved for disability benefits retroactively covering a period of time when the employee used paid vacation leave, the County will not require the employee to pay back any overpayment of vacation leave. However, from the date the County is informed of disability benefits approval, paid vacation leave will only be approved in an amount sufficient to equal regular compensation by the employee.

Medical Leaves of Absence

Section 5.4

Medical leaves of absences due to any medical reason or a combination of multiple medical reasons, inclusive of workplace illnesses or injuries, or as a reasonable accommodation under the Americans with Disabilities Act, or for an FMLA-eligible employee's serious health condition(s), may be granted at the sole discretion of the County for a maximum period which is not to exceed twelve months (inclusive of FMLA entitlement). Except where covered by workers' compensation benefits, disability benefits or by substituted paid sick leave or vacation pay, such leave shall be unpaid. Employees may be required to report periodically as to their status and intent to return to work, to provide physician certification of the need for and the duration of any requested leave (during any FMLA-covered leave), and, upon expiration of any FMLA entitlement, to provide the County with requested medical information related to the need for continuing leave and the employee's ability to perform job related functions.

Note: The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to requests for medical information under this section or any other, unless such information is directly related to the employee's request for reasonable accommodation. "Genetic Information" as defined by GINA includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

Employees seeking to return to duty at the expiration of any medical leave in excess of FMLA entitlement can be required to submit to a fitness for duty examination, or, at the County's choice, to provide a physician's release to return to work. The protections and entitlements of the FMLA do not apply to medical leaves of absence which extend beyond the twelve week limit for eligible employees, or to leaves of absence for employees who are not eligible for FMLA leave.

Occupational Leave of Absence

Section 5.5

Upon submitting the written recommendation of a designated physician detailing the medical necessity and duration, employees injured in the course and scope of employment may be granted an occupational leave of absence for a period not to exceed twelve (12) months. While on Occupational Leave, employees are required to report periodically on their status and intent to return to work and may be required to report to the County's designated physician for consultation. Before returning to work, employees must present a physician's statement releasing the employee to return to work and Loudon County reserves the right to send a returning employee to a physician of its choosing for an independent evaluation of his or her fitness to return to work. Occupational Leave is Medical Leave for the purposes of the FMLA Policy and the Medical Leaves of Absence Policy.

Employees on Occupational Leave who decline to accept light duty work may remain on FMLA leave if eligible; however, an employee's refusal to accept appropriate light duty work may result in a cessation of temporary disability benefits. Any decision to offer light duty work during a period of Occupational Leave is in the absolute discretion of the County. Any such light duty assignments will be made based on the availability of appropriate work in the department or office compatible with the individual's medical restrictions (which does not displace other employees or hinder efficient delivery of services) and shall be made for an initial maximum period of twenty work days. Any additional extensions of such assignments must be coordinated with the Department Head, supervising County official and Employee Benefits in advance.

After being released to work by a physician, employees must report to work immediately. If an employee does not report to work within three (3) working days after a physician's release, he or she will be considered to have voluntarily resigned.

The first twelve (12) work weeks (or the remainder of an employee's entitlement to FMLA leave) of Occupational Leave counts toward an employee's entitlement under the FMLA.

Family and Medical Leave

Section 5.6

The purpose of Loudon County's Family and Medical Leave Policy (the "FMLA Policy") is to allow employees to balance their work and family life by taking reasonable leave for certain medical reasons, for the birth or adoption of a child, for the care of a child, spouse or parent who has a serious health condition, for leave related to caretaking of an injured servicemember, and for leave related to exigencies created by a family member's call to active duty without having to worry about job security or having to choose between their jobs or their family. The FMLA Policy is intended to balance the demands of the workplace with the needs of employees and families, to promote the stability and economic security of our employees and to promote Loudon County's interest in preserving its employees' family integrity.

Loudon County also recognizes that the number of households in which a single parent or both parents work has significantly increased and, as a result, it is important for the development of children and the family unit that both fathers and mothers are able to participate in early child rearing and the care of family members who have serious health conditions. Loudon County developed this policy to address these concerns and needs of its employees and their families, while accommodating its interest in providing quality service to its citizens in an efficient manner.

The Family and Medical Leave Act (FMLA) of 1993 grants up to 12 weeks of job-protected leave to eligible employees for qualifying family and medical reasons. The National Defense Authorization Act of 2008 permits eligible employees to use their 12-week leave entitlement for any "qualifying emergency" as described above and up to 26 weeks to care for a covered servicemember who is recovering from a serious illness or injuries as described above. This policy sets forth the terms, conditions and procedures under which an employee may be granted a medical or family leave of absence. This policy supersedes any former versions of the County's FMLA Policy. If another policy (i.e., vacation, attendance, etc.) conflicts with this policy, this policy governs.

Definitions

Child means a biological, adopted, or foster child, a stepchild, legal ward, or a child of a person standing in loco parentis, who is under 18 years of age or is 18 or older and incapable of self care because of a mental or physical disability.

Continuing Treatment by a Health Care Provider includes any one of the following five sets of circumstances:

(1) A period of incapacity (i.e., an inability to work, attend school or perform other regular daily activities) that lasts more than 3 consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, and that also involves: (i) treatment two or more times by a health care provider, by a nurse or physician's

assistant under direct supervision of a health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider, within 30 days of the start of the period of incapacity, or (ii) treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment (i.e., a course of prescribed medication or therapy) under supervision of the health care provider;

(2) Any period of incapacity because of pregnancy or prenatal care;

(3) Any period of incapacity or treatment for such incapacity because of a chronic serious health condition, as long as the chronic serious health condition (i) requires periodic visits (at least 2 visits per year) for treatment by a health care provider, and (ii) continues over an extended period of time, including recurring episodes of a single underlying condition, and (iii) that may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);

(4) A period of incapacity which is long term or permanent due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider (e.g., Alzheimer's disease, a severe stroke, or the terminal stages of a disease, etc.); or

(5) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider either for (i) restorative surgery after an accident or injury, or (ii) for a condition that would likely result in a period of incapacity of longer than three consecutive days in the absence of medical intervention, (e.g., cancer, severe arthritis, or kidney disease.)

Eligible employee means any employee who has been employed by Loudon County for a total of at least 12 months (not necessarily consecutive), who worked at least 1,250 hours during the previous 12-month period, and who works at a worksite with 50 or more employees located within 75 miles.

Health Care Provider means (1) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; (2) podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law; (3) nurse practitioners, nurse midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law; (4) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts, or (5) any health care provider recognized by Loudon County's Health Plan.

In loco parentis includes those persons with day-to-day responsibilities to care for and financially support a child, or in the case of an employee, those persons who had such

responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

Intermittent leave is leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time, and may include leave periods from one hour or more to several weeks. Intermittent leave is limited solely to treatment, recovery from treatment, recovery from illness, or for periods of disability due to chronic serious health conditions including psychological conditions.

Mental or physical disability means a physical or mental impairment that substantially limits one or more of the major life activities of the individual, as defined under the Americans With Disabilities Act, as amended (ADAAA). A "physical or mental impairment" is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, speech organs, respiratory, cardiovascular, reproductive, endocrine; it also includes mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

Parent means the biological parent of an employee or an individual who stands or stood in loco parentis to an employee when the employee was a child, such as a foster or adoptive parent or stepparent. It does not include a parent-in-law.

Qualifying Exigencies means job protected leave authorized for families of National Guard and Reserve personnel on active duty to manage their affairs – "qualifying exigencies." This may include:

1. short-notice deployment
2. military events and related activities
3. childcare and school activities
4. financial and legal arrangements
5. counseling
6. rest and recuperation
7. post-deployment activities and
8. additional activities where the employer and employee agree to the leave

Reduced leave schedule means a leave schedule that reduces an employee's usual number of hours per workweek or hours per workday on a temporary basis, i.e., a temporary change from full-time to part-time.

Regimen of Continuing Treatment for chronic conditions such as asthma or cancer, etc. is the taking of prescription drugs or participating in therapy requiring special equipment to resolve or alleviate the health condition. The taking of over-the-counter medications, bed rest, exercises and other similar activities that can be initiated without a visit to a health care provider are not, by themselves, sufficient to be considered continuing treatment.

Serious health condition that entitles an employee to FMLA leave means any illness, injury, impairment, or physical or mental condition involving: (1) inpatient care (i.e., an overnight stay in a hospital or similar medical facility), and any corresponding period of incapacity or subsequent treatment in connection with such inpatient care; or (2) incapacitated for more than 3 calendar days plus 2 visits to a health care provider within 30 days; or (3) continuing treatment by a health care provider at least 2 times per year. Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Cosmetic treatments, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, and the like are not serious health conditions, unless inpatient hospital care is required or unless complications develop.

Spouse means a husband or wife as defined under applicable State law for purposes of marriage.

Types of Leave Provided by FMLA

An eligible employee may request up to twelve (12) weeks of unpaid, job protected FMLA leave for the following reasons:

1. Family

- For incapacity due to pregnancy, prenatal medical care or childbirth;
- To care for an employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition.

2. Medical

- A serious health condition that renders the employee unable to perform the functions of his or her job. FMLA does not apply to the occasional absence for sickness.

3. Qualifying Exigency Leave

Eligible employees with a spouse, son, daughter, or parent on active duty or called to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, certain counseling sessions, and attending post-deployment reintegration meetings.

4. Military Caregiver Leave

Eligible employees may take up to twenty-six (26) weeks of leave during a single 12-month period to care for a covered servicemember. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical

treatment, recuperation, or therapy; or is in outpatient status, or is on the temporary disability return list.

Employee Eligibility

Employees are eligible for FMLA leave if they have been employed at Loudon County for at least one year, have worked at least 1,250 hours over the previous 12 months, and work at a site or sites with 50 or more employees in a 75-mile radius. Loudon County has elected to use the "rolling" 12-month period allowed by the FMLA. Any FMLA leave taken by an employee during the preceding twelve (12) months will be used to determine the amount of available leave pursuant to the FMLA.

For example, if an employee used six weeks of FMLA leave beginning June 1, 2010, two weeks of FMLA leave beginning September 1, 2010, and four weeks of FMLA leave beginning November 1, 2010, the employee would not be entitled to any additional FMLA leave until June 1, 2011. On June 1, 2011, the employee would be entitled to six weeks of FMLA leave, and on September 1, 2011, the employee would be entitled to an additional two weeks, etc. If an employee took twelve weeks of FMLA leave beginning April 1, 2012, the employee would not be entitled to any additional FMLA leave until April 1, 2013.

If any Loudon County policy conflicts with FMLA, the FMLA will govern. Eligible employees are encouraged to request FMLA leave in accordance with this policy. Employees on any leave which qualifies for FMLA leave, specifically workers' compensation, short term disability, long term disability and maternity leave, will be placed on FMLA leave as soon as it comes to the attention of the Employee Benefits Department.

Amount of Leave

Eligible employees are entitled to a total of twelve (12) weeks of medical leave, family leave, qualifying exigency leave, or a combination thereof during a twelve (12) month period. Eligible employees are entitled to a combined total of 26 workweeks of leave for military caregiver leave and leave for any other FMLA-qualifying reason during the same single 12-month period, provided that the employee may take no more than twelve (12) weeks of leave because of a qualifying exigency or any other FMLA-qualifying reason. For example, an eligible employee may, during a single 12-month period, take eighteen (18) weeks of FMLA leave to care for a covered servicemember and eight (8) weeks of FMLA leave because of the employee's own serious health condition; however, the employee may not take more than twelve (12) weeks of leave due to his or her own serious health condition or any other FMLA-qualifying reason.

The entitlement to family leave for the birth or placement of a child for adoption or foster care will expire 12 months from the date of the birth or placement of the child.

Intermittent or Reduced Schedule Leave

Intermittent leave or a reduced leave schedule is available in two (2) circumstances under the FMLA. First, if medically necessary for a serious health condition of the employee, or the employee's spouse, child or parent, or a serious injury or illness of a covered servicemember, the employee may elect such leave. Second, for the birth of a child or placement of a child for adoption or foster care, Loudon County, at its discretion, may grant such leave. If an employee goes on intermittent leave or a reduced leave schedule, Loudon County may, at its discretion, require employees requesting intermittent or a reduced leave schedule to transfer temporarily to an available alternative position with equivalent pay and benefits or to a part-time position with the same hourly rate of pay and benefits for which the employee is qualified and which better accommodates recurring periods of leave. While on an intermittent leave schedule, the employee will remain on active status even if the intermittent periods of leave are unpaid.

If an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken will be counted toward the 12 weeks of leave to which an employee is entitled. For example, if a full-time employee who normally works five days a week takes off one day, the employee would use 1/5 of a week of FMLA leave. Similarly, if a full-time employee who normally works 8-hour days works 4-hour days under a reduced leave schedule, the employee would use ½ week of FMLA leave each week. Where an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled is determined on a prorata or proportional basis by comparing the new schedule with the employee's previous regular schedule.

For example, if a part-time employee who normally works 30 hours per week works only 20 hours a week under a reduced leave schedule, the employee's ten hours of leave would constitute one-third of a week of FMLA leave for each week the employee works the reduced leave schedule. If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the leave period would be used for calculating the employee's normal workweek.

Where an employee is on intermittent leave or a reduced leave schedule, Loudon County may seek a fitness-for-duty certification once every thirty (30) days (or less frequently) if reasonable safety concerns exist regarding performance of the employee's job duties based on the condition that triggered the leave. The fitness-for-duty certification is at the employee's expense. Loudon County may delay restoration following leave until a satisfactory fitness-for-duty certification has been submitted by the employee. Loudon County will give notice of the fitness-for-duty certification requirement at the same time it issues the Designation Notice (Form WH-382) approving intermittent leave or a reduced leave schedule.

Substitution of Paid Leave

FMLA leave is unpaid. However, as described below, Loudon County requires its employees to substitute any accrued sick or vacation leave, which is available to an employee as of the date that the FMLA leave begins, on a consecutive daily basis until the accrued sick or

vacation leave is exhausted. For intermittent leave or leave on a reduced schedule, substitution of sick leave or accrued vacation is required in increments of ½ hour. The substitution of accrued sick or vacation is not required or permitted when the medical leave under the FMLA results in the payment of benefits under Workers' Compensation or other disability plan, except that employees may elect to supplement such benefits with accrued sick leave and, once exhausted, accrued vacation leave up to the employee's regular rate of pay. Any time off by an employee on vacation, paid sick leave, occupational leave, maternity leave, or other leave that qualifies for family or medical leave under the FMLA will count against the employee's entitlement under the FMLA.

For any period of time on approved FMLA leave for which accrued sick and vacation leave is not required to be used, an employee may elect to apply accrued sick and vacation leave to that time.

Making a Request for FMLA Leave

A. **Administration**. The employee must provide a thirty (30) day advance notice of the need to take FMLA leave when leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious injury or illness of a covered servicemember, and as soon as practicable when not foreseeable. Where the need for leave is unforeseeable, the employee must give notice before the employee's scheduled work time in accordance with Loudon County's Attendance Policy to be eligible to substitute vacation or sick leave for the FMLA leave. Employees must provide sufficient information for Loudon County to reasonably determine whether the FMLA may apply to the leave request.

An employee's supervisor should contact Employee Benefits as soon as the supervisor learns the employee is or will be out due to a personal illness or injury that is expected to last four (4) consecutive working days or more. In any event, where an employee is absent for five (5) consecutive working days for illness or injury, the supervisor **must** notify Employee Benefits in order to determine whether the employee's leave qualifies as FMLA leave.

After receiving an employee's request for leave, Loudon County will provide an employee with a Notice of Eligibility and Rights & Responsibilities (DOL Form WH-381) indicating whether the requested leave is FMLA eligible or non-eligible and will set forth the terms of the leave. When Loudon County has enough information, including the medical certification discussed below, to make a determination about whether the leave actually qualifies as FMLA leave, Loudon County will designate the leave as FMLA (or not) in writing as FMLA on the Designation Notice (DOL Form WH-382) within five (5) business days absent extenuating circumstances. Whenever possible, Loudon County will provide the employee with its estimate of number of hours, days or weeks that will count against the employee's FMLA entitlement. If Loudon County knows that an employee's leave qualifies as FMLA leave and does not designate it as such, the leave cannot be retroactively designated as FMLA leave, except under limited circumstances. Loudon County can designate it as FMLA leave prospectively from the date of notification if it is done before the employee returns to work. If Loudon County does not have knowledge that the employee's leave qualifies for FMLA leave, Loudon County may

retroactively designate it as FMLA leave if the designation is made within two days of the employee returning to work.

Where leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of Loudon County, subject to the approval of the health care provider.

Leave taken for a serious health condition which results in a disability benefit or worker's compensation benefit can be credited against an employee's FMLA leave entitlement. The worker's compensation and FMLA leave will run concurrently.

B. Medical Certification. When a leave request is based on an employee's own or a family member's serious health condition, Loudon County requires that the request for leave be supported by a Certification of Health Care Provider for Employee's Serious Health Condition (DOL Form WH-380-E) or Certification of Health Care Provider for Family Member's Serious Health Condition (DOL Form WH-380-F) submitted to Employee Benefits. Loudon County will generally provide the employee with the appropriate health care provider certification form within five (5) business days of the employee's request for FMLA leave, or in the case of unforeseen leave, within five (5) business days after the employee provides sufficient information to determine that the leave may qualify for FMLA leave. When the leave is foreseeable and at least 30 days notice of the leave has been provided, the employee should provide the Medical Certification before the leave begins. When this is impossible, the Medical Certification form must be provided to Loudon County within 15 calendar days after Loudon County's request unless there are extenuating circumstances.

The employee must provide a complete and sufficient medical certification to Loudon County to be entitled to the requested FMLA leave. Incomplete, ambiguous, vague or non-responsive certification will not be accepted and the employee will be provided seven (7) business days to cure any such deficiency. If the deficiencies are not cured, Loudon County may deny the taking of FMLA leave. It is the employee's responsibility to provide the health care provider with any necessary release to provide a complete and sufficient certification to Loudon County.

When an employee submits a completed and sufficient medical certification, Loudon County cannot request additional information from the employee's health care provider. However, after Loudon County has given the employee an opportunity to cure any deficiencies in a defective medical certification, Loudon County may contact the health care provider for purposes of clarification and authentication of the medical certification through Loudon County's health care provider, designated Employee Benefits representative or an appropriate management official. The employee will be required to provide Loudon County with a HIPAA-compliant authorization allowing Loudon County to clarify the authenticity of certification if necessary. If the employee's health care provider is also the employee's workers' compensation provider, Loudon County may request information in accordance with the Workers' Compensation Act.

If Loudon County has reason to doubt the validity of a medical certification, Loudon County may require the employee to submit to an examination by a Loudon County-designated physician (not regularly employed or utilized by Loudon County) at Loudon County's expense. Pending the receipt of the second medical certification, the employee will be provisionally placed on FMLA leave. If the second medical certification differs from the first medical certification, Loudon County may require the employee to submit a third medical certification from another physician approved jointly by Loudon County and the employee, at Loudon County's expense. This third medical certification shall be final and binding. The employee, upon request, is entitled to copies of any second or third medical certifications.

Loudon County may, at its discretion, require the employee to submit a medical recertification as to the employee's or family member's serious health condition at the end of the initial leave duration, but not more often than every thirty (30) days unless the employee requests an extension of FMLA leave, the circumstances described in the previous certification have changed, or Loudon County receives information casting doubt on the validity of the certification. In all cases, Loudon County may request recertification of a medical condition every six months.

If an employee fails without good reason to provide a medical certification or recertifications on a timely basis, Loudon County may deny the request for leave until it is submitted. If the employee fails to produce a medical certification within the time requested by Loudon County, the leave may not qualify for FMLA leave and the absences will be considered unexcused.

C. **Military Family/Qualified Exigency Administration.** When a military family leave is requested, Loudon County requires that the request for leave be supported by a Certification of Qualifying Exigency For Military Leave (DOL Form WH-384) or Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave (DOL Form WH-385) submitted to Employee Benefits. When the leave is foreseeable and at least 30 days notice has been provided, the employee should provide the appropriate Certification before the leave begins. When this is impossible, the Certification form must be provided to Loudon County within 15 calendar days after Loudon County's request unless there are extenuating circumstances.

Loudon County will require employees to report periodically on their status and their intention to return to work.

Benefits During Leave

During a period of family or medical leave, qualified exigency or military family leave under the FMLA, an employee will be retained on Loudon County's medical insurance and other plans in which the employee was enrolled under the same conditions and on the same basis as if the employee was not on leave. Loudon County will continue to pay its portions (if any) of the insurance contribution and, to continue all employee contributed coverage, the employee must continue to make any contributions that the employee would make if not on leave, including any

increases. Failure of the employee to pay his or her share of the premiums within sixty (60) days of the due date will end Loudon County's obligation to maintain health insurance for the employee. Loudon County will provide 15 days of written notice to an employee that payment has not been received prior to terminating coverage.

Employees are not entitled to the accrual of seniority or employment benefits while on FMLA leave. An employee who takes family or medical leave will not lose any seniority or employment benefits that accrued before the date that the employee was on FMLA leave.

If the employee fails to return to work after the expiration of the leave, the employee will be required to reimburse Loudon County for all insurance contributions made by Loudon County during the leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing his or her job, or due to circumstances beyond the employee's control, (i.e. a parent's decision to stay home with a newborn baby is not beyond the employee's control, unless the newborn has a serious health condition.) Nothing in this policy should be construed to grant health insurance coverage to employees not otherwise covered by Loudon County's health insurance policy.

Procedures For Returning From Leave

Before an employee can return to work following a medical leave of at least ten (10) consecutive workdays, the employee, at the employee's cost, must submit a Return To Work Fitness For Duty Certificate from the designated physician releasing the employee to resume work and stating that the employee is fit for duty, but only with regard to the particular health condition that caused the employee's need for FMLA leave. The health care provider may be required to specifically address the employee's ability to perform the essential functions of the employee's job and, if so, Loudon County will provide the employee with a list of the essential functions with the Designation Notice (Form WH-382). Loudon County may contact the employee's health care provider through Loudon County's health care provider, designated Employee Benefits representative or appropriate management official, with the employee's permission, for clarification of the employee's fitness to return to work certification, but no additional information may be required. Loudon County may deny restoration to employment until such certification is provided.

Upon being released for work, an employee must report to Employee Benefits immediately and present the Return to Work Fitness for Duty Certificate. Where the certification indicates that the employee cannot perform the essential functions of the job, Employee Benefits will recommend that the employee continue on medical leave pending a determination of whether the employee requires an accommodation and what accommodation, if any, is reasonable. Where the employee's certification releases the employee to return to work without restrictions which prevent the employee from performing the essential functions of his or her job, Employee Benefits will contact the employee's supervisor to discuss return to work.

Loudon County may contact the employee's health care provider for purposes of clarifying and authenticating the fitness-for-duty certification but may not delay the employees' return to

work while contact with the health care professional is being made. Loudon County will follow the procedures for clarifying a Certification of Health Care Provider for Employee's Serious Health Condition, and the employee must cooperate by signing any necessary HIPAA-compliant authorization.

If an employee is returning to work from medical leave that is no longer a designated FMLA leave, or was never a designated FMLA leave, Loudon County may require that employee be examined by a Loudon County-designated physician for an independent evaluation of the employee's fitness to return to work.

In all situations, after an employee returns to work, Loudon County may require a job-related medical examination by a Loudon County designated physician where there is evidence of a job performance or safety problem in order to determine an employee's current fitness to safely and effectively perform the job.

Restoration to Employment

Loudon County employees returning to work from a family or medical leave or qualified exigency or military family leave under the FMLA will be restored to the same position or to an equivalent position with equivalent pay, benefits and other terms and conditions of employment. A determination as to whether a position is equivalent will be made by Employee Benefits.

Denial of Restoration

Under the following circumstances, Loudon County may deny restoration of an employee to his or her former position or to an equivalent position: (1) if the employee would not otherwise have been employed at the time restoration is requested; (2) if the employee fails to provide a Return To Work Fitness For Duty Certificate as requested by Loudon County; (3) if the employee fraudulently obtained leave; (4) if the employee is unable to perform the essential functions of the position with or without reasonable accommodation because of a physical or mental condition, including the continuation of a serious health condition; (5) if an employee is no longer qualified for the position because of the employee's inability to attend a necessary course, renew a license or certificate, etc., as a result of the leave, provided the employee has been given a reasonable opportunity to fulfill those conditions upon return to work; (6) if the employee unequivocally advised Loudon County that he or she does not intend to return to work, in which case the employment relationship is deemed terminated and leave benefits cease immediately; or (7) If the employee is a "key" employee, as defined under the FMLA, and restoration would result in a substantial and grievous economic injury to Loudon County's operations.

Failure to Return from Leave/Extension of Leave

The failure of an employee to return to work upon the expiration of the maximum leave period for a family or medical leave of absence or a qualified exigency or military family leave, including any authorized extension of leave, will subject the employee to immediate termination.

Family and Medical Leave Records

All records concerning family and medical leave will be maintained for at least three (3) years. Records and documents relating to medical certifications, re-certifications or medical histories of employees or employees' family members will be maintained as separate records and treated as confidential records in Employee Benefits. Each supervisor is required to forward all forms, including Requests for Leave of Absence, Certifications of Health Care Provider, Family and Medical Leave Act Checklist, Response to Your Request for Leave Under the FMLA, Medical Certification Statements, Employer Designation Notices, Return to Work Fitness for Duty Certificates and other documents relating to the leave to Employee Benefits upon completion. Copies of these forms and records may not be retained in the supervisor's individual files.

Employees should contact Employee Benefits for more information about the FMLA.

Parental Leave

Section 5.7

Any full-time employee who has been employed by the County for twelve (12) consecutive months may be absent for a period of up to four (4) months for adoption, pregnancy, childbirth, and nursing an infant. Employees who give at least three (3) months' notice to the County of the anticipated dates of leave and of their intention to return following the leave will be restored to the previously occupied position or a similar position with the same status, pay, length of service credit and seniority, as of the date of leave. If, however, the employee is prevented from giving the three (3) months' notice because of a medical emergency or a notice of adoption which necessitates that leave begin earlier than anticipated, the employee has not forfeited rights and benefits for failure to give three (3) months' notice. Leave for adoption is not available under this policy until the employee receives custody of the child.

Parental leave is unpaid leave. However, if an employee takes parental leave, it runs concurrent with available FMLA leave until the FMLA leave is exhausted. Employees on parental leave are required to use paid sick leave and paid vacation leave until it is exhausted. During parental leave, the employee maintains rights to vacation time, sick time, seniority, and other benefits for which the employee was eligible at the date the leave began.

If the employee's job position is so unique that the County cannot, after reasonable efforts, fill the position temporarily, it is not liable to the employee for failure to reinstate at the end of parental leave. If the County determines that the employee will not be reinstated at the end of parental leave, it will notify the employee as soon as possible. Employees who seek other employment during a period of parental leave or who work for other employers while taking parental leave are not entitled to be restored to the same or similar positions as described above.

Bereavement Leave

Section 5.8

In the unfortunate event of the death of an employee's immediate family member (defined for the purposes of this policy as the employee's current spouse, child, brother, sister, parent, grandparent or grand-child, including step and in-law relations), the employee may be granted paid bereavement leave up to a three (3) calendar day maximum. At the County's sole discretion, additional time off (up to three (3) extra days) may be granted without pay for travel time for an out-of-town funeral or for other compelling or unusual circumstances. The County may require verifying documentation prior to or after granting such leave.

Jury Duty Leave

Section 5.9

Upon receiving a summons to report for jury duty, an employee must present the summons to the supervising County official or Department Head on the next working day so that arrangements can be made for the excused absence.

All employees, except temporary employees employed for less than six (6) months, who give proper notice and who serve on jury duty for more than three (3) hours on a given day are excused from work for that day and receive regular pay less amounts received for serving as a juror. If the jury service is less than three (3) hours, the employee must report to work immediately for the remainder of that work day and will receive regular pay less amounts received for serving as a juror. If an employee who served less than three (3) hours fails to immediately return to work, that employee will not receive regular pay for the balance of the day, and it will count as an unexcused absence. Employees should obtain a signed attendance statement from the Court verifying the dates and times of jury duty service and the amount of jury duty pay, and present it to the supervising County official or Department Head.

In certain circumstances, such as where an employee's absence would cause public service or a department's performance to suffer substantially as a result of the lost work time or have a serious effect on operating efficiency, the County may request that an employee be excused from jury duty or that the jury duty assignment be postponed.

Witness Leave

Section 5.10

Employees responding to a lawful summons, subpoena, or other lawful process are eligible for leave provided they present a copy or the original of the same to the supervising County official or Department Head prior to the time which they must appear (unless good cause exists for the failure to give prior notice). Leave is unpaid, except that exempt employees will not have amounts deducted from their pay except for absences of a week or more or for fees received for service as a witness.

Voting Leave

Section 5.11

All employees entitled to vote in an election may be excused from work with pay on the day of the election for a reasonable period of time, not to exceed three (3) hours, as necessary to vote during the time the polls are open in the county where the employee resides. Provided, if an employee's tour of duty begins three (3) or more hours after the polls open or ends three (3) or more hours before the polls close, no time off for voting shall be granted.

The County may specify the hours during which employees may be absent to vote. Application for such absences must be made to the employee's supervising County official or Department Head before 12:00 noon of the day before the election.

Military Leave

Section 5.12

An employee who is a member of the National Guard or a reserve component of the armed forces and is serving under competent order will be granted a maximum of twenty (20) paid working days for military duty or training in any one year period, in accordance with state and federal law. Additional paid leave is available for any period of active state duty pursuant to Tenn. Code Ann. § 58-1-106. An employee should submit a copy of his or her orders to the supervising County official or Department Head at least thirty (30) days in advance of the leave period. This time for military training duty will be paid at the employee's straight time base pay at the time the military training occurs. If a holiday occurs while the employee is on military leave, the employee will be paid the holiday pay only for that day instead of military leave pay.

For the purpose of being inducted or entering military duty, or if ordered to active duty in the U.S. armed services, employees will be granted an unpaid military leave of absence for the duration of the active duty and will have reinstatement and other employment rights in accordance with applicable state and federal law.

Inclement Weather

Section 5.13

In the event of inclement weather, the County Mayor will make a decision regarding whether to close non-essential County offices for the day. If the Mayor closes County offices, employees will be required to use a vacation day to cover the absence. If the Mayor does not close County offices but an employee is unable to report to work because of transportation or other concerns, the employee must call in according to normal call-in procedures and will be charged a vacation day to cover the absence.

Some County offices are essential and must remain open and operational at all times (and particularly during inclement weather), such as the highway department and the Sheriff's department. Employees of those offices must report to work on all scheduled work days, regardless of announcement by the Mayor of closure of County offices. Employees will receive usual compensation for their hours worked on such days, and will further receive overtime pay at a rate of time and a half for all hours worked over 40 (or other applicable threshold) in the workweek.

PART 6. EMPLOYEE CONDUCT

Disciplinary Procedures

Section 6.1

It is the County's policy to have efficient, orderly and safe operations. Therefore, all employees must conduct themselves in a professional and responsible manner. Any employee who engages in improper conduct or violates any County or Department policy or rule is subject to disciplinary action.

Employees who are subject to the Law Enforcement Sheriff's Office Merit System should refer to its Rules and Regulations for questions regarding disciplinary procedures.

Discipline may, in the sole discretion of the County, and depending upon the seriousness of the violation, the employee's performance record and other factors, consist of a verbal warning, written reprimand, suspension, demotion or discharge. Discipline does not have to be progressive.

All disciplinary actions, including verbal warnings and written reprimands, will be documented and placed in the employee's personnel file. Employees may offer a written response to be attached to the documentation.

Grievance Procedure

Section 6.2

From time to time, an employee may feel that he or she has been dealt with unfairly or may be confronted with problems or difficulties that the employee believes Loudon County should resolve. Except as provided in the Deductions From Pay, Sexual and Other Discriminatory Harassment, and Equal Employment Opportunity policies, employees should first discuss the matter with his or her supervisor. If a satisfactory result is not obtained, the employee should then discuss the matter with his or her supervising County official or Department Head. If the matter is still not resolved, the employee should submit a written grievance to the County Mayor stating the nature and specifics of the grievance, the results obtained from the discussions with the supervisor and Department Head, and why those results are not satisfactory. The County Mayor will review the grievance and the prior decisions of the supervisor and Department Head and will schedule a meeting with the employee.

Employees are encouraged to use the grievance procedure to resolve problems. The purpose of the policy is to enable the County to become aware of and resolve problems before they become extensive and disrupt the workplace.

The County has also established an Ethics Committee to receive, investigate, and make recommendations for actions related to alleged violations of its Ethics Code. Generally, on matters related to personnel policies, the Committee will defer investigation to the appropriate County official or Department Head. See the Ethics Code Complaint Procedure and Ethics Committee Policy, Section 6.7, for more details.

Work Rules

Section 6.3

Below are some examples of conduct that is forbidden while on duty or off duty. Violation of these or other rules and policies may result in discipline, including termination, even for a first offense. This list does not include all the rules or circumstances that could lead to disciplinary action. Rather, these rules are meant as a guideline. In addition, each Department may promulgate its own rules and policies so long as they do not conflict with these, and County officials may, pursuant to Tenn. Code Ann. § 5-23-101 *et seq.*, adopt separate policies.

1. Repeated or excessive tardiness or unexcused absence.
2. Refusal to carry out orders or assignments pertaining to work or other similar insubordination.
3. Leaving the job during work hours without permission of the supervising County official, Department Head or supervisor.
4. Deliberate neglect or destruction of County property, tools, machines or equipment; or the property of fellow employees; or tampering with vending machine equipment in any manner.
5. Willful falsification, including a material misstatement or omission, of information of County records including, but not limited to, applications for employment or other data requested by the County, doctor's statements, and time and expense records.
6. Violation of safety rules or safety practices, including the failure to wear safety equipment.
7. Theft of County property or property of other employees or other similar dishonesty.
8. Immoral conduct or indecency on County property, while on duty, or in County vehicles.
9. Unauthorized possession of ammunition, firearms or explosives on County premises, while on duty or in County vehicles.
10. Loitering or loafing during working hours, or sleeping while on duty except when authorized as part of the job.
11. Stopping work before time specified for such purposes.

12. Engaging in horseplay, disorderly conduct, striking or fighting on County premises, while on duty or in County vehicles.
13. Inability to cooperate and get along with coworkers.
14. Creating or contributing to unsanitary conditions.
15. Use of abusive, obscene or threatening language, or any violation of the County's Sexual and Other Discriminatory Harassment or Workplace Violence policies.
16. Poor workmanship/productivity.
17. Unauthorized distribution of non-work material or soliciting during working time.
18. Failure to report any on-the-job injury immediately.
19. Harassing other employees or the public.
20. Any breach of the normal standards of responsible behavior.
21. Violating any Department or County policy or rule.
22. Conviction of a misdemeanor or felony crime or engaging in conduct which adversely affects the employee's ability or capacity to perform the employee's job.
23. Engaging in the illegal use, manufacture, possession, distribution, or sale of controlled substances or alcohol while on County property, while on duty for regularly scheduled or emergency work, while operating County vehicles or equipment or off the job so as to affect the employee's job performance or integrity on the job as a representative of the County.
24. Engaging in conduct or activity that is inconsistent or incompatible with the functions and responsibilities as a County employee or the operations of the County.

Attendance

Section 6.4

The County expects good and regular attendance by all of its employees. This means being at work on time each day fully able and ready to work. When an employee will be tardy or absent, that employee must call the supervising County official, Department Head or supervisor and report the reason prior to the start of work.

Tardiness or absenteeism that is unexcused or excessive in the County's judgment, or failure to call in prior to being absent or late, may result in disciplinary action up to and including termination.

Political Activity

Section 6.5

Employees may individually exercise their right to vote, privately express their political views, and engage in other political activities as private citizens. However, no employee shall solicit political campaign contributions, actively participate in a political campaign or engage in other political activities when on duty, while at work or when acting in the employee's official capacity. No employee will be prohibited from, disciplined or otherwise discriminated against for communicating with any appointed or elected public official for any job-related purpose, unless the communication involves untrue allegations.

Except as permitted by law, no employee shall be appointed, promoted, demoted, transferred, terminated, or in any way favored or discriminated against with respect to any term or condition of employment because of such employee's vote, political opinions, political affiliations, or other political activities, and no official or employee shall use or attempt to use any official position, authority or influence, whether possessed or anticipated, for the purpose of influencing the vote or political action of any employee or group of employees.

In accordance with Tennessee law, County employees otherwise qualified to serve as a member of the County Commission are not disqualified for seeking such office by reason of being a County employee. Employees may also seek nomination, election or appointment to other public offices.

However, any employee who wishes to accept or seek nomination, election, or appointment to any full-time public office must make written request to the County Mayor or supervising County official for an unpaid leave of absence from employment. The leave will not begin any sooner than the date of the qualification. The employee must also submit a formal declaration and/or other written evidence of candidacy. For certain positions and in accordance with state and federal law, the County may allow or require the employee to continue working during the election, nomination or appointment. Upon successful election or appointment, the employee shall resign employment from the County or from his or her current position with the County, with separation from employment occurring prior to the taking of office. Upon unsuccessful election or appointment, the employee shall immediately return to the employee's former position or, if not available, to another available position to which the employee is qualified; provided, however, that the County cannot guarantee restoration of employment to an employee who takes a leave of absence for nomination, election or appointment for a public office.

Any violation of this section may result in disciplinary action, up to and including termination.

Outside Employment

Section 6.6

No employee may moonlight or engage in additional employment unless approved in writing by the supervising County official, Department Head or the County Mayor. Such approval will be granted if the outside employment will not likely interfere with the satisfactory performance of the employee's duties, will not interfere with the best interests of the County, is not incompatible with the employee's duties, and is not likely to disparage or create embarrassment for the County. Failure of an employee to obtain prior approval may result in disciplinary action, up to and including termination.

Employees may not use County equipment, materials, supplies, tools or vehicles in outside employment, unless approved in writing by the supervising County official, Department Head or the County Mayor. Employees on any leave of absence may not engage in outside employment without the required approval, and are subject to discipline for failing to do so.

Ethics Policy, Complaint Procedure and Ethics Committee

Section 6.7

In accordance with Section 49 of the Comprehensive Governmental Ethics Reform Act of 2006, Loudon County adopted a Code of Ethics on February 5, 2007, and it was amended in 2010. It applies to all County boards, committees, commissions, authorities, corporations or other instrumentalities appointed or created by the county or an official of the County, specifically including the school board, election commission, health department, and utility district of the County.

As used herein, "County" means Loudon County, which includes all boards, committees, commissions, authorities, corporations or other instrumentalities appointed or created by the county or an official of the county, and specifically including the county school board, the county election commission, the county health department, and utility districts in the county.

"Officials and employees" means and includes any official, whether elected or appointed, officer, employee or servant, or any member of any board, agency, commission, authority or corporation (whether compensated or not), or any officer, employee or servant thereof, of the county. "Personal interest" means, for the purpose of disclosure of personal interests in accordance with this Code of Ethics, a financial interest of the official or employee, or a financial interest of the official's or employee's spouse or child living in the same household, in the matter to be voted upon, regulated, supervised, or otherwise acted upon in an official capacity.

An official or employee with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and to be included in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's or employee's vote on the measure. In addition, the official or employee may, to the extent allowed by law, excuse himself or herself from voting on the measure.

An official or employee who must exercise discretion relative to any matter other than casting a vote and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on the attached disclosure form and file the disclosure form with the county clerk. In addition, the official or employee may, to the extent allowed by law, excuse himself or herself from the exercise of discretion in the matter.

An official or employee, or an official's or employee's spouse or child living in the same household, may not accept, directly or indirectly, any gift, money, gratuity, or other consideration or favor of any kind from anyone other than the county:

- (1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or
- (2) That a reasonable person would understand was intended to influence the vote,

official action, or judgment of the official or employee in executing county business.

It shall not be considered a violation of this policy for an official or employee to receive entertainment, food, refreshments, meals, health screenings, amenities, foodstuffs, or beverages that are provided in connection with a conference sponsored by an established or recognized statewide association of county government officials or by an umbrella or affiliate organization of such statewide association of county government officials.

An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law. An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity.

An official or employee may not use or authorize the use of county time, facilities, equipment, or supplies for private gain or advantage to himself, a family member, or any group with which the official or employee is affiliated. County time, facilities, equipment, and supplies are to be used only for the benefit of the County.

An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the County. An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the general law or other policy of the County.

A County Ethics Committee (the "Ethics Committee") consisting of five members shall be appointed to one-year terms by the County Mayor with confirmation by the county legislative body, to be appointed each year at the same time as internal committees of the county legislative body. At least three members of the committee shall be members of the county legislative body; one member shall be a constitutional county officer or, should no constitutional county officer be willing to accept appointment, an additional member of the county legislative body; and the remaining member may be either a member of a board, committee, commission, authority, corporation, or other instrumentality governed by this policy, or an additional member of the county legislative body. The Ethics Committee shall convene as soon as practicable after their appointment and elect a chair and a secretary. The records of the Ethics Committee shall be maintained by the secretary and shall be filed in the office of the county clerk, where they shall be open to public inspection.

Questions and complaints regarding violations of this Code of Ethics or of any violation of state law governing ethical conduct should be directed to the chair of the Ethics Committee. Complaints shall be in writing and signed by the person making the complaint, and shall set forth in reasonable detail the facts upon which the complaint is based.

The County Ethics Committee shall investigate any credible complaint against an official or employee charging any violation of this Code of Ethics, or may undertake an investigation on its own initiative when it acquires information indicating a possible violation, and make

recommendations for action to end or seek retribution for any activity that, in the Committee's judgment, constitutes a violation of this Code of Ethics. If a member of the Committee is the subject of a complaint, such member shall recuse himself or herself from all proceedings involving such complaint.

The Committee may:

(1) Refer the matter to the County Attorney for a legal opinion and/or recommendations for action;

(2) In the case of an official, refer the matter to the county legislative body for possible public censure if the county legislative body finds such action warranted;

(3) In the case of an employee, refer the matter to the official responsible for supervision of the employee for possible disciplinary action if the official finds discipline warranted;

(4) In a case involving possible violation of state statutes, refer the matter to the district attorney for possible ouster or criminal prosecution;

The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this Code of Ethics. When a violation of this Code of Ethics also constitutes a violation of a personnel policy or a civil service policy, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this Code of Ethics.

In addition to the ethical principles set out in this Code of Ethics, state laws also provide a framework for the ethical behavior of county officials and employees in the performance of their duties. Officials and employees should familiarize themselves with the state laws applicable to their office or position and the performance of their duties. To the extent that an issue is addressed by state law (law of general application, public law of local application, local option law, or private act), the provisions of that state law, to the extent they are more restrictive, shall control.

Generally, where a violation of the Code of Ethics is also a violation of personnel policy or merit board provisions, it will be handled as a violation of that policy or provision rather than as a violation of the Code of Ethics. A "reasonable person" standard applies in the interpretation of the County's Code of Ethics.

See the "Pecuniary Interest Prohibited" policy for additional conflict of interest information, and the complete Code of Ethics, available at the County Clerk's office, for a summary description of major Tennessee conflict of interest and ethics statutes.

Pecuniary Interest Prohibited

Section 6.8

County officials and employees shall not personally profit directly or indirectly from any contract, purchase, sale or service between the County and any person, company or entity; shall not personally or as an agent provide any surety, bail or bond required by law or subject to approval by the County Commission; shall not accept any free or preferred services, benefits, concessions or gifts from any person, company or entity if such is given in connection with or on account of the official's or employee's connection or employment with the County; and shall not directly or indirectly give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment, transfer, promotion, dismissal, suspension, disciplinary action or any other employment action.

With the permission of the supervising County official or Department Head, employees are allowed to solicit contributions or sell candy, merchandise, etc. for charitable and community organizations.

In accordance with Tennessee law, during an employee's employment or an official's tenure in office, and for six (6) months thereafter, no employee or officer shall purchase from the County any property declared to be surplus by the County, except by bid at public auction.

Any violation of this Section may result in disciplinary action, up to and including termination.

Sexual and Other Discriminatory Workplace Harassment

Section 6.9

It is the policy of Loudon County that all employees have a right to work in an environment free from discriminatory harassment based on sex, gender, race, age, national origin, religion, disability, genetic information, or any other protected discriminatory factor. The County prohibits any form of harassment of its employees by other employees and will take immediate and appropriate action to prevent and to correct behavior that violates this policy. Loudon County also strives to protect its employees from any form of harassment by third parties, including vendors and others.

Sexual Harassment

Sexual harassment is defined as unwelcome sexual advances, request for sexual favors and other verbal or physical conduct of a sexual nature. This conduct constitutes unlawful sexual harassment when: (1) submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment; (2) submission to or rejection of such conduct is used as the basis for an employment decision; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

While sexual harassment usually involves members of the opposite sex, it also includes same sex harassment, (i.e., males harassing males and females harassing females because of the recipient's sex).

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive, that fails to respect the rights of others, that lowers morale and that, therefore, interferes with our work effectiveness. Sexual harassment may take different forms. One specific form is the demand for sexual favors. Other forms of harassment include:

- | | |
|------------|--------------------------------------------------------------------------------------------------------------------------------------|
| Verbal | Sexual innuendos, suggestive comments, jokes of a sexual nature, sexual propositions, threats. |
| Non-verbal | Sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures. |
| Physical | Unwanted physical contact, including touching, pinching, brushing the body, coerced sexual intercourse, assault. |

Sexual harassment may be overt or subtle. Some behavior which is appropriate in a social setting may not be appropriate in the workplace. But whatever form it takes, verbal, non-verbal or physical, sexual harassment is insulting and demeaning to the recipient and will not be tolerated in the workplace. Sexual harassment by an employee, County official, Department

Head, supervisor, or third party non-employee will not be tolerated by the County. All employees County-wide are expected to comply with this policy and take appropriate measures to ensure that such conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy. Based on the seriousness of the offense, disciplinary action, up to and including termination, will be taken.

Other Workplace Harassment

Loudon County also has a strong policy against harassment on the basis of race, color, religion, national origin, age, disability, or genetic information.

Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, national origin, age, disability, or genetic information, or that of his or her relatives, friends, or associates, and that:

(1) has the purpose or effect of creating an intimidating, hostile or offensive working environment;

(2) has the purpose or effect of unreasonably interfering with an individual's work performance; or

(3) otherwise adversely affects an individual's employment opportunities. Harassing conduct includes, but is not limited to, the following:

(a) epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts that relate to race, color, religion, national origin, age, disability, or genetic information; and

(b) written or graphic material that denigrates or shows aversion or hostility toward an individual or group because of race, color, religion, national origin, age, disability, or genetic information and that is placed on walls, bulletin boards or elsewhere on the County's premises or is circulated in the workplace.

All employees should avoid any action or conduct that might be viewed as workplace harassment. Approval of, participation in or acquiescence in harassing conduct is a violation of this policy.

If Loudon County determines that this policy has been violated, it will take prompt and appropriate corrective action aimed at stopping the behavior and preventing its recurrence. Depending on the circumstances, such action may include, but not be limited to, written warning, suspension, demotion or termination of employment.

Complaint Procedure

Employees have the responsibility to immediately bring any form of unwelcome harassment to the attention of either the County Mayor, currently Estelle Herron, or Employee Benefits, currently Tammy Reynolds, at the employee's option. Both are trained to respond promptly and effectively to any complaint. Although employees are free to address inappropriate conduct with the offending person, an employee does not have to complain first to the offending person.

All complaints will be handled in a timely and discreet manner, and access to information related to the complaint shall be limited to a strict "need to know" manner. A thorough and independent investigation will be conducted based on the employee's statement of what has occurred. Individuals involved in the complaint will be advised not to discuss the subject outside of the investigation. Loudon County will retain documentation of all allegations and investigations in separate files and will take appropriate corrective action to remedy all violations of this policy. The purpose of this provision is to protect the confidentiality of the employee who files a complaint to the extent possible, to encourage the reporting of any incidents of sexual or other harassment and to protect the reputation of any employee wrongfully charged with sexual harassment.

Investigation of a complaint normally includes conferring with the parties involved and any named or apparent witnesses. Employees will be given an impartial and fair hearing. All employees shall be protected from coercion, intimidation, retaliation, interference, or discrimination for filing a complaint or assisting in an investigation.

If an investigation reveals that the complaint is valid, prompt attention and disciplinary action designed to stop the violation immediately and to prevent its recurrence will be taken.

Retaliation against any complaining employee, any witness, or anyone involved in a complaint is strictly prohibited. Loudon County will follow up any complaint or investigation as appropriate to insure that no retaliation occurs. Employees should immediately report any retaliation to either of the County representatives listed above (the County Mayor, currently Estelle Herron, or Employee Benefits, currently Tammy Reynolds), at the option of the employee. Loudon County will not tolerate retaliation, and will take prompt and immediate steps to eliminate retaliation.

Loudon County recognizes that the question of whether a particular action or incident produces a discriminatory employment effect requires a factual determination based on all facts in the matter. Given the nature of this type of discrimination, Loudon County also recognizes that false accusations of harassment can have serious effects on innocent individuals. We trust that all employees of Loudon County will continue to act responsibly to establish and maintain a pleasant working environment, free from discrimination, for all. Loudon County encourages any employee to raise questions he or she may have regarding this policy with the County Mayor, currently Estelle Herron or Employee Benefits, currently Tammy Reynolds.

Firearms and Weapons

Section 6.10

Loudon County is committed to providing a safe, healthy working environment, and to making adequate provisions for the safety and health of our employees, citizens and the public. It will not permit employees to act in ways that may endanger themselves or others.

All employees are prohibited from possessing, carrying, trading or showing weapons of any kind, including firearms, fireworks, guns, explosives, bows and arrows, knives, etc. while on premises, while on duty, while operating County vehicles or equipment, or while operating personal vehicles for County purposes. Employees are also prohibited from keeping weapons in their personal vehicles parked on the County's premises. Loudon County premises include any property owned, operated, controlled or managed by it. Individuals are permitted to carry mace, pepper spray and pocket knives with blades no longer than four inches as long as they are stored in a pocket, purse, briefcase or other personal belongings. This policy does not apply to those who are expressly authorized by the County to use firearms and explosives (and other authorized tools that could be viewed as weapons) in the performance of their jobs.

The County reserves the right, based upon reasonable suspicion of a violation of this policy, to search an office desk, and other property under the control of the employee, as well as the packages, purses, lunch boxes, briefcases, and employees' vehicles parked on its premises. Individuals may also be required to remove a jacket or sweater and to turn out their pockets. Reasonable suspicion sufficient to justify a search may be based on a clear and reasonable belief, through observation or information provided by a reliable and credible source, that an employee is in violation of this policy. Searches of Loudon County property under the control of the employee are subject to being conducted without notice to the employee, once the reasonable suspicion standard has been met.

Workplace Violence

Section 6.11

Loudon County expects and requires all employees to display common courtesy and respect for others, and to engage in safe and appropriate behavior at all times.

Any involvement in incidents of physical violence is considered unacceptable behavior which violates this policy. "Physical violence" means any unwanted or hostile contact such as hitting, fighting, pushing, shoving, slapping or throwing objects.

Racial or ethnic slurs, sexually harassing remarks, threats of violence, and any other provocative comments, language, or actions also violate this policy and will not be tolerated. A "threat of violence" means an expression (verbal or otherwise) of a present or future intention to cause physical harm. Individuals who threaten violence or otherwise engage in provocative conduct towards co-workers, clients, vendors or other individuals ordinarily are held at least equally at fault for an ensuing physical altercation, even if they do not strike the first blow or otherwise initiate a physical confrontation.

Prohibited conduct includes, but is not limited to:

1. Striking and/or injuring another person physically;
2. Engaging in behavior that creates a reasonable fear of injury in another person;
3. Possession, brandishing, or using a weapon while on the County's premises or engaged in its business;
4. Intentionally damaging office property, property of employees, citizens, visitors or the general public;
5. Threatening to injure an individual or to damage property;
6. Verbally threatening behavior, such as direct or veiled threats of violence;
7. Harassment or sexual harassment that blurs into conduct threatening an individual's safety, including unwanted and offensive physical touching and stalking;
8. Threats or intimidation that create fear or extreme emotional distress;
9. Obscene telephone calls on or off duty.

This policy applies to employees while on County premises, whether they are on or off duty; to employees traveling on business; to employees on duty but off the premises; and to

employees while off duty where the violence, threats of violence or other violations of this policy are directed toward a fellow employee, citizens or other individual and there is a nexus to work or the work environment.

Loudon County will promptly investigate any physical or verbal altercation, threats of violence, or other conduct by employees that threatens the health or safety of other employees, citizens, or the public or otherwise might involve a violation of this policy. All complaints will be investigated in a timely manner. Information will be released only to those persons directly involved in the investigation, to law enforcement as necessary, and confidentiality will be maintained to the extent practicable. The County will make every effort to guard the reputations of the complainant and the accused.

All employees have a duty to warn their supervisor, the supervising County official, Department Head, or the County Mayor of any workplace activity, situations or incidents that they observe or are aware of involving other employees, citizens and visitors and which appear to violate this policy. This includes, for example, threats or acts of violence, aggressive behavior, offensive acts, threatening or offensive comments or remarks, and the like. Reports pursuant to this policy will be held in confidence to the maximum extent possible under the circumstances. Loudon County will not condone any form of retaliation against any employee for making a report under this policy, and individuals have an immediate duty to report any retaliation they experience or observe to one of the above named individuals.

All individuals who commit violent acts or who otherwise violate this policy are subject to disciplinary action, up to and including termination. Loudon County may seek prosecution of those who engage in violence on its premises or against its employees while they are engaged in County business.

Drug-Free Workplace

Section 6.12

It is the County's policy to create a drug-free workplace in keeping with the spirit and intent of the Drug-Free Workplace Act of 1988. The use of controlled substances is inconsistent with the behavior expected of employees, subjects all employees and the public to unacceptable safety risks, and undermines the County's ability to operate effectively and efficiently. In this connection, the unlawful manufacture, distribution, dispensation, possession, sale, or use of a controlled substance in the workplace, on County premises, or while on duty is strictly prohibited. Intoxication or the use of alcohol at work or while on duty is also prohibited. Such conduct is also prohibited during nonworking time to the extent that it impairs an employee's ability to perform on the job or threatens the reputation or integrity of the County.

The County's General Drug and Alcohol Abuse Policy is attached as Exhibit A. The County's Department of Transportation Drug and Alcohol Policy is attached as Exhibit B. Individual county officials may also adopt separate Drug and Alcohol Abuse policies pursuant to Tenn. Code Ann. § 5-23-101, *et seq.* Copies of the County's Drug and Alcohol Testing Procedures are available upon request to Employee Benefits.

Dress Code

Section 6.13

All employees are expected to dress in a professional and tasteful manner. Apparel which creates a disturbance among employees is prohibited. Employees should wear clothing that is proper and safe for their specific job duties. Employees in some departments are required to wear uniforms. The office personnel and employees who have contact with the public are expected to project a professional and businesslike image in their dress and manner.

Health And Safety

Section 6.14

It is the County's policy to provide a safe workplace for its employees. In order to comply with this policy, it is imperative that all employees obey all safety rules and use common sense and care at all times. Any accident or injury of any nature must be immediately reported to the Department Head and/or supervisor. Employees must follow all safety rules and regulations which may be imposed from time to time by the County, Department, the Occupational Safety and Health Administration (OSHA), or other government agency. No employee is allowed to use machinery, tools or equipment that he or she is not authorized to use or without the proper training.

An orderly and clean working environment reduces accidents, improves health conditions, reduces hazards, promotes efficiency and productivity, and improves the quality of the County's services. All employees are responsible for maintaining a clean and orderly work environment.

Employees who are driving or riding in County vehicles must wear seat belts at all times. Should an employee be involved in an accident, the employee should secure all pertinent information at the scene of the accident and report it to the supervising County official or Department Head. Under no circumstance should liability be admitted or payment of any kind be made to any person or company. In case of bodily injury, an employee should immediately call the supervising County official or Department Head.

With the combined effort of all employees working together as a team, the County can continue to provide the best service to the public in a safe and efficient manner.

Violation of this section may result in disciplinary action, up to and including termination.

County Vehicles

Section 6.15

Employees assigned or using a County vehicle must adhere to the following policy. County vehicles are to be used to conduct official County business only, except for minimum personal use (example: stopping for lunch or stopping at a store in route to and from work).

All employees assigned a County vehicle must meet the I.R.S. regulations and have a valid Tennessee driver's license. Any traffic violation or arrest in a County vehicle must be reported immediately to the Department Head, and employees may be disciplined or barred from driving County vehicles if the circumstances surrounding the arrest or violation indicate a possible threat to public safety. No passengers other than County employees are permitted unless they are being transported for County purposes, or as specifically authorized by the County Mayor or supervising County official.

Employees who are driving or riding in County vehicles must wear seat belts at all times. Should an employee be involved in an accident, the employee should secure all pertinent information at the scene of the accident and report it to the Department Head. Under no circumstances should liability be admitted or payment of any kind be made to any person or company. In case of bodily injury to anyone, an employee should immediately call his or her supervising County official or Department Head.

Any violation of this section may result in disciplinary action, up to and including termination.

Employees who operate County or personal vehicles or equipment as part of their job duties must be insurable under the County's insurance policies with the County's insurance carriers. Any traffic violation, criminal arrest or other action, on or off-duty, which results in the loss of insurance coverage for the employee or increased risk or premiums may result in termination of employment.

Employees of the Loudon County Sheriff's Department who are assigned or who operate a County vehicle may use such vehicle in secondary employment only upon the prior written approval of the Chief Deputy and only upon the execution by the secondary employer of a written agreement with the County setting forth the terms upon which a County vehicle may be used in the secondary employment. During times of engagement by a secondary employer, an employee is working solely for the secondary employer and not as a County or Sheriff's Department employee. An employee's voluntary work for the secondary employer is not counted as hours worked for the County or the Sheriff's Department. The Sheriff's Department will not be responsible for any Workers' Compensation or liability claim incurred while an employee is engaged by a secondary employer. Furthermore, during periods of secondary employment, the employee shall not act in any manner which would imply that any services

performed for a private individual or company are, in fact, being carried out as part of the employee's official duties.

Computers, Telephones and Other Electronic Communication Systems and Equipment

Section 6.16

The County owns, leases, maintains, or operates various electronic communication systems and equipment, including but not limited to, computers, software, telephones, voicemail, facsimiles, telecopiers, copiers, postage meters, e-mail, the Internet, the Web or other electronic communication system, network or equipment. All such electronic communication systems and equipment and all communications, data, and information created, sent, transmitted by, received from, or stored in these electronic communication systems and equipment are and remain at all times the property of the County and as such are to be used solely for job-related reasons concerning official County business. The use of these electronic communication systems and equipment for personal or non-job-related purposes is strictly prohibited.

The County recognizes that family and other emergencies may occasionally occur, and in such instances, the use of telephones for personal purposes is permitted, but the frequency and duration of such calls should be kept to a minimum. Employees should ask family members and friends not to call them at work unless it is an emergency. Personal long distance calls are prohibited except with the permission of the employee's supervisor, and the employee must reimburse the County for any personal long distance calls. Employees should use a personal phone during breaks and lunch for personal phone calls.

Employees are not permitted to use a code or password, access a message or file, or view or retrieve any stored communication unless authorized to do so or unless they have received prior clearance from their supervisor. All codes and passwords are the property of the County, and an employee may not use a code or a password that has not been issued to him or her or that is unknown to the County or Department. Employees should keep their codes and passwords confidential and not disclose them to anyone except the supervising County official, Department Head, or supervisor.

Employees are encouraged to use authorized electronic communication systems and equipment to assist them in performing their jobs. However, such use is a privilege and not a right and it must be done properly and ethically in accordance with all applicable licenses, copyrights, patents, rules, laws and regulations. Employees are responsible for the content of all text, messages, information and communications that they send or receive. Employees should not disclose messages, information or other communications to other employees or individuals who are not authorized to receive them. The improper or unethical use or misuse of any electronic communication systems and equipment will not be tolerated. Employees who violate this policy and use County electronic communication systems for personal purposes do so at their own risk.

In addition to the foregoing, employees are prohibited from: (1) creating, accessing, sending or receiving messages, jokes, pictures, images or other data or material or communication that may be considered pornographic, obscene, sexist, racist, harassing,

malicious, threatening, offensive, disruptive, defamatory, inflammatory, indecent, disparaging, illegal or that would violate the County's Sexual and Other Discriminatory Harassment Policy (See Section 6.9); (2) browsing in restricted content Web or other computer sites; (3) downloading any data or material which is not directly related to the employee's job without prior supervisory approval; (4) downloading software or application programs without prior supervisory approval (because of the potential for embedded viruses, interference with the County's software/application programs, and/or untested software/applications); (5) participating in Web-based or other surveys without prior supervisory approval; (6) using subscription-based services without prior supervisory approval; (7) copying or disseminating copyrighted matters; and (8) receiving, duplicating, retrieving, removing, copying, or altering any file, message, password, code, program, and the like without proper authorization. County employees are not permitted to use County networks, systems and equipment to create, post to or broadcast to any blogs, podcasts, webcasts or any similar methods of transmission, regardless of whether the content is work-related or not.

Employees have no expectation of privacy in connection with the use of these electronic communication systems and equipment or with the creation, transmission, receipt or storage of information therein. At its discretion and without notice, the County may monitor (i.e. read, listen, view, retrieve, delete) the use of these electronic communication systems and equipment and the information therein to insure that such use is consistent with this policy, consistent with the County's legitimate business and government interests, and for other legitimate purposes. Employees should be aware that, even when a message, file, document or other communication is erased or when a Web site or program is closed, it is still possible to access or to recreate the message, file, document or other communication or to locate the closed Web site or program.

Employees suspecting or learning of any improper use of electronic communication systems and equipment or any violation of this policy should report it immediately to their supervisor. Employees who violate this policy are subject to disciplinary action up to and including termination.

No Tobacco Use

Section 6.17

Compelling medical evidence shows that smoking, exposure to second-hand smoke, and the use of other tobacco products poses significant health risks and hazards to all people and adversely affects the working environment. Smoking and tobacco use also poses a fire threat and leads to unsanitary and unclean conditions. In order to maintain a comfortable and healthy working environment and to provide for the health, safety and welfare of all of the County's employees, citizens and visitors, all buildings and work areas owned or operated by the County are declared to be tobacco-free, and tobacco use on the premises of such county buildings or work areas is prohibited. Violation of this policy may result in disciplinary action up to and including termination.

Travel/Expense Reimbursement

Section 6.18

The County will reimburse employees for reasonable and authorized expenses incurred while traveling on official County business. All expenses should be approved in advance to the extent possible. Claims for travel/expense reimbursement should be submitted monthly on forms provided by the Finance Department or by the employee's own department. Claim forms must be signed by the employee and the employee's supervisor. Receipts for all claimed expenses should be attached to the claim form. Employees using their personal vehicles for authorized travel will be reimbursed on a per mile basis at the existing mileage rate. Travel expenses (excluding mileage and lodging) cannot exceed a maximum of Thirty Dollars (\$30.00) per day.

Claims for lodging costs should be submitted in advance to the Finance Department. The cost of lodging will be paid directly to the facility. Employees should use lodging facilities that offer a government rate. The County encourages employees to improve their technical and professional skills and knowledge by attending job-related conferences, workshops, seminars and training sessions. With prior approval from the employee's supervisor, the County will pay for the cost of these programs by paying the fee directly to the sponsoring company.

ACKNOWLEDGMENT OF RECEIPT AND UNDERSTANDING

I have received a copy of the Policy and Procedure Handbook for Loudon County Government dated December 2011 ("Handbook"). I agree to read and keep my Handbook for future reference and abide by the policies, procedures and rules outlined in the Handbook. I understand that my employment is at-will; that this Handbook does not affect my at-will employment status; that this Handbook is not an employment agreement or contract; that this Handbook does not bestow any property right or other rights to employment or employment benefits; that Loudon County has the right to make revisions to the Handbook or to its other policies at any time and without prior notice; that any subsequent amendments to this Handbook will be on file in the County Clerk's office; and that Loudon County has the right to apply or not to apply these policies in individual cases in its absolute discretion.

I understand and agree that the County has a zero tolerance policy for workplace harassment, that I must abide by this requirement and that I have a duty to report any complaints of harassing conduct or retaliation to the County Mayor, currently Estelle Herron, or Employee Benefits, currently Tammy Reynolds.

Finally, I understand that I am subject to drug and alcohol testing as more fully explained in the Exhibits to this Handbook or, where applicable, to the policies implemented by other County officials pursuant to Tenn. Code Ann. §§ 5-23-101 *et seq.*

Employee Handbook received on _____

Employee Name (print): _____

Employee Signature: _____

LOUDON COUNTY
DRUG AND ALCOHOL
TESTING PROCEDURES

December ____, 2011

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LOUDON COUNTY
DRUG AND ALCOHOL
TESTING PROCEDURES

Revised: December ____, 2011

I. PURPOSE:

This document establishes the procedures for implementing the drug and alcohol testing required under Loudon County's ("the County") Department of Transportation Drug and Alcohol Abuse Policy (hereinafter "DOT Policy"), the provisions of which are adopted and incorporated herein by reference. These procedures focus primarily on ensuring implementation of testing in accordance with the Procedures for Transportation Workplace Testing Programs, 49 CFR Part 40 (hereinafter "Part 40"). Where the regulations of Part 40 are updated or conflict with these Procedures in any way, the regulations of Part 40 control, and the selected laboratory will follow Part 40 regulations.

Loudon County also maintains its own separate General Drug and Alcohol Abuse Policy ("General Policy") for all of its employees, the provisions of which are adopted and incorporated herein by reference. The General Policy is not required by DOT but rather is solely the policy of Loudon County. These Procedures, to the extent possible and practicable, will also be utilized to implement the County's General Policy, except as provided otherwise in that policy or these procedures.

II. RESPONSIBILITY:

Loudon County's Mayor, working in cooperation and consultation with appointed and elected County officials as defined in the General Policy, has the immediate responsibility for the County's drug and alcohol testing program as a part of his or her overall responsibilities. Loudon County's Mayor has the chief executive responsibility for the operation of the County and thus has ultimate responsibility for this program.

Loudon County's Mayor or designee also has the functional responsibility of coordinating all testing results with the Medical Review Officer ("MRO"); appropriately handling within the County the results reported on applicants and employees; and for coordinating with the appropriate supervisors relative to positive results for an employee in a covered position as required by DOT regulations. The County's Mayor or designee is also responsible for keeping records relating to drug and alcohol testing, for coordination and initiation of testing of employees under Return to Duty Agreements, and, in cooperation and consultation with appointed and elected County officials, for handling disciplinary actions occurring as a result of a refusal to be tested, a positive test or a violation of the County's policies.

The MRO is responsible for receiving and reporting back to Loudon County's Designated Employer Representative (DER) both negative and positive test results from the laboratory, interpreting positive test results and comparing them with the individual medical histories and other relevant biomedical information provided to the MRO, before reporting a confirmed

positive to Loudon County, and other responsibilities as more fully set forth in the County's policies and these procedures.

The collectors, the Mayor and Employee Benefits have the responsibility for seeing that the taking, handling and testing of specimens is done in accordance with the County's policies, these procedures and Part 40.

The designated Loudon County representatives or officials for the purpose of receiving and handling drug and alcohol testing results and other information in a confidential manner are Loudon County's Mayor and the County's DER (hereinafter referred to as Loudon County's designated representative" or "Loudon County's designated official").

III. DEFINITIONS:

1. "Adulterated specimen" means a specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.
2. "Affiliate" means any persons are affiliates of one another if, directly, or indirectly, one controls or has the power to control the other, or a third party controls or has the power to control both. Indicators of control include but are not limited to: interlocking management or ownership; shared interest among family members; shared facilities or equipment; or common use of employees. Following the issuance of public interest exclusion, an organization having the same or similar management, ownership or principal employees as the service agent concerning whom a public interest exclusion is in effect is regarded as an affiliate. This definition is used in connection with the public interest exclusion procedures of Subpart R of Part 40.
3. "Air blank" means in evidential breath testing devices (EBTs) using gas chromatography technology, a reading of the devices internal standard. In all other EBTs, a reading of ambient air containing no alcohol.
4. "Alcohol" or "Alcoholic beverage" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.
5. "Alcohol concentration" means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.
6. "Alcohol confirmation test" means a subsequent test using an EBT, following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration.
7. "Alcohol screening device" or "ASD" means a breath or saliva device, other than an EBT, that is approved by the National Highway Safety Administration (NHTSA) and placed on a conforming products list (CPL) for such devices.

8. "Alcohol screening test" means an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.
9. "Alcohol testing site" means a place selected by Loudon County where employees present themselves for the purpose of providing breath or saliva for an alcohol test.
10. "Alcohol use" means the drinking or swallowing of any beverage, liquid mixture or preparation, including any medication, containing alcohol.
11. "Aliquot" means a fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.
12. "Blind specimen" or "blind performance specimen" means a specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from an employee specimen.
13. "Breath Alcohol Technician" or "BAT" means an individual who instructs and assists individuals in the alcohol testing process and operates an EBT.
14. "Cancelled test" means a drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.
15. "Chain of Custody" means the procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF) for DOT testing. For non-DOT tests, the appropriate Tennessee Drug Free Workplace-compliant form is utilized.
16. "Collection Container" means a container into which the employee urinates to provide the urine sample used for a drug test.
17. "Collection Site" means a place designated by the employer where individuals present themselves for the purpose of providing a urine specimen for a drug test.
18. "Collector" means a person who instructs and assists individuals at a collection site and who receives and makes an initial inspection of the specimen provided by those individuals, and who initiates and completes the CCF.
19. "Confirmatory drug test" means a second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.
20. "Confirmatory validity test" means a second test performed on a different aliquot of the original urine specimen to further support a validity test result.
21. "Consortium/Third-party administrator" or "C/TPA" means a service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning

- the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members, C/TPAs are not "employers" for purposes of Part 40.
22. "Continuing education" means training for medical review officers (MROs) and substance abuse professionals (SAPs) who have completed qualification training and are performing MRO or SAP functions, designed to keep MROs and SAPs current on changes and developments in the DOT drug and alcohol testing program.
 23. "Designated employer representative" or "DER" means an employee authorized by Loudon County to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation process. The DER also receives test results and other communications for Loudon County, consistent with Part 40. Service agents cannot act as DERs.
 24. "Dilute specimen" means a urine specimen with creatinine and specific gravity values that are lower than expected for human urine.
 25. "DHHS" means the Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.
 26. "DOT," "The Department," or "DOT agency" means the Department of Transportation and encompasses all DOT agencies. These terms also include any designee of a DOT agency.
 27. "Drugs" means the drugs for which tests are required under Part 40 and the DOT agency regulations which include marijuana, cocaine, amphetamines, phencyclidine (PCP), opiates, 6-acetylmorphine (6-AM), methylenedioxymethamphetamines (MDMA) or any drugs listed in the Loudon County General Policy for a drug test given under the County's General Policy.
 28. "Employee" means any person who is subject to drug and/or alcohol testing under either the Loudon County General Policy or the DOT Policy. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under this part, the term "employee" has the same meaning as the term "donor" found on the CCF and related guidance materials produced by the Department of Health and Human Services.
 29. "Error correction training" means training provided to BATs, collectors, and screening test technicians (STTs) following an error that resulted in the cancellation of a drug or alcohol test. Error correction training must be provided in person or by a means that provides real-time observation and interaction between the instructor and trainee.
 30. "Evidential breath testing device" or "EBT" means 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 of Evidential Breath Measurement Devices (CPL) for "Evidential Breath Measurement Devices" and identified on the CPL as conforming with the model specifications available from the NHSTA's Traffic Safety Program.

31. "Federal Drug Testing Custody and Control Form" or "CCF" means the five-part form used to document every urine collection required by the DOT drug testing program.
32. "Initial drug test" (also known as "Screening drug test"). The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.
33. "Initial specimen validity test" means the first test used to determine if a urine specimen is adulterated, diluted, substituted or invalid.
34. "Invalid drug test" means a result reported by an DHHS-certified laboratory in accordance with the criteria established by DHHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.
35. "Laboratory" means any U.S. laboratory certified by DHHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under Part 40.
36. "Limit of detection" or "LOD" means the lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.
37. "Limit of quantitation" means for quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.
38. "Medical Review Officer (MRO)" means a licensed physician responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.
39. "Negative result" means any result reported by a DHHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.
40. "Non-negative specimen" means a urine specimen that is reported as adulterated, substituted, positive [for drug(s) or drug metabolite(s)], and/or invalid.

41. "ODAPC" means the Office of Drug and Alcohol Policy and Compliance which is responsible for the coordinating drug and alcohol testing program matters within the DOT.
42. "Oxidizing adulterant" means a substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or drug metabolites, or affects the reagents in either the initial or confirmatory drug test.
43. "Positive result" means the result reported by a DHHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.
44. "Primary specimen" means in drug testing, the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.
45. "Qualification training" means the training required in order for a collector, BAT, MRO, SAP, or STT to be qualified to perform their functions in the DOT drug and alcohol testing program. Qualification training may be provided by any appropriate means (e.g. classroom instruction, internet application, CD-ROM, video).
46. "Reconfirmed" means the result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.
47. "Refresher training" means the training required periodically for qualified collectors, BATs, and STTs to review basic requirements and provide instruction concerning changes in technology (e.g. new testing methods that may be authorized) and amendments, interpretations, guidance and issues concerning Part 40 and DOT agency drug and alcohol testing regulations. Refresher training can be provided by any appropriate means (e.g. classroom instruction, internet application, CD-Rom, video).
48. "Rejected for testing" means the result reported by a DHHS-certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that is not corrected.
49. "Screening drug test." See Initial drug test definition above.
50. "Screening test technician" or "STT" means a person who instructs and assists employees in the alcohol testing process and operates an ASD.
51. "Secretary" means the Secretary of Transportation or the Secretary's designee.
52. "Service agent" means any person or entity, other than an employee of the employer Loudon County, who provides services specified under Part 40 to employers and/or employees in connection with DOT drug and alcohol testing

requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet the qualifications set forth in applicable sections of this Part 40. Service agents are not employers for the purposes of Part 40.

53. "Shipping Container" means a container that is used for transporting and protecting urine specimen bottles and associated documents from the collection site to the laboratory.
54. "Specimen Bottle" means the bottle, which after being labeled and sealed according to the procedures in this Part 40, is used to hold the urine sample during transportation to the laboratory.
55. "Split Specimen" means in drug testing, a part of the urine that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.
56. "Split specimen collection" means a collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).
57. "Stand-down" means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.
58. "Substance abuse professional" or "SAP" means a person who evaluates employees who have violated a DOT or Loudon County drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.
59. "Substituted specimen" means a urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.
60. "Verified test" means a drug test result or validity testing result from a DHHS-certified laboratory that has undergone review and final determination by the MRO.

For additional definitions, see Loudon County's Drug and Alcohol policies.

IV. METHOD OF TESTING

For drug testing under Loudon County's DOT Policy, urine samples will be screened for the following prohibited drugs or classes of drugs: marijuana, cocaine, opiates, 6-acetylmorphine, amphetamines, phencyclidine, and methylenedioxymethamphetamines (MDMA). Other controlled substances will not be tested for unless the testing is pursuant to a

DOT agency approval, if testing for those substances is authorized under agency regulations and if the DHHS has established an approved testing protocol and positive threshold for each substance. Testing may include procedures reasonably incident to analysis of the specimen for the above controlled substances (e.g., determination of pH or tests for specific gravity, creatinine concentration, or presence of adulterants). The initial test performed on the urine will be the Enzyme-Multiplied-Immunoassay Technique (EMIT) screen which will be used to eliminate negative urine specimens from further consideration. All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques by quantitative analysis at the cutoff values listed below. The cutoff levels (positive tests) are as follows:

	EMIT	GC/MS
Marijuana	50 ng/ml	15 ng/ml
Cocaine	150 ng/ml	100 ng/ml
Opiates	2000 ng/ml	2000 ng/ml
6-Acetylmorphine	10 ng/ml	10 ng/ml
Phencyclidine	25 ng/ml	25 ng/ml
Amphetamines	500 ng/ml	250 ng/ml
MDMA	500 ng/ml	250 ng/ml

Under Loudon County's General Policy, it will test for the following prohibited drugs at the following cutoff levels:

	EMIT	GC/MS
Amphetamines	1,000 ng/ml	500 ng/ml
Barbiturates	300 ng/ml	300 ng/ml
Benzodiazepines	300 ng/ml	300 ng/ml
Marijuana Metabolites	50 ng/ml	15 ng/ml
Cocaine Metabolites	300 ng/ml	150 ng/ml
Methadone	300 ng/ml	300 ng/ml
Methaqualone	300 ng/ml	300 ng/ml
Opiates	2000 ng/ml	2000 ng/ml
Phencyclidine (PCP)	25 ng/ml	25 ng/ml
Propoxyphene	300 ng/ml	300 ng/ml

Prior to testing, employees will be informed as to whether they are being tested pursuant to Loudon County's DOT Policy, its General Policy, or both. Employees who are tested under both drug policies will be required to void into separate containers for each test.

Alcohol testing will be conducted using an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration. If the result on the initial test is 0.02 or greater, a second confirmation test will be administered not less than 15 nor more than 30 minutes after the initial test. A result of 0.04 or above on a confirmation test is considered positive. A result of 0.02 to 0.04 will result in the employee's removal from safety-sensitive functions in accordance with Loudon County's policies.

V. GENERAL DRUG TESTING PROCEDURES:

A. PREPARATION FOR TESTING

Loudon County, in conjunction with its contractors, will maintain the following procedures for collection, shipment and accessioning of urine specimens.

1. Urine Collection Personnel. Collectors meeting the requirements of Part 40 are the only persons authorized to collect urine specimen for DOT drug testing. An immediate supervisor of the tested employee may not act as the collector when that employee is tested (unless no other collector is feasibly available and the DOT agency drug and alcohol regulations permit this). An individual that works for a DHHS-certified laboratory and could link the employee with a urine specimen, drug testing result, or laboratory report may not act as the collector for the employee being tested. When the collection is observed, the collector (whether a medical person or not) must be of the same gender as the donor. When a collection is conducted at a site that provides less than complete privacy for the donor (e.g., a stall or other partially private enclosure) and the collector is a non-medical person, then the collector must be the same gender as the donor.
2. Information to Collectors. Loudon County's service agent or C/TPA must ensure that the collector has the following information when conducting a urine specimen collection: (a) full name of the employee being tested; (b) the employee's SSN or ID number; (c) laboratory name and address; (d) employer name, address, phone and fax; (e) required DER information at § 40.35 of Part 40; (f) MRO name, address, phone number and fax number; (g) DOT agency which regulates the employee's safety-sensitive duties; (h) the test reason, as appropriate (pre-employment, random, reasonable suspicion/reasonable cause, post-accident, return-to-duty, and follow-up); (i) whether the test is to be observed or not; and (j) (optional) C/TPA name, address, phone and fax number.
3. Urine Custody and Control Form. The standard Federal Drug Testing Custody and Control Form ("CCF") must be used to document every urine collection required by the DOT drug testing program. The CCF must be a five-part carbonless manifold form. The collector shall not use a non-Federal form or an expired Federal Form for a DOT drug test. The collector must use separate non-Federal forms for non-DOT collections.
4. Specimen Bottles: Clean, single-use containers that must be large enough to hold at least 35 ml., must have screw-on or snap-on caps that prevent seepage of the urine during shipment, must have markings clearly indicating the appropriate levels, must be designed with tamper-evident bottle seals with no damage when employee initials it, and must be wrapped separately.
5. Shipping Container. Use of a shipping container designed to adequately protect the specimen bottle from shipment damage in which the specimens and associated paperwork may be transferred and which can be sealed and initialed to prevent undetected tampering will be employed. The split specimen and associated paperwork will be sealed in the same shipping container as the primary specimen and initialed to prevent undetected tampering.
6. Written procedures. Written procedures and training will clearly emphasize that the collector is responsible for maintaining the integrity of the specimen collection and transfer process, carefully ensuring the modesty and privacy of the employee, and is to avoid any conduct or remarks that might be construed as accusatorial or otherwise offensive or

inappropriate. As required under Part 40, all collectors shall receive training and shall demonstrate proficiency in the application of Part 40 prior to serving as a collector. Collectors will be provided with detailed, clear instructions on the collection of specimens. Loudon County representatives will also be provided standard written instructions setting forth their responsibilities.

B. SPECIMEN COLLECTION PROCEDURES

1. Collection Sites. The designated collection site shall meet the requirements under Part 40 and will have all the necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage and shipping or transportation of urine specimens to a certified drug testing laboratory, and a suitable clean surface for writing. Should an independent medical facility or mobile facility be utilized as a collection site, the procedures and requirements outlined in these procedures must be met. The preferred collection site shall be a single-toilet room location having a full-length privacy door within which private urination can occur. No one but the employee may be present in the room during the collection, except for an observer in a directly observed collection. The site must also have a source of water for washing hands which, if practicable, should be external to the enclosure where urination occurs. If an external source is not available, then all sources of water and other substances that could be used for adulteration and substitution (e.g. water faucets, soap dispensers) and providing moist towelettes outside the closed room.

Besides the preferred single-toilet room, a multistall restroom may also be used a collection site. Such a collection site must provide substantial visual privacy and meet all other applicable requirements as set forth in this Section and under Part 40. No one but the employee may be present in the multistall restroom during the collection, except for the monitor (in a monitored collection) or an observer (in a directly observed collection). For a multistall restroom, a collector must ensure that either (1) all sources of water and other substances that could be used for adulteration and substitution are secure and place bluing agent in all other toilets/or secure the toilets to prevent access; or (2) conduct all collections in the facility as monitored collections (this is only circumstance in which you may conduct a monitored collection).

2. Security. Loudon County and any collector will take steps to prevent unauthorized access which could compromise the integrity of the collection process or the specimen. The collection site must be secured before each collection by securing all water sources to make them unavailable to employees, ensuring that the water in the toilet is blue, ensuring that no soap, disinfectants, or other possible adulterating specimens are present, inspecting the site to make sure no foreign substances are present, taping or otherwise shutting any moveable toilet tank top, or putting bluing in the tank, ensuring that undetected access is not possible, and securing all areas and items that appear suitable for concealing contaminants. To avoid distraction that could compromise security, a collector is limited to conducting a collection for only one employee at a time. However, if that employee is experiencing a "shy bladder" situation, then a collector may conduct a collection for another employee. If the collection site facility is dedicated solely to urine collection, it shall be secure at all times. Following each collection, a collector shall ensure the collection site's continued integrity. If a facility cannot be dedicated solely to drug testing, the portion of the facility used for testing shall be secured during drug testing. A facility normally used for other purposes, such as a public rest room or hospital examining room, may be secured by visual inspection to ensure other persons are not present and undetected access (e.g., through a rear door not in the view of the

collection site person) is not possible. Security during collection may be maintained by effective restriction of access to collection materials and specimens. In the case of a public rest room, limited-access signs must be posted at the facility during the entire collection procedure to avoid embarrassment to the employee or distraction of the collector. If it is impractical to maintain continuous physical security of a collection site from the time the specimen is presented until the sealed mailer is transferred for shipment, then the specimen shall remain under the direct control of the collector from delivery to its being sealed in the mailer, and the mailer shall be immediately mailed, maintained in secure storage, or remain under the personal control of the collection site person until mailed.

3. Chain of Custody. The chain of custody block of the CCF shall be properly executed by the authorized collection site personnel upon receipt of specimens. Handling and transportation of urine specimens from one authorized individual or place to another shall always be accomplished through chain of custody procedures hereinafter described. To the greatest extent possible, a collector shall keep the employee's collection container within the view of the collector and employee between the time the employee has urinated and the specimen is sealed. The collector shall ensure that he or she is the only person handling the specimen in addition to the employee before it is poured into the bottles and sealed with tamper-evident seals. The collector must maintain personal control over each specimen and CCF throughout the collection process. Once in the sealed specimen bottle, every effort shall be made by the collector to minimize the number of persons handling specimens.

4. Unauthorized Access. No unauthorized personnel shall be permitted in any part of the designated collection site when urine specimens are collected or stored. Only employees being tested, collectors and other collection site workers, DERs, employee and employer representatives authorized by Loudon County, and DOT agency representatives are authorized personnel permitted at the collection site. All authorized persons are under the supervision of a collector at all times when permitted at the collection site. A collector may remove any person who obstructs, interferes with, or causes a delay in the collection process. Only the collector may handle specimens prior to their securement in the mailing container or monitor or observe a specimen collection. In order to promote security of specimens, avoid distraction of the collection site person and ensure against any confusion in the identification of specimens, the collector shall have only one employee under his or her supervision at any time. For this purpose, a collection procedure is complete when the specimen bottles have been sealed and initialed, the CCF has been executed, and the employee has departed the site (or, in the case of an employee who was unable to provide a complete specimen, has entered a waiting area).

5. Privacy. Procedures for collecting urine specimens shall allow individual privacy unless there is reason to believe that a particular employee may alter or substitute the specimen to be provided. The following circumstances are the exclusive grounds constituting a reason to believe that an employee subject to the testing under the DOT Policy may alter or substitute the specimen: (i) The employee has presented a urine specimen that falls outside the normal temperature range (32° - 38°C/90° - 100°F), (ii) The last urine specimen provided by the employee (i.e. on a previous occasion) was determined by the laboratory to have a specific gravity of less than 1.003 and a creatinine concentration below 0.2g/L; (iii) The collector observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (e.g., substitute urine in plain view, blue dye in specimen presented, etc.); or (iv) The employee has previously been determined to have used a controlled substance without medical authorization and the particular test was being conducted under a DOT agency regulation providing for follow-up testing upon or after return to service. In non- DOT testing, directly

observed or monitored collection may be required any time the employer or collector has reason to suspect that the employee may attempt to substitute or alter a specimen.

A higher-level supervisor of the collector, or a designated employer representative, shall review and concur in advance with any decision by a collector to obtain a specimen under the direct observation of a same gender collector based upon the above circumstances.

6. Integrity and Identity of Specimen. Precautions will be taken to ensure that urine specimens are not adulterated or diluted during the collection procedure and that information on the bottles and on the CCF can identify the employee from which the specimen was collected. The following procedures and minimum precautions shall be taken to ensure that unadulterated specimens are obtained and correctly identified.

a. To deter the dilution of specimens at the collection site, toilet bluing agents shall be placed in toilet tanks wherever possible, so the reservoir of water in the toilet bowl always remains blue. Where practicable, there shall be no other source of water (e.g., no shower or sink) in the enclosure where urination occurs. If there is another source of water in the enclosure, it shall be effectively secured or monitored to ensure it is not used as a source for diluting the specimen.

b. When an employee arrives at the collection site, the collector shall ensure that the individual is positively identified as the employee selected for testing (e.g., through presentation of photo identification or identification by Loudon County representative). If the employee's identity cannot be established, the collector must contact the DER to verify the identity of the employee. If the employee requests, the collector shall show identification to the employee, but the employee is only required to show his/her name and employer's name.

c. If the employee fails to arrive at the collection site at the assigned time, the collector shall contact Loudon County's DER to obtain guidance on the action to be taken. If the employee has arrived outside the interval within which the DER has determined the employee is authorized to arrive, the DER will be informed that the employee has not reported for the testing.

d. The collector shall explain the basic collection procedure to the employee, showing the employee the instructions on the back of the CCF.

e. The collector shall ask the employee to remove any unnecessary outer garments such as a coat jacket that might conceal items or substances that could be used to tamper with or adulterate the employee's urine specimen and leave them in a mutually agreeable location. The employee must empty his/her pockets to ensure that they contain nothing that can be used to adulterate a specimen. If not, the employee can put the belongings back in his/her pocket. The collector shall ensure that all personal belongings such as a purse or briefcase remain with the outer garments. The collector must advise the employee that failure to comply with his/her directions is a refusal to test. The employee must be allowed to retain his or her wallet. Upon request, the collector shall provide the employee a receipt for any personal belongings. A collector may not ask the employee to remove other clothing (e.g. shirts, pants, dresses, underwear), to remove all clothing, or to change into a hospital or examination gown (unless the urine collection is being accomplished simultaneously with a DOT agency-authorized medical examination).

f. The employee shall be instructed to wash his or her hands without any soap and dry his or her hands them prior to urination. After washing hands, the employee shall

remain in the presence of the collector and shall not have access to any water fountain, faucet, soap dispenser, cleaning agent or any other materials which could be used to adulterate or dilute the specimen. The employee shall be allowed to select an individually wrapped or sealed container from the collection kit materials. Either the collector or the employee can break the seal as long as they are both present. Neither the employee nor the collector should break the seal of the specimen bottles yet. The employee may provide the specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy. The collector shall note any unusual behavior or appearance on the CCF.

g. In the exceptional event that an employer-designated collection site is not accessible and there is an immediate requirement for specimen collection (e.g., circumstances requiring a post-accident test), a public rest room may be used in accordance with the following procedures: (i) A collector of the same gender as the employee shall accompany the employee into the public rest room which shall be made secure during the collection procedure; (ii) If possible, a toilet bluing agent shall be placed in the bowl and any accessible toilet tank; (iii) The collector shall remain in the rest room but outside the stall until the specimen is collected; (iv) If no bluing agent is available to deter specimen dilution, the collector shall instruct the employee not to flush the toilet until the specimen is delivered to the collector; and (v) After the collector has possession of the specimen, the employee will be instructed to flush the toilet and to participate with the collector in completing the chain of custody procedures.

h. In an effort to provide the maximum assurance of a valid test and to comply with DOT regulations, Loudon County will use the split sample method of collection for all drug tests.

i. The employee shall urinate into a collection container or a specimen bottle capable of holding at least 60 ml of urine. The collector shall provide the employee with a specimen bottle or collection container and instruct the employee to provide at least 45 ml of urine, not flush the toilet, and return the specimen to the collector as soon as possible after finishing voiding. The collector will also instruct the employee to keep the specimen bottle or collection container in his or her possession while urinating.

j. Upon receiving the specimen from the employee, the collector shall determine if it contains at least 45 ml of urine. If the employee is unable to provide at least 45 ml of urine, the collector shall then ensure that the employee follows the "shy bladder" procedures. The collector will discard the insufficient specimen, except where the insufficient evidence was out of temperature range or showed evidence of adulteration or being tampered with. The collector shall then instruct the employee to drink not more than 40 ounces of fluids distributed reasonably over three (3) hours or until the employee has provided a sufficient specimen, whichever occurs first. It is not a refusal to test if the employee declines to drink. If the employee refuses to make the attempt to provide a new urine sample or leaves the collection site before the collection process is complete, then the collector must discontinue the collection and note that the employee refused to test on the "Remarks" line of the CCF. After the three (3) hours, the employee should be re-tested, using a fresh collection container. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, the fact noted on the "Remarks" line of the CCF, and the collector shall notify Loudon County's DER. Copy 2 of the CCF shall be sent to the MRO and copy 4 of the CCF to the DER within 24 hours or the next business day. The MRO shall refer the employee for a medical evaluation from a licensed physician within five days to develop pertinent information concerning whether the employee's inability to provide a specimen is genuine or constitutes a refusal to test. Upon completion of the examination, the MRO shall report his or

her conclusions to the County in writing. (In pre-employment testing, if the County does not wish to hire the individual, the MRO is not required to make such a referral.)

k. Immediately after the specimen is collected and in the employee's presence, the collector shall measure the temperature of the specimen. The temperature measuring device used must accurately reflect the temperature of the specimen and not contaminate the specimen and should be recorded by marking the "YES" box in the Remarks line of the CCF if the specimen is within range and "NO" if the temperature is out of range. The time from urination to temperature measure is critical and in no case shall exceed four minutes. A specimen temperature outside the range of 32-38° C/90-100°F constitutes a reason to believe the employee has altered or substituted the specimen. If the specimen temperature is outside the acceptable range, the collector must immediately conduct a new collection using direct observation procedures. In such cases, the employee supplying the specimen may volunteer to have his or her oral temperature taken to provide evidence to counter the reason to believe the individual may have altered or substituted the specimen. A collector must process both the original specimen and the directly observed specimen, and send both specimens to the laboratory (even if original specimen has insufficient volume). In the case of a direct observation, the DER and collection site supervisor must be notified as soon as possible that a direct observation test took place and the reasons for doing so. If the employee refuses to provide another specimen, the collector must notify the DER, then discard any specimen the employee previously provided.

l. Immediately after the specimen is collected, the collector shall also inspect the specimen for unusual color, presence of foreign objects or material, or other signs of tampering. Any unusual findings shall be noted on the CCF. The collector must then immediately conduct a new collection using direct observation procedures. The collector must process both the original specimen and the specimen collected using the direct observation method and send both specimens to the laboratory (even if the original specimen has insufficient volume). In the case of a direct observation, the DER and collection site supervisor must be notified as soon as possible that a direct observation test took place and the reasons for doing so. If the employee refuses to provide another specimen, the collector must notify the DER, then discard any specimen the employee previously provided.

m. All collections under DOT agency drug testing regulations must be split specimen collections. If a collection container is used, the collector, in the presence of the employee, will check the box on the CCF indicating that this was a split specimen, and then pour the urine into two specimen bottles. The collector must pour 30 ml into one bottle (the "primary specimen"), and at least 15 ml into the other bottle (the "split specimen"). The collector must place and secure the lids/caps on the specimen bottles, then seal the bottles by placing the tamper-evident bottle seals over the bottle caps/lids and down the sides of the bottles. The collector must then write the date on the tamper-evident bottle seals and discard any leftover urine in the collection container. If a single specimen bottle is used as a collection container, the collector, in the presence of the employee, will pour 15 ml of urine from the specimen bottle into a second bottle (the "split specimen") and retain the remainder (at least 30 ml) in the collection bottle (the "primary specimen").

n. A collection method or system that does not involve the physical pouring of urine from one container or bottle to another by the collector may be utilized so long as it results in the subdivision of the specimen into a primary specimen of 30 ml and a split specimen of at least 15 ml that can be transmitted to the laboratory in accordance with these procedures and Part 40.

o. Both the employee being tested and the collector shall keep the specimens in view at all times prior to being sealed and labeled. The specimens shall be sealed (by placement of a tamper proof seal over the bottle cap and down the sides of the bottle) and dated by the collector in the presence of the employee. If the specimen is transferred to a second bottle, the collector shall request the employee to observe the transfer of the specimen and the placement of the tamper proof seal over the bottle cap and down the sides of the bottle. The employee shall initial the identification labels on the specimen bottles for the purpose of certifying that it is a specimen collected from the employee. The collector shall enter on the CCF all information identifying the specimen, and sign the CCF certifying that the collection was accomplished in accordance with these procedures and DOT regulations.

p. The collector shall ask the employee to read and sign the certification statement on the CCF certifying that the specimen identified as having been collected is in fact the specimen that the employee provided. After reading the statement, the employee shall complete the required information, listing the employee's date of birth, printed name, and day and evening contact telephone numbers. When specified by DOT agency regulation or required by the collection site (other than Loudon County's collection site) or by the laboratory, the employee may also be required to sign a consent or release form authorizing the collection of the specimen, analysis of the specimen for designated controlled substances, and release of the results to the County. The employee may not be required to waive liability with respect to negligence on the part of any person participating in the collection, handling or analysis of the specimen or to indemnify any person for the negligence of others.

q. The collector shall complete the chain of custody portion of the CCF to indicate receipt of the specimen from the employee and shall certify proper completion of the collection, including the name of the delivery service transferring the specimen to the laboratory. Before shipping, the collector should ensure that all copies of the CCF are legible and complete, remove Copy 5 and give it to the employee, place the specimen bottles and Copy 1 of the CCF in the appropriate pouches of the plastic bag, secure both pouches of the plastic bag, and place and seal the plastic bag into shipping container. Send Copy 2 of the CCF to the MRO within 24 hours or the next business day and retain copies 3 and 4 for the DER and Loudon County records for the next 30 days. The urine specimen and chain of custody form are now ready for shipment. If the specimen is not immediately prepared for shipment, the collector shall ensure that it is appropriately safeguarded during temporary storage.

r. While any part of the above chain of custody procedures are being performed, it is essential that the urine specimen and custody documents be under the control of the involved collector. If the involved collector leaves the work station momentarily, the collector shall take along the specimen and CCF or shall secure them. After the collector returns to the work station, the custody process will continue, if the collector is leaving for an extended period of time, the specimen shall be packaged for mailing or collection by a courier before leaving the site. The collector shall not leave the collection site in the interval between presentation of the specimen by the employee and securement of the specimen with identifying labels bearing the employee's specimen identification number and seals initialed by the employee. If it becomes necessary for the collector to leave the site during this particular interval, the collection shall be nullified and a new collection begun.

7. Transportation to Laboratory. Collection site personnel shall arrange for courier pickup and delivery of the collected specimens to the drug testing laboratory as quickly as possible, but in any case within 24 hours or during the next business day.

8. Failure to Cooperate. If the employee refuses to cooperate with the collection process, the collector shall inform Loudon County's DER and shall document the noncooperation on the CCF.

9. Employee Requiring Medical Attention. If the sample is being collected from an employee in need of medical attention (e.g., as part of a post-accident test given in an emergency medical facility), necessary medical attention shall not be delayed in order to collect the specimen.

10. Use of Chain of Custody Forms. A chain of custody form (e. g., the CCF and a laboratory internal chain of custody document, where applicable) shall be used for maintaining control and accountability of each specimen from the point of collection to final disposition of the specimen. The date and purpose shall be documented on the form each time a specimen is handled or transferred and every individual in the chain shall be identified. Every effort shall be made to minimize the number of persons handling specimens. Since specimens and documentation are sealed in containers that would indicate any tampering during transit to the laboratory, and since couriers, express carriers, and postal service personnel do not have access to the chain of custody forms, there is no requirement that such personnel document chain of custody for the shipping container during transit. Nor is there a requirement that there be a chain of custody entry when a specimen which is sealed in such a shipping container is put into or taken out of secure storage at the collection site prior to pickup by such personnel. This means that the chain of custody is not broken, and a test shall not be canceled, because couriers, express carriers, postal service personnel, or similar persons involved solely with the transportation of a specimen to a laboratory, have not documented their participation in the chain of custody documentation or because the chain of custody does not contain entries related to putting the specimen into or removing it from secure temporary storage at the collection site.

C. SHY BLADDER PROCEDURES

The term "shy bladder" refers to a situation when the employee does not provide a sufficient amount of urine (45 mL) for a DOT-required test. If an employee tells the collector, upon arrival at the collection site, that he or she cannot provide a specimen, the collector must still begin the collection procedure regardless of the reason given. The collector should tell the employee that most individuals can provide 45 mL of urine, even when they think they cannot urinate, and direct the employee to make the attempt to provide the specimen. If the employee provided an initial insufficient specimen, the collector discards the urine and annotates in the "Remarks" line the time when the employee provided the insufficient specimen. If, however, the initial insufficient specimen is out of temperature range or shows evidence of adulteration or tampering, the collector completes the collection process, sends the insufficient specimen to the laboratory and immediately initiates another collection under direct observation. The collector explains to the employee the process for a shy bladder collection and urges the employee to drink up to 40 ounces of fluids, distributed reasonably through a time period of up to three hours, or until the individual has provided a sufficient urine specimen, whichever occurs first. **It is not a refusal to test if an employee declines to drink in a DOT testing situation.** It is a refusal to test to refuse to drink in non-DOT testing. **If the employee refuses to make the attempt to provide a new urine specimen or leaves the collection site before the collection process is completed,** the collector must discontinue the collection, note the fact on the "Remarks" line of the CCF and immediately notify the County's representative. **This is a refusal to test.** If the employee has not provided a sufficient specimen within three hours of the

first unsuccessful attempt, the collector must discontinue the collection, note the fact on the "Remarks" line of the CCF and immediately notify the County's representative. The collector then sends Copy 2 of the CCF to the MRO and Copy 4 to the County's representative, within 24 hours or the next business day.

D. DIRECTLY OBSERVED COLLECTION

A directly observed collection procedure is the same as a routine collection procedure with the additional requirement that an observer physically watches the employee urinate into the collection container. The observer must be the same gender as the employee; *there are no exceptions to this requirement*. An observed collection is required when:

- (1) The County or its representative directs the collector (or collection site) to conduct a collection under direct observation. The employer is required to conduct a directly observed collection when the laboratory reports an invalid specimen and the MRO reports that there was not an adequate medical explanation for the result, or because the split specimen test could not be performed (e.g., split lost, inadequate volume). The employer may direct an observed collection if the test is a return-to-duty or follow-up test. An employee may not "volunteer" to have his or her specimen collected under direct observation for a non-DOT test.
- (2) The collector observes materials brought to the collection site or the employee's conduct clearly indicated an attempt to tamper with a specimen.
- (3) The temperature on the original specimen was out of range or the specimen appeared to have been tampered with.

In non-DOT tests, the employer or collector may require a directly observed collection whenever there is reason to believe the employee may alter or substitute a test.

The collector may serve as the observer when the collector is the same gender as the employee. If not, an observer of the same gender as the employee must be used.

An observed collection is conducted in the following manner:

- (1) The collector must explain to the employee why a directly observed collection is being conducted. If the directly observed collection is requested by the employer, the collector may state the reason (if known), or may only state that the employer requested a directly observed collection.
- (2) A collector must complete a new CCF for the directly observed collection and mark the "reason for test" box (step 1, the same as for the first collection), unless it is a return-to-duty or follow-up test.
- (3) The collector then checks the "observed" box and enters the reason in the "remarks" line and the name of the observer if it is someone other than the collector.
- (4) Where two sets of specimens are being sent to the laboratory because of suspected tampering, the collector enters on the "remarks" line of the CCF for

each specimen a notation to this effect and the CCF specimen I.D. number of the other specimen.

- (5) The collector, if the same gender as the employee, or the observer, enters the restroom or facility where urination occurs with the employee. If it is a multi-stall restroom, the collector/observer must enter the stall with the employee. The collector/observer must watch the employee urinate into the collection container. Specifically, the collector/observer must personally and directly watch the urine go from the employee's body into the collection container.
- (6) After the employee has completed urinating into the collection container, the employee and observer leave the enclosed toilet stall/restroom and the employee hands the collection container directly to the collector. The observer must maintain visual contact until the employee hands the container to the collector. If the observer is the collector, the collector may receive the collection container from the employee while they are in still in the enclosed toilet stall/restroom.
- (7) If the employee declines to allow a directly observed collection required or permitted by Part 40 to occur, the collector discards any specimen the employee provided previously and notifies the County's representative as soon as possible. This is a refusal to test.
- (8) If the collector learns that a directly observed collection should have taken place, but did not, the collector must inform the employer that the employee must be directed to return for an immediate recollection under direct observation.

E. MONITORED COLLECTIONS

A monitored collection is one conducted under less than completely private conditions, utilizing a multi-stall restroom. If there is no practical workplace outside of the restroom, the collector may set up an area within the multi-stall restroom to be used as a work area. A monitored collection is conducted in the following manner:

- (1) The collector must secure the room being used for the monitored collection so that no one except the employee and monitor can enter until after the collection has been completed.
- (2) The monitor must be the same gender as the employee, unless the monitor is a medical professional. The monitor can be a different person from the collector and need not be a qualified collector.
- (3) If someone other than the collector is to monitor the collection procedure, the collector must verbally instruct the person to use the following procedures (if the collector is the monitor, the collector must also follow these procedures):
 - (a) A monitor stands outside the stall and does not watch the employee urinate. If the monitor hears sounds or makes observations indicating an attempt to tamper with the specimen, there must be an additional collection conducted under direct observation.

- (b) A monitor must ensure that the employee takes the collection container directly to the collector as soon as the employee exits the enclosure.
- (4) When someone besides the collector has acted as the monitor, the collector must note that person's name in the "Remarks" line of the CCF.
- (5) If the employee declines to permit a collection authorized under Part 40 to be monitored, it is a refusal to test.

F. PROBLEM COLLECTIONS

CATHETERIZATION

If an employee needs medical attention (e.g., an injured employee in an emergency medical facility who is required to have a post-accident test), treatment takes priority and should not be delayed to take collect a specimen. If an employee is catheterized as part of a medical procedure, once the employee's medical condition is stabilized and the employee can give his or her consent to the collection, a urine specimen should be obtained from that employee. Procedures similar to those listed below may be used from catheterization when an external urine bag is involved. A urine specimen must not be collected by catheterization or any other means from an unconscious employee to conduct a DOT-required drug test. Catheterization of a conscious employee to obtain a urine specimen for a DOT-required test is also not authorized. However, an employee who normally voids through intermittent or self-catheterization is required to provide a specimen if he or she is required to produce a specimen for a DOT test. If able to, the employee may provide the specimen directly from the catheter into the collection container in the privacy of a restroom. If an employee who normally voids through self-catheterization declines to do so, this is a refusal to test.

EXTERNAL URINE BAG

The following procedures should be used in the collection of a specimen from an employee who has a medical condition requiring an indwelling catheter or excretion of urine into an external bag. The urine specimen should be a freshly voided specimen. An employee with an indwelling catheter may urinate directly into a collection container. In the case of an employee with an external bag, the employee should be asked to empty his or her bag in the privacy of a restroom, show the empty bag to the collector, and then drink sufficient fluids at the collection site to provide 45 ml of urine, which can be poured by the employee from the bag into a collection container in the privacy of a restroom. In this case, temperature of the specimen would not be a critical factor.

This procedure would not have to be done in the medical environment/health clinic or by a collector of the same gender, though the collector may try to accommodate the employee if the employee requests this and if it would not significantly delay the collection process. An employer may establish or modify procedures as needed to permit the employee to provide a specimen consistent with the employee's privacy while still meeting regulatory requirements. In the case of a collection based on a post-accident or reasonable suspicion requirement, the collector may attempt to honor the employee's request if the collection can be accomplished within a reasonable timeframe.

The above scenario assumes the employee's medical condition is not one that decreases or completely prohibits renal output, and that the employee can produce normal amounts of urine excreted into an internal bag. Therefore, an employee with this or similar medical conditions would be subject to the same testing requirements and to the "shy bladder" protocol as an employee with no medical condition. If an employee who normally voids in this manner declines to provide a urine specimen under these conditions, it is a refusal to test.

G. TEMPERATURE

The collector should check the temperature of the specimen as soon as the employee hands over the specimen, but no later than 4 minutes after the employee comes out of the restroom. The acceptable range is 32-38 degrees C or 90-100 degrees F. Temperature is determined by reading the strip originally affixed to or placed on the outside of the collection container after the employee hands the specimen to the collector.

- (a) If the temperature is within acceptable range, the "yes" box is marked on step 2 of the CCF.
- (b) If the temperature is outside acceptable range, the "no" box is marked on step 2 of the CCF and should be noted as being above or below acceptable range on the "remarks" line. The collector completes the collection process for the "first specimen" and immediately begins a second collection under direct observation using the second CCF and a new kit. The collector then fills out the "remarks" line on the CCF indicating that these are the first and second of two collections, the specimen I.D. numbers of the first and second CCF, the reason for second collection, and that the second collection was under direct observation. This ensures that the laboratory and MRO know that two separate specimens are being submitted for testing; the first one possibly being adulterated or substituted. Additionally, the collector must inform the collection site supervisor and the Loudon County representative that a collection took place under direct observation and the reason for doing so.

H. SPECIMEN VOLUME

The collector checks to make sure that the specimen contains a sufficient amount of urine (a minimum of 45 ml for all DOT collections). If the volume is sufficient, the collector checks the box on the CCF indicating that this was a split specimen collection. If the volume is less than 45 ml, the action taken depends on whether the temperature of the specimen is in or outside the acceptable temperature range.

- (a) If the temperature is in acceptable range, the specimen is discarded and a second specimen collected. The collector may use the original CCF for the second specimen, but should annotate in the "remarks" line the time that the first insufficient specimen was provided by the employee and the fact that this is a second collection. The collector should use a new specimen collector container if these are separately available, or a new kit.

- (b) If the temperature is outside acceptable range, a second specimen must be collected under direct observation and both specimens are sent to the laboratory. The collector must use a separate CCF and kit for each specimen and provide appropriate comments on each CCF to indicate why two specimens were collected.

I. ADULTERATION OR SUBSTITUTION

The collector must inspect the specimen for unusual color, the presence of foreign objects or material or other signs of tampering or adulteration. If it is apparent that the employee has adulterated or substituted the specimen, a second collection using direct observation procedures must be conducted immediately. The first specimen and second specimen collected under direct observation are both sent to the laboratory for testing. The first specimen is always sent to the laboratory, even though it may have had an insufficient volume, but showed signs of tampering.

If employee does not provide the required amount of urine for the second collection using direct observation, the collector annotates the time and initiates the shy bladder procedures. If after three hours the employee cannot provide a sufficient amount of specimen, the collector ends the collection process and informs the County representative. The collector must send or fax copy two of the CCF to the MRO and copy four to the County representative within twenty-four hours, or the next business day. The collector must send the original specimen to the laboratory with an annotation that it was suspected of being adulterated or substituted, that a second collection was attempted, but that a shy bladder prevented collection of a second specimen.

J. CORRECTING COLLECTION PROBLEMS

When a DHHS certified laboratory receives specimen bottles and the associated CCF, it checks to see if the specimen I.D. number on the bottle label matches the number on the CCF, that the specimen bottle's seals are intact, that there is sufficient specimen volume, and that the CCF has been properly completed by the collector. If there is any discrepancy and/or error of omission, the laboratory will contact the collector to determine if the discrepancy and/or missing information can be recovered. If a fatal flaw exists in the collection process or a memorandum for record or other written statement cannot be provided by the collector, the laboratory will report "rejected for testing" to the MRO and provide an appropriate comment. The collector has the responsibility of trying to successfully complete a collection procedure for each employee.

- (1) If, during or shortly after the collection process the collector becomes aware of any event that prevents the completion of a valid test or collection, the collector must try to correct the problem. The collector may initiate another collection as part of this effort; however, the collector must not recall an employee for another collection once the employee has left the collection site. The only exception is when the collector learns that a directly observed collection should have been conducted but was not. In that case, the collector notifies the employer to direct the employee to return for immediate collection under direct observation.
- (2) If another collection is necessary, the collector must begin the new collection procedure as soon as possible using a new CCF and collection kit.

- (3) If the problem resulted from the omission of required information, the collector must, as the person responsible for providing that information, supply in writing the missing information and a statement that it is true and accurate.
- (4) If the problem is the use of a non-federal CCF or an expired federal form, the collector must provide a signed statement stating that the incorrect form contains all the information needed for a valid DOT drug test and that the incorrect CCF was used inadvertently or as the only means of conducting a test.
- (5) The collector must maintain a copy of written and dated documentation of correction with the appropriate CCF. The collector must also mark the CCF in such a way that it would be obvious on the fact of the CCF that the corrected information was supplied.

K. REPORTING AND REVIEW OF RESULTS BY MRO

An essential part of this drug testing program is the final review of confirmed positive results from the laboratory. This review shall be performed by the MRO prior to the transmission of results to Loudon County. The MRO review shall include review of the chain of custody to ensure that it is complete and sufficient on its face. The MRO is expected to follow the MRO Manual and the following procedures.

1. **Negative Test Results.** Prior to making a final decision to verify a negative test result and releasing it to the DER, the MRO must review Copy 2 of the CCF to determine if there are any fatal or correctable errors that may require a corrective action or the test to be cancelled. The MRO then must review the negative laboratory test results to ensure they are consistent with the information in the CCF. If the negative test results are found to be consistent, then the MRO must check the "Negative" box on Copy 2 of the CCF, and then provide their name, and sign/initial/or stamp and date the verification statement. The MRO must report the result in a confidential manner to Loudon County.

2. **Non-negative Test Results.** When reviewing a positive, adulterated, substituted or invalid drug test from the laboratory, the MRO must first review Copy 2 of the CCF to determine if there are any fatal or correctable errors that may require a corrective action or the test to be cancelled. The MRO then must review the laboratory test results to ensure they are consistent with the information in the CCF. Once the MRO has found Copy 2 of the CCF to be consistent with the laboratory test results, then the MRO must contact the employee directly (i.e. actually talk to the employee), on a confidential basis, to determine whether the employee wishes to discuss the test result. The MRO must explain to the employee that if he or she refuses to discuss the result, the MRO will verify the test as positive or a refusal to test because of adulteration or substitution, as applicable. A staff person under the MRO's personal supervision may make the initial contact. The staff contact must be limited to scheduling the discussion between the MRO and the employee and explaining the consequences of the employee's declining to speak with the MRO. The staff person must document the employee's decision including the time and date. The staff person must not gather any medical information or information concerning possible explanations for the test results, but may advise the employee medical information or information forming the basis of a legitimate medical explanation ready to present at the interview with the MRO. Except as provided below, the MRO shall talk directly with the employee before verifying a test as positive. If after making all reasonable efforts (a minimum of 3 telephone calls over a 24 hour period that are reasonably spaced apart to the employee's day and evening telephone contact numbers provided) and

documenting them, the MRO is unable to reach the employee directly, the MRO shall contact Loudon County's DER who shall direct the employee to contact the MRO as soon as possible. If it becomes necessary to reach the employee through Loudon County, the DER shall ensure, to the maximum extent practicable, that the requirement that the employee contact the MRO is held in confidence. If, after making all reasonable efforts, the County's DER is unable to contact the employee, the County may place the employee on temporary medically unqualified status or medical leave and temporarily remove the employee from a covered position. The DER must document the dates and times that the DER attempted to contact the employee.

The MRO may verify a confirmed positive test result, or as a refusal to test because of adulteration or substitution, without having communicated directly with the employee about the test in three circumstances: (i) The employee expressly declines the opportunity to discuss the test; (ii) The DER has successfully made and documented a contact with the employee and instructed the employee to contact the MRO, and more than 72 hours have passed since the date the employee was successfully contacted; or (iii) if neither the MRO or the DER, after making all reasonable efforts, are unable to contact the employee within ten day of the date on which the MRO received the confirmed non-negative test result from the laboratory or under any other circumstances provided for in DOT regulations. If a test is verified positive or as a refusal to test under the circumstances specified above, the employee may present to the MRO information documenting that serious illness, injury, or other circumstances unavoidably prevented the employee from timely contacting the MRO. The MRO, on the basis of such information, may reopen the verification, allowing the employee to present information concerning a legitimate explanation for the confirmed positive test. If the MRO concludes that there is a legitimate explanation, the MRO will declare the test to be negative. After reporting the verified test result to the DER, the MRO must allow the employee to present information to them within 60 days of the verification to document that serious illness, injury, or other circumstance that precluded with the MRO and/or DER in the times provided. On the basis of such information, the MRO may reopen the verification, allowing the employee to present information as to if there is a legitimate explanation.

The MRO will report both verified positive, refusal to test, and negative results on applicant and employee tests to the DER. The MRO shall not consider the results or urine samples that are not obtained or processed in accordance with these procedures and Part 40.

The MRO may not verify a test as positive, or as a refusal to test because of adulteration or substitution, until the employee has been given an opportunity to request a split specimen. The MRO shall notify each employee who has a confirmed non negative test that the employee has 72 hours in which to request a test of the split specimen. If the employee requests a test of the split specimen within the 72-hour period, the procedures of Section M of these procedures will be followed. If the employee fails to contact the MRO within 72 hours of having been informed of a confirmed non negative test, the employee may present information to the MRO documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the confirmed non negative test, or other circumstances unavoidably prevented the employee from timely contacting the MRO. If the MRO concludes that there is a legitimate explanation for the employee's failure to contact the MRO within 72 hours, the MRO shall direct that analysis of the split specimen be performed. If the request is made within 72 hours, Loudon County will ensure that the test takes place. The employee is not required to pay for the test from his or her personal funds prior to the test, but Loudon County may seek reimbursement for the cost of the test from the employee afterwards. The MRO must tell the employee that additional tests of the specimen are not authorized.

3. MRO's Discussion with Employees During Verification Interview. The MRO must tell the employee that the laboratory has determined that the employee's test result was positive, adulterated, substituted, or invalid as applicable. The MRO must tell the employee for which drugs the specimen tested positive, or the basis for the finding of adulteration or substitution. The MRO will then explain the verification interview process with the employee and that the MRO's decision will be based upon information the employee provides in the interview. If further medical evaluation is needed, the employee must comply with the MRO's request. Failure by the employee to do so is the equivalent of expressly declining to discuss the test result. Prior to the to obtaining any medical information, the MRO must disclose to the employee that the MRO is required to provide to third parties (to include the employer, SAP evaluating the employee as part of the return to duty process, DOT, another Federal safety agency, or any state safety agency as required by law) any drug test result information and medical information affecting the performance of safety-sensitive duties that the employee gives the MRO in the verification process without the employee's consent. The MRO must also advise the employee, after informing any third party about any employee used medication legally prescribed under the Controlled Substances Act, the MRO will allow 5 days for the employee to have the prescribing physician contact the MRO to determine if the medication can be changed to one that does not make the employee medically unqualified or does not pose a significant safety risk. Once the MRO receives such information from the prescribing physician, the MRO must transmit the information to the third parties the MRO previously provided the information about the safety risks of the employee's other medication.

4. Invalid Test Results. In the case of an invalid test result, the MRO must discuss the laboratory results with a certifying scientist to determine if the primary specimen should be tested at another DHHS certified laboratory. If the MRO and laboratory determine that no further testing is necessary, then the MRO must contact the employee and tell him or her that the specimen was invalid. In contacting the employee, the MRO must determine if the employee has a medical explanation for the invalid result and inquire about any medications the employee may have taken. If the employee gives an acceptable explanation, the MRO should mark the "Test Cancelled" box on the Copy 2 of the CCF and enter "Invalid Result" and "Direct Observation Collection Not Required" on the "Remarks" line and contact the DER to discuss why the test is cancelled. In this case, no further action is required unless a negative test result is required (i.e. pre-employment, return-to-duty, or follow-up tests). If the employee gives a medical explanation in which the employee has a permanent or long-term medical condition that prevents the employee from giving a valid specimen, the MRO must follow procedures in Part 40.160 for determining if there is clinical evidence that the employee is not a drug user.

If the employee is unable to provide an explanation and/or valid prescription for medication that interfered with the immunoassay test but denies having adulterated the specimen, the MRO should mark the "Test Cancelled" box on the Copy 2 of the CCF and enter "Invalid Result" and "Direct Observation Collection Required" on the "Remarks" line and contact the DER to discuss why the test is cancelled and that a second collection must take place immediately under direct observation. The MRO should instruct the employer to give as minimum of advance notice as possible to the employee to go to the collection site.

If the employee admits to having adulterated or substituted the specimen, the MRO must document in writing such statement on the same day and report a refusal to test.

If the employee admits to using a drug, the MRO must document such statement in writing on the same day and report that admission to the DER for appropriate action. The test will be reported as cancelled with the reason noted.

If the employee's recollection results in another invalid test result as reported for the first specimen, the MRO must follow the procedures as set forth in Part 40.159.

5. Verification for Marijuana, Cocaine, Amphetamines, or PCP. In DOT testing, the MRO verifies a positive test result for marijuana, cocaine, amphetamines, and/or PCP unless the employee presents legitimate medical explanation for the presence of the drugs/metabolites in his or her system. The MRO must give an employee the opportunity to present a legitimate medical explanation and the burden of proof to do such is on the employee. Using professional judgment, the MRO must verify the test result as negative if a legitimate medical explanation exists, or positive if one does not exist.

6. Verification for Codeine and Morphine. In DOT testing, the MRO must verify a confirmed positive test result for morphine or codeine at 15,000ng/ml or above, unless the employee presents a legitimate medical explanation for the drug or drug metabolite in his or her system. Consumption of food products (e.g. poppy seeds) must not be considered a legitimate medical explanation. For all other opiate positive results, The MRO shall determine that there is clinical evidence, in addition to the urine test, of unauthorized use of any opium, opiate, or opium derivative (e.g., morphine/codeine). The MRO is to use his or her best professional and ethical judgment and discretion to determine whether there is clinical evidence of the unauthorized use of opiates by the employee. Therefore, personal observation of the employee is essential (e.g. a face-to-face examination of the employee by the MRO or another physician). For a verified positive result for opiates, the clinical evidence found by the MRO must concern a drug that the laboratory found in the specimen. The MRO has the burden of proof of establishing that there is clinical evidence of unauthorized use of opiates and the employee does not need to show the MRO a legitimate medical explanation if no clinical evidence is established. If the MRO cannot make this determination, then the MRO must verify the test as negative.

7. Verification for 6-Acetylmorphine (6-AM). In DOT testing, the MRO must verify a confirmed positive test result for 6-AM if the laboratory confirms the presence of 6-AM in the specimen and there is any level of quantitation of morphine. If a 6-AM confirmed positive result is reported and morphine for that specimen is less than 2000 per ng/ml, then the MRO must verify the result positive. If the morphine was not confirmed below 2000 ng/ml, the MRO and laboratory must determine further testing to quantify the amount of morphine present. If a laboratory finds detectable morphine at its LOD upon further testing, the MRO must verify the test result positive. If it does not, then the MRO and laboratory must report that fact to the ODAPC immediately. Following the conversation with the ODAPC, the MRO will make a verified result determination.

8. Authorized Reanalysis. If the MRO questions the accuracy or validity of any test result, only the MRO is authorized to direct, in writing, a reanalysis of the primary specimen by only a DHHS-certified laboratory. (The employee is not authorized to request a reanalysis of the primary specimen). If the reanalysis fails to reconfirm the presence of the drug(s) or drug metabolite(s), the MRO shall cancel the test and report the reasons for it to the DOT, Loudon County and the employee.

9. Legitimate Explanation For Positive Test Result. If the MRO determines there is a legitimate explanation for the positive test result, the MRO shall report the test result to Loudon County as negative.

10. Disclosure of Information. Except as provided in this paragraph, the MRO shall not disclose to any third party any medical information provided by the employee to the MRO as part of the testing verification process. The MRO may disclose such information to Loudon County, a DOT agency or other Federal safety agency, or a physician responsible for determining the medical qualification of the employee under an applicable DOT agency regulation, only if: (i) An applicable DOT regulation permits or requires such disclosure; (ii) In the MRO's reasonable medical judgment, the information could result in the employee being determined to be medically unqualified under an applicable DOT agency rule; or (iii) In the MRO's reasonable medical judgment in a situation which there is no DOT agency rule establishing physical qualification standards applicable to the employee, the information indicates that continued performance by the employee of safety-sensitive functions could pose a significant safety risk. Before obtaining medical information from the employee as part of the verification process, the MRO shall inform the employee that information may be disclosed to third parties as provided above and the identity of any parties to whom information may be disclosed.

L. LABORATORY PROCEDURES

1. General Procedures. Loudon County will only use laboratories certified under the DHHS National Laboratory Certification Program (NLCP). Any DHHS-certified laboratory selected is responsible for performing the required tests in accordance with the Department of Transportation Procedures for Transportation Workplace Testing Programs, 49 CFR Part 40, particularly 49 CFR § 40.27 and 40.33. The contract between the County and the laboratory shall require that the laboratory maintain employee test records in confidence according to these procedures.

2. Reporting of Results to MRO. The laboratory shall report test results to the MRO in a timely manner, preferably the same day that review by the certifying scientist is complete. Before any test result is reported, it shall be reviewed and the test certified as an accurate report by the responsible individual. The report shall identify the drugs/metabolites tested for, whether positive or negative, specimen number assigned by Loudon County, and the drug testing laboratory specimen identification number (accession number).

The laboratory shall report as negative all specimens that are negative on the initial test or negative on the confirmatory test. Only specimens verified positive shall be reported positive for a specific drug. Upon request from the MRO, the laboratory shall provide quantitation of test results. The MRO shall report whether the test is positive or negative and may report the drug(s) for which there was a positive test, but, in DOT-mandated testing, shall not disclose the quantitation of test results to Loudon County, except the MRO may reveal the quantitation of a positive test result to the County, the employee, or the decision maker in a lawsuit, grievance, civil service action or other proceeding initiated by or on behalf of the employee and arising from a verified positive drug test.

The laboratory may transmit results to the MRO by various electronic means in a manner designed to ensure confidentiality of the information. When results are provided via telephone, they must be called in to a secure line. The laboratory and the County must ensure the security of the data transmission and limit its access. The laboratory shall only send to the MRO the original or a certified true copy of Copy 1 of the CCF, which, in the case of a positive report for drug use, shall be signed by the certifying scientist, and attached to which shall be a copy of the test report.

3. Other Reporting Requirements. The laboratory shall provide to the County an aggregate quarterly statistical summary of urinalysis testing of Loudon County's employees within 14 calendar days after the end of the quarter. Quarterly reports shall only contain the information allowed by Section 4 of Part 40 and shall not contain any personal identifying information. Unless otherwise instructed by the County in writing, all records pertaining to a given urine specimen shall be retained by the laboratory for a minimum of two years. The laboratory must provide copies of analytical results when requested by DOT or any DOT agency with regulatory authority over the County. The laboratory, pursuant to its contract with the County, must also disclose information related to a positive drug test of an employee to the employee, The County, or the decision maker in a lawsuit, grievance, civil service case, or other proceeding initiated by or on behalf of the employee and arising from a certified positive drug test, the County reserves the right to conduct unannounced inspections of the laboratory at any time. The laboratory shall have qualified personnel available to testify in an administrative or disciplinary proceeding against an employee when that proceeding is based on positive urinalysis results reported by the laboratory.

M. TESTING OF SPLIT SAMPLE SPECIMENS

If the test result of the primary specimen is positive, or a refusal to test because of adulteration or substitution, the MRO must notify the employee of his/her right to have a split specimen tested. The employee has 72 hours to make the request. If an employee does not make the request within 72 hours, the employee may present to the MRO documentation of serious injury, illness, lack of actual notice, inability to contact the MRO, or other circumstances that prevented the employee from making a timely request. It is up to the MRO's discretion if the excuse is valid or not. If the excuse is valid, the MRO may direct a split specimen test as if the request was timely. There is not split specimen testing for an invalid test result. The employee may request that the MRO direct that the split specimen be tested in a different DHHS-certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen. The MRO shall honor such a request if it is made within 72 hours of the employee having been notified of a verified positive test result. Loudon County may request that the employee pay for the split specimen test or reimburse the County for the cost; however, in no event, shall the County refuse the split specimen test because of the employee's failure to pay for the test.

When the MRO informs the laboratory in writing that the employee has requested a test of the split specimen, the laboratory shall forward, to a different DHHS-approved laboratory, the split specimen bottle, with seal intact, a copy of the MRO request, and Copy 3 of the CCF with appropriate chain of custody entries. The result of the test of the split specimen is transmitted by the second laboratory to the MRO.

If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO shall cancel the test, and report the cancellation and the reasons for it to the DOT, the County, and the employee.

VI. GENERAL ALCOHOL TESTING PROCEDURES:

A. BREATH ALCOHOL TECHNICIAN (BAT)

Alcohol testing will be conducted by a breath alcohol technician ("BAT") who is trained to proficiency in the operation of the EBT, these procedures and Part 40. The BAT shall have documentation of successfully completing a course of instruction equivalent to the DOT model course (as determined by the National Highway Traffic Safety Administration (NHTSA) which, at a minimum, provided training in the principles of EBT methodology, operation and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures for obtaining a breath sample, and interpreting and recording EBT results. The DOT model courses are available on the ODAPC website (<http://www.dot.gov/ost/dapc>).

Any BAT who performs an external calibration check of an EBT shall also be trained to proficiency in conducting the check on the particular model of EBT, including practical experience and demonstrated competence in preparing the breath alcohol simulator or alcohol standard, and in maintenance and calibration of the EBT. The BAT shall receive additional training, as needed, to ensure proficiency concerning new or additional devices or changes in technology that the BAT will use. Loudon County or its contractor for testing shall maintain documentation of the training and proficiency testing of each BAT used to test employees.

A supervisor of a particular employee shall not serve as a BAT for that employee's testing, unless another BAT is unavailable to perform the test in a timely manner.

B. EVIDENTIAL BREATH TESTING DEVICE (EBT)

For initial and confirmation testing, Loudon County will use an EBT approved by the National Highway Traffic Safety Administration ("NHTSA") and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" that meets the following requirements: (1) For each test it shall have the capability of providing, independently or by direct link to a separate printer, a printed result in triplicate (or three consecutive identical copies); (2) It shall have the capability of assigning a unique number to each completed test which is readable by the BAT and employee before each test and which is printed on each copy of the test result; (3) It shall be capable of printing on each copy of the test result, the manufacturer's name and serial number of the EBT and the time of the test; (4) It shall be able to distinguish alcohol from acetone at the 0.02 alcohol concentration level; (5) It shall be capable of testing an air blank prior to each collection of breath; and (6) It shall be capable of performing an external calibration check. A BAT may use a saliva ASD or breath tube ASD for an initial alcohol screening test only if they follow the procedures as set forth in Part 40.245.

Before being placed on the CPL, each EBT used in testing shall have a quality assurance plan (QAP) developed by the manufacturer and approved by the NHTSA which (1) designates the method or methods to be used to perform external calibration checks using only calibration devices on the NHTSA Conforming Products List of Calibrating Units for Breath Alcohol Tests (2) specifies the minimum intervals for performing external calibration checks; (3) specifies the tolerances on an external calibration check within which the EBT is regarded to be in proper calibration; and (4) specifies inspection, maintenance and calibration requirements and intervals.

Loudon County will comply with the NHTSA-approved quality assurance plan and will ensure that external calibration checks are performed for each EBT used for testing by a BAT or other individual who is proficient conducting such a check. If an external calibration check results in a reading outside the tolerances for the EBT, the County will take the EBT out of service until it has been serviced and has had a reading within the tolerances for the EBT. The County will also ensure that inspection, maintenance and calibration of each EBT are performed by the manufacturer, a maintenance representative certified by the manufacturer, a state health agency, or other appropriate state agency. When not in use, the EBT shall be stored in a secure space. The County will maintain all records concerning external calibration checks in accordance with § 40.233 of Part 40.

C. DESIGNATION OF CONTRACTOR AND TESTING SITES

All of the random, pre-employment, return to work and follow-up alcohol testing will be done by certified personnel at the offices of the contractor listed in Appendix A of these Procedures, or at an alternate location designated by the County.

The contractor will use only trained BAT's and approved EBT's meeting the requirements of these procedures and Part 40. The alcohol testing will be conducted in locations which afford visual and aural privacy to the individual being tested sufficient to prevent unauthorized persons from seeing or hearing the test results. All necessary equipment, personnel and materials for breath testing will be provided at the testing location. No unauthorized persons will be permitted access to the testing location when the EBT is unsecured or at any time when testing is being conducted, The BAT shall not leave the testing location while the testing procedure is in progress, and the BAT will supervise only one employee's use of the EBT at a time. The contractor may utilize mobile collection facilities meeting the privacy requirements. In an unusual circumstance (e.g., where it is essential to conduct the test at an accident scene), a test may be conducted at a location which does not fully meet these requirements.

D. THE BREATH ALCOHOL TESTING FORM ("FORM")

A Breath Alcohol Testing Form ("ATF") that is identical or substantially identical to the Form found in Appendix G to Part 40 will be used only for DOT alcohol tests. The ATF shall provide triplicate (or three consecutive identical) copies with Copy 1 being transmitted to Loudon County, Copy 2 being provided to the employee and Copy 3 being retained by the BAT. Except for a form generated by the EBT, the ATF shall be 8 1/2 by 11 inches in size.

E. PREPARATION FOR BREATH ALCOHOL TESTING

When entering the testing location, the employee will be required to provide positive identification (e.g., driver's license, photo I.D. card or identification by a Loudon County representative) to the BAT. Upon request by the employee, the BAT will provide positive identification to the employee. The BAT will then explain the testing procedure to the employee.

F. PROCEDURES FOR INITIAL TESTS

Loudon County, in conjunction with its contractor, will maintain the following procedures for conducting the initial breath alcohol testing.

1. The BAT will ensure that when the employee enters the alcohol testing site that the alcohol testing process begins without undue delay.
2. If the employee is also going to be taking a DOT drug test, the BAT must ensure, to the greatest extent possible, that the alcohol test is completed before the urine collection process begins.
3. The BAT will complete Step 1 on the ATF. The employee will then complete Step 2 on the form, signing the certification. Refusal by the employee to complete Step 2 will be regarded as a refusal to take the test.
4. If the EBT meets the requirements of § 40.231(b) (1) through (6) of Part 40 (i.e., the EBT is capable of printing in triplicate the test number, testing device name and serial number, time of test and result as discussed in Section VI, Part B of these procedures), the BAT and employee will read the sequential test number displayed by the EBT before the initial test is administered.
5. If the EBT does not meet the requirements of § 40.231 (b) (1) through (6) of Part 40, the BAT will show the employee the result displayed on the EBT. The BAT will then record the displayed result, test number, testing device, serial number, time and quantified result in Step 3 of the ATF, and will record the test number, date, BAT's name, location of test, and quantified test result in the log book. The employee will then initial the log book entry.
6. The BAT will open an individually sealed mouthpiece in view of the employee and attach it to the EBT in accordance with the manufacturer's instructions. The BAT will instruct the employee to blow steadily and forcefully into the mouthpiece for at least 6 seconds or until the EBT indicates an adequate amount of breath has been obtained.
7. If the EBT prints the test results directly onto the ATF, the BAT will check to ensure the information printed correctly onto the ATF and show the employee the displayed result. If the EBT provides a printed result but does not print the results directly onto the ATF, the BAT will show the displayed result to the employee and affix the test result printout to the ATF in the designated space using tamper-evident tape.
8. If the result of the initial test is less than 0.02, the BAT will date and sign the certification in Step 3 of the ATF. The BAT will transmit the result to the DER in a confidential manner which will be kept so as to ensure confidentiality. No further testing is authorized for a result of less than 0.02, except in non-DOT return to duty and follow-up testing.
9. If the result of the initial test is 0.02 or greater, a confirmation test will be performed as discussed in the next part. If the confirmation test will be different BAT, the BAT who conducted the initial test will complete and sign the ATF, and provide Copy 2 of the ATF to the employee.
10. If the printed test result does not match the displayed test result, or if a printed sequential test number does not match the displayed sequential test number prior to the initial test, the BAT will note the disparity in the "Remarks" section of the ATF, both the employee and BAT will initial and sign the notation, and the BAT will advise the employee that the initial test is invalid.

G. PROCEDURES FOR CONFIRMATION TESTS

Loudon County, in conjunction with its contractor, or its representative, will maintain the following procedures for conducting the confirmation breath alcohol testing.

1. The confirmation breath alcohol test must be performed no sooner than 15 minutes and no later than 30 minutes after completing the initial screening test. The BAT will instruct the employee not to eat, drink, put any object or substance in the employee's mouth, and, to the extent possible, not to belch during this waiting period. The BAT will explain to the employee that the reason for the waiting period is for the employee's benefit to prevent any accumulation of mouth alcohol which may lead to an artificially high reading. The BAT will also explain that the confirmation test will be conducted at the end of the waiting period, even if the employee has disregarded the BAT's instructions, if the employee has not complied with the BAT's instructions, the BAT shall so note in the "Remarks" section of the ATF.

2. If a BAT other than the one who conducted the initial test is conducting the confirmation test, the new BAT will require the employee to again provide positive identification, and upon request, the BAT will provide positive identification to the employee and a new ATF will be utilized. The BAT will complete Step 1 and will note in the "Remarks" section that a different BAT conducted the initial test. The employee will complete Step 2 and sign the certification. Refusal by the employee to sign the certification in Step 2 will be regarded as a refusal to take the test, and the refusal will be documented in the "Remarks" section of the ATF.

3. Before the confirmation test is administered for each employee, the BAT will ensure that the EBT registers 0.00 on an air blank. If the reading is greater than 0.00, one more air blank will be conducted. If the second air blank reading is greater than 0.00, that EBT will be taken out of service and not used again until a check of external calibration is completed and the EBT is within tolerance limits. Testing may proceed with another EBT.

4. Before the confirmation test is administered, the BAT and employee will read the sequential test number displayed by the EBT. The BAT will also ensure that Steps 1 and 2 of the ATF are completed, and will open a new individually sealed mouthpiece in view of the employee and attach it to the EBT in accordance with the manufacturer's instructions.

5. The BAT will instruct the employee to blow steadily and forcefully into the mouthpiece for at least 6 seconds or until the EBT indicates that an adequate amount of breath has been obtained.

6. If the EBT prints the test results directly onto the ATF, the BAT will show the employee the displayed result. If the EBT provides a printed result but does not print the results directly onto the ATF, the BAT will show the employee the displayed result and affix the test result printout to the ATF in the designated space using tamper-evident tape.

7. Following completion of the test, the BAT will date and sign the certification in Step 3 of the ATF. If the alcohol test result is lower than 0.02, nothing further is required of the employee for DOT purposes and the BAT must sign and date Step 3 of the ATF. If the alcohol confirmation test result is 0.02 or higher, the employee must sign and date Step 4 of the ATF. If the employee does not complete Step 4 of the ATF, it will not be considered a refusal to be tested, but the BAT will note the employee's failure in the "Remarks" section of the ATF.

8. If the initial and confirmation test results are not identical, the confirmation test result is deemed to be the final result upon which any action under Loudon County policies will be based.

9. If the test is invalid, the BAT shall tell the employee that the test is cancelled and note the problem on the "Remarks" line of the ATF. If practicable, the BT should conduct a re-test.

10. If the printed test result does not match the displayed test result, or if the printed sequential test number does not match the displayed sequential test number prior to the confirmation test, the BAT will note the disparity in the "Remarks" section of the Form, both the employee and BAT will initial and sign the notation, and the BAT will advise the employee that the confirmation test is invalid.

11. The BAT will transmit all results to Loudon County's DER by providing them with Copy 1 of the ATF, by contacting them in person, or by telephone or electronic means. If such transmission is not in writing, the County will verify the identification of the BAT transmitting the information, and the BAT will subsequently provide the County's DER with Copy 1 of the ATF in a timely manner. The BAT will immediately transmit a positive result so that Loudon County may remove the employee from performing a safety function. Loudon County will store the testing results and related information in a confidential manner.

H. REFUSALS TO TEST AND UNCOMPLETED TESTS

The testing process will be terminated if an employee refuses to complete step 2 of the ATF, to provide an adequate amount of breath, or otherwise to cooperate with the testing process in a way that prevents the completion of the test. The BAT will immediately notify Loudon County that the testing is terminated and will note the reason for the termination in the "Remarks" section of the ATF.

If an initial or confirmation test cannot be completed, or if an event occurs that invalidates the test, the BAT, if practicable, will begin a new initial or confirmation test using a new ATF with a new sequential test number.

I. INABILITY TO PROVIDE AN ADEQUATE AMOUNT OF BREATH

The following procedures will be followed in any case in which an employee is unable, or alleges an inability, to provide an amount of breath sufficient to permit a valid breath test because of a medical condition.

1. The BAT will instruct the employee to attempt to provide an adequate amount of breath. If the employee refuses, the BAT will immediately notify Loudon County's DER and will so note in the "Remarks" section of the Form. An employee's refusal to make an attempt is a refusal to test.

2. If the employee attempts but fails to provide an adequate amount of breath, the BAT will notify the DER and the County will direct the employee to obtain, within five days, an evaluation from a licensed physician approved by the County concerning the employee's medical ability to provide an adequate amount of breath.

3. If the physician determines, in the physician's reasonable medical judgment, that a medical condition precluded, or with a high degree of probability could have precluded, the employee from providing an adequate amount of breath, then the employee's failure will not be deemed a refusal to take the test. If the physician is unable to make this determination, then the employee's failure will be regarded as a refusal to take the test. In either case, the licensed physician will provide a written statement on the basis for the conclusion to Loudon County.

J. INVALID TESTS

A breath alcohol test will be invalid and therefore cancelled under the following circumstances:

1. The next external calibration check of an EBT produces a result that differs by more than the tolerance stated in the QAP from the known value of the test standard. In this event, every test result of 0.02 or above obtained on the EBT since the last valid external calibration check shall be cancelled.

2. The BAT does not observe the minimum 15-minute waiting period between the initial and confirmation tests,

3. The BAT does not perform an air blank of the EBT before a confirmation test, or an air blank does not result in a reading of 0.00 prior to the test.

4. The BAT does not complete Steps 1 and 4 of the ATF.

5. The BAT fails to note on the "Remarks section of the ATF that the employee failed or refused to sign Step 4 of the ATF following the recording or printing on or attachment to the ATF of the test result.

6. An EBT fails to print a confirmation test result.

7. The displayed sequential test number or displayed alcohol concentration is not the same as the printed sequential test number or printed alcohol concentration.

VII. **SUBSTANCE ABUSE PROFESSIONALS AND THE RETURN-TO-DUTY PROCESS.**

A. SUBSTANCE ABUSE PROFESSIONALS (SAPs).

1. To be permitted to act as a SAP in the DOT drug and alcohol testing program, the SAP must be either a licensed physician (Doctor of Medicine or Osteopathy), a licensed or certified social worker, a licensed or certified psychologist, a licensed or certified employee assistance professional, a state-licensed or certified marriage and family therapist, or a drug and alcohol counselor certified by either the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC), the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC), or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC).

2. The SAP must be knowledgeable about and have clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders. The SAP must

be knowledgeable about the SAP function as it relates to employer interests in safety-sensitive duties, Part 40, the DOT agency regulations and Loudon County regulations applicable when the SAP evaluates employees, and the DOT SAP Guidelines. The SAP shall keep current on any changes to these materials. These documents are available on the ODAPC web site (<http://www.dot.gov/ost/dapc>).

3. The SAP must receive qualification training providing instruction on the subjects of the following: (i) background, rationale, and coverage of the DOT's drug and alcohol testing program; (ii) Part 40 and DOT agency drug and alcohol testing rules; (iii) key DOT drug testing requirements, including collections, laboratory testing, MRO review, and problems in drug testing; (iv) key DOT alcohol testing requirements, including the testing process, the role of BATs and STTs, and problems in alcohol tests; (v) SAP qualifications and prohibitions; (vi) the role of the SAP in the return-to-duty process, including the initial employee evaluation, referrals for education and/or treatment, the follow-up evaluation, continuing treatment recommendations, and the follow-up testing plan; (vii) SAP consultation and communication with employers, MROs, and treatment providers; (viii) reporting and recordkeeping requirements; (ix) issues that SAPs confront in carrying out their duties under the program. Following completion of qualification training, a SAP must satisfactorily complete an examination administered by a nationally-recognized professional or training organization covering all the elements of SAP qualification training. If one became a SAP before August 1, 2001, he or she must meet the qualification training requirement no later than December 31, 2003. If one becomes a SAP between August 1, 2001, and December 31, 2003, he or she must meet the qualification training requirement no later than December 31, 2003. If one becomes a SAP on or after January 1, 2004, he or she must meet the qualification training requirement before he or she begins to perform SAP functions. During each three-year period from the date on which a SAP satisfactorily completes the examination, the SAP must complete continuing education.

B. REQUIRED SAP EVALUATION.

When an employee has violated a Loudon County or DOT drug and alcohol regulation, the employee cannot again perform any DOT safety-sensitive duties for Loudon County until and unless the employee completes the SAP evaluation, referral, and education/treatment process set forth in this subpart and in applicable DOT agency regulations. The first step in this process is a SAP evaluation.

For purposes of this subpart, a verified positive DOT drug test result, a DOT alcohol test with a result indicating an alcohol concentration of 0.04 or greater, a refusal to test (including by adulterating or substituting a urine specimen) or any other violation of the prohibition on the use of alcohol or drugs under a Loudon County or DOT agency regulation constitutes a Loudon County and DOT drug and alcohol regulation violation.

C. REQUIRED INFORMATION TO EMPLOYEES REGARDING SAP SERVICES.

Loudon County must provide to each employee (including an applicant or new employee) who violates a DOT drug and alcohol regulation a listing of SAPs readily available to the employee and acceptable to Loudon County, with names, addresses, and telephone numbers. Loudon County cannot charge the employee any fee for compiling or providing this

list. Loudon County may provide this list to the employee itself or through a C/TPA or other service agent.

D. PROVIDED SAP AND TREATMENT SERVICES TO EMPLOYEES.

Loudon County is not required to provide a SAP evaluation or any subsequent recommended education or treatment for an employee who has violated a Loudon County or DOT drug and alcohol regulation. However, if Loudon County does offer that employee an opportunity to return to a DOT safety-sensitive duty following a violation, Loudon County must ensure that the employee receives an evaluation by a SAP meeting under the requirements of Part 40.281 before the employee again performs that duty, and that the employee successfully complies with the SAP's evaluation recommendations. Payment for SAP evaluations and services is left for employers and employees to decide and may be governed by existing management-labor agreements and health care benefits.

E. THE FUNCTIONS AND ROLES OF A SAP.

1. In the evaluation, referral, and treatment process of an employee who has violated a Loudon County or DOT agency drug and alcohol testing regulations, the SAP is responsible for making a face-to-face clinical assessment and evaluation to determine what assistance is needed by the employee to resolve problems associated with alcohol and/or drug use. The SAP will refer the employee to an appropriate education and/or treatment program, then afterwards conduct a face-to-face follow-up evaluation to determine if the employee has actively participated in the education and/or treatment program and has demonstrated successful compliance with the initial assessment and evaluation recommendations. The SAP will provide the DER with a follow-up drug and/or alcohol testing plan for the employee and provide Loudon County and the employee with recommendations for continuing education and/or treatment. The SAP is not an advocate for Loudon County or the employee. The SAP's function is to protect the public interest in safety by professionally evaluating the employee and recommending appropriate education/treatment, follow-up tests, and aftercare.

2. In conducting the initial evaluation of an employee following a Loudon County or DOT drug and alcohol regulation violation, the SAP must provide a comprehensive face-to-face assessment and clinical evaluation of the employee. The SAP must then recommend a course of education and/or treatment with which the employee must demonstrate successful compliance prior to returning to DOT safety-sensitive duty. In making a recommendation for every individual who has violated a DOT drug and alcohol regulation, the SAP must make a recommendation for education and/or treatment that will, to the greatest extent possible, protect public safety in the event that the employee returns to the performance of safety-sensitive functions. Appropriate recommended education may include, but is not limited to, self-help groups (e.g., Alcoholics Anonymous) and community lectures, where attendance can be independently verified, and bona fide drug and alcohol education courses. Appropriate treatment may include, but is not limited to, in-patient hospitalization, partial in-patient treatment, out-patient counseling programs, and aftercare. The SAP must provide a written report directly to the DER highlighting your specific recommendations for assistance (see Part 40.311(c)).

For purposes of a SAP's evaluation process, the SAP must assume that a verified positive test result has conclusively established that the employee committed a Loudon County or DOT drug and alcohol regulation violation. The SAP must not take into consideration in any way, as a factor in determining his or her recommendation a claim by the employee that the test

was unjustified or inaccurate. In addition a SAP will not take into account statements by the employee that attempt to mitigate the seriousness of a violation of a Loudon County or DOT drug or alcohol regulation (e.g., related to assertions of use of hemp oil, "medical marijuana" use, "contact positives," poppy seed ingestion, job stress), or personal opinions the SAP may have about the justification or rationale for drug and alcohol testing.

In the course of gathering information for purposes of an evaluation in the case of a drug-related violation, the SAP may consult with the MRO. The MRO is required to cooperate with the SAP and provide available information the SAP requests. It is not necessary to obtain the consent of the employee to provide this information.

3. In referring employees for education and treatment, the SAP will serve as a referral source to assist the employee's entry into an education and/or treatment program. The SAP should use his or her best determination in recommending assistance for the employee. To prevent the appearance of a conflict of interest, the SAP must not refer an employee requiring assistance to the SAP's private practice or to a person or organization from which the SAP receives payment or to a person or organization in which the SAP has a financial interest (unless the relationship meets an exception stated in this Section). The SAP is precluded from making referrals to entities with which the SAP is financially associated. The four exceptions of recommended providers to this prohibition that allow a SAP to refer an employee to any of the following providers of assistance, regardless of the SAP's relationship with them are as follows: (1) a public agency (e.g., treatment facility) operated by a state, county, or municipality; (2) Loudon County or a person or organization under contract to the employer to provide alcohol or drug treatment and/or education services (e.g., the employer's contracted treatment provider); (3) the sole source of therapeutically appropriate treatment under the employee's health insurance program (e.g., the single substance abuse in-patient treatment program made available by the employee's insurance coverage plan); or (4) the sole source of therapeutically appropriate treatment reasonably available to the employee (e.g., the only treatment facility or education program reasonably located within the general commuting area).

4. The SAP's function in the follow-up evaluation of an employee includes the mandatory re-evaluation of the employee to determine if the employee has successfully carried out the SAP's education and/or treatment recommendations. This is a way for the SAP to gauge for Loudon County the employee's ability to demonstrate successful compliance with the education and/or treatment plan. The SAP's evaluation may serve as one of the reasons the employer decides to return the employee to safety-sensitive duty.

The SAP making the follow-up evaluation determination must confer with or obtain appropriate documentation from the appropriate education and/or treatment program professionals where the employee was referred. In addition, the SAP must conduct a face-to-face clinical interview with the employee to determine if the employee demonstrates successful compliance with the SAP's initial evaluation recommendations. If the employee has demonstrated successful compliance, the SAP must provide a written report directly to the DER highlighting the SAP's clinical determination that the employee has done so with your initial evaluation recommendation (see Part 40.311(d)). The SAP may determine that an employee has successfully demonstrated compliance even though the employee has not yet completed the full regimen of education and/or treatment that the SAP recommended or needs additional assistance. For example, if the employee has successfully completed the 30-day in-patient program that the SAP prescribed, the SAP may make a "successful compliance" determination even though the SAP concluded that the employee has not yet completed the out-patient counseling that the SAP recommended or should continue in an aftercare program.

As a result of the follow-up evaluation, if the SAP believes that the employee has not demonstrated successful compliance with the SAP's recommendations, the SAP must provide written notice directly to the DER. When Loudon County receives the SAP's written notice that the employee has not successfully complied with the SAP's recommendations, the employee must not be returned to the performance of safety-sensitive duties.

The SAP may conduct additional follow-up evaluation(s) if the employer determines that doing so is consistent with the employee's progress as the SAP has reported it and with Loudon County's policy and/or labor-management agreements. Loudon County, following a SAP report that the employee has not demonstrated successful compliance, may take personnel action consistent with the County's policy and/or labor-management agreements.

F. SECOND SAP EVALUATION MAY NOT BE RELIED UPON

An employee with a Loudon County or DOT drug and alcohol regulation violation, after being evaluated by a SAP, may not seek a second SAP's evaluation in order to obtain another recommendation. Loudon County may not seek a second SAP's evaluation if the employee has already been evaluated by a qualified SAP. Loudon County, as an employer, may not rely on a second SAP evaluation it for any purpose under Part 40.

G. THE ABILITY TO CHANGE A SAP'S INITIAL EVALUATION.

Only the SAP who made the initial evaluation may modify his or her initial evaluation and recommendations based on new or additional information (e.g., from an education or treatment program). No other individual (e.g., an employer, employee, a managed-care provider, any service agent) may change in any way the SAP's evaluation or recommendations for assistance. For example, a third party is not permitted to make more or less stringent a SAP's recommendation by changing the SAP's evaluation or seeking another SAP's evaluation.

H. ADDITIONAL TREATMENT FOR THE EMPLOYEE.

If the SAP believes that ongoing services (in addition to follow-up tests) are needed to assist an employee to maintain sobriety or abstinence from drug use after the employee resumes the performance of safety-sensitive duties, the SAP must provide recommendations for these services in the SAP's follow-up evaluation report. Upon receiving a recommendation for these services from a SAP, Loudon County may, as part of a return-to-duty agreement with the employee, require the employee to participate in the recommended services. The County may monitor and document the employee's participation in the recommended services. The County may also make use of SAP and employee assistance program (EAP) services in assisting and monitoring employees' compliance with SAP recommendations. Nothing in this Section permits an employer to fail to carry out its obligations with respect to follow-up testing.

An employee is obligated to comply with the SAP's recommendations for these services. If the employee fails or refuses to comply, the employee may be subject to disciplinary action by Loudon County.

I. CONCLUSION OF THE RETURN-TO-DUTY PROCESS.

If Loudon County permits the employee to return to the performance of safety-sensitive functions, the County must ensure that the employee takes a return-to-duty test. This test cannot occur until after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties.

Loudon County must not return an employee to safety-sensitive duties until the employee meets the conditions set forth above in this Section. However, Loudon County is not required to return an employee to safety-sensitive duties because the employee has met these conditions. That is a personnel decision that the County has the discretion to make, subject to collective bargaining agreements or other legal requirements. The SAP or MRO must not make a "fitness for duty" determination as part of this re-evaluation unless required to do so under an applicable DOT agency regulation. Only the employer, Loudon County may decide whether to put the employee back to work in a safety-sensitive position.

J. SAP'S FUNCTION IN PRESCRIBING THE EMPLOYEE'S FOLLOW-UP TESTS.

The SAP for each employee who has committed a Loudon County or DOT drug or alcohol regulation violation, and who seeks to resume the performance of safety-sensitive functions, must establish a written follow-up testing plan. The SAP does not need to establish this plan until after it is determined that the employee has successfully complied with the SAP's recommendations for education and/or treatment. A copy of the SAP's plan must be presented directly to the DER. The SAP is the sole determiner of the number and frequency of follow-up tests and whether these tests will be for drugs, alcohol, or both, unless otherwise directed by the appropriate DOT agency regulation. For example, if the employee had a positive drug test, but the SAP's evaluation or the treatment program professionals determined that the employee had an alcohol problem as well, the SAP should require that the employee have follow-up tests for both drugs and alcohol. If the employee is returning to safety-sensitive functions, the SAP, at a minimum, must direct that the employee be subject to six unannounced follow-up tests in the first 12 months of safety-sensitive duty following the employee's return. The SAP may require a greater number of follow-up tests during the first 12-month period of safety-sensitive duty (e.g., the SAP may require one test a month during the 12-month period or the SAP may require two tests per month during the first 6-month period and one test per month during the final 6-month period). The SAP may also require follow-up tests during the 48 months of safety-sensitive duty following this first 12-month period. The SAP may not establish the actual dates for the follow-up tests prescribed. The decision on the specific dates to test shall be decided by Loudon County.

Loudon County must not impose additional testing requirements on the employee that go beyond the SAP's follow-up testing plan. In addition, the requirements of the SAP's follow-up testing plan "follow the employee" to subsequent employers or through breaks in service. The SAP may modify the determinations the SAP has made concerning follow-up tests. For example, even if the SAP recommended follow-up testing beyond the first 12-months, the SAP can terminate the testing requirement at any time after the first year of testing. The SAP must not, however, modify the requirement that the employee take at least six follow-up tests within the first 12 months after returning to the performance of safety-sensitive functions.

K. EMPLOYER RESPONSIBILITIES IN FOLLOW-UP TESTS.

Loudon County must carry out the SAP's follow-up testing requirements. The County may not allow the employee to continue to perform safety-sensitive functions unless follow-up testing is conducted as directed by the SAP. The County should schedule follow-up tests on dates of its own choosing, but the County must ensure that the tests are unannounced with no discernable pattern as to their timing, and that the employee is given no advance notice. Loudon County cannot substitute any other tests (e.g., those carried out under the random testing program) conducted on the employee for this follow-up testing requirement. The County cannot count a follow-up test that has been cancelled as a completed test. A cancelled follow-up test must be rescheduled.

L. SAP REPORT REQUIREMENTS.

1. The SAP conducting the required evaluations must send the required written reports required directly to the DER and not to a third party or entity for forwarding to the DER (except as provided in Part 40.355(e) which is applicable to service agents). The SAP may, however, forward the document simultaneously to the DER and to a C/TPA.

2. Loudon County must ensure that it receives SAP written reports directly from the SAP performing the evaluation and that no third party or entity changed the SAP's report in any way.

3. The SAP's written report, following an initial evaluation that determines what level of assistance is needed to address the employee's drug and/or alcohol problems, must be on the SAP's own letterhead (and not the letterhead of another service agent) signed and dated by the SAP. The written report must contain the following delineated items: (1) employee's name and SSN; (2) employer's name and address; (3) reason for the assessment (specific violation of Loudon County or DOT regulations and violation date); (4) date(s) of the assessment; (5) SAP's education and/or treatment recommendation; and (6) the SAP's telephone number.

4. The SAP's written report concerning a follow-up evaluation that determines the employee has demonstrated successful compliance must be on the SAP's own letterhead (and not the letterhead of another service agent), signed by the SAP and dated, and must contain the following items: (1) employee's name and SSN; (2) employer's name and address; (3) reason for the initial assessment (specific violation of Loudon County or DOT regulations and violation date); (4) date(s) of the initial assessment and synopsis of the treatment plan; (5) name of practice(s) or service(s) providing the recommended education and/or treatment; (6) inclusive dates of employee's program participation; (7) clinical characterization of employee's program participation; (8) SAP's clinical determination as to whether the employee has demonstrated successful compliance; (9) follow-up testing plan; (10) employee's continuing care needs with specific treatment, aftercare, and/or support group services recommendations; and (11) the SAP's telephone number.

5. The SAP's written report concerning a follow-up evaluation that determines the employee has not demonstrated successful compliance must be on the SAP's own letterhead (and not the letterhead of another service agent), signed by the SAP and dated, and must contain the following items: (1) employee's name and SSN; (2) employer's name and address; (3) reason for the initial assessment (specific Loudon County or DOT violation and date); (4)

date(s) of initial assessment and synopsis of treatment plan; (5) name of practice(s) or service(s) providing the recommended education and/or treatment; (6) inclusive dates of employee's program participation; (7) clinical characterization of employee's program participation; (8) date(s) of the first follow-up evaluation; (9) date(s) of any further follow-up evaluation the SAP has scheduled; (10) SAP's clinical reasons for determining that the employee has not demonstrated successful compliance; and (11) the SAP's telephone number.

6. The SAP must also provide these written reports directly to the employee if the employee has no current employer and to the gaining employer in the event the employee obtains another transportation industry safety-sensitive position.

7. The SAP is to maintain copies of the SAP's reports to employers for 5 years, and the SAP's employee clinical records in accordance with Federal, state, and local laws regarding record maintenance, confidentiality, and release of information. The SAP must make these records available, on request, to DOT agency representatives (e.g., inspectors conducting an audit or safety investigation) and representatives of the NTSB in an accident investigation.

8. Loudon County must maintain its reports from SAPs for 5 years from the date the County received them.

VIII. RECORD RETENTION/CONFIDENTIALITY:

Records of drug and alcohol test results are recognized to be confidential and sensitive records and will be maintained in a secure and controlled fashion to insure confidentiality as discussed in Loudon County's policies. All positive or non-negative test results will be kept for a minimum of five years, while all negative and cancelled test results shall be kept for a minimum of one year. Any employee subject to testing shall, upon written request, have access to any records relating to the employee's drug or alcohol test, and any records relating to the results of any relevant certification, review, or revocation-of-certification proceedings. Other information concerning the County's drug and alcohol abuse programs will be maintained in accordance with Part 40 and the County's policies.

IX. CHANGES TO PROCEDURES:

These procedures may and will be amended from time to time to facilitate the changes necessary to implement changes in DOT regulations or the administration of this program within Loudon County. The County reserves the right to make these changes with or without prior notice to employees. In addition, as stated above, where the regulations of Part 40 are updated or conflict with these Procedures in any way, the regulations of Part 40 control, and the selected laboratory will follow Part 40 regulations.

EXHIBIT A

LOUDON COUNTY GENERAL DRUG AND ALCOHOL ABUSE POLICY

DATE OF REVISION

December, 2011

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**LOUDON COUNTY
GENERAL DRUG AND ALCOHOL ABUSE POLICY**

DATE OF REVISION:

December 2011

I. SCOPE:

Loudon County ("the County") is committed to a safe working environment, to making adequate provisions for the safety and health of its employees at their place of employment, and to the safety and health of the citizens we serve as well as the general public. Loudon County is also dedicated to operating in a responsible and efficient manner for the benefit of its citizens.

Loudon County recognizes that drug and alcohol abuse ("substance abuse") presents a major problem throughout our society and that the County is not immune from this societal problem. The use of illegal drugs and alcohol by County employees not only threatens the health and safety of fellow employees, our residents and the public, but also results in increased costs in the form of lost productivity, high absenteeism, tardiness, excessive time away from work, excessive health care costs, accidents on the job and lower morale of other employees who must do the work of the substance abusers. Loudon County has long been committed to setting the highest standards for emphasizing and enforcing a drug and alcohol free workplace. Our goal is to provide a safe and efficient working environment, to preserve the confidence placed in the County by our employees and the public and to enforce a Drug and Alcohol Free Workplace as authorized by the Drug Free Workplace Act of 1996, Tenn. Code Ann. §50-9-101 *et. seq.*

As part of Loudon County's effort to achieve the foregoing health, safety and efficiency goals, and as a step in compliance with the law, it has developed the following drug and alcohol abuse policy. This policy represents the County commitment to comply with the Drug Free Workplace Act of 1996, the State of Tennessee's Drug-Free Workplace Program, and other applicable laws. This revised policy will be communicated to each employee on the effective date hereof or as soon thereafter as reasonably practicable.

Loudon County is also regulated by the DOT and the DOT Federal Motor Carrier Safety Administration Controlled Substances and Alcohol Use and Testing Regulations ("FMCSA" regulations). The County has implemented a separate DOT Drug and Alcohol Abuse Policy ("DOT Policy") which is intended to comply with the drug and alcohol use and testing requirements of the FMCSA regulations.

II. POLICY:

A. Drug Policy

The illegal use, manufacture, possession, distribution, or sale of prohibited drugs while on Loudon County properties, while on duty for regularly scheduled or emergency work, while operating Loudon County vehicles or equipment, or off the job so as to affect the employee's job performance, judgment, or integrity on the job as a representative of Loudon County is strictly prohibited. An amount of a prohibited drug in an individual's body equal to or higher than the cut-off level as detected by a drug test, for the purpose of this policy, is considered prohibited use of drugs by the individual. Violations of this policy, except in extremely rare circumstances, will constitute grounds for immediate termination.

B. Alcohol Policy

No employee shall report to work under the influence of alcohol, or use or be under the influence of alcohol while on Loudon County properties, while on duty for regularly scheduled or emergency work, or while operating County vehicles or equipment. No employee shall report for duty or remain on duty while having an alcohol concentration of 0.02 or greater. Moreover, safety sensitive employees are prohibited from using alcohol within four (4) hours before reporting to duty.

When a safety sensitive employee is called to duty to respond to an emergency, the employee is prohibited from using alcohol after the employee has been notified to report to duty. An employee being paid to be on call for a period of time is prohibited from consuming alcohol during that time period. Violation of this policy will lead to disciplinary action up to and including termination.

C. Consequences for Violations

Refusal by an employee to be tested for drugs or alcohol in accordance with this policy is insubordination and, except in extremely rare cases, will constitute grounds for immediate termination. Submitting an adulterated specimen, or a substituted specimen, or similar efforts to avoid or otherwise obstruct the testing process are also violations of the policy that, except in extremely rare circumstances, will constitute grounds for immediate termination. Failing either a drug or an alcohol test will also result in a potential forfeiture of workers' compensation benefits as authorized by Tenn. Code Ann. §50-9-105 and §50-6-110. Nothing in this policy shall be deemed to preclude Loudon County from taking steps to terminate any employee found to be in violation of any part of this policy.

III. DEFINITIONS:

For purposes of this policy, the following definitions apply:

1. "Accidents" by this policy include both Class A and Class B accidents, which are defined as follows:

"Class A Accidents" mean accidents involving employees in safety sensitive positions resulting in: (a) death; (b) personal injury necessitating medical treatment which is recorded in the OSHA 300 log; (c) personal injury to anyone resulting in loss of consciousness, the necessity to carry the person from the scene and/or disability which prevents the discharge of an employee's normal duties beyond the day of the accident; (d) a hazardous situation which presents imminent danger either to the employee, other employee(s), or the public; (e) damage to property in excess of \$1,000.00; or (f) multi-vehicle collisions, regardless of circumstances.

"Class B Accidents" mean accidents involving employees in non-safety sensitive positions resulting in (a) death; (b) personal injury to anyone necessitating hospitalization (inpatient or outpatient); (c) damage to property in excess of \$10,000.00; (d) a multi-vehicle collision, regardless of circumstances.

2. "Adulterated Specimen" means that the urine specimen contains a substance that is not expected to be present in human urine, or contains a substance that is expected to be present but is at a concentration so high that it is not consistent with human urine. Submitting an adulterated specimen is a violation of this policy.
3. "Alcohol" or "Alcoholic beverage" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.
4. "Alcohol concentration (or content)" means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.
5. "Alcohol use" means the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.
6. "Applicant" means an individual applying for a position who is subject to preemployment testing.
7. "Breath Alcohol Technician (BAT)" means a certified individual who instructs and assists individuals in the alcohol testing process and operates an EBT, as defined below.

8. "Chain of Custody" means procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an appropriate drug testing custody form from a Department of Health & Human Services (DHHS) certified laboratory be used from time of collection to receipt by the laboratory.
9. "Collection site" means a designated clinic/facility where applicants or employees may present themselves for the purpose of providing a specimen of their urine or a breath sample to be analyzed for the presence of drugs or alcohol, respectively.
10. "Collector" means a certified person who instructs and assists applicants and employees through the urine specimen collection process.
11. "Commercial driver's license" or "CDL" means a driver's license required to operate Loudon County commercial motor vehicles.
12. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicle and towed vehicle used in commerce to transport passengers or property when the vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds including a towed unit with a gross vehicle weight rating of more than 10,000 pounds, or has a gross vehicle weight rating of 26,001 or more pounds, or is designed to transport 16 or more passengers.
13. "Confirmation test" as to drugs means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.
14. "Confirmation test" as to alcohol means a second test that is given not less than 15 minutes and not more than 30 minutes after the initial screening test. The confirmation test is the final result upon which any action will be taken under this policy.
15. "Conviction" means a finding of guilt (including a plea of no contest or which results in a pretrial or judicial diversion) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug laws as defined below.

16. "Criminal drug law" means a Federal or State criminal statute, regulation, or other law involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.
17. "Drug" means a controlled substance as defined in Schedules I through V of Section 202 of the Controlled Substance Act. The Procedures contains a list of drugs tested under this policy and the cut-off levels for each drug.
18. "Designated Employer Representative" (DER) means an employee authorized by the employer to receive test results and other communications for the employer, consistent with the requirements of Part 40.
19. "Dilute specimen" means a specimen with specific gravity of less than 1.003 and creatinine of less than 20 mg/dL, which are lower levels than expected for human urine. A positive dilute specimen will be regarded as a positive test. A negative dilute specimen will be regarded as a negative test.
20. "Evidential Breath Testing Device" (EBT) means an alcohol Breath-testing device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."
21. "Employee" means a full-time, part-time, temporary or seasonal employee of Loudon County.
22. "Fail a drug test" or "test positive" means the confirmation test result shows positive evidence of the presence of a prohibited drug above the cutoff limit in the employee's or applicant's system.
23. "Initial test" as to drugs means an immunoassay screen to eliminate negative urine specimens from further consideration.
24. "Initial test" as to alcohol means a breath alcohol test using an Evidential Breath Testing Device given by a qualified Breath Alcohol Technician to determine whether an employee may have a prohibited concentration of alcohol in his or her system.
25. "Pass a drug test" or "test negative" means that initial testing or confirmation testing does not show evidence of the presence of a prohibited drug above the cutoff limit in the employee's system.

26. "Prohibited drug" means the drugs and classes of drugs that are tested for as described under Section VI of this policy.
27. "Refusal to submit" means refusal by an individual who, after receiving notice of the requirement to be tested in accordance with this policy and without valid medical explanation, refuses to provide an adequate urine sample for a drug test or adequate breath for an alcohol test, or otherwise engaging in conduct that clearly obstructs the testing process such as refusal to sign necessary consent forms. A verified adulterated or substituted result constitutes a refusal to submit.
28. "Substance abuse professional" or "SAP" means a licensed physician (i.e., a medical doctor), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), with knowledge of and clinical experience in the diagnosis and treatment of drug or alcohol-related disorders.

IV. PROCEDURES FOR NOTIFYING EMPLOYEES OF COVERAGE:

On or after the effective date of this policy, applicants for positions covered by this policy will be given a copy of the policy before the preemployment testing. Employees and applicants will be advised that the entire policy and the drug and alcohol testing procedures referenced in this policy can be reviewed at their request.

V. RESPONSIBILITIES:

The Loudon County Mayor has overall responsibility for this program. The Mayor is responsible for handling all disciplinary actions that occur as a result of refusal to be tested or as a result of a positive test for employees under her control as chief executive officer for the County. The County Mayor works in cooperation with elected and appointed County officials in connection with disciplinary actions under this policy for County employees under their control. Ultimate disciplinary authority for these employees, however, remains with the respective County officials. County officials, for the purposes of this policy, include the Trustee, Register of Deeds, County Clerk, Clerk and Master, Sheriff, Court Judges, Clerk of Courts, Assessor of Property, and Road Superintendent. Employee Benefits has the functional responsibility for the administration of the program, coordinating with the Medical Review Officer and the laboratory selected, keeping records relative to drug/alcohol testing, and for coordinating and initiating testing of employees under Return to Duty Agreements. Employee Benefits, the supervising County officials, and the County Mayor are authorized to act as the DER.

VI. PROCEDURES FOR TESTING:

Procedures relative to the administration and implementation of this policy are included in a separate document entitled "Loudon County's Drug and Alcohol Testing Procedures" (hereinafter sometimes referred to as the "Procedures") which will provide those supervisors, managers and employees covered by this policy with information that can be used when more detail is needed. **The Procedures are hereby incorporated and made a part of this policy the same as if they had been fully copied herein.** A copy of the Procedures is available upon request from Employee Benefits. The Procedures are also utilized to implement testing under Loudon County's DOT Drug and Alcohol Abuse Policy. The following is a summary of the information which is more fully detailed in the Procedures.

A. Drug Testing Procedures

Drug testing under this policy will involve the screening of urine samples for the prohibited drugs listed in the Procedures. The initial test performed on the urine sample will be an enzyme-multiplied-immunoassay technique ("EMIT screen"), screen which will be used to eliminate negative urine specimens from further consideration. All specimens identified as positive through the EMIT screen will be confirmed by using gas chromatography/mass spectrometry ("GC/MS") techniques at the cutoff levels set forth in the Procedures. A GC/MS confirmation test above the foregoing cut-off limits for GC/MS tests will be considered a positive drug test.

Personnel trained in the process of collecting the urine samples and seeing that correct chain of custody procedures are followed will be available at the collection site. Loudon County, or any subsequent contractor performing Loudon County's urine specimen collection, shall have all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping of urine specimens to a certified drug testing laboratory designated by the County. These personnel shall follow Loudon County's Drug and Alcohol Testing Procedures to ensure that the drug test results of the urine samples are attributable to the correct employee and to preserve the integrity of the testing process and validity of the test results.

It is the responsibility of an applicant or employee who tests positive on a drug test to inform the medical review officer ("MRO") of any prescription or non-prescription drug use that may have affected the results of the test. The purpose of this disclosure is to assist the MRO in determining whether such prescription or non-prescription drug use is the source of any positive test result.

An applicant or employee who receives a positive confirmed test result may contest or explain the result to the MRO within five (5) working days after receiving written notification of the test result. If the applicant's or employee's explanation or challenge is unsatisfactory to the MRO, the MRO shall then report the positive test result to Loudon County. An employee may contest a

drug or alcohol test pursuant to the rules implementing the Tennessee Drug Free Workplace Program.

Under this policy, the County tests for the following prohibited drugs at the following cutoff levels, or as otherwise instructed by the Tennessee Drug-Free Workplace or standard laboratory procedures, including reference to 49 C.F.R. Part 40, as amended:

	EMIT	GC/MS
Amphetamines	1,000 ng/ml	500 ng/ml
Barbiturates	300 ng/ml	300 ng/ml
Benzodiazepines	300 ng/ml	300 ng/ml
Marijuana Metabolites	50 ng/ml	15 ng/ml
Cocaine Metabolites	300 ng/ml	150 ng/ml
Methadone	300 ng/ml	300 ng/ml
Methaqualone	300 ng/ml	300 ng/ml
Opiates	2000 ng/ml	2000 ng/ml
Phencyclidine (PCP)	25 ng/ml	25 ng/ml
Propoxyphene	300 ng/ml	300 ng/ml

B. Alcohol Testing Procedures

Alcohol testing will be conducted using evidential breath testing ("EBT") devices by either Loudon County or its authorized agents, who will use an EBT device capable of printing out the results, date and time, sequential test number, and the name and serial number of the EBT to ensure reliability of the results.

An initial or screening test will be performed by a qualified BAT utilizing an EBT. Where the screening test result shows an alcohol concentration less than 0.02, no further testing action will be taken (unless the test is a return to duty or follow-up test). However, if the alcohol concentration

in the screening test is 0.02 or greater, a confirmation test will be conducted after a 15-minute waiting period.

The confirmation test may be conducted on the same EBT or different EBT by the BAT, but it must be performed no sooner than 15 minutes and no later than 30 minutes after the screening test. The confirmation test result is deemed to be the final result upon which any action will be taken under this policy.

A confirmation test result with an alcohol concentration of 0.04 is considered a positive test, and the employee will be immediately removed from performing his or her functions, and suspended with pay pending an investigation. Disciplinary action up to and including termination will be imposed pursuant to and in accordance with this policy. Where an employee is found to have an alcohol concentration in the confirmation test of above 0.01 but below 0.04, the employee will be required to pass an alcohol test the next day.

An employee who tests 0.02 or above, but less than 0.04 in the first-day confirmation test will be scheduled for a re-test on the next regularly scheduled shift ("second-day test"). If the employee's initial re-test is less than a 0.02, the employee will be returned to his or her duties. If the employee's initial re-test is a 0.02 or above, he or she will be given a confirmation test under the foregoing confirmation test procedures. If the confirmation test shows an alcohol concentration of 0.04 or above, it is a positive test and disciplinary action will be taken accordingly. If the second-day confirmation test shows an alcohol concentration of 0.02 or above, but below 0.04, the employee will be referred to EAP for evaluation. The employee will be suspended with pay pending release and recommendations from EAP regarding the employee's return to work.

Where employees are tested under a test required by Loudon County's DOT Policy, including preemployment, reasonable suspicion, post accident, random, return to duty and follow-up testing required thereunder, the Loudon County DOT will be used generally to the exclusion of a test under this policy. However, Loudon County reserves the right to conduct a separate test under this policy by requiring the employee to void or breathe separately after the employee has voided or breathed for the DOT-required test. Further, a positive test under the Loudon County DOT Policy is considered a positive test under this policy. Before testing, employees will be informed as to whether they are being tested pursuant to Loudon County's DOT Drug and Alcohol Abuse Policy, this policy, or both.

Loudon County will incur the costs of most testing required under this policy. The cost of any testing related to Return to Work Agreements shall be borne by the employee.

Note: An employee who is subject to a Return to Work Agreement will be expected to comply with the conditions of that agreement and considered in violation of his or her Agreement and the County's General Policy if results of a drug or alcohol test are positive as defined in the

employee's Return to Work Agreement. Such employee will be given both an initial and confirmatory test, and the confirmation test results will control for disciplinary purposes.

VII. COUNSELING/REHABILITATION RESOURCES

Loudon County strongly encourages employees with a drug or alcohol dependency to voluntarily refer themselves to a rehabilitation program. A list of resources designed to assist employees with substance abuse is attached to this policy as Appendix A. Costs of rehabilitation may be covered under Loudon County's group health insurance plan subject to the eligibility requirements, limitations and conditions of the plan. Any and all costs of rehabilitation, whether incurred as a result of voluntary or mandatory referral (as defined below), that are not paid for by Loudon County's insurance carrier will be the responsibility of the employee.

VOLUNTARY/SELF REFERRAL: A voluntary/self referral is defined as an employee who seeks an appointment that is not disciplinary in nature. A voluntary referral is not allowed once an employee fails a drug or alcohol test or has otherwise been found in violation of this policy. All information is confidential and names of referrals are not released without written consent of the patient. Employees are not subject to disciplinary action for voluntary/self referral even though the reason may involve drug or alcohol dependency as long as they have not otherwise been found in violation of this policy. Other violations of Loudon County policy or work rules may subject the employee to disciplinary action.

Employees in safety-sensitive positions who voluntarily refer themselves to counseling and who are, in turn, referred for drug or alcohol rehabilitation treatment, and who release or otherwise disclose that information to Loudon County, will be monitored by the Substance Abuse Professional (SAP), in partnership with Employee Benefits or her designee to help ensure they continue to follow the treatment recommendations of the professionals. Where the employee fails to follow treatment recommendations, thereby raising safety concerns, Loudon County reserves the right to mandatorily refer such an employee to counseling.

MANDATORY/SUPERVISORY REFERRAL: A mandatory/supervisory referral is defined as a directive from Loudon County to an employee to seek assistance when work performance or the ability to safely perform job functions has been affected by personal and/or work related problems. Employees who have BAC's between .02 and .04 on second day tests are subject to mandatory referral. In the rare event that an employee who fails a drug or alcohol test is not terminated, he or she will be mandatorily referred to counseling. In the case of a mandatory referral, the counseling is not confidential and the employee will be required by the provider to sign a release authorizing the provider to furnish Loudon County with appropriate information.

If an employee is assessed by the counselor to need rehabilitation, the referral to rehabilitation will not be confidential. The counselor will notify Employee Benefits. The treatment

facility will require the employee to execute an information release enabling the counselor, Loudon County, and the treatment center to exchange certain information about the employee's diagnosis, recommended program, cooperation, progress, etc.

Disciplinary action related to the actions necessitating the mandatory referral to EAP may occur prior to, during, or following a counseling referral. Employees returning to work following a mandatory referral and rehabilitation for drug abuse will be subject to a Return to Work Agreement, specifying the circumstances and conditions of his or her return to duty, which will include among other things, follow-up drug or alcohol testing required by this policy and the requirement that the employee strictly follow any recommended rehabilitation and after-care program. The recommended treatment plan, including, where appropriate, abstinence from alcohol, will be incorporated into the Return to Work Agreement. Failure to comply and complete the recommended treatment plan outlined, or violation of the Return to Work Agreement, will lead to disciplinary action up to and including termination.

This section should not be construed to limit Loudon County's right to discipline or terminate any employee who is mandatorily referred to counseling or treatment or who otherwise fails to meet Loudon County job standards.

An employee who is approved to enter a rehabilitation program, whether on a voluntary or a mandatory referral basis, will be allowed to use any sick leave or vacation to that employee's credit at the time of entering the program. If no paid days are available, the employee will be approved for absence without pay as long as the employee is continuing in the rehabilitation program and up to the maximum amount of medical leave provided by the County. The time spent in a rehabilitation program will count toward the employee's entitlement under the Family and Medical Leave Act ("FMLA").

VIII. DRUG AND ALCOHOL AWARENESS PROGRAM:

To assist employees to understand and avoid the perils of drug and alcohol abuse, Loudon County has developed a drug free awareness program. Loudon County will use that program in an ongoing educational effort to prevent and eliminate drug and alcohol abuse that may affect the workplace. The awareness program will inform employees about: (1) the dangers of drug and alcohol abuse in the workplace, (2) the County's drug and alcohol abuse policies, (3) the availability of treatment and counseling for employees who voluntarily seek such assistance, and (4) the sanctions the County will impose for violations of its drug and alcohol abuse policies. This program will be monitored by Employee Benefits or the Mayor's Office on an ongoing basis and revised as new materials and information become available. All employees must complete at least one (1) hour of drug and alcohol education training per year as required by the Tennessee Drug-Free Workplace Program. Attendance records will be kept in Employee Benefits.

Supervisory personnel must, in addition to the one (1) hour of training required for all employees, obtain a minimum of two (2) hours per year of workplace substance abuse recognition training. This training will include educating the supervisory personnel on alcohol and drug awareness, information concerning and identifying specific, contemporaneous, physical, behavioral, and performance indicators ("reasonable suspicion") of probable drug and alcohol use, and proper procedures to be followed with all types of drug and alcohol testing. Supervisory training will be required for certification under the Tennessee Drug Free Workplace Program. Loudon County reserves the right to coordinate these training sessions with any training required by the Loudon County DOT Drug and Alcohol Abuse Policy.

IX. USE OF PRESCRIPTION DRUGS:

Loudon County recognizes that use of prescription drugs under the supervision of appropriate health professionals is protected under the Americans With Disabilities Act (ADA). However, legal use of certain prescription drugs by employees in safety-sensitive positions may cause impairment and create dangerous situations in the workplace. Employees are required to take prescription drugs which may cause impairment strictly in conformance with the limits prescribed by a licensed medical practitioner familiar with the employee's medical history and assigned duties. Failure to do so, e.g., by taking impairing drugs without a prescription or with a prescription not in the employee's name, or in amounts greater or more frequently than prescribed, or using multiple prescriptions obtained under false pretenses, or performing duties while taking an impairing drug that has not been reported to Loudon County or otherwise in violation to the foregoing requirements, is a violation of this policy.

To balance the interests of Loudon County and the rights of employees as provided in the ADA, a safety sensitive employee who must use prescription drugs under the supervision of an appropriate medical practitioner or physician is required to advise that practitioner of their safety sensitive responsibilities to determine if the medication may affect their ability to perform their assigned duties. If the physician needs to consult with someone from Loudon County about the safety sensitive responsibilities of the employee, he or she may contact Employee Benefits. If the employee's prescribing physician determines that working while taking the medication will create a safety risk, the employee must: (1) advise his or her manager of the safety risk so that accommodations can be made in the assignment or steps can be taken to eliminate the risk; or (2) not report to work while taking the medication which prevents the employee from performing in a safe manner.

It is the employee's responsibility to discuss any medication and all job responsibilities with his or her personal physician to determine if there is a safety risk involved and to take action to eliminate the risk.

X. SAFETY SENSITIVE POSITIONS:

Loudon County has a number of jobs which are considered safety sensitive positions. In general these are positions where a single mistake by a Loudon County employee can create an immediate threat of serious harm to fellow employees or the public. Such positions include, but are not limited to, positions which require the employee to operate Loudon County vehicles carrying passengers, operate personal vehicles for County business, operate heavy equipment or dangerous machinery, work directly with the high-voltage electric power system, work with raw sewage or hazardous or toxic chemicals which could be discharged into the atmosphere or the public water supply, and/or the performance of emergency response functions. Safety sensitive positions also include individuals with CDL's who are required to drive Loudon County's commercial motor vehicles subject to the FMCSA regulations.

Attached as Appendix B is a description of job duties which include safety sensitive positions subject to this policy. The random, pre-employment, and other required testing for the employees covered by Loudon County's DOT Policy will generally be conducted under that policy. Testing positive under Loudon County's DOT Policy, however, will be a violation of this policy. Moreover, Loudon County reserves the right to conduct drug tests under this policy for the employees covered by the DOT Policy; provided, however that if it exercises that option, Loudon County will require two voidings, will handle the samples separately, and will advise the employees that they are being tested under both policies. Safety sensitive employees (See Appendix B) who are not covered by Loudon County's DOT Policy will be tested under this policy and not the DOT-required policy.

Job functions may be added or deleted from Appendix B at the discretion of Loudon County or as mandated by law or regulations without republishing this policy. If new job functions are added to Appendix B, the County will inform incumbents in the affected classification, in writing, that they will be added to the random testing pool, with the notice mailed at least 30 days before their name is added to the pool.

XI. PRE-EMPLOYMENT TESTING:

In the furtherance of achieving Loudon County's goals as enumerated above, all individuals to whom a conditional offer of employment is made for employment in safety sensitive positions (See Appendix B) will be required to submit to a urinalysis test for the detection of illegal use of drugs.

Applicants will be given a copy of this policy in advance of the post-offer pre-employment physical. Applicants will acknowledge having read or had this policy explained to them and should understand that as a condition of employment they are subject to its contents. Applicants will be required to sign the necessary authorization form for Loudon County to perform the testing and for its DER to be advised of the results. An applicant refusing to complete any part of the drug and

alcohol testing procedures will not be considered a valid candidate for employment at Loudon County.

Applicants who test positive on the drug or alcohol test or who refuse to take the test will not be hired and will not be eligible to be considered for employment at Loudon County for a period of three months and until the applicant shows proof of successful completion of a drug or alcohol rehabilitation program or proof that the applicant has otherwise rehabilitated successfully and is no longer engaging in illegal drug use or misusing alcohol.

XII. REASONABLE SUSPICION TESTING:

Whenever Loudon County reasonably suspects that an employee's work performance or on-the-job behavior may have been affected in any way by illegal drugs or alcohol, or that an employee has otherwise violated Loudon County's General Policy, the County may require the employee to submit to a reasonable suspicion drug or alcohol test as required under the Tennessee Drug-Free Workplace Program. The test will be conducted in accordance with this policy and Loudon County's Drug and Alcohol Testing Procedures.

Reasonable suspicion sufficient to conduct a drug test will be based on a reasonable belief that the employee is using or has used an illegal drug or alcohol, or is otherwise in violation of Loudon County's General Policy, based on specific, current, or continuing physical, behavioral, or performance indicators of probable drug or alcohol use, or information provided by a reliable and credible source. Where it is feasible, at least two of the employee's supervisors, at least one of whom has been trained in detection of the possible symptoms of drug use, shall verify and agree to the decision to test an employee.

Loudon County's determination that reasonable suspicion exists to require a covered employee to undergo drug or alcohol testing will be based on specific, objective, contemporaneous and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, reasonable suspicion sufficient to justify drug or alcohol testing may be based on, but not limited to the following: direct observation by a supervisor of symptoms of drug or alcohol use such as impaired motor control, loud or uncontrollable verbiage, or displays of violent/threatening behavior; slurred speech, odor, glassy eyes; information provided by reliable and credible sources; abnormal conduct or erratic behavior while at work or a significant deterioration in work performance; a report of drug or alcohol abuse provided by a reliable and credible source; evidence that an employee has tampered with a drug or alcohol test; information that an employee has caused, contributed to or been involved in an accident at work; or evidence that an employee has used, possessed, sold, solicited or transferred drugs, whether on or off the job, or evidence that an employee has used alcohol in violation of this policy. Reasonable suspicion to justify drug testing can also be based upon an alert by a trained drug detection dog indicating that an employee possesses illegal drugs on Loudon County property, presence of drugs on the County property under the control

of the employee, or presence of drugs in an employee's personal effects on the County property, including employee vehicles parked on the County property.

Once it is determined that an employee should be subjected to a reasonable suspicion test, one of the verifying supervisors should contact Employee Benefits to coordinate the testing and obtain any necessary instructions.

An employee who refuses to submit to drug or alcohol testing for reasonable suspicion will be immediately removed from his or her position. Refusal to take the test is insubordination and will constitute grounds for immediate termination.

An employee who agrees to be tested will be transported to and from the collection site. Where a reasonable suspicion drug test is given in addition to the alcohol test, even if the employee passes the alcohol test, the employee will be removed from his or her activities and will be suspended with pay pending receipt of the drug test results. If the employee fails the alcohol test, the employee will be immediately removed from his or her position and will be suspended with pay pending a further investigation. The employee should make arrangements to be transported home. The employee should be instructed not to drive any motor vehicle due to the positive alcohol test and/or due to the reasonable belief that he or she may be under the influence of a drug. If the employee insists on driving, the proper local law enforcement authority will be notified that an employee Loudon County believed to be under the influence of a drug or alcohol is leaving Loudon County premises driving a motor vehicle.

If an alcohol test based on reasonable suspicion is not administered within two (2) hours following the determination of reasonable suspicion, Loudon County shall prepare and maintain on file a record stating the reasons the test was not properly administered. If the test is not administered within eight (8) hours following the reasonable suspicion determination, Loudon County will cease attempts to administer the alcohol test and will record, in writing, the reasons for not administering the test.

As required by the Tennessee Drug Free Workplace Act, Loudon County shall, within seven (7) days after testing based on reasonable suspicion, detail in writing the circumstances which form the basis of the determination that reasonable suspicion existed to warrant the testing. A copy of this documentation shall be given to the employee upon request and the original documentation shall be kept confidential.

An employee who tests positive on a reasonable suspicion drug or alcohol test (either administered under this policy or Loudon County's DOT Policy) will be in violation of this policy. Failing a drug or alcohol test, except in extremely rare circumstances, will constitute grounds for immediate termination. Failing an alcohol test will result in disciplinary action up to and including termination. If the employee is not terminated, Loudon County will refer the employee to counseling

under the mandatory referral provisions of the Counseling/Rehabilitation Resources in Section VII of this policy.

Loudon County reserves the right, in its discretion, to conduct reasonable suspicion tests under this policy for employees being tested under the DOT Policy, but in such cases, independent samples will be taken under each policy.

XIII. POST ACCIDENT TESTING:

Employees involved in accidents within the definition of "accidents" in Definitions, Section III above, will be subject to post-accident testing under the following circumstances:

1. Where a Loudon County employee apparently caused, may have contributed to, or cannot be completely discounted as a contributing factor to the accident, OR
2. Where an employee indicates by actions or otherwise at the scene of an accident that he/she has used some substance in violation of Loudon County's General Policy.

Note: An employee subject to post-accident testing need not have personally sustained an injury as long as the definition of accident is satisfied and the employee apparently caused, contributed to, or cannot be completely discounted as a contributing factor to the accident. An employee who is not issued a citation is not necessarily completely cleared of fault.

Employees who are covered by Loudon County's DOT Policy and who are involved in "accidents" meeting the definition of this policy but not meeting the definition of the DOT policy will be subject to post-accident testing under this policy. Employees covered under Loudon County's DOT Policy will be told whether they are being tested under the General Policy or the DOT policy.

Testing will be done as soon as possible following the accident in accordance with Loudon County's Drug and Alcohol Testing Procedures. If an employee refuses to submit to post accident testing, the employee will be removed from his or her position. Refusal to take the test is insubordination and will constitute grounds for immediate termination. Refusal to submit to the post-accident test will subject the employee to potential loss of workers compensation benefits as authorized by Tenn. Code Ann. §50-9-102 and §50-6-110(c).

If the alcohol test is not administered within two (2) hours following the accident, Loudon County will prepare a written record stating the reasons why the test was not promptly administered. If the alcohol test is not administered within eight (8) hours following the accident Loudon County

will cease attempts to administer the alcohol test and will also prepare a written record of the reasons for not administering the test.

There is no time limit for administering drug testing under this policy.

An employee who is subject to post-accident testing, but who fails to remain readily available for testing, may be deemed by Loudon County to have refused to submit to the test. The employee may not consume any alcohol for eight hours following the accident or until the alcohol test has been conducted. Nothing herein is intended to require the delay of necessary medical attention for injured people or prohibit a covered employee from leaving the scene of the accident for the period necessary to obtain assistance or necessary emergency medical care.

An employee who agrees to be tested will be transported to and from the collection test site. Because a post-accident drug test will be administered in addition to an alcohol test, even if the employee passes the alcohol test, the employee will not be allowed to perform safety sensitive functions and may be suspended with pay pending the results of the drug test in accordance with this policy.

Upon completion of drug and alcohol testing, an employee who fails the alcohol test will be immediately removed from his or her position and will be suspended with pay pending a further investigation. The employee should make arrangements to be transported home. The employee should be instructed not to drive any motor vehicle due to the positive alcohol test and/or the belief that he or she may be under the influence of a drug. If the employee insists on driving, the proper local law enforcement authority will be notified that an employee Loudon County believes to be under the influence of a drug or alcohol is leaving Loudon County premises driving a motor vehicle.

An employee who fails a post-accident test (administered under this policy or Loudon County's DOT Policy) will be in violation of this policy. Failing a drug test, except in extremely rare circumstances, will constitute grounds for immediate termination. Failing an alcohol test will result in disciplinary action up to and including termination. If the employee is not terminated, the County will refer the employee to counseling under the mandatory referral provisions of the Counseling/Rehabilitation Resources section, Section VII, of this policy. Further, positive test results on a drug or alcohol test pursuant to this policy, including post-accident tests, will also subject the employee to potential loss of workers' compensation benefits as authorized by Tenn. Code Ann. § 50-9-102 and § 50-6-110(c).

Loudon County reserves the right, in its discretion, to conduct post-accident tests under this policy for employees tested under the DOT Policy, but in such cases, independent samples will be taken under each policy.

XIV. PROMOTION AND TRANSFER TESTING:

When an employee in a non-safety sensitive position applies for a position for a job that has been identified by Loudon County as a safety sensitive position, the employee is subject to drug testing in accordance with Loudon County's Drug and Alcohol Testing Procedures before the employee will be considered a valid candidate for that job opening. An employee who tests positive on a promotion/transfer test, will no longer be considered an applicant for that position. Such employee will also be in violation of this policy, which constitutes grounds for immediate termination. If the employee is not terminated, the employee is subject to the mandatory referral provisions of Section VII, Counseling/Rehabilitation Resources; the provisions of Section XVI, Return to Duty and Follow-Up Testing; and Section XVII, Referral, Evaluation and Treatment, of this policy.

An employee may withdraw the application for the position at any time up until the employee is scheduled for promotion/transfer testing. Once an employee is scheduled for promotion/transfer testing, if that employee refuses to submit to the testing, he/she will be disqualified for consideration for the position and will be considered as being insubordinate and subject to Loudon County's disciplinary procedure. Under no circumstances will this employee be considered as a viable candidate for any future openings in this classification until the employee has signed a release for drug testing at the time of submitting the application for the position in connection with a job posting.

XV. RANDOM TESTING:

All employees in safety-sensitive positions (Appendix B) are subject to random drug testing at a rate equal to 10% of the covered employees on an annual basis. The testing rates are subject to change at the beginning of each calendar year, and Loudon County will advise covered employees of any change in the random rate before such change is implemented. All testing will be in compliance with Loudon County's Drug and Alcohol Testing Procedures which are incorporated herein by reference.

Temporary and seasonal employees who are performing work in a safety-sensitive position are also covered and will be subject to random testing on the same basis as regular employees.

The process will be unannounced as well as random. The frequency of testing dates will vary and testing will be reasonably spread throughout the year. Due to the large numbers of employees who will ultimately be covered by random testing, testing may be conducted at different locations, on different days in the same month, or even in the same week, as long as testing is reasonably spread throughout the applicable 12 month period. Employees will be notified that they have been selected for random testing **after** they have reported for duty on the day of collection.

The selection for testing will be done using a random number table or a computer-based random number generator that is matched with an employee's social security number, payroll

identification number, or other appropriate identification number. Loudon County reserves the right to create multiple pools of safety-sensitive employees provided that all covered employees are subject to the random drug testing rate of 10%.

Any employee who refuses to submit to a random drug test will be immediately removed from safety-sensitive functions, charged with insubordination and will be subject to immediate termination.

Any employee who fails a random drug test will be immediately removed from the safety-sensitive functions and will be in violation of this policy. Failing a drug test, except in extremely rare circumstances, will constitute grounds for immediate termination. If the employee is not terminated, Loudon County will mandatorily refer the employee to counseling under the mandatory referral provisions of Section VII, Counseling/Rehabilitation Resources; the provisions of Section XVI, Return to Duty and Follow-Up Testing, and Section XVII, Referral, Evaluation and Treatment, of this policy.

DOT COVERED EMPLOYEES: Where an employee in a safety-sensitive position covered by this policy is also covered by the random testing requirements of Loudon County's DOT Policy, the random testing will be done pursuant to that policy and not this policy. However, testing positive on a DOT-required test is a violation of this policy and subjects the employee to the discipline specified herein. All other safety-sensitive positions will be tested under this policy.

XVI. RETURN TO DUTY AND FOLLOW-UP TESTING:

An employee who has been given the opportunity to undergo rehabilitation for drugs or alcohol must pass a return to duty drug test administered under this policy before the employee will be allowed to return to duty and will, as a condition of return to duty, be required to agree to reasonable follow-up testing established by Loudon County. The extent and duration of the follow-up testing will depend upon the safety or security nature of the employee's position, and the nature and extent of the employee's substance abuse problem, but will not exceed 60 months after the employee's return to duty. Loudon County will consult with the SAP, in determining an appropriate follow-up testing program. All follow-up drug and alcohol testing will be conducted in accordance with the Procedures.

If the SAP determines some form of evaluation and/or treatment is required, the employee must strictly comply with the recommendations. If the SAP recommends that the employee remain drug and/or alcohol free, the employee must strictly comply with those recommendations, which shall be incorporated into the Return to Work Agreement.

Any employee who is subject to return to duty or follow-up testing who has a confirmed positive drug or alcohol test or who refuses to be tested will be in violation of this policy and will be subject to immediate termination.

Return to duty and follow-up testing is not an option if Loudon County terminates an employee who has tested positive, refused to test, or who has otherwise violated this Policy or the DOT Policy.

XVII. REFERRAL, EVALUATION AND TREATMENT:

A covered employee who has engaged in conduct prohibited by this policy will be advised of the resources available to him or her for evaluating and resolving problems associated with the misuse of drugs or alcohol including the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs approved by Loudon County.

Where the employee is not terminated, the County will mandatorily refer the employee for evaluation by a SAP who will determine what assistance, if any, the employee needs in resolving problems associated with drug or alcohol misuse. Before an employee will be returned to a covered position, the SAP must certify that the employee has properly followed any rehabilitation program prescribed by the professional.

Employees mandatorily referred to counseling who are diagnosed as needing assistance in resolving drug or alcohol misuse problems will be required to sign a Return to Work Agreement which will specify the circumstances and conditions on their return to duty which will include, among other things, the follow-up alcohol and drug testing required by this policy and the requirement that the employee follow any recommended rehabilitation and after-care program.

Nothing contained herein should be construed as restricting Loudon County's right to terminate a covered employee for violating this policy. Employees who are terminated are not entitled to Loudon County sponsored rehabilitation other than through their election to continue their health insurance coverage under COBRA (provided the employee's termination is not for gross misconduct, in which case COBRA benefits may be denied).

XVIII. COLLECTION:

The main office of Loudon County's MRO is designated as the primary drug or alcohol testing facility; however, testing may be performed at another site at the County Mayor or his designee's discretion. Drug and alcohol testing will be done at designated collection sites around Loudon County. Personnel trained in the process of collecting the specimen and seeing that correct chain of custody procedures are followed will be available at collection sites. All collections will be done in accordance with the Drug and Alcohol Testing Procedures.

Loudon County or any subsequent contractor performing the County's specimen collection, shall have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage, and shipping of urine specimens to a certified drug testing laboratory designated by the County.

A designated collection site will be any suitable location where a specimen can be collected under conditions set forth in the Procedures, including a properly-equipped mobile facility.

Should an occasion arise that requires testing at a time when Loudon County collection sites are not available, employees will be tested at Fort Loudon Medical Center. This facility is aware of the appropriate testing requirements and the chain of custody procedures that must be followed, along with the requirement of transfer of the specimen to the County's selected DHHS certified laboratory. A qualified investigator or supervisor should inform the collection personnel or BAT whether the test is by this policy or by the DOT regulations (i.e., a 5-drug DOT panel) so that the appropriate procedures may be followed.

XIX. LABORATORY:

A DHHS certified laboratory has been selected to perform the testing on urine specimens submitted. The laboratory shall provide services in accordance with the Procedures and DOT regulations, 49 CFR Part 40, even on Loudon County's non-DOT drug tests. Current laboratory information is found at Appendix A to this document.

In the event that a need arises for a confirmation of a positive result by another laboratory, another DHHS-certified laboratory will be selected from the published list of DHHS-approved laboratories in the Federal Register or latest DOT publication.

Loudon County personnel may periodically perform unannounced inspections, including examination of records.

XX. MEDICAL REVIEW OFFICER (MRO):

The MRO will be responsible for reviewing the results of drug tests before they are reported to Loudon County; reviewing and interpreting each confirmed positive, adulterated, substituted and invalid test to determine if there is an alternative medical explanation for the positive; conducting an interview with the individual testing positive; reviewing the individual's medical history and all medical records made available by the individual to determine if the positive resulted from legally prescribed medication; requiring a retest of the original specimen if the MRO deems it necessary; and verifying that the laboratory report and assessment are correct. The MRO also ensures that an employee has passed an appropriate drug test conducted in accordance with this policy and the Procedures before returning to work. The MRO is expected to follow the Medical Review Officer Manual published by the U.S. Department of Health and Human Services. Current MRO information is found at Appendix A to this document.

It is the employee's responsibility to inform the MRO of any prescription drug use that may have affected the test result. If the MRO determines that there is a legitimate medical explanation for the positive test other than the use of a prohibited drug, the MRO will report the test result to Loudon

County as negative. If the MRO concludes, based on available data, that a particular drug test is scientifically insufficient, the MRO will report the test as negative for that individual. If the MRO determines that there is no legitimate explanation for the positive test other than the use of a prohibited drug, the MRO will communicate the results of verified positive test to the employee orally and in writing and will inform the DER of a potential positive.

The MRO will notify the employee with a confirmed positive test of the results and that he/she has 72 hours in which to request a re-analysis of the original specimen. If the employee timely requests re-analysis, it will be directed by the MRO. Such re-analysis will be conducted in conformance with Loudon County's Drug and Alcohol Testing Procedures. If the re-analysis fails to confirm the presence of the drug, the MRO will cancel the test and inform the County's DER and the employee of the reasons for the cancellation. The cost of the re-test must be paid by the employee; however, if the re-test is negative, Loudon County will reimburse the employee for the cost of the re-test.

An employee or job applicant who receives a positive confirmed test result, upon notification by the MRO, may contest or explain the result to the MRO within five (5) working days after receiving written notification of the test result. If an employee's or job applicant's explanation or challenge is unsatisfactory to the MRO, the MRO shall report a positive test result back to Loudon County's DER.

The results of confirmed positive tests will be communicated by the MRO to the DER, who in turn will advise the County Mayor. The MRO or his representative will communicate the results of negative tests to the DER, who will then notify the employee through interdepartmental confidential mail or e-mail.

XXI. RECORD RETENTION - CONFIDENTIALITY:

Records of drug test results are recognized to be private and sensitive records, will be maintained separate and apart from personnel records, and will be maintained in a secure fashion to ensure confidentiality. These records will be handled on a strict "need to know" basis. Records of disciplinary actions taken relative to this policy will be maintained in the employee's personnel file.

Loudon County will maintain records of drug and alcohol tests administered under this policy as follows. Records demonstrating that an employee passed a drug and alcohol test hereunder will be kept for at least one year. Records which show that an employee failed a drug or alcohol test, the type of test failed (e.g., post-accident), the prohibited substance(s) that were used by the employee, the disposition of each employee (e.g., termination) and records of rehabilitation, if any, will be kept for at least five years. A record of the number of employees tested each year by type of test will also be kept for five years. Any records listed above may be maintained for an indefinable period beyond the specified minimums at Loudon County's discretion.

Information regarding an individual's drug or alcohol testing results or rehabilitation under this policy is confidential and Loudon County, as set forth herein, will release it only upon the individual's written consent. Information regarding an individual's drug or alcohol use or testing results or rehabilitation under this policy may be disclosed, regardless of consent, to the decisionmaker of a judicial or administrative tribunal in the event of a lawsuit, grievance, civil service appeal, unemployment compensation, worker's compensation or other proceeding brought by or on behalf of the individual arising in whole or in part from the results of a drug or alcohol test or violation of this policy.

XXII. INSPECTION:

Loudon County retains the right, based upon reasonable suspicion of a violation of this policy, to search an employee's office, desk, locker and other County property under the control of the employee, as well as the employee's personal effects in or on Loudon County property, such as parcels, packages, purses, lunch boxes, briefcases, and the employee's vehicles parked on Loudon County property.

Reasonable suspicion sufficient to justify a search may be based upon a clear and reasonable belief, through observation or information provided by a reliable and credible source, that illegal drugs are being possessed, distributed, sold or used while on duty, while operating Loudon County vehicles or equipment, or while on County property.

Except in the case of an immediate need to search, a decision to search shall be made by the County Mayor or the appropriate County official in consultation with the employee's Department Head and Employee Benefits. The search shall be conducted by security personnel with at least one supervisory/management personnel in attendance. Assistance from local law enforcement will be requested as deemed appropriate. Generally, an immediate search is necessary where it is likely that the object of the search may be removed, altered, or destroyed before a more thorough evaluation or review of the situation can be made.

If an immediate search is conducted, the purpose of the search should be explained to the affected employee if the employee is present at the time of the search. Any illegal drugs, alcohol, or related paraphernalia should be identified and turned over to the County Mayor or his designee at the earliest possible moment.

An employee who refuses to allow a search of his personal property such as parcels, packages, purses, lunch boxes, briefcases, and personal vehicles parked on Loudon County property, will be charged with insubordination and subject to immediate termination.

Searches of Loudon County property under the control of an employee (offices, desks, filing cabinets, lockers, etc.) are subject to being conducted without notice to the employee, once the reasonable suspicion standard has been satisfied.

Possession of illegal drugs or alcohol on County property, or while on duty on or off County property, will constitute grounds for immediate termination. Possession of open containers, i.e., containers with broken seals, open containers of beer, etc., of alcoholic beverages while on County property or while on duty on or off County property is a violation of this policy.

In addition to the foregoing, Loudon County reserves the right, with or without any individualized suspicion, to use trained dogs and law enforcement personnel to detect prohibited drugs on County property, on/in County property under the control of employees, as well as employees' personal effects on/in County property, including employee vehicles parked on County property. Identification of the presence of illegal drugs by trained dogs shall constitute individualized reasonable suspicion to allow County to search any such property in accordance with and pursuant to the foregoing policy. Identification of the presence of illegal drugs shall also constitute reasonable suspicion to request the employee to submit to a reasonable suspicion drug test.

Notices to this effect will be prominently posted at the entrance to or near each entrance to County property and/or at the employee bulletin board(s).

XXIII. CRIMINAL CHARGES:

Any employee who is criminally charged with a drug related offense, even while off duty and off Loudon County property **must** report the charge to the employee's supervisor no later than five days after such charge. Failure to report the charge within the time prescribed will lead to disciplinary action up to and including discharge.

Any employee who is charged with violating any criminal law related to operating vehicles under the influence of drugs or alcohol must report the charge to the employee's supervisor no later than 5 days after such charge. Failure to report the charge within the time prescribed will lead to disciplinary action up to and including discharge.

The employee who has been criminally charged with such a drug or alcohol-related offense may be relieved of duty with pay until an investigation is made. Once the facts are known and the investigation complete, the employee may be allowed to return to duty provided the employee agrees to certain conditions which may include random drug or alcohol testing as appropriate to the charges, or may be suspended without pay, or the employee may be terminated.

In determining whether the employee will be returned to duty (with or without testing), suspended or terminated, the following will be considered:

1. The degree to which the nature of the criminal charge and the facts underlying the charge reduces Loudon County's ability to maintain a safe and efficient working environment or are incompatible with the employee's responsibilities as a County employee.

2. The degree to which the nature of the charges and underlying facts unreasonably endangers the safety of other County employees, citizens and/or the public.
3. The degree to which the charges and underlying facts unreasonably undermines the public confidence of the County's operations.
4. The nature of criminal charges.
5. The nature of the employee's job at Loudon County.
6. The existence of any explanatory or mitigating facts or circumstances.
7. Whether the employee promptly reports the charge.
8. Any other facts relevant to the employee including but not limited to years of service and record of performance with Loudon County.

XXIV. CRIMINAL CONVICTIONS:

Any employee who has been convicted, as defined above in Section III, of violating any criminal drug or alcohol law must report the conviction to the employee's supervisor no later than 5 days after such conviction. Failure to report the conviction within the time prescribed will lead to disciplinary action up to and including discharge.

If an employee who drives a Loudon County vehicle has his or her license suspended, revoked, or canceled because of drug or alcohol-related offense, or if the employee is otherwise disqualified from driving due to such an offense, the employee must notify his or her supervisor before the end of the business day following the day the notice was received. Failure to do so will result in disciplinary action up to and including discharge.

Convictions for drug or alcohol-related offenses can result in disciplinary action up to and including discharge. In determining whether and to what extent an employee will be disciplined or discharged following the conviction of a drug or alcohol-related offense, the County will consider the following primary factors: the degree to which the nature of the offense reduces the County's ability to maintain a safe and efficient working environment or is incompatible with the employee's responsibilities as a County employee; the degree to which the nature of the criminal offense unreasonably endangers the safety of other Loudon County employees and/or the public; the degree to which the nature of the conviction undermines the public confidence of County operations; the nature of the criminal offense; and the nature of the employee's job, and any mitigating factors.

Any off-duty drug or alcohol related activity that is inconsistent, incompatible, or in legal or technical conflict with an employee's duties, functions, and responsibilities as a County employee will result in discipline up to and including termination.

XXV. ADMINISTRATIVE AND CIVIL ACTIONS:

It is the responsibility of the applicant or employee to notify their department manager of any administrative or civil action brought pursuant to the Tennessee Drug Free Workplace Act.

XXVI. PROCEDURES FOR NOTIFYING EMPLOYEES OF COVERAGE:

Upon the implementation of this policy, Loudon County will notify all employees as defined herein that they are covered by this policy and provide them with the policy. Applicants for positions covered by this policy will be given a copy of the policy prior to pre-employment testing. Employees and applicants may obtain a copy of the procedures referenced in this policy by making a request to Employee Benefits.

NOTE: All referenced documents in this policy are available for inspection in Employee Benefits.

APPENDIX A

ADDITIONAL RESOURCES

The Center for Substance Abuse Prevention's Drug Information, Treatment and Referral Hotline
1-800-662-HELP

National Council on Alcoholism
1-800 -NCA-HELP

www.drug-rehabs.org
www.usnodrugs.com/tennessee
www.drug-abuse-treatment.org/tennessee.htm
www.findtreatment.samhsa.gov

Cocaine Helpline
1-800-COCAINE

Center for Substance Abuse Workplace Helpline
1-800-WORKPLACE

National Clearinghouse for Alcohol and Drug Information
1-800-729-6686

Tennessee Department of Health Alcohol and Drug Abuse Service
1-615-741-1921

Tennessee Alcohol and Drug Association Clearinghouse
1-800-889-9789

Tennessee Drug-Free Workplace Program
1-800-332-2667

Local Resources include

Alcoholics Anonymous
Call 974-9888 for information on local meetings at four immediate area churches, or the 24-hour hotline at 522-9667

Greater Smoky Mountain Area Narcotics Anonymous
Call 1 (866) 617-1710 or visit www.knoxvillena.org for area meeting times and places

MEDICAL REVIEW OFFICER

Peter G. Stimpson, M.D., FAAFP, PC
The Medical Center
901 Grove Street
Loudon, TN 37774
Phone: (865) 458-4847
Fax: (865) 458-9412

COLLECTION SITES

Primary: The offices of Peter G. Stimpson, M.D. (see above address)

First Alternate: Fort Loudon Medical Center
550 Fort Loudon Medical Center Drive
Lenoir City, TN 37772

LABORATORY

MEDTOX Scientific, Inc.
402 West County Road D.
Saint Paul, MN 55112
(800)-832-3244
(651)-636-7466

APPENDIX B

SAFETY SENSITIVE POSITIONS

Employees who perform any of the below job functions and hold the positions listed below are subject to random drug testing under Loudon County's General Drug and Alcohol Policy

- Any safety-sensitive function pursuant to regulations governing drug testing adopted by the U.S. Department of Transportation.
- Most functions with respect to the operation of Loudon County's Sheriff's Department.
- Driving a County-owned vehicle in connection with regular and customary job functions.
- Driving a personal vehicle in connection with regular and customary job functions.
- Any road maintenance duties.
- Operating machinery or engaging in the maintenance of County equipment or vehicles on a regular and customary basis.
- Entering residences or property of Loudon County residents in connection with regular job duties.

SAFETY SENSITIVE POSITIONS

MAYOR'S OFFICE

Mayor (Elected Official)
Employee Benefits (driving)

SHERIFF'S OFFICE

Sheriff (Elected Official)	Resource Officer
Chief Deputy	Investigator
Assistant Chief Deputy	Secretary (driving)
Captain	Deputy
Patrol Officers	Sergeant
Corporal	
Lieutenant	

JAIL

Corporal	Corrections Guard/Corrections Officer
Dietitian/Cook	Lieutenant

HIGHWAY DEPARTMENT

Superintendent (Elected Official)	Equipment Operator
Laborer	Foreman
Mechanic	Mower
Truck Driver	

ACCOUNTS & FINANCE

Director (driving)	AP Technician (driving)
Clerks (driving)	AP/AR Technician (driving)
Senior Payroll Administrator (driving)	

ANIMAL CONTROL/ANIMAL SHELTER

Manager	Euthanasia Technician
Animal Control Officer	Laborer

PLANNING & CODES DEPARTMENT

Director/Planner
Inspector

CLERKS OF COURT (CIRCUIT/GENERAL SESSIONS)

Clerk (Elected Official)	Deputy Clerk (driving)
Chief Deputy Clerk (driving)	Bookkeeper (driving)
Clerk (driving)	Office Manager (driving)

COUNTY CLERK

Clerk (Elected Official)

CLERK & MASTER

Clerk & Master/Director (Elected Official)

COUNTY JUDGES

Judicial Commissioner

CONVENIENCE CENTER

Director	Assistant
Assistant Director	Laborer
Foreman	Attendant
Recycling Attendant	

ELECTION OFFICE

Director/ Administrator

EMERGENCY MANAGEMENT (EMA)

Director	Secretary
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JUVENILE CENTER

Director
Intake Officer

Social Worker
Attendant

MAINTENANCE

Foreman/Supervisor
Laborer

Custodian
Maintenance Director

PROPERTY ASSESSOR

Property Assessor (Elected Official)
Chief Deputy

Inspector

PURCHASING

Director

SENIOR CITIZENS CENTER

Clerical (driving)
Supervisor/Director

Clerk (driving)

DATA PROCESSING

Computer Technician/Programmer

HEALTH DEPARTMENT

Doctor
Registered Nurse

EXHIBIT B

**LOUDON COUNTY DEPARTMENT OF TRANSPORTATION
DRUG AND ALCOHOL ABUSE POLICY**

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DATE OF REVISION

DECEMBER 2011

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**LOUDON COUNTY DEPARTMENT OF TRANSPORTATION
DRUG AND ALCOHOL ABUSE POLICY**

DATE OF POLICY REVISION:

December 2011

I. INTRODUCTION:

Loudon County (the "County") is committed to a safe working environment, to making adequate provisions for the safety and health of its employees at their place of employment, and to the safety and health of the citizens it serves. Loudon County also is dedicated to operating in a responsible and efficient manner for the benefit of its citizens. It is further committed to compliance with all applicable laws and regulations, including but not limited to the Drug-Free Workplace Act of 1988, the State of Tennessee's Drug-Free Workplace Program, and the DOT Federal Motor Carrier Safety Administration Controlled Substances and Alcohol Use and Testing Regulations, 49 CFR Part 382.

The catalyst for this anti-drug plan is two-fold. First, Loudon County's operations are covered by the DOT Federal Motor Carrier Safety Administration Controlled Substances and Alcohol Use and Testing Regulations, 49 CFR Part 382 (hereinafter "FMCSA regulations" or "Part 382") which require the County to drug test its employees who are required to maintain commercial driver's licenses ("CDL's"). FMCSA regulations require Loudon County to follow DOT's Drug and Alcohol Testing Procedures, 49 CFR Part 40 (hereinafter "Part 40"). Part 40 specifies the procedures to be followed in conducting the DOT drug testing. Part 382 preempts any state or local law, rule, regulation or order to the extent that: (1) compliance with both the state or local requirements and this regulation is not possible; (2) compliance with the state or local requirements is an obstacle to the accomplishment and execution of any requirement in Part 382. It does not, however, preempt provisions of state criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees or employers or to the general public.

Loudon County has long been committed to setting the highest standards for emphasizing and enforcing an alcohol and drug free workplace. The overall purpose of this policy is to prevent accidents that result from the use of drugs and alcohol, thereby reducing fatalities, injuries, service interruptions and property damage.

Loudon County also maintains a General Drug and Alcohol Abuse Policy ("General Policy") for all of its employees. This latter policy is not required by DOT but rather is expressly and solely the policy of Loudon County. It is also authorized by and conforms to the requirements of the Tennessee Drug-Free Workplace Act. Disciplinary actions for violating any of Loudon County's drug and alcohol policies are ultimately controlled by the General Policy implemented by Loudon County's separate authority and not by this policy or the DOT regulations.

II. POLICY:

Any employee's refusal to submit to a drug or alcohol test in accordance with this policy for any purpose required under FMCSA regulations will require that the employee be immediately removed from the covered position. **Under Loudon County's General Policy, refusal to take a drug or alcohol test is considered insubordination and disciplinary action will be taken up to and including termination.**

A. Drug Policy

The unlawful manufacture, distribution, dispensation, possession or use of a prohibited drug while on Loudon County properties, while on duty for regularly scheduled or emergency work, while operating Loudon County vehicles or equipment, while performing safety sensitive functions, or off the job so as to affect the employee's job performance or integrity on the job as a representative of Loudon County is strictly prohibited. An amount of any prohibited drug in an individual's body equal to or higher than the cut-off level as detected by a drug test, for the purpose of this policy, is considered to be use of drugs by the individual.

B. Alcohol Policy

No covered employee shall report to work under the influence of alcoholic beverages. No covered employee shall possess, or use, or be under the influence of alcoholic beverages while on Loudon County properties, while on duty for regularly scheduled or emergency work, while operating Loudon County vehicles or equipment, or while performing safety sensitive functions. No covered employee shall report for duty or remain on duty in a covered position while having an alcohol concentration of 0.02 or greater. No employee may use alcohol while performing functions in a covered position. Moreover, covered employees are prohibited from using alcohol within four (4) hours before reporting to duty.

If the covered employee is called to duty to respond to any emergency, the employee is prohibited from using alcohol after the employee has been notified to report for duty. A covered employee being paid to be on call for a period of time is prohibited from consuming alcohol during that time period. If the County has actual knowledge that a covered employee has used alcohol within four hours before performing covered functions or within the time period after the employee has been notified to report for duty, the employee shall not be permitted to perform or continue to perform covered functions.

A covered employee who has actual knowledge of an accident in which his or her performance has not been discounted as a factor contributing to the accident shall not use alcohol for eight (8) hours following the accident, unless he or she has been given a post-accident alcohol test or Loudon County has advised the employee that it has determined that his or her performance could not have contributed to the accident.

Loudon County will not knowingly allow an employee to perform covered functions where the employee has violated any of the following provisions. Violation of this policy by the employee will require the employee to be immediately removed from performing covered functions.

Covered employees are performing safety-sensitive functions when they are actually performing, ready to perform or immediately available to perform such functions. Therefore, covered employees are required to be in compliance with this policy at any time they report to work, are actually working, or have immediately completed work in a covered classification.

Before performing a drug or alcohol test under this policy, Loudon County will inform the covered employee that the test is required by this policy and the applicable FMCSA regulations. Should an employee governed by this policy fail a drug or alcohol test, the employee will be removed immediately from the covered position.

In accordance with Loudon County's General Policy, violation of this policy is strictly prohibited and will lead to disciplinary action, up to and including termination. An employee who is not terminated will be mandatorily referred to EAP and may be referred to rehabilitation as described later in this policy.

III. DEFINITIONS:

For purposes of this policy, the following definitions apply:

"Accident" means an accident as defined in FMCSA regulations, which are defined as follows: any reportable accident involving a commercial motor vehicle where the driver receives a citation for a moving traffic violation or where there is a fatality even if the driver is not cited for a moving traffic violation.

"Adulterated Specimen" means that the urine specimen contains a substance that is not expected to be present in human urine, or contains a substance that is expected to be present but is at a concentration so high that it is not consistent with human urine. Submitting an adulterated specimen is a violation of this policy.

"Alcohol" or "Alcoholic beverage" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.

"Alcohol concentration (or content)" means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this subpart.

"Alcohol Use" means the consumption of any beverage, mixture, or preparation, including medications, containing alcohol.

"Applicant" means an individual applying for a covered FMCSA classification who is subject to preemployment drug and alcohol testing.

"Breath Alcohol Technician" (BAT) means an individual who instructs and assists individuals in the alcohol testing process and who operates an evidential breath test.

"Blind Sample" means a urine specimen submitted to a laboratory for quality control testing purposes, with fictitious identifier, so that the laboratory cannot distinguish it from employee specimens; and which is spiked with known quantities of specific drugs or which is blank, containing no drugs.

"Chain of Custody" means procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an appropriate drug testing custody form from a Department of Health & Human Services (DHHS) certified laboratory be used from time of collection to receipt by the laboratory.

"Collection Site" means a designated clinic/facility where applicants or employees may present themselves for the purpose of providing a specimen of their urine or a breath sample to be analyzed for the presence of drugs or alcohol, respectively.

"Collector" means a person who instructs and assists applicants and employees through the specimen collection process.

"Commercial driver's license" or "CDL" means a driver's license required to operate Loudon County's commercial motor vehicles.

"Commercial Motor Vehicle" means a motor vehicle or combination of motor vehicle and towed vehicle used in commerce to transport passengers or property when the vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds including a towed unit with a gross vehicle weight rating of more than 10,000 pounds, or has a gross vehicle weight rating of 26,001 or more pounds or is designed to transport 16 or more passengers.

"Confirmation Test" as to drugs means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test. In drug testing, a confirmation test employs the techniques and principles of gas chromatography/mass spectrometry ("GC/MS") which uses a different technique and chemical principle from that of the initial test to ensure reliability and accuracy.

"Confirmation Test" as to alcohol means a second test, following an initial or screening test with a result of .02 or greater that is given not less than 15 minutes and not later than 30 minutes after the initial screening test. The confirmation test is the final result upon which any action will be taken under this policy.

"Covered CDL employee" or "driver" means any Loudon County employee who is required to maintain a CDL to operate Loudon County's commercial motor vehicles. This includes all Loudon County employees who regularly, intermittently or occasionally are required to operate Loudon County's commercial vehicles.

"Covered CDL function (safety-sensitive function)" means any on-duty functions by a covered employee set forth in 29 CFR § 395.2 including: (a) waiting to drive a Loudon County commercial motor vehicle; (b) inspecting, servicing, or otherwise conditioning any Loudon County commercial motor vehicle; (c) driving a Loudon County commercial motor vehicle; (d) being in or upon a Loudon County commercial motor vehicle; (e) loading or unloading a Loudon County commercial motor vehicle or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, or remaining in readiness to operate the vehicle; (f) performing driver requirements related to accidents; or (g) repairing, obtaining assistance, or remaining in attendance of a disabled commercial motor vehicle.

"Designated Employer Representative" (DER): The DER receives test results and other communications for the employer, consistent with the requirements of Part 40. Employee Benefits, the supervising County official and the County Mayor are authorized DERs.

"Dilute specimen": A specimen with specific gravity of less than 1.003 and creatinine of less than 20 mg/dL, which are lower levels than expected for human urine. A positive dilute specimen will be regarded as a positive test. A negative dilute specimen will be regarded as a negative test.

"Fail a drug test" or "positive drug test" means the confirmation test result shows positive evidence of the presence under DOT procedures of a prohibited drug or alcohol in the employee's or applicant's system above the confirmation test cut-off limits specified in Part 382 and incorporated herein.

"Fail an alcohol test" or "positive alcohol test" means the confirmation test result shows an alcohol concentration of .04 or above.

"Initial test" as to drugs means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

"Initial test" as to alcohol means a breath alcohol test using an Evidential Breath Testing Device given by a qualified Breath Alcohol Technician to determine whether a covered CDL employee may have a prohibited concentration of alcohol in his or her system.

"Prohibited drug" for the purposes of this policy means amphetamines (specifically including MDMA), cocaine, marijuana, opiates (specifically including 6-Acetylmorphine), and phencyclidine ("PCP").

"Refusal to submit to a test" means refusal by an individual, who after receiving notice of the requirement to be tested in accordance with this policy and without a valid medical explanation, refuses to provide adequate breath for an alcohol test or refuses to provide a urine sample for a drug test, or otherwise engages in conduct that clearly obstructs the testing process. A verified adulterated or substituted result constitutes a refusal to submit. A refusal to submit will be considered a positive result.

"Substance abuse professional" means a licensed physician (i.e., a medical doctor), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders.

"Substituted specimen" means a urine specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine. Submitting a substituted specimen will be considered a violation of this policy.

(For other definitions, see Loudon County's General Policy, the DOT regulations, and Loudon County's Drug and Alcohol Testing Procedures, which are available upon request from Employee Benefits. Department Heads and elected or appointed County officials who oversee employees in DOT-covered positions will also have copies of the Loudon County Drug and Alcohol Testing Procedures.

IV. EMPLOYEE NOTIFICATION AND TRAINING:

Loudon County has developed a drug and alcohol awareness program to inform employees about the dangers of drug and alcohol abuse, the availability of counseling and treatment for employees who voluntarily seek such assistance, and the sanctions that Loudon County will impose for violations of its drug policies. This program will be monitored on an ongoing basis and revised as new materials and information become available.

Loudon County has held multiple training sessions for its managers and supervisors on drug and alcohol awareness, identification of drug and alcohol misuse, and proper procedures to be followed with all types of drug and alcohol testing. Loudon County will ensure that managers and supervisors designated to determine whether reasonable suspicion exists to require covered employees to undergo drug and alcohol testing training on the physical, behavioral, speech and performance indicators of drug or alcohol use. In accordance with FMCSA regulations, these training sessions will entail at least 60 minutes of training on indicators of probable alcohol misuse, and at least an additional 60 minutes of training concerning the indicators of probable drug use. For more information with regard to supervisory personnel training regarding drug and alcohol education and substance abuse recognition, please refer to Loudon County's General Policy.

In addition to the supervisory training sessions, training sessions have been held with all employees to explain Loudon County's drug and alcohol testing policies and procedures, provide training and information on the dangers of drug use, identification of drugs, the administration of Loudon County's policies concerning drugs, and the methods of gaining help through counseling or rehabilitation, along with urging employees who might have a problem or know of an employee with a problem to seek help or encourage that individual to seek help. For more information with regard to employee drug and alcohol education training, please refer to Loudon County's General Policy.

Newly hired employees, employees moving to covered positions through a successful job bid, or employees promoted to a classified position will be given a copy of this policy when hired and in the next available training session. In addition, any employee handbook which is issued from this date forward will contain information regarding the drug and alcohol policies of Loudon County.

Loudon County reserves the right to combine employee training under this policy with Loudon County's General Policy. Loudon County will clearly explain that the disciplinary consequences of testing positive are derived from its independent drug and alcohol policy.

V. COUNSELING/REHABILITATION RESOURCES:

Loudon County can provide references to sources for assistance for many kinds of problems, including counseling regarding drug and alcohol use and misuse. Current contact information for those sources is found at Appendix A to this Policy. For additional information, please see Loudon County's General Policy.

VI. PRE-EMPLOYMENT TESTING:

In accordance with FMCSA regulations, a pre-employment drug test is required before an applicant is employed in a covered CDL position or if an employee transfers or is promoted from a non-covered to a covered position.

Urine specimens will be screened for the prohibited drugs as defined in this policy, i.e., Marijuana, Cocaine, Opiates (specifically including 6-Acetylmorphine), Amphetamines (specifically including MDMA), and Phencyclidine (PCP).

Procedures for taking specimens and handling of specimens will be in accordance with Loudon County's Drug and Alcohol Testing Procedures, which are hereby incorporated herein by reference.

Individuals subject to pre-employment drug testing under this policy will acknowledge having read or had this policy explained to them and should understand that they are subject to its contents as a condition of employment. The pre-employment drug test will be given at the time of the applicant's post-offer, pre-employment physical.

A negative test result is required before employment or transfer/promotion into the covered position. Applicants who test positive on the drug test or who refuse to take the test will not be hired and will not be eligible to be considered for employment at Loudon County until the applicant shows proof of successful completion of a drug rehabilitation program. Employees who test positive on the drug test, or who refuse to take a test in connection with a transfer or promotion, will be in violation of Loudon County's General Policy, and will be subject to disciplinary action, up to and including termination.

In addition to Pre-Employment Testing, employees who are required to have a CDL at the time of employment will be required to sign consent forms authorizing previous employers to release to Loudon County information within the preceding three years concerning (1) any positive alcohol test (.04 or above) for the employee, (2) any positive drug test for the employee, and (3) any refusals by the employee to be tested. If it is not feasible for Loudon County to obtain and review this information prior to the time the employee performs safety-sensitive functions, the information must be obtained and reviewed by Loudon County within thirty calendar days after the employee first performs safety-sensitive functions. Loudon County will not permit a CDL employee to perform safety-sensitive functions after thirty days without obtaining the required information.

The above information may be obtained by Loudon County from previous employers orally or in writing. Loudon County will maintain a written, confidential record with respect to each previous employer contacted, and will ensure the confidentiality of the information provided by previous employers. Loudon County will not permit a CDL employee to perform safety-sensitive functions who has previously tested positive for alcohol, tested positive for drugs, or refused to be tested unless and until Loudon County obtains (1) information that the employee has subsequently tested negative on a return to duty test, and (2) records pertaining to a subsequent evaluation or determination by a substance abuse professional concerning the employee's need for assistance and compliance with the recommendations of the substance abuse professional. If Loudon County is unable to obtain the required information on such an employee, the employee may be terminated.

VII. REASONABLE SUSPICION TESTING:

The Tennessee Drug-Free Workplace Program and the FMCSA regulations require testing of their respective covered employees upon reasonable cause or suspicion that the employee is using prohibited drugs or misusing alcohol. Whenever Loudon County reasonably suspects that a covered employee's work performance or on-the-job behavior may have been affected in any way by a prohibited drug or that an employee has otherwise violated this policy, Loudon County may require the employee to submit to a reasonable suspicion drug or alcohol test in accordance with Loudon County's Drug and Alcohol Testing Procedures.

Reasonable suspicion sufficient to test will be based on a reasonable and articulable belief that the employee is using or has used a prohibited drug or alcohol, or is otherwise in violation of this policy based on specific, contemporaneous or continuing physical, behavioral, or performance indicators of probable drug or alcohol use, or information provided by a credible source.

Reasonable suspicion sufficient to justify drug testing may be based on, but is not limited to, direct observation by a supervisor of symptoms of drug or alcohol use such as slurred speech, odor, unsteady walk, impaired coordination, displays of violent behavior, argumentative, improperly talkative, loud or uncontrolled laughter, or based upon information provided by reliable and credible sources, or evidence that an employee has tampered with a drug or alcohol test, or evidence that an employee has used, possessed, sold, solicited or transferred drugs or alcohol while at work or on Loudon County property, or based on job performance behaviors over a period of time. In determining reasonable suspicion, the supervisors can consider job performance over a period of time where continued deterioration of job performance has resulted in a pattern of events identifiable with drug or alcohol abuse, and/or information provided from a reliable and credible source, but the decision must be grounded in the supervisor's contemporaneous observations. Further, the occurrence of a serious or potentially serious incident or accident that may have been caused by human error, or flagrant violations of established safety, security, or other operational procedures constitute grounds for a reasonable suspicion test.

At least two of the employee's supervisors, at least one of whom has been trained in the detection of possible symptoms of drug use, shall substantiate and concur in the decision to test an employee. The concurrence of the two supervisors may be by telephone, by discussions a few hours later, or by having another supervisor travel to the job site. Within 24 hours of the reasonable suspicion determination, the supervisors will document the covered employee's conduct, in writing, which led to their determination to conduct a reasonable suspicion drug test. The requirement of having two supervisors observe the conduct can be reduced to one supervisor when it is not feasible for two supervisors to witness the conduct. In that event, the supervisor witnessing the conduct must have received training in the identification of actions, appearance, or conduct of an employee indicative of a prohibited drug or alcohol. Once it is determined that an employee should be subject to a reasonable suspicion test, one of the verifying supervisors shall contact the responsible County official, Department Head, County Mayor or

Employee Benefits to coordinate the testing and obtain any necessary instructions. The observations must be made during, just preceding or just following the period of the work day that the employee is required to be in compliance with this part.

If the alcohol test is not administered within two (2) hours following the reasonable suspicion determination, Loudon County will prepare a written record stating the reasons the test was not promptly administered. If the alcohol test is not administered within eight (8) hours following the reasonable suspicion determination, Loudon County will cease attempts to administer the test and will record, in writing, the reasons for not administering the test. If a reasonable suspicion alcohol test is not administered, Loudon County will nevertheless not permit a covered employee to remain on duty in a covered position while the employee is under the influence of alcohol as shown by behavioral, speech or performance indicators and will not allow an employee to perform in a covered position until an alcohol test is administered and the employee's alcohol concentration measures less than 0.02 or the start of the employee's next shift, but in any event not less than twenty-four hours for covered CDL employees, following the reasonable suspicion determination.

Refusal to take a test is insubordination, which will subject the employee to termination under Loudon County's General Policy.

An employee who agrees to be tested will be transported to and from the collection site. Where a reasonable suspicion drug test is administered in addition to a reasonable suspicion alcohol test, the employee will be removed from covered activities pending receipt of the drug test results even if the employee passes the alcohol test. Part 382 states that no employer shall take any action under subpart B based solely on the employee's behavior and appearance. **However, this does not prohibit Loudon County from taking disciplinary action otherwise consistent with local and/or state law or Loudon County's General Policy.** After returning from the collection site, the employee shall not perform covered activities and will be suspended with pay pending receipt of the drug test results if a drug test is administered. The employee should make arrangements to be transported home. If an employee is subject to a reasonable suspicion drug test or fails a reasonable suspicion alcohol test, the employee should be instructed not to drive any motor vehicle due to the reasonable cause belief that he or she may be under the influence of a drug or due to the positive alcohol test. If the employee insists on driving, the proper local enforcement authority should be notified that an employee who Loudon County believes may be under the influence of a drug or alcohol is leaving Loudon County premises driving a motor vehicle.

An employee who tests positive on a reasonable suspicion test will be in violation of this policy and Loudon County's General Policy. Violation of Loudon County's General Policy constitutes grounds for immediate termination under that policy. If the employee is not terminated, Loudon County will mandatorily refer the employee to counseling under the mandatory referral provisions of, Section VII of the General Policy, Counseling/Rehabilitation Resources.

VIII. POST-ACCIDENT TESTING:

Loudon County will conduct post-accident drug and alcohol testing under this policy for FMCSA accidents. First, Loudon County will conduct substance abuse testing of a covered CDL employee only when that CDL employee, while driving a Loudon County commercial motor vehicle, is involved in an FMCSA accident (as defined in Section III). Post-accident drug and alcohol tests will be conducted in accordance with Loudon County's Drug and Alcohol Testing Procedures.

Accidents which do not meet the definition of this policy, but which involve Loudon County employees, may require post-accident drug and alcohol testing under Loudon County's General Policy. Covered employees will be advised whether they are being tested under this policy or under Loudon County's General Policy.

A covered employee may not consume any alcohol for eight (8) hours following an FMCSA accident or until an alcohol test has been conducted. A covered employee subject to post-accident testing under this policy who fails to remain readily available for testing may be deemed by Loudon County to have refused to submit to the required testing. Nothing herein is intended, however, to require the delay of necessary medical attention for injured people or prohibit a covered employee from leaving the scene of the accident for the period necessary to obtain assistance or necessary emergency medical care. In the event a covered employee is injured, unconscious or otherwise unable to evidence consent to a drug test, Loudon County will take all reasonable steps to obtain a urine sample, but any injury should be treated first.

If the alcohol test is not administered within two (2) hours following the accident, Loudon County will prepare a written record stating the reasons why the test was not promptly administered. If the alcohol test is not administered within eight (8) hours following the accident Loudon County will cease attempts to administer an alcohol test and will prepare written record for the reasons for not administering the test. If a drug test is not administered within thirty-two (32) hours following the accident, Loudon County will cease attempts to administer the drug test and will prepare a written record setting forth the reasons for not administering the drug test.

If a covered employee refuses to submit to post accident testing, the employee will be immediately removed from the covered position. **Under Loudon County's General Policy, the employee will be charged with insubordination and subject to immediate termination.** If an employee agrees to be tested, he or she will be transported to and from the collection test site. Any employee selected for post-accident testing under this policy will not be allowed to proceed alone to or from the collection test site. **Because a post-accident drug test may be administered in addition to an alcohol test, the employee will not be allowed to perform covered functions pending the results of the drug test even if the result of the alcohol test is negative, but can perform peripheral duties.**

If an employee fails the alcohol test, the employee should make arrangements to be transported home. The employee should be instructed not to drive any motor vehicle due to the positive alcohol test. If the employee who failed the alcohol test insists on driving, the proper local enforcement authority should be notified that an employee who Loudon County believes to be under the influence of alcohol is leaving Loudon County premises driving a motor vehicle.

An employee who tests positive on a post-accident alcohol or drug test will be removed immediately from his or her covered position. **The employee will be in violation of Loudon County's General Policy, which provides that failing an alcohol or drug test subjects the employee to disciplinary action, up to and including termination.** If the employee is not terminated, the employee is subject to the provisions of the General Policy's Employee Assistance Program mandatory referral provisions, and to the Return-to-Duty and Follow-Up Testing requirements.

IX. RANDOM TESTING:

In accordance with the current FMCSA regulations, all covered CDL employees will be subject to random drug testing at a rate equal to 50% of those covered employees employed as of the first day of the calendar year. In addition, covered CDL employees will be randomly tested for alcohol misuse as specified in this policy at a rate equal to 10% of the covered employees employed as of the first day of the calendar year pursuant to FMCSA regulations. These testing rates are subject to change at the beginning of each calendar year pursuant to FMCSA regulations. Loudon County will advise covered employees of any change in the random rate before such change is implemented.

The frequency of testing dates will vary, and testing will be reasonably spread throughout the year. The process will be unannounced as well as random, and employees will be notified that they have been selected for testing only after they have reported for duty on the day of testing.

The testing will be done using a random selection of dates coupled with a random number table or a computer-based random number generator that is matched with an employee's social security number, or other appropriate identification number. Loudon County reserves the right to create multiple pools of covered employees provided that it will ensure that all covered CDL employees are subject to the appropriate drug-testing rate of 50%, and that covered CDL employees are subject to the alcohol-testing rate of 10%. All testing will be conducted in accordance with Loudon County's Drug and Alcohol Testing Procedures.

Since covered CDL employees are subject to both random drug and alcohol testing, Loudon County reserves the right to conduct random drug and alcohol testing simultaneously, provided that the CDL employees who are tested simultaneously for drug and alcohol misuse are selected at the appropriate annual rate for drugs and alcohol respectively. For example, where the annual drug testing rate is 50% and the annual alcohol testing rate is 10%, Loudon County reserves the right to create a pool of covered CDL employees and will randomly select one-fifth of the employees identified for both drug and alcohol testing, while the remaining four-fifths will be drug tested only. In the case where the employee is tested for both alcohol and drugs, the alcohol test shall be performed first.

Any covered employee refusing to take a random alcohol or drug test will be in violation of this policy and will be immediately removed from his or her covered position. **Refusal to take the test is a violation of Loudon County's General Policy and will subject the employee to immediate termination under that policy. Any employee who fails an alcohol or drug test will be immediately removed from a covered position and will be in violation of Loudon County's General Policy, which provides that failing an alcohol and/or drug test constitutes grounds for discipline to include termination. If the employee is not terminated, the employee is subject to the General Policy's mandatory referral provisions of the Counseling and Rehabilitation Resources policy, and to Return-to-Duty and Follow-Up Testing requirements.**

All other employees in defined safety sensitive positions which are not DOT-regulated are subject to random drug and alcohol testing under Loudon County's General Policy.

X. RETURN TO DUTY AND FOLLOW-UP TESTING:

In the rare instance that a covered employee has either refused to take or has failed to pass a drug and alcohol test, or has otherwise violated this Policy, **but has not been terminated**, he or she must pass a return to duty drug and/or alcohol test administered under this policy before the employee will be allowed to work in a covered position. The drug and/or alcohol test will be conducted in accordance with Loudon County's Drug and Alcohol Testing Procedures. Urine specimens will be screened for the prohibited drugs as defined in this policy. In addition to passing a drug test, an employee must be recommended by the SAP to return to duty before working in a covered position.

Covered employees who have engaged in conduct prohibited by this policy concerning alcohol shall undergo a return-to duty alcohol test immediately before returning to work, and must have a test result indicating an alcohol concentration of less than 0.02 before returning to duty. Covered employees who have engaged in conduct prohibited by this policy concerning prohibited drugs shall undergo a return-to-duty drug test with the result indicating a verified negative test result before returning to duty.

In addition, if a SAP makes a determination that some form of further evaluation and/or treatment is required, then the covered employee must comply with the recommendations to be considered eligible to return-to-duty. Following a determination by a SAP approved by Loudon County that a covered employee who has failed a drug or alcohol test or has otherwise violated the policy is in need of assistance in resolving problems associated with alcohol or drug abuse, the employee returning to duty will be subject to unannounced follow-up alcohol and/or drug testing as determined by the SAP and with input from Loudon County's Mayor, the responsible appointed or elected County official or his or her designee. The SAP cannot refer an employee to the SAP's private practice, to a person or organization from which the SAP receives remuneration, or in which the SAP has financial interests.

The follow-up testing may include testing for both drugs and alcohol, as determined by the SAP, with input from Loudon County's Mayor or her designee. Follow-up testing may be continued for up to 60 months, but it will consist of at least six tests in the first twelve months following the employee's return-to-duty. Follow-up testing shall be conducted when the covered employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing such functions. The duration and extent of the follow-up testing will be determined by the SAP in consultation with Loudon County's Mayor, the responsible appointed or elected County official, or his or her designee, and will be based on the extent of the employee's substance abuse problem and nature of the employee's position. All follow-up drug and alcohol testing will be conducted in accordance with Loudon County's Drug and Alcohol Testing Procedures.

A covered employee will be required to sign a Return to Work Agreement before returning to work, which will include, among other things, any follow-up testing and other conditions pertinent to that employee's continued employment with Loudon County. If a covered employee refuses to submit to return to duty or follow-up testing, the employee will not thereafter be used in a position covered by this policy and is subject to immediate discharge for insubordination as set forth in Loudon County's General Policy. Likewise, any covered employee who has a confirmed positive test result for a return-to-duty or follow-up test will not thereafter be used in a position covered by this policy and is subject to immediate termination under Loudon County's General Policy. An employee who is subject to a Return to Work Agreement must comply with the conditions of that Agreement (including, where recommended by the SAP, abstention from drug or alcohol use) and will be considered in violation of the Agreement and the County's General Policy if the results of a drug or alcohol test are positive as defined in the Agreement.

Return-to-duty and follow-up testing are not an option under this policy if Loudon County terminates an employee who has tested positive, has refused to submit to a test, or has otherwise violated this policy. Nothing herein entitles an employee to be returned to duty if an employee is terminated under Loudon County's General Policy.

XI. SUMMARY OF TESTING PROCEDURES:

Loudon County will conduct drug and alcohol testing under this policy in accordance with the procedures set forth in Part 40. Loudon County has implemented the Part 40 procedures in a separate document entitled, "Loudon County's Drug and Alcohol Testing Procedures, (hereinafter sometimes called the "Procedures", which is hereby referenced and made a part of this policy the same as if it had been fully rewritten herein. A copy of the Procedures is available to any employee (or applicant) upon request directed to Employee Benefits. Department Heads who oversee employees in covered positions also have copies of the Procedures. A summary of the Procedures is as follows:

A. Drug Testing Procedures: Drug testing under this policy will be conducted in accordance with Part 40 and involves the screening of urine samples for the prohibited drugs. The initial test performed on the urine sample will be an enzyme-multiplied-immunoassay technique ("EMIT screen"), which will be used to eliminate negative urine specimens from further consideration. All specimens identified as positive through the EMIT screen will be confirmed by using gas chromatography/mass spectrometry ("GC/MS") techniques at the cutoff levels set forth in the Procedures.

The cutoff values for drugs prohibited under this policy are listed below. These cut-off levels are subject to change pursuant to 49 C.F.R. Part 40, as amended.

	EMIT	GC/MS
Marijuana	50 ng/ml	15 ng/ml
Cocaine	150 ng/ml	100 ng/ml
Opiates	2000 ng/ml	2000 ng/ml
Phencyclidine	25 ng/ml	25 ng/ml
Amphetamines	500 ng/ml	250 ng/ml

The collection of urine samples for drug testing under this policy will occur at the designated primary drug testing site listed in Appendix A to this Policy, or at other collection sites designated by the County Mayor at her discretion. A designated collection site will be any suitable location where a urine specimen can be collected under conditions set forth in the Procedures, including properly equipped mobile facilities.

Personnel certified in the process of collecting the urine samples and ensuring proper chain of custody procedures will be available at the collection site. Loudon County, or any subsequent contractor performing Loudon County's urine specimen collection, shall have all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping of urine specimens to a certified drug testing laboratory designated by Loudon County. These personnel shall follow the Procedures to ensure that the drug test results of the urine samples are attributable to the correct employee and to preserve the integrity of the testing process and validity of the test results.

The DOT requires the "split sample" method of collection for those employees and/or applicants subject to testing under DOT regulations. The results of the drug test performed by the laboratory will be forwarded to Loudon County's designated medical review officer ("MRO") who, among other things, is responsible for reviewing the results of the drug test before they are reported to Loudon County. Verified results of the drug test will be communicated by the MRO or his representative to the Designated Employer Representative (DER). A verified positive test result communicated to Loudon County will result in the employee being immediately removed from performing any covered functions. Disciplinary action will be imposed pursuant to and in accordance with Loudon County's General Policy, and will involve discipline up to and including termination. Further details concerning the MRO's responsibilities, the communication of the results of drug tests to Loudon County, and the ability of an employee to request that a retest of the original or split specimen by a different laboratory be conducted, are set forth in this policy and Loudon County's Procedures.

B. Alcohol Testing Procedures: Alcohol testing will be conducted in accordance with Part 40 using evidential breath testing ("EBT") devices, which have been approved by the National Highway Traffic Safety Administration ("NHTSA"), and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices." Alcohol testing may be conducted by either Loudon County or its authorized agents, who will use an EBT device capable of printing out the results, date and time, sequential test number, and the name and serial number of the EBT to ensure reliability of the results.

A qualified BAT utilizing an EBT will perform an initial or screening test. Any screening test result with an alcohol concentration less than 0.02 is considered a negative test result, and no further action will be taken. However, if the alcohol concentration in the screening test is 0.02 or greater, a second or confirmation test will be conducted after a 15-minute waiting period.

Where an employee in an initial DOT alcohol test registers 0.02 or above, Loudon County will take a separate initial breath sample under the General Policy and will conduct confirmation tests under both policies. Any disciplinary action and any second-day re-tests will be taken solely under the General Policy.

The confirmation test may be conducted on the same EBT or different EBT by the BAT, but it must be performed no sooner than 15 minutes and no later than 30 minutes after the screening test. The confirmation test result is deemed to be the final result upon which any action will be taken under this policy. The employee and BAT will complete and sign the alcohol testing form in accordance with Loudon County's Procedures, and the BAT will report the test results to the Mayor and/or her designee in a confidential manner.

A confirmation test result with an alcohol concentration of 0.04 is considered a positive test, and the employee will be immediately removed from performing any covered functions. Where a covered employee is found to have alcohol concentration of 0.02 or greater, but less than 0.04, the employee will be removed from his or her position with pay and will not be

allowed to perform or continue to perform covered functions until an alcohol test is administered at the start of the employee's next regularly scheduled shift, but in any event not less than 24 hours following the administration of the confirmation test, and the employee's alcohol concentration measures less than 0.02. Part 382 provides that no employer shall take any action based solely on test results showing a concentration less than 0.04. However, this does not prohibit Loudon County from taking disciplinary action otherwise consistent with local and/or state law or Loudon County's General Policy. Any disciplinary action taken for a violation of this policy will be imposed pursuant to and in accordance with Loudon County's General Policy and not DOT regulations or this policy. Disciplinary action in accordance with Loudon County's General Policy may involve discipline up to and including termination.

XII. COLLECTION:

All alcohol and drug testing will be performed in accordance with and are subject to change pursuant to Loudon County's Procedures and 49 C.F.R. Part 40. Appendix A to this Policy contains current information about the County's primary collection site. Personnel trained in the process of collecting the specimen and seeing that correct chain of custody procedures are followed will be available at collection sites.

Fort Sanders Medical Center – Loudon will conduct the required tests when Loudon County's collection sites are unavailable. If necessary, testing may be conducted at an alternate location. These facilities are aware of the DOT requirements and the chain of custody procedures that must be followed, along with the requirement of transfer of the specimen to Loudon County's selected SAMHSA certified laboratory. The manager or supervisor transporting the employee should inform the collector and/or BAT that the test is required by DOT and that DOT procedures should be followed.

XIII. LABORATORY:

The County has selected a DHHS-certified laboratory under NCLP to perform the testing on urine specimens submitted. The laboratory shall provide services in accordance with Parts 40 and 382. Unannounced inspections, including examination of records, may be done by Loudon County occasionally.

In the event that a need arises for a confirmation of a positive result by another laboratory, or for the purpose of analyzing split sample specimens, another DHHS-certified laboratory will be selected from the published list of DHHS-approved laboratories in the Federal Register or latest DOT publication.

XIV. MEDICAL REVIEW OFFICER (MRO):

The MRO will be responsible for reviewing the results of drug tests before they are reported to Loudon County; reviewing and interpreting each confirmed positive, adulterated, substituted and invalid test to determine if there is an alternative medical explanation for the results; conducting an interview with the employee testing positive; reviewing the employee's medical history and any medical records made available by the employee to determine if the positive resulted from legally prescribed medication; requiring a retest of the original specimen if the MRO deems it necessary; and verifying that the laboratory report and assessment are correct.

The MRO also ensures that an employee has passed an appropriate drug test conducted in accordance with this policy and Loudon County's Drug and Alcohol Testing Procedures before returning to work. The MRO is expected to follow the Medical Review Officer Manual published by the U.S. Department of Health and Human Services. Current MRO information is included in Appendix A to this Policy.

It is the employee's responsibility to inform the MRO that prescription drug use may have affected the test result. If the MRO determines that there is a legitimate medical explanation for the positive test other than the use of a prohibited drug, the MRO will report the test result to Loudon County as negative. If the MRO concludes, based on available data, that a particular drug test is scientifically insufficient, the MRO will report the test as negative for that individual. If the MRO determines that there is no legitimate explanation for the positive test other than the use of a prohibited drug, the MRO will communicate the results of verified positive test to the employee both orally and in writing. At the same time, the MRO will notify the DER of a potentially preliminary result. It is the employee's responsibility to inform the MRO that prescription drug use may have affected the drug test.

Since Loudon County utilizes the split sample method of collection, the employee can request that the MRO direct a retest of the split specimen by a different DHHS-certified laboratory and the MRO will abide by such a request provided it is made within 72 hours of the employee having been notified of the verified positive result. The MRO is responsible for informing the employee of his/her right to request the retest. If the retest does not confirm the original test, the MRO will cancel the test and report the reasons for the cancellation to Loudon County's DER, DOT and the employee. The cost of the retest will be paid by the employee.

An employee or job applicant who receives a positive confirmed test result, upon notification by the MRO, may contest or explain the result to the MRO within five (5) working days after receiving written notification of the test result. If an employee's or job applicant's explanation or challenge is unsatisfactory to the MRO, the MRO shall report a positive test result back to Loudon County's DER.

Before the MRO verifies a confirmed positive result for opiates, he or she shall determine that there is clinical evidence -- in addition to the urine test -- of unauthorized use of any opium, opiate, or opium derivative (e.g., morphine/codeine). This does not apply if the GC/MS testing for opiates confirms the presence of methadone.

The MRO or his representative will report the results of negative tests to the DER, who will then notify the employee.

XV. COVERED POSITIONS:

Pursuant to the FMCSA regulations, this policy covers any applicant or employee required to maintain a CDL. Attached as Appendix B are the specific classifications/job titles of all classifications that are covered by the FMCSA regulations, i.e., the classifications requiring a CDL.

Jobs may be added or deleted from Appendix B at the discretion of Loudon County or as mandated by law or regulations, with or without republishing of this policy. If new jobs are added to Appendix B, Loudon County will inform incumbents in the classification of their coverage under this policy and provide the same training it would provide for new employees.

XVI. CONTRACTOR EMPLOYEES:

Loudon County is prohibited by state law from awarding contracts to any construction subcontractor, with at least 5 employees, unless the subcontractor provides a written affidavit stating that they are in compliance with the Tennessee Drug Free Workplace Act. Loudon County is responsible for ensuring that the requirements of Parts 382 and 40 are met.

In addition, Loudon County will require written reports from its contractors on a quarterly basis, and will do on-site audits of contractor's records to assure compliance with DOT regulations, along with periodic work-site audits with contractor employees. Any contractor found not in compliance with DOT regulations contained in CFR Parts 40 and 382 will be stopped from performing any covered work until the contractor shows Loudon County credible evidence that they are in compliance with these regulations. The contractor will allow access to property and other records by Loudon County, the Administrator, and any DOT agency or other federal or state agency acting within their jurisdiction.

XVII. RETENTION OF SAMPLES:

Samples that yield positive results in confirmation will be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days.

Within this 365-day period, the employee, FMCSA or state agencies within their jurisdiction or Loudon County may request in writing that the sample be retained for an additional period. The laboratory may discard the sample if no such request is received within the 365-day period.

XVIII. USE OF PRESCRIPTION DRUGS:

Loudon County recognizes that use of prescription drugs under the supervision of appropriate health care professionals is protected under the Americans With Disabilities Act ("ADA"). However, legal use of certain prescription drugs by employees in covered positions may cause impairment and create dangerous situations in the work place. Employees required to take prescription drugs that may cause impairment must do so strictly in conformance with the limits prescribed by a licensed medical practitioner familiar with the employee's medical history and assigned duties. Failure to do so, e.g., by taking impairing drugs without a prescription, or in amounts greater or more frequently than that prescribed or otherwise in violation of the foregoing requirements, is conduct prohibited by Loudon County's General Policy and subjects the employee to disciplinary action, up to and including termination.

It is the responsibility of any employee who tests positive in a drug test to inform the MRO of any prescription or non-prescription drug use that may have affected the results of the drug test. The purpose of this disclosure will assist the MRO to determine whether such prescription or non-prescription drug use is the source of any positive test result.

XIX. REFERRAL, EVALUATION AND TREATMENT:

A covered employee who has engaged in conduct prohibited by this policy will be advised of the resources available to him or her for evaluating and resolving problems associated with substance abuse including the names, addresses and telephone numbers of SAP, and counseling and treatment programs approved by Loudon County.

Where the employee is not terminated for violating Loudon County's General Policy, Loudon County will mandatorily refer the employee to an approved provider for evaluation by a SAP who will determine what assistance, if any, the employee needs in resolving problems associated with substance abuse. (See the Mandatory/Supervisory Referral provision of the General Policy's Counseling/Rehabilitation Resources). Before an employee will be returned to a covered position, the SAP must certify that the employee has properly followed any rehabilitation program prescribed by the professional.

Employees mandatorily referred to counseling or Loudon County-approved SAPs, who are diagnosed as needing assistance in resolving substance abuse problems will be required to sign a Return to Work Agreement, which will specify the circumstances and conditions on their return to duty, which will include, among other things, the follow-up alcohol and drug testing required by this policy and the requirement that the employee follow any recommended rehabilitation and after-care program.

Nothing contained herein should be construed as restricting Loudon County's right to terminate a covered employee for violating Loudon County's General Policy. Employees who are terminated are not entitled to Loudon County sponsored rehabilitation other than through their election to continue their health insurance coverage under COBRA.

XX. RECORD RETENTION - CONFIDENTIALITY:

Records of drug test results are recognized to be private and sensitive records. Such records will be maintained separate and apart from personnel records, and shall be maintained in accordance with the following schedule:

- (1) **Five Years** -- The following records shall be maintained for a minimum of five (5) years: (i) alcohol test results indicating an alcohol concentration of 0.02 or greater, or records of verified positive drug test results; (ii) documentation of refusal to take the required alcohol or drug test (including substituted or adulterated drug test results); (iii) SAP reports, and (iv) all follow-up tests and schedules for follow-up tests.
- (2) **Three Years** -- Information obtained from previous employers under §40.25 concerning drug and alcohol tests of employees
- (3) **Two Years** -- Records related to drug and alcohol testing collection process and training, including the inspection, maintenance, and calibration of EBTs, shall be maintained for a minimum of two (2) years.
- (4) **One Year** -- Records of negative and cancelled drug and alcohol test results shall be maintained for a minimum of one (1) year.

Any of the records listed above may be maintained for an indefinite period of time beyond the above-specified minimums at Loudon County's discretion.

Loudon County or its agent will maintain (in accordance with the foregoing schedule) the following specific types of records:

- (1) Records Related to the Collection Process:
 - a. Calibration documentation for EBT devices.
 - b. Documentation of BAT training.
 - c. Documents generated in connection with decisions to administer reasonable suspicion drug or alcohol tests.
 - d. Documents generated in connection with decisions to administer post-accident drug or alcohol tests.
 - e. Documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for alcohol testing or urine for drug testing.
- (2) Records Related to Test Results:

- a. Loudon County's copy of the drug or alcohol test form, including the results of the test.
 - b. Documents related to the refusal of any covered employee to submit to a required drug or alcohol test.
 - c. Documents presented by a covered employee to dispute the results of a drug or alcohol test administered under this policy.
- (3) Records related to other violations outlined in Part 382 or this policy.
- (4) Records related to referrals and evaluations:
- a. Records pertaining to a determination by a substance abuse professional concerning a covered employee's need for assistance.
 - b. Records concerning a covered employee's compliance with the recommendations of the substance abuse professional.
- (5) Records related to Loudon County's annual alcohol misuse testing data and "missed test" information. Loudon County will submit the required alcohol misuse MIS testing data and "missed test" information as prescribed by the regulations.
- (6) Records related to education and training of employees and supervisors:
- a. Materials on drug and alcohol misuse awareness including a copy of Loudon County's DOT Drug and Alcohol Abuse Policy and Loudon County's Drug and Alcohol Testing Procedures.
 - b. Documentation of compliance with the requirements of Section 199.231.
 - c. Documentation of training provided to supervisors for the purposes of qualifying the supervisors to make a determination concerning the need for drug and alcohol testing based on reasonable suspicion.
 - d. Certification that any required training complies with the requirements of 40 CFR Part 382 and 40.

Information regarding an individual's drug or alcohol use, including testing results and rehabilitation or treatment, will not be released by Loudon County except upon the written authorization by the covered employee or as hereinafter provided. Loudon County will make the records available to a subsequent employer upon receipt of written request from the covered employee. A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of drugs or alcohol, including his or her tests. Loudon County will promptly provide the records requested, and Loudon County will not make access contingent upon payment for records other than those specifically requested. Loudon County may also disclose, regardless of consent, such information to proper representatives of FMCSA and/or other federal or state agencies within their jurisdiction and to the DOT as part of an accident investigation. The information shall include name-specific alcohol test results, records and reports. Information regarding an individual's alcohol or drug use and testing information may be also disclosed, regardless of consent, to the decision maker of a judicial or administrative tribunal in the event of a lawsuit, grievance, civil service, unemployment compensation, worker's compensation or other proceeding brought by or on behalf of the individual arising from the results of a drug or alcohol test or violation of this policy. Statistical data related to drug testing and rehabilitation - without identifying the names of the individuals and with all personal identifiers removed -- will be made available to proper representatives of the FMCSA upon request.

* * * * *

Appendix A To Exhibit B
Loudon County Department Of Transportation
Drug And Alcohol Abuse Policy

ADDITIONAL RESOURCES

The Center for Substance Abuse Prevention's Drug Information, Treatment and Referral Hotline
1-800-662-HELP

National Council on Alcoholism
1-800 -NCA-HELP

www.drug-rehabs.org
www.usnodrugs.com/tennessee
www.drug-abuse-treatment.org/tennessee.htm
www.findtreatment.samhsa.gov

Cocaine Helpline
1-800-COCAINE

Center for Substance Abuse Workplace Helpline
1-800-WORKPLACE

National Clearinghouse for Alcohol and Drug Information
1-800-729-6686

Tennessee Department of Health Alcohol and Drug Abuse Service
1-615-741-1921

Tennessee Alcohol and Drug Association Clearinghouse
1-800-889-9789

Tennessee Drug-Free Workplace Program
1-800-332 2667

Local Resources include

Alcoholics Anonymous
Call 974-9888 for information on local meetings at four immediate area churches, or the 24-hour
hotline at 522-9667

Greater Smoky Mountain Area Narcotics Anonymous
Call 1 (866) 617-1710 or visit www.knoxvillena.org for area meeting times and places

MEDICAL REVIEW OFFICER

Peter G. Stimpson, M.D., FAAFP, PC
The Medical Center
901 Grove Street
Loudon, TN 37774
Phone: (865) 458-4847
Fax: (865) 458-9412

COLLECTION SITES

Primary: The offices of Peter G. Stimpson, M.D. (see above address)

First Alternate: Fort Loudon Medical Center
550 Fort Loudon Medical Center Drive
Lenoir City, TN 37772

LABORATORY

MEDTOX Scientific, Inc.
402 West County Road D.
Saint Paul, MN 55112
(800)-832-3244
(651)-636-7466

**APPENDIX B TO EXHIBIT B
LOUDON COUNTY DEPARTMENT OF TRANSPORTATION
DRUG AND ALCOHOL ABUSE POLICY**

Covered Positions

**Positions Subject To Drug Testing
Pursuant To FHWA Regulations**

Superintendent of Roads/Highway Commissioner (elected official)

Highway Foreman

Truck Drivers

Equipment Operators

Mechanic

Mowers, including side and boom mower

Laborer