

AGENDA
MANAGEMENT & FINANCE COMMITTEE
WEDNESDAY, JUNE 3, 2020 AT 9:00 A.M.

Via Zoom Teleconference and live stream through YouTube at the following link:
https://www.youtube.com/channel/UCLdXCuEpgPxuY0nsSdVU_AA

COMMITTEE MEMBERS: Barnes-Chair, Lausell, Howell, Rondinaro.
ALSO PRESENT: Timothy O’Hearn, County Administrator
STAFF ADVISOR/MINUTES: Stacy Husted, Clerk

- I. PURCHASING – Elizabeth Guild
 - A. Resolution – Authorize amendment to the lease contract with Toshiba Business Solutions for copiers (see attached)

- II. TREASURER – Holley Sokolowski
 - A. Sales Tax Report
 - B. Financial System Update.

- III. REAL PROPERTY TAX AGENCY – Tom Bloodgood
 - A. Report of the corrections, refunds and credits processed

- IV. LEGISLATURE – Stacy Husted
 - A. Resolution – Standard Workday and Reporting Resolution for the Year 2020 (see attached)
 - B. Resolution – Authorize distribution of Mortgage Tax receipts pursuant to Section 261 of the New York State Tax Law for the period of October 1, 2019 through March 31, 2020 (see attached)

- V. ELECTIONS – Carolyn Elkins & Joseph Fazzary
 - A. Resolution – Authorize Grant Contract with the New York State Board of Elections for COVID-19 related expenses (see attached)

- VI. PERSONNEL OFFICE - Lorry Johnson
 - A. Resolution – Adopt Revised Schuyler County Substance Abuse Policy/Drug and Alcohol Testing Program (see attached)
 - B. Resolution – Authorize Stipulation and Release of Claims agreement with Jessica J. Burns (see attached)

- VII. COUNTY ATTORNEY – Steven J. Getman
 - A. Nothing submitted.

- VIII. RECORDS MANAGEMENT – Peggy Tomassi
 - A. Nothing submitted.

- IX. COUNTY CLERK/DMV – Theresa Philbin
 - A. Nothing submitted.

- X. INFORMATION TECHNOLOGY – Chris Caccia
 - A. Nothing submitted.

- XI. COUNTY ADMINISTRATOR – Timothy O’Hearn

RE: AUTHORIZE AMENDMENT TO THE LEASE CONTRACT WITH TOSHIBA BUSINESS SOLUTIONS FOR COPIERS – PURCHASING

WHEREAS, the Purchasing Department currently has a lease contract with Toshiba Business Solutions for maintenance of copiers, and

WHEREAS, the Public Defender's Office and the Department of Social Services purchased two new copiers from Toshiba Business Solutions therefore the current contract needs to be amended to include maintenance for them.

NOW, THEREFORE, BE IT RESOLVED, that the Chairman of the Legislature be hereby authorized to execute an amendment to the current contract with Toshiba Business Solutions for the County offices for the lease of two new copiers for the term March 13, 2020 through March 31, 2022, funding available in the appropriate departmental budget accounts, approved by the Schuyler County Attorney.

RE: STANDARD WORKDAY AND REPORTING RESOLUTION FOR THE YEAR 2020

WHEREAS, the New York State and Local Retirement System established §315.4, a regulation on retirement reporting for elected and appointed officials which became effective August 12, 2009, and

WHEREAS, the regulation adds additional requirements for both employers and elected and appointed officials, including an expanded record of work activities, a more detailed resolution and specific time frames within which requirements must be completed.

NOW, THEREFORE, BE IT RESOLVED, that the Schuyler County Legislature, Location Code 10044, hereby establishes the following standard workdays for the following title(s) and will report the official(s) to the New York State and Local Retirement System based on the record of activities, and

BE IT FURTHER RESOLVED, that the below list reflects only those officials with a term of office commencing after August 12, 2009, as stipulated in the regulation, and

BE IT FURTHER RESOLVED, that elected and appointed officials who are not members of the State Retirement System are not subject to the provisions of this law.

TITLE	NAME	STANDARD WORKDAY (HRS/DAY)	TERM BEGINS/ENDS	PARTICIPATES IN EMPLOYER'S TIME KEEPING SYSTEM (Y/N)	DAYS/MONTH (BASED ON RECORD OF ACTIVITIES)
Elected Officials					
Legislator	Mark F. Rondinaro	7	01/01/2020-12/31/2023	N	6.07

RE: AUTHORIZE DISTRIBUTION OF MORTGAGE TAX RECEIPTS PURSUANT TO SECTION 261 OF THE NEW YORK STATE TAX LAW FOR THE PERIOD OF OCTOBER 1, 2019 THROUGH MARCH 31, 2020

WHEREAS, the County Clerk and Treasurer have presented their report concerning mortgage tax receipts for the period October 1, 2019 through March 31, 2020, pursuant to Section 261 of the New York State Tax Law, and the same has been apportioned to the various municipalities thereto.

NOW, THEREFORE, BE IT RESOLVED, that the County Treasurer be, and hereby is, authorized to pay the respective towns and villages of Schuyler County those amounts listed below.

**MORTGAGE TAX DISTRIBUTION AMONG TOWNS AND VILLAGES
OCTOBER 1, 2019 THROUGH MARCH 31, 2020**

<u>TOWNS</u>	<u>Amount Due</u>	<u>VILLAGES</u>	<u>Amount Due</u>
Catharine	\$10,875.32	Burdett	\$726.43
Cayuta	\$590.22	Montour Falls	\$3,598.22
Dix	\$22,081.18	Odessa	\$1,379.24
Hector	\$45,105.44	Watkins Glen	\$7,659.75
Montour	\$10,786.97		
Orange	\$9,701.70		
Reading	\$14,959.57		
Tyrone	\$14,187.86		
TOTALS	\$128,288.26		\$13,363.64

RE: AUTHORIZE GRANT CONTRACT WITH THE NEW YORK STATE BOARD OF ELECTIONS FOR COVID-19 RELATED EXPENSES – BOARD OF ELECTIONS

WHEREAS, the Board of Elections Office was awarded a Capital Projects Grant from the New York State Board of Elections, Contract #BOE01-C004214-1110000, in the amount of \$24,298.94, and

WHEREAS, said grant is a New York State HAVA U.S. Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant Program to assist with COVID-19 expenses.

NOW, THEREFORE, BE IT RESOLVED, that the Chairman of the Legislature is hereby authorized to execute the grant contract with the New York State Board of Elections, in the amount of \$24,298.94, for the term March 28, 2020 through December 31, 2020, and

BE IT FURTHER RESOLVED, that the Schuyler County Treasurer is hereby directed to establish the Capital Projects Grant accordingly in cooperation with the Board of Elections Office.

RE: ADOPT REVISED SCHUYLER COUNTY SUBSTANCE ABUSE POLICY/DRUG AND ALCOHOL TESTING PROGRAM – HUMAN RESOURCES

WHEREAS, Schuyler County is required to comply with the United States Department of Transportation Federal Motor Carrier Safety Administration regulations (US DOT FMCSA) for drug and alcohol testing, and

WHEREAS, the County's policy was last revised by Resolution No. 330-09 and the County's drug and alcohol testing administrator, Energetix, recommends another revision to be adopted by the Legislature.

NOW, THEREFORE, BE IT RESOLVED, that the Schuyler County Legislature hereby approves and adopts the revised Substance Abuse Policy/Drug and Alcohol Testing Program, on file in the Human Resources Office, effective May 18, 2020, to become part of the Schuyler County Policies and Procedures, and Schuyler County Highway Manual, and

BE IT FURTHER RESOLVED, that immediately upon adoption of this policy, the Human Resources Department shall arrange for the required training, education and distribution of this policy to be given to all covered employees affected by Energetix testing, per above regulations.

SCHUYLER COUNTY

SUBSTANCE ABUSE POLICY DRUG AND ALCOHOL TESTING PROGRAM

Adoption of Revised Policy per Resolution No. 254 of the
Schuyler County Legislature on August 12, 2006

Adoption of Revised Policy per Resolution No. 330 of the
Schuyler County Legislature on October 13, 2009

Adoption of Revised Policy per Resolution No. XXXX of the
Schuyler County Legislature on June 8, 2020

Schuyler County - SUBSTANCE ABUSE POLICY

1.0 Statement of Purpose-

A. Background

Schuyler County recognizes the importance of a safe, efficient and healthy work environment for all employees. This means that all employees must be able to work in a drug and alcohol free environment. Accordingly, the Legislature of Schuyler County has adopted a policy on substance abuse in the workplace, which applies to all employees of Schuyler County.

Because of the particular importance of assuring that safety sensitive employees are free of the effects of drug and alcohol use, federal law requires that employers of persons who hold Commercial Driver's Licenses (CDL's) institute a policy requiring drug and alcohol testing of safety sensitive employees as well as education and training of employees and supervisors. It is the purpose of the Drug and Alcohol Testing Policy to comply with the requirement of regulations of the Federal Highway Administration to assure safe and healthy operations.

B. Goals

This Policy is designed to:

1. Protect employees and the public from injury and economic loss caused by employees affected by drugs and alcohol.
2. Create a deterrent environment discouraging use, possession, and sale of drugs on or off County property.
3. Provide education and training on the effects and indicators of drug and alcohol use.
4. Encourage employees needing assistance to consult appropriate sources for referral and follow-up.
5. Provide for the use of rehabilitation programs so that employees who fail to pass drug and alcohol tests may qualify for return to duty in the same position.

C. Scope

Commercial Drivers

This policy is intended to comply with all applicable laws and regulations governing drug and alcohol testing of safety sensitive employees. The Federal Motor Carrier Safety

Administration (FMCSA)) has adopted and published regulations at 49 C.F.R. Part 382, entitled "Controlled Substances & Alcohol Use and Testing." These apply to all safety sensitive employees holding CDL's who are required to operate a vehicle that:

- Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- Has a gross vehicle weight of 26,001 or more pounds; or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of materials found to be hazardous for the purpose of the Hazardous Materials Transportation Act.

The U.S. Department of Transportation (DOT) has also promulgated regulations at 49 C.F.R. Part 40, entitled "Procedures for Transportation Work Place Drug and Alcohol Testing Programs" setting standards for the collection and testing of urine specimens and the administration of breath alcohol tests.

This Policy is intended to be in full compliance with the aforementioned regulations. If there is any inconsistency between those regulations and the provisions of this Policy, or if this Policy fails to cover anything contained in those regulations, the provisions of the regulations shall prevail and shall be considered to be a part of this Policy. All issues relating to implementation and application of this Policy shall be subject to grievance and arbitration procedures in the respective collective bargaining agreements.

All Other County Employees

This policy also applies to all non-COL employees who work for Schuyler County. The County has adopted all of the US DOT/FMCSA testing procedures to implement a Non-Federal drug and alcohol testing program based on County authority.

Except for Section 2.0 and the CDL Post Accident testing described in Section 5.0, the County intends to apply all the policy requirements as stated to all employees.

The County will conduct post accident testing for non-CDL's for all OSHA accidents/incidents, any accident that involves off-site medical attention, and any accident involving property damage over \$1000.

2.0 Safety Sensitive Duties

A safety sensitive function as defined by the FMCSA includes all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- All time at company or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by company;
- All time inspecting equipment as required by 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 393.76);
- All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and,
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

3.0 Voluntary Leave of Absence

All employees who are experiencing drug or alcohol problems and have not been instructed to undergo a drug or alcohol test under this Policy shall have the right to obtain a leave of absence for the purpose of participating in an authorized rehabilitation program. Such employee shall be entitled to sick leave, vacation time, and any other accrued benefits in accordance with the respective collective bargaining agreement and County personnel policy. If and when such benefits are exhausted, the employee shall be entitled to an unpaid leave of absence in accordance with the respective collective bargaining agreement and County personnel policy.

To obtain such a leave the employee shall furnish to the employee's supervisor evidence of participation in a certified drug or alcohol rehabilitation program. It is important to inform the supervisor of the drug or alcohol problem before being instructed to take one of the tests enumerated in the first sentence of this paragraph in order to take advantage of the leave of absence provisions as noted above,

4.0 Prohibited Conduct

A. Alcohol:

1. A covered employee is required to submit to an alcohol test in the following circumstances:

- Random;
- Post Accident;
- Reasonable suspicion;
- Return to duty;
- Follow Up

2. Covered employees are prohibited from using alcohol if:

- the employee is performing;
- the employee is about to perform; or
- the employee is immediately available to perform;

a Safety-sensitive function. An employee (covered) who performs a safety sensitive function is prohibited from using alcohol within four (4) hours prior to performing any safety-sensitive duty. A covered employee is subject to random and reasonable suspicion testing for alcohol just before performing a safety sensitive function, during the performance of a safety sensitive function, or just after ceasing the performance of a safety sensitive function.

3. Covered employees are prohibited from reporting for duty, from performing a safety-sensitive function, and/or continuing to perform a safety-sensitive function with a breath alcohol concentration of 0.04 or greater.

4. Covered employees who are found to have a breath alcohol concentration of 0.02 or greater but less than 0.04 will not perform or continue to perform a safety-sensitive function, until:

- the employee's breath alcohol concentration measures less than 0.02 on a confirmation test given within eight (8) hours of testing positive with an alcohol concentration of greater than 0.02 but less than 0.04 or
- the start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following administration of the test.

5. On-call employees are prohibited from using alcohol for the duration of their on-call status. On-call employees will be given an opportunity to acknowledge the use of alcohol at the time that the employee reports for duty and the inability to perform the safety-sensitive function. If the on-call employee acknowledges the use of alcohol, but claims the ability to perform the function, the covered employee is required to take a breath alcohol test prior to performing the safety sensitive function.

6. Covered employees shall not refuse to take a breath alcohol test for any FMCSA mandated test under these provisions. A covered employee that

refuses to take any mandated alcohol test under these provisions will be deemed a "Refusal to Test".

7. Covered employees are prohibited from the use of alcohol following an accident when the employee is required to take a post-accident alcohol test within eight (8) hours following the accident or until the employee undergoes a post-accident alcohol test, whichever occurs first. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.
8. Covered employees are prohibited from the possession or use of alcohol on any Schuyler County premises/property.
9. Schuyler County, having actual knowledge that a covered employee is using alcohol while performing or has used alcohol within four (4) hours of performing a safety-sensitive functions, shall not permit the employee to perform or continue to perform safety-sensitive functions.

B. Drugs:

1 A covered employee is required to submit for a drug test in the following circumstances:

- Pre-employment.
- Random;
- Post Accident;
- Reasonable suspicion;
- Return to duty; and
- Follow Up

An applicant who applies for a safety-sensitive position must undergo a pre-employment drug ~~and alcohol~~ test prior to the first time they perform safety sensitive duties.

2. Covered employees are prohibited at all times from the use of the five prohibited drugs and shall be randomly selected at any time while on duty to submit to drug testing for the following drugs and drug metabolites:
 - Marijuana;
 - Cocaine;
 - ~~Opiates~~ Opioids
 - Amphetamines; and
 - Phencyclidine (PCP).

3. Covered employees shall not refuse to take a drug test for any FMCSA mandated test under these provisions. A refusal to test includes providing a specimen that is adulterated or substituted. A covered employee who refuses to take any mandated drug test under these provisions will be deemed a "Refusal to Test".
4. Covered employees who are required to submit to post accident drug testing will remain readily available for a period of 32 hours after an accident or until the drug test is administered, whichever comes first. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident.
5. Covered employees are prohibited from the manufacture, distribution, dispensing, and possession of controlled substances at all times.
6. Covered employees are prohibited from the use of any illegal controlled substance regardless of the source. A covered employee should notify Schuyler County when taking prescription or over-the-counter medications that may cause affect performing safety sensitive duties.

5.0 Testing

5.1 Testing Procedure

A. Drugs:

The drug test, under DOT regulations, consists of a urine drug collection analyzed for the presence of the five identified illegal drugs and drug metabolites. Urine analysis also includes mandatory specimen validity testing for chemicals used in adulterating urine, for the detection of substituted urine, or for detection of diluted urine.

Urine specimen collection and urine analysis shall be conducted in accordance with the procedures delineated in 49 CFR 40.

The first part of the process is the urine drug collection at a collection site meeting the DOT requirements. A split specimen is collected; that is, two bottles are generated during the collection process - primary and split. The specimens are sent to a Department of Health and Human Services (DHHS) certified laboratory that ensures that the testing is scientifically valid for ph, creatinine, specific gravity, and various adulterants. The laboratory will test all primary specimens for dilution, substitution, and adulteration. If the initial screening is positive for one or more of the five identified substances, a confirmation test is then performed for each identified drug utilizing gas chromatography/mass spectrometry (GC/MS) analysis.

The second part of the process is conducted by a certified Medical Review Officer (MRO). For positive test results and specimens identified as "substituted/adulterated", the MRO will interview the employee and review the test before making a final confirmation. A covered employee can challenge an MRO confirmed positive or substituted/adulterated test result by requesting that the split bottle be tested. The request for a split specimen test must be made by the employee directly to the MRO within 72 hours of the time of notification of a positive test or refusal to test because of adulteration or substitution. Please note that employees do not have access to a test of their split specimen following an invalid test.

An employee requesting a split specimen test shall advance the cost of the additional analysis and all costs associated with the transfer of the specimen to another laboratory including shipping and handling. If the retest results in the employee passing the drug test, Schuyler County shall reimburse any costs collected in advance. Selection of the certified laboratory for a split specimen test will be made by through MRO.

The Federal Drug Testing Custody and Control Form (CCF) must be used to document every urine collection required by the DOT/FMCSA drug testing program. The CCF must be a five-part carbonless manifold form that details each step of the collection, verification, and copy distribution process. The CCF can only be modified in certain circumstances pursuant to 49 CFR Part 40.45 (c). Under no circumstances may the CCF transmit any employee personal identifying information other than the drivers license number, social security number or employee ID number to the laboratory.

The inability to provide a urine specimen (shy bladder) will result in a refusal to test if a physician cannot verify that a legitimate medical condition existed.

A covered employee may raise the issue of prescription drug effects at the MRO interview and present a copy of the prescription. The MRO, upon verifying the prescription, will overturn the positive test and declare it negative.

Observed collections are required in the following circumstances:

- All Return to Duty tests;
- All Follow up tests
- Anytime the employee is directed to provide another specimen because the temperature of the original specimen was out of the accepted temperature range of 90 degrees to 100 degrees F;
- Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;
- Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with the specimen;

- Anytime the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the result;
- Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated or substituted, but had to be cancelled because the test of the split specimen could not be performed.

8. Alcohol:

An evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration (NHTSA) is utilized to conduct alcohol screening and confirmation tests in accordance with DOT regulation. A breath alcohol test is conducted by a Certified Breath Alcohol Technician (BAT) at a collection site that meets DOT requirements. The breath alcohol testing must conform to 49 CFR 40. A DOT alcohol testing form (ATF) is completed and the results recorded on that form according to DOT regulations.

Up to two breath tests are required for a DOT test. The first test is considered the initial screening test. If a breath alcohol concentration is below 0.02, no further testing is required. If a breath alcohol concentration is 0.02 or greater on the first test, a confirmation test (second breath test) is required. When a confirmation test is required, any actions taken will be based on the confirmation test result.

The inability to provide adequate breath for the alcohol test (shy lung) will result in a refusal to test if a physician cannot verify that a legitimate medical condition existed.

5.2 Types of Tests Required

A. Pre-employment (drug test only):

1. An applicant who is applying for employment to a safety sensitive position must pass DOT pre-employment drug test with verified negative results. If the applicant receives a verified positive test result on either test, employment in the safety-sensitive position shall be denied.
2. An applicant or covered employee whose pre-employment drug test is canceled is required to take another pre-employment drug test with a verified negative result prior to commencing any safety-sensitive function.
3. An employee who is re-assigned, promoted, or transferred to a safety-sensitive position must pass DOT pre-employment drug and alcohol tests

with verified negative results prior to starting the safety-sensitive position. If the employee receives a verified positive test result, the employee may not be re-assigned, promoted, or transferred to the position and Schuyler County shall take the appropriate action as prescribed under Schuyler County Drug Policy, "Consequences of a Positive Drug Test".

4. An applicant or covered employee who has previously failed a DOT drug or alcohol test must have evidence of successfully completing the DOT referral, evaluation and treatment plan prior to commencing a safety-sensitive position.
5. A covered employee that has not performed a safety sensitive function for a duration of 30 consecutive days or more, and has been removed from the safety-sensitive random pool during that time, must submit to a DOT pre-employment drug test with a verified negative result prior to commencing their safety-sensitive functions.

Three Year DOT Substance Abuse Background Check

Schuyler County shall obtain information on an applicant's substance abuse history within the preceding three years that are maintained by the covered applicant's previous transportation employer(s) pursuant to these regulations. **This previous employer check will be done in unison with the pre-employment full query in the FMCSA Clearinghouse.** One limited query will also be initiated for all current employees annually. Each applicant shall also be required to notify Schuyler County if they have tested positive on a pre-employment test for a company that did not hire them. Schuyler County reserves the right to re-evaluate the employees job status based on the information received from the background checks.

B. Reasonable Suspicion Testing

A covered employee will be subject to reasonable suspicion drug use and alcohol misuse testing when the employer has a reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse.

1. Schuyler County Supervisor(s), trained in detecting the signs and symptoms of drug use and alcohol misuse, must determine that reasonable suspicion exists and shall be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.
2. The supervisor can direct a covered employee to undergo reasonable suspicion testing for alcohol when the observations (as defined in #1 above) are made while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

C. Post-Accident Testing:

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road, Schuyler County shall test for alcohol for each of its surviving drivers:

- Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, Schuyler County will test for controlled substances for each of its surviving drivers:

- Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

The following table notes when a post-accident test will be conducted by Schuyler County:

<u>Type of accident involved</u>	<u>Citation issued to the CMV driver</u>	<u>Test must be performed by COMPANY</u>
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical	YES	YES

treatment away from the scene	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES NO	YES NO

If a post-accident alcohol test is not administered within two hours following the accident, Schuyler County will document the reasons the test was not promptly administered. If a test required is not administered within eight hours following the accident, Schuyler County shall cease attempts to administer the alcohol test and will document why the test was not completed.

If a post accident drug test not administered within 32 hours following the accident, Schuyler County will cease attempts to administer a controlled substance test, and document the reason why the test was not completed

A CDL who is subject to post-accident testing shall remain readily available for such testing or may be deemed by Schuyler County to have refused to submit to testing. Nothing shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

Schuyler County will provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of the policy.

Schuyler County may obtain and use the results of a urine and breath/blood tests for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test (s).

Post accident testing will not be conducted in the following situations:

- An occurrence involving only boarding or alighting from a stationary motor vehicle; or
- An occurrence involving only the loading or unloading of cargo; or
- An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 571.3) by Schuyler County unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 177.823.

In either a fatal or non-fatal accident, there is nothing that shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

D. Random Testing:

Federal Motor Carrier Safety Administration regulations require that all covered employees be subject to random drug use and alcohol misuse testing under this policy.

The selection of employees for random drug and alcohol testing (50% of the drug and 10% of the alcohol test pool, respectively) shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' **driver license number**, Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

Random drug and alcohol tests will be unannounced and immediate, and the dates for administering random tests will be spread reasonably throughout the calendar year. Random testing will be conducted on all days and hours during the time that safety-sensitive functions are performed.

E. Return-To-Duty Testing:

For covered employee who refuses to submit to a test, has a verified positive drug test result, and/or has a confirmed alcohol test result of 0.04 or greater, Schuyler County will require that the employee pass a drug and/or alcohol test (pursuant to procedures outlined in 49 CFR Part 40, Subpart 0) with a verified negative result before returning to duty to perform a safety-sensitive function.

F. Follow Up Testing:

A covered employee will be subject to follow up testing who returns to duty as specified in 49 CFR Part 40, Subpart 0).

5.3 Refusal to Test:

A covered employee who refuses to submit to DOT/FMCSA drug or alcohol testing as required by DOT/FMCSA regulations, shall be prohibited from performing or continuing to perform safety-sensitive functions. A refusal to submit to drug or alcohol testing constitutes a verified positive drug or alcohol test result.

Under the DOT/FMCSA regulations, a covered employee is subject to disciplinary action in the event that he/she refuses to take a DOT/FMCSA drug or alcohol test. A refusal to test for any non-DOT drug or alcohol test administered by Schuyler County does not constitute a refusal to test under the DOT/FMCSA regulations. Any conduct or behavior as defined in the following list constitutes a refusal to test under DOT/FMCSA regulations and will be deemed a verified positive drug or alcohol test when the covered employee:

- Fails to appear for any test (except a pre-employment test) within 60 minutes of notification that he/she has been selected for a DOT/FMCSA drug and/or alcohol test.
- Failure to remain at the testing site until the testing process is complete; an employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
- Fails to provide a urine specimen for any drug test or an adequate amount of breath for any alcohol test required by this part or DOT agency regulations; an employee who does not provide a urine specimen and/or an adequate amount of breath because he/she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
- Fails to permit the observation or monitoring of a specimen collection in the case of a directly observed or monitored drug test;
- Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails or declines to take a second drug test that Schuyler County or the collector has directed the covered employee to take;
- Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by Schuyler County DER under 49 CFR Part 40.193(d). In the case of a pre-employment drug test, the covered employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
- Fails to undergo a medical examination or evaluation, as directed by Schuyler County as part of the insufficient breath procedures outlined at 49 CFR Part 40.265(c);
- Fails to sign the certification at Step 2 of the ATF;
- Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process); or
- If the MRO reports that you have a verified adulterated or substituted test result.
- For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- Admit to the collector or MRO that you adulterated or substituted the specimen.

6.0 Consequence and Return to Work

Any covered employee who tests positive for any one or more of the five prohibited drugs, who refuses to test as defined in 5.3, or who has an alcohol concentration of 0.04 or greater, will be immediately removed from his/her safety-sensitive position/duties, and referred to the Substance Abuse Professional (SAP). In addition, although not required by Federal law, the employee who violates this policy shall be subject to progressive disciplinary action by the County up to and including termination. Any disciplinary action imposed shall be subject to the grievance and arbitration procedure of the respective collective bargaining agreement.

If Schuyler County opts to allow the employee to be returned to work, the covered employee will be evaluated by the SAP and referred for treatment/education. The employee will be placed on an involuntary, unpaid leave of absence. During such leave of absence, the employee may use accrued benefits such as sick time, vacation time, compensatory time, etc.

Upon successful completion of the SAP's evaluation and treatment plan, the covered employee will be returned to work following a verified negative return to duty drug and/or alcohol test result. The employee will also be subject to at least six follow up tests in the next 12 months. The SAP may recommend more follow up tests, but the testing period must not extend beyond 60 months.

An employee who has violated this policy, and undertakes a treatment or rehabilitation program upon the recommendation of a SAP shall bear the expense of such treatment or rehabilitation program. Medical benefits, if available to the employee, may be used for such purposes.

- Alcohol Test Result - .02 or greater, but less than .04

A covered Schuyler County employee with a verified breath alcohol of 0.02 or greater but less than 0.04 will be removed from a safety-sensitive position until: (1) The employee's alcohol concentration measures less than 0.02; or (2) the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

- Dilute Drug Specimen

If an employee's drug test is reported as "negative dilute", the employee will be immediately sent for another drug test. If the second test result is negative dilute, the result will be accepted and no further testing will be performed, unless directed by the MRO. Certain Dilute specimens may require retest under Direct Observation, as per 49 CFR 40 (amended 11/19/08).

7.0 Training:

Schuyler County will provide educational materials that explain the requirements of this policy and the company's policies and procedures with respect to meeting the FMCSA alcohol and drug testing requirements.

Schuyler County will distribute these materials to each driver prior to the start of alcohol and controlled substances testing under this policy and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle.

Schuyler County will also provide written notice to representatives of employee organizations of the availability of this information.

Schuyler County will require that each driver sign a statement certifying that he/she has received a copy of the FMCSA training materials.

8.0 Retention of Records

Schuyler County shall maintain its drug and alcohol records in a secure location with controlled access according to the following schedule:

One Year: Records of negative drug or alcohol tests.

Two Years: Records related to the collection process and employee training.

Three Years: All two year substance abuse background checks.

Five Years: Records of covered employees verified positive drug or alcohol test results, documentation of refusals to take required drug or alcohol tests, and covered employee referrals to the substance abuse professional, and copies of annual MIS reports submitted to the FMCSA.

Each record shall be maintained for the specified minimum period of time as measured from the date of the creation of the record.

Access to Records

A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the covered employee's use of prohibited drugs or misuse of alcohol, including any records pertaining to his/her drug or alcohol tests. There shall not be any contingent employee fee for this request.

Schuyler County shall permit access to all facilities utilized, data, covered employee records, and other program records compiled in complying with the requirements of these regulations to the Secretary of Transportation or any DOT agency with regulatory authority over the employer or any of its employees or a State oversight agency

authorized to oversee rail fixed guideway systems, upon the Secretary's request or the respective agency's request.

Schuyler County shall disclose information related to the company's drug or alcohol testing related to an accident when a request is issued by the National Transportation Safety Board as part of an accident investigation.

Schuyler County shall make available a covered employee's records to a subsequent company or specifically identified person upon receipt of a written request from the covered employee.

Schuyler County may disclose information pertaining to a covered employee to the employee or the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual, and arising from the results of a drug or alcohol test under these regulations (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the covered employee).

Schuyler County shall obtain information on a covered employee's verified positive drug or alcohol tests within the preceding three years that are maintained by the covered employee's previous employer(s) pursuant to these regulations.

9.0 The Designated Employer Representative (DER):

The Schuyler County employees who will manage the FMCSA substance abuse program are:

Lorraine Johnson

Jennifer Bianco

Karen Spaccio

The DER has been designated to answer questions regarding this policy, the anti-drug and alcohol misuse program, and receive drug and alcohol test results.

10.0 Employee Rights

Testing and Waiting Time

All time spent on testing, including reasonable travel time of not more than one hour to and from the testing facility, is paid time under regular status, including overtime, if applicable. Employees will be paid while being tested for the time away from duty, or, if their duty assignment has ended, they will be paid up to the time they are released from the testing site. All costs of testing under this Policy shall be borne by the County, except as specifically addressed in this Policy.

Confidentiality

The County shall make every effort to assure confidentiality throughout the testing process and to protect the individual dignity and right to privacy of all employees. Personal data regarding the drug testing results and rehabilitation program evaluations will be forwarded only to the Personnel Officer and are confidential. Any release of this information to persons other than representatives of the Personnel Officer or the employee's supervisor is prohibited without the written permission of the employee tested.

Return to Work

Any employee qualified to return to duty pursuant to this Policy has the right to return to duty in the same position immediately, subject to the provisions of Section 72 of the Civil Service Law.

The County shall make reasonable efforts to afford employees the right to union representation whenever an employee is directed to submit to an alcohol or drug test. Such representation shall not interfere with, or more than minimally delay, the movement of the employee to the testing site and shall not include the presence of a union representative when the independent health provider referred to in Article V (A) is conducting the testing, collection or required preliminary procedures (interview, identification, consents, etc).

11.0 Management Information System

Schuyler County will prepare and maintain a summary of the results of its alcohol and controlled substances testing programs performed under this part during the previous calendar year, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the County or any of its drivers. The Management Information System (MIS) report will be prepared in accordance with 382.403.

RE: AUTHORIZE STIPULATION AND RELEASE OF CLAIMS AGREEMENT WITH
JESSICA J. BURNS – HUMAN RESOURCES

BE IT RESOLVED, that the Chairman of the Legislature is hereby authorized to sign a
Stipulation and Release of Claims Agreement with Jessica J. Burns, as approved by Labor Counsel.