

STATE EMPLOYMENT
RELATIONS BOARD

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STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF THE FACT FINDING)	BEFORE FACT-FINDER:
)	JAMES E. RIMMEL
BETWEEN)	
)	09-0708
SUMMIT COUNTY SHERIFF)	CASE NO.: 04-MED-08-0761
)	
AND)	SCHEDULED HEARING DATE:
)	1 APRIL 2005
FOP, OHIO LABOR COUNCIL, INC.)	
SHERIFF'S SUPERVISORS ASSOCIATION)	POST HEARING BRIEFS REC'D:
)	20 MAY 2005
)	
)	ISSUED: 10 JUNE 2005

APPEARANCES

FOR THE SHERIFF:

James A. Budzik
Johnson & Colaluca, L.L.C.

FOR THE FOP:

Chuck Choate
Senior Staff Representative

BACKGROUND

This matter came on for fact-finding under the State of Ohio's Public Employee Collective Bargaining Act of 1983 following impasse in negotiations on a successor collective bargaining agreement. Over eight (8) bargaining sessions, the parties tentatively agreed on revisions to three (3) Articles, to wit: Article 9 - Grievance Procedure; Article 10 - Discipline; and, Article 27 - Uniforms and Equipment. There are, however, nine (9) unresolved issues. These issues are: Article 16 - Layoff and Recall; Article 18 - Wages and Compensation; Article 20 - Insurance; Article 23 - Sick leave; Article 25 - Injury Leave; Article 30 - Severance Pay; Article 36 - Substance Testing;

Article 39 - Duration; and Miscellaneous Memoranda.

Now, in developing their positions/arguments, the parties purportedly took due cognizance of the statutory criteria set out at 4117(G)(7)(a) to (f) of the Ohio Revised Code, said criteria reading as follows:

Past collectively bargained agreements, if any, between the parties;

Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;

The lawful authority of the public employer;

The stipulations of the parties;

Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.

RECOMMENDATIONS

1. **Article 16 - Layoff and Recall**

The Union's proposal to add two (2) new sections, to wit: 16.7 and 16.8 is recommended (see attached Exhibit "A").

These new sections seek to provide the benefit of language contained in Section 16.6 that presently exist for Sergeants for Lieutenants and Captains.

2. Article 18 - Wages and Compensation

The parties have each offered various proposals regarding rank differential, longevity pay and stipends as set forth in Sections 18.1, 18.2 and 18.4. There are four (4) separate unresolved issues under this Article. I recommend the language, benefits and rank differential contained in Sections 18.1, 18.2 and 18.4 remain the same in the successor agreement.

3. Article 20 - Insurances

I recommend that the ten percent (10%) employee contribution rate be "capped" as follows:

2005 - \$65 per pay

2006 - \$70 per pay

2007 - \$75 per pay

4. Article 23 - Sick Leave

The Employer's revised attached proposal regarding sick leave, inclusive of an incentive for no-usage of sick leave is recommended for adoption in the successor CBA-see Exhibit "B."

5. Article 25 - Injury Leave

As part of this mediated settlement, the Employer withdrew its proposal to modify the injury leave benefit.

6. Article 30 - Severance Pay

I recommend the graduated percentage scale of accrued sick leave paid out upon retirement be increased as follows:

10-29 completed years - 45% up to 720 hours maximum payout

20-24 completed years - 50% of accrued unused sick leave

25-29 completed years - 60% of accrued unused sick leave

30 or more completed years - 70% of accrued unused sick leave

7. Article 36 - Substance Testing

I recommend the Employer proposal to modify current language with the following:

36.1 All employees are subject to the County's Substance abuse Prevention Policy and Procedures which are both attached as Appendixes - See Exhibit "C".

8. Article 39 - Duration

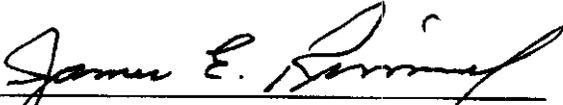
Section 39.1 should be modified to reflect a three year contract term from 1 January 2005 through 31 December 2007.

9. Memorandum of Understandings

There are currently eight (8) Memoranda of Understandings. I recommend the following on each MOU.

1. Promotion to Mayor: current language.
2. Parenthetical Titles: current language.
3. Environmental Inspections: modify to include notification by Union and copy of any test results will be provided to the Employer.
4. Association Office Space: current language.
5. Dental and Vision Insurance: current language.
6. Sergeants Classification Specifications: current language.
7. Supervision Complement: current language.
8. Physical Agilities testing: I recommend the following:
 - (a) retain subsection (1) regarding composition
 - (b) retain subsection (2) except that in the event the parties cannot agree on a testing program within six months, the Employer shall have the right to implement the previously discussed "Summit County Sheriff's Office Physical Agilities Test."
 - (c) retain subsection (3) except add language that the parties will mutually agree that at least fifty percent (50%) of the bargaining unit will be exempted from physical agilities testing.

(d) retain subsection (4) as currently written.



JAMES E. RIMMEL, FACT-FINDER

ARTICLE 16
LAYOFF AND RECALL

Section 16.1. Employees may be laid off as a result of lack of work, lack of funds or abolishment of position(s). In the event of a layoff, the Employer shall notify the affected employees fifteen (15) calendar days in advance of the effective date of the layoff. The Employer, upon request from the Association, agrees to discuss, with representatives of the Association, the impact of the layoff on bargaining unit employees. Any layoff in the bargaining unit shall be instituted in accordance with rank seniority, as defined in Article 15 of this agreement.

Section 16.2. Layoffs shall be instituted in accordance with the following:

The least senior employee (by rank seniority) in the affected rank being laid off first. A laid off employee may displace to the next lower classification (rank), based upon his rank seniority. Employees notified of a layoff must notify the Employer within three (3) calendar days of receipt of the notice of their intent to exercise their bumping rights. Those employees who are displaced from the bargaining unit shall be placed into the Deputy ranks based upon the employees' departmental seniority, to the extent that such continues to be permitted in accordance with the labor agreement between the Summit County Sheriff and the Fraternal Order of Police.

Example: It has been determined one (1) Major's slot shall be eliminated. The Major who has the least Major rank seniority shall be displaced into the rank of Captain and shall hold a position in that rank which reflects his/her rank seniority as a Captain. The Captain who has the least Captain rank seniority would be displaced into the rank of Lieutenant and would hold a position in that rank which reflects his/her rank seniority as a Lieutenant. The Lieutenant who has the least Lieutenant rank seniority is then displaced into the Sergeants rank and shall hold a position in that rank which reflects his/her rank seniority as a Sergeant. The Sergeant who has the least Sergeant rank seniority would then displace into the Deputy ranks and shall hold a position therein which reflects his/her total time with the Summit County Sheriff's Office to the extent that such continues to be permitted in accordance with the Deputies' agreement.

Section 16.3. Employees who are laid off shall be placed on a recall list for a period of two (2) years. If there is a recall, employees who are still on the recall list shall be recalled, in the inverse order of their layoff, provided they remain qualified to perform the work in the work section to which they are recalled. Any recalled employee requiring additional training to meet the position qualifications in existence at the time of recall must satisfactorily complete the additional training requirements within twelve (12) months of the recall. Any training required in this section shall be at the Employer's expense.

Section 16.4. Notice of recall shall be sent to the employee by certified mail. The Employer shall be deemed to have fulfilled its obligations by mailing the recall notice by certified mail, return receipt requested, to the last mailing address provided by the employee.

Section 16.5. The recalled employee shall have five (5) calendar days following the date of receipt of the recall notice to notify the Employer of his intention to return to work and shall have fourteen (14) calendar days following the receipt of the recall notice in which to report for duty, unless a different date for returning to work is otherwise specified in the notice.

Section 16.6 In the event that sergeants scheduled for layoff are prohibited from placement into the deputy ranks, such employees shall be temporarily retained in the rank of sergeant until such time as they would also be scheduled for layoff based upon departmental seniority had they been placed into the deputy ranks. During this temporary retention period, the affected employees shall be reduced to a rate of pay equivalent to that which they would have received after displacement to the deputy ranks.

Section 16.67 In the event that sergeants lieutenants scheduled for layoff are prohibited from placement into the deputy sergeant ranks, such employees shall be temporarily retained in the rank of sergeant lieutenant until such time as they would also be scheduled for layoff based upon departmental seniority had they been placed into the deputy sergeant ranks. During this temporary retention period, the affected employees shall be reduced to a rate of pay equivalent to that which they would have received after displacement to the deputy sergeant ranks.

Section 16.68 In the event that sergeants captains scheduled for layoff are prohibited from placement into the deputy lieutenant ranks, such employees shall be temporarily retained in the rank of sergeant captain until such time as they would also be scheduled for layoff based upon departmental seniority had they been placed into the deputy lieutenant ranks. During this temporary retention period, the affected employees shall be reduced to a rate of pay equivalent to that which they would have received after displacement to the deputy lieutenant ranks.

For the County

For the FOP

Date: _____

Date: _____

EX 3

**ARTICLE 23
SICK LEAVE**

Section 23.1. Employees shall accrue sick leave credit at the rate of four and six tenths (4.6) hours per bi-weekly pay period. Sick leave credit shall not accrue during any unpaid leave or layoff. Advance use of sick leave shall not be granted. Sick leave is accumulative without limit.

Section 23.3. Definitions

- A. "Occasion" is defined as sick leave taken in increments of 4.0 hours or more, but less than three (3) days.**
- B. "Occurrence" is defined as three or more days of continuous, uninterrupted sick leave following, before, or after days off, holiday, or vacation leave.**

The pre-planned scheduling of sick leave for medical, dental, psychiatric, or optical appointments will not count toward a member's number of sick leave absences within any calendar year. Members sent home by a supervisor who considers the member too sick to be at work; will not have this unscheduled occasion count toward triggering an investigation of more than five (5) unscheduled sick leave occasions within the calendar year.

C. "Pattern of Abuse". Consistent periods of sick leave usage may indicate a pattern of abuse, for example, but not limited to:

- 1. Before or after holidays without a doctor's excuse.**
- 2. Before or after vacation/weekends or scheduled days off without a doctor's excuse.**
- 3. Continued long term pattern of using sick leave without doctor's excuse or medical justification.**
- 4. Absence following overtime/off-duty assignments without a doctor's excuse.**
- 5. Six (6) or more occasions of usage within any 12 month calendar period without medical documentation.**
- 6. After pay days.**

7. Any one specific day.
8. Half days.
9. Continued pattern of maintaining zero or near zero sick leave balances.
10. Excessive absenteeism.
11. Calling off sick when leave for that same period of time had previously been denied.
12. Other facts which may demonstrate abuse/misuse.

D. "Unauthorized Use of Sick leave". It is the policy of the Employer to take corrective and/or disciplinary action for unauthorized use of sick leave and/or abuse of sick leave. Unauthorized use of sick leave shall include the following:

1. Failure to properly notify supervisor of medical absence without extenuating circumstances
2. Failure to complete standard sick leave form
3. Failure to provide physician verification when required
4. Fraudulent physician verification
5. Misuse of sick leave – using sick leave for purposes other than intended
6. Failure to comply with the terms of this policy
7. Pattern abuse

Section 23.3 All Employees, the Union, and the Employer recognize that abuse or misuse of sick leave is of mutual concern that all parties recognize their responsibility to use sick leave only for legitimate uses.

Sick leave shall be granted an employee, upon approval by the Employer, for the following reasons:

- A. Illness, injury or pregnancy-related condition of the employee.
- B. Exposure of an employee to a contagious disease which could be communicated to and jeopardize the health of other employees.
- C. Examination of the employee, including medical, psychiatric, psychological, Dental or optical examination by an appropriate practitioner, when such an examination cannot be scheduled during non-work hours.
- D. Illness, injury or pregnancy-related condition of a member of the employee's immediate family where the employee's presence is reasonably necessary for the health and welfare of the employee or affected family member.
- E. Examination, including medical, psychiatric, psychological, dental, or optical

examination of a member of the employee's immediate family by an appropriate practitioner where the employee's presence is reasonably necessary.

For the purpose of this article, the definition of immediate family shall be: mother, father, son, daughter, brother, sister, spouse, grandparent, grandchild, mother/father/daughter/son/sister/brother-in-law, or legal guardian or other person who stands in place of a parent (loco parentis).

Section 23.4. When an employee is unable to report to work due to illness or injury, he shall notify this immediate supervisor or other designated person, two (2) hours prior to the time he is scheduled to report to work, unless extenuating circumstances prohibit, on each day of absence, unless other arrangements are made with the employee's supervisor.

Section 23.5. Upon return to work an employee shall complete an application for sick leave form to justify the use of sick leave. When an employee utilizes sick leave for medical appointment, on more than five (5) occasions in a calendar year or for any occurrence (five (5) or more consecutive work days), a medical leave form provided by the Employer which is filled out and certified (certificate) form a licensed physician, dentist, or other licensed practitioner shall (may) be required by the Employer. Employee shall also fill out a payroll application for leave which will accompany the medical leave form. The *Medical Leave Form* is the only recognized sick leave form that will be recognized by the Employer. Failure to submit the *Medical Leave Form* will result in the employee being absent without leave until the medical leave form is provided. The *Medical Leave Form* (practitioner's statement) must note that the employee was either in the practitioner's office in order to receive medical treatment, and (or) that the employee was medically incapable of working on the days that the employee was absent from work. Sick leave usage, when approved, shall be charged in minimum units of one (1) hour. In order to receive pay for sick leave usage, when approved, shall be charged in minimum units of one (1) hour. In order to receive pay for sick leave usage, an employee must comply with all departmental rules and regulations governing application and use. Falsification of an application for sick leave or a practitioner's statement shall be grounds for disciplinary action.

Section 23.6. Procedure for Sick Leave Abuse Discipline – Pattern Abuse.

1. Anytime the Employer believes an employee may be abusing or misusing sick leave, they shall notify the employee in writing. The Employer will schedule a meeting with the employee and his Union Representative and discuss the problems.
2. The Sheriff or designee shall meet with the employee to discuss the employee's use of sick leave. The purpose of the meeting shall be to allow the employee the opportunity to discuss any extenuating or mitigating circumstances concerning the use of sick leave of which the supervisor should be aware. This meeting is for the purpose of requiring the employee to explain his prior uses of sick leave. While the

meeting is not disciplinary in nature, the employee may elect to have his Union Representative present.

3. The Sheriff or designee may elect to require the employee to produce a physician's verification statement for all subsequent illnesses.

4. Injuries, illnesses, or conditions properly certified and documented as a "serious medical condition" under the FMLA are exempt from this policy. Injury leave is exempt and workers compensation leave and likewise exempt.

Section 23.7. Abuse of Sick Leave. Employees failing to comply with sick leave rules and regulations shall be subject to discipline up to and including termination. The Employer may initiate investigations when an employee is suspected of abusing sick leave privileges.

Section 23.8. Employees who utilize no sick leave hours for three (3) consecutive months shall earn four (4) hours of personal leave, which the employee must use within one (1) year from the date such hours are accrued. Failure to use these hours within this time will result in the personal leave being forfeited. Employees can earn up to a total of two (2) personal leave days per year.

For the County

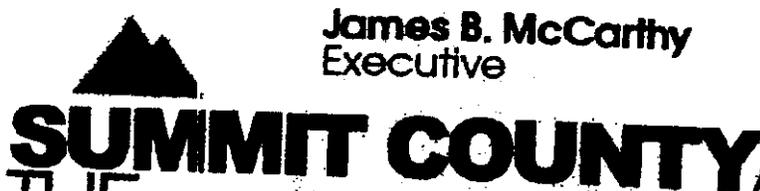
Date: _____

For the FOP

Date: _____

EX "C"

James B. McCarthy
Executive



SUMMIT COUNTY

THE
HIGH POINT
OF
OHIO

COUNTY OF SUMMIT

SUBSTANCE ABUSE PREVENTION POLICY

EXECUTIVE JAMES B. MCCARTHY

SUBSTANCE ABUSE PREVENTION POLICY

- A. Summit County ("Employer") has a strong commitment to the health, safety, and welfare of its employees, their families and the public. Widely available statistics and information establish that the incidence of drug and alcohol abuse is increasing and the effect is devastating to lives, businesses, and the community at large. Summit County is concerned that, in the event of substance abuse among our employees, the safety of our employees and the public could be endangered. Our commitment to maintaining a safe and secure workplace requires a clear policy and supportive programs relating to the detection, treatment, and prevention of substance abuse by employees. It is the goal of Summit County to provide a safe workplace by eliminating the hazards to health and job safety created by alcohol and other drug abuse. We believe this goal to be in the best interest of our employees and the general public.
- B. The Executive's Department of Human Resources is responsible for implementing and communicating these policies. Any questions regarding these policies should be directed to the Summit County Executive's Department of Human Resources.
- C. Employees are encouraged to voluntarily admit problems with drugs and alcohol prior to violating these policies. Employees who voluntarily admit problems with drugs and alcohol prior to violating these policies will not have his or her job security or promotional opportunities jeopardized by a request for treatment. Employees should not read this to mean that a request for treatment will automatically excuse them from discipline or discharge where the Employer initiates corrective action for violation of these policies. Rather, an employee who seeks treatment on his or her

own initiative is in a better position than one who brings up a drinking or drug problem for the first time in response to an investigation by the Employer. It will be the responsibility of the employee to comply with the Employer's referral for diagnosis, and it is also the employee's responsibility to cooperate with the prescribed treatment. An employee's refusal to accept referral or follow the prescribed plan of treatment may be considered insubordination. An employee who is referred to a drug rehabilitation program and fails to satisfactorily participate in the program may be terminated from employment. Referral to a rehabilitation program is designed primarily for those employees who appear to have a treatable condition, not to protect those who manufacture, distribute, or dispense drugs in the workplace.

- D. This policy applies to all employees of Summit County, including all levels of management while on the job, while subject to duty, and while riding in a County owned vehicle. This policy also applies to situations where an employee's off-the-job or off-premises conduct impairs work performance. The Employer wants to assure that employees report to work in condition to perform their duties safely and efficiently in the interest of their fellow workers and the public as well as themselves.
- E. It is a violation of this policy to do any of the following:
1. Report to duty or remain on duty while having a blood alcohol concentration of .02 or greater;
 2. Report to duty or remain on duty while using a controlled substance (including prescription drugs that may impair the employee's ability to safely perform the assigned duties, unless such use has been approved by a physician and reported to the Human Resource Department designee);

3. Test positive for controlled substances. A positive test is defined as a test showing controlled substance concentrations in excess of the threshold amounts set forth in Section I herein;
4. Possess alcohol, controlled substances or drug paraphenalia while on duty;
5. Use alcohol or controlled substances while on duty;
6. Refuse to submit to a post-accident, reasonable suspicion, return-to-duty, or follow-up alcohol or controlled substance test.

F.1. If an employee violates any of the policies set forth in this Substance Abuse Prevention Policy:

- a. The employee may be disciplined, up to and including dismissal.
- b. The employee may be reassigned.
- c. The employee will be provided with information regarding the services available for alcohol and substance abuse.
- d. The employee will be referred for an evaluation by a substance abuse professional.
- e. The employee will be subject to reevaluation, return-to-duty testing, and unannounced follow-up testing.

2. Violation of Section E (6) above will result in immediate termination (See Section K below for definitions of what constitutes failure to submit).

G. The appropriate use of legally prescribed drugs and non-prescription medication is not prohibited. However, when taking any prescription or non-prescription medication which may interfere with the safe and effective performance of their duties, employees are encouraged to consult their physician and report such use to the Human Resources Department designee. Certification of fitness to work from a medical

doctor may be required before the employee will be allowed to continue working.

- H. An employee will be required to submit to testing for alcohol and/or controlled substances under the following circumstances:
1. **Pre-Employment Testing:** Prior to the first time an employee performs official duties for the Employer, and/or within ninety (90) days of employment, the employee will be tested for controlled substances. The employee will not be hired or will be terminated, whichever is applicable, unless the controlled substance test is negative. Any applicant or probationary employee who refuses a controlled substance test will not be hired or will be terminated, whichever is applicable.
 2. **Post-Accident Testing:** All employees who may have caused or contributed to an accident on the job, as defined below, may be required to submit to drug and/or alcohol testing. The test will be administered as soon as possible after the employees involved have received the necessary medical treatment, or within 3 hours for alcohol testing and 8 hours for testing of other drugs. An accident is defined as an unplanned, unexpected, or unintended event that occurs on County property, during the conduct of County business, or during work hours, including but not limited to an event in the course of County business that results in (a) a fatality, (b) bodily injury requiring off-site medical treatment, (c) vehicular damage, or (d) major property damage. A positive drug test or refusal to submit to a test after an accident may affect the employee's eligibility to receive workers' compensation benefits under Chapters 4121 and 2123 of the Ohio Revised Code.
 3. **Reasonable Suspicion Testing:** A trained supervisor or official may require an employee to undergo testing for alcohol and/or controlled

substances based upon specific, objective facts and reasonable inferences drawn from these facts in light of experience and training. Such facts and inferences may be based on, but are not limited to, any of the following:

- a. Observable phenomena, such as direct observation of drug or alcohol use, possession, or distribution, or the physical symptoms of being under the influence of drugs or alcohol, such as, but not limited to, slurred speech, dilated pupils, odor of alcohol or marijuana, changes in affect, dynamic mood swings, etc.;
 - b. A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance, which appears to be related to substance abuse and does not appear to be attributable to other factors;
 - c. An employee being charged with unauthorized drug possession, use or trafficking;
 - d. Repeated or flagrant violations of the Employer's safety or work rules, which are determined by a supervisor to pose a substantial risk of physical injury or property damage and which appear to be related to substance abuse or substance use and do not appear to be attributable to other factors.
4. **Return-to-Duty Testing**: Before an employee who has been found to be in violation of this policy may return to duty, the employee must undergo testing for alcohol and controlled substances. The results of the alcohol test must show less than .02 blood alcohol concentration from a Breathalyzer test, and the controlled substance test must be negative or such employee will not be permitted to return to duty and shall be terminated.

5. **Follow-Up Testing:** When an employee has been found to be in violation of this policy, the employee will be subject to a minimum of four (4) unannounced follow-up tests, in addition to the return-to-duty test, within the first twelve (12) months following the employee's return to duty. The results of any follow-up alcohol test must show less than .02 blood alcohol concentration and any follow-up controlled substance test must be negative or such employee shall be terminated.
- I. All drug screening and confirmation tests shall be conducted by a laboratory certified under the United States Department of Health and Human Services "Mandatory Guidelines for Federal Workplace Drug Testing Programs." The Employer and the laboratory shall have a clear and well-documented procedure for collection, shipment, and accessing of urine specimens. The procedures utilized by the Employer and the laboratory shall be consistent with the collection and testing procedures established by the United States Department of Health and Human Services and required by the United States Department of Transportation, and shall include an evidentiary chain of custody and control and split sample collection and testing. The collection site person is responsible for maintaining the integrity of the specimen collection and transfer process. All procedures shall be outlined in writing and provided to the Employer representatives and donors. There shall be a Medical Review Officer ("MRO"). The MRO is a physician specially trained in substance use disorders. If a test is positive, the MRO gives the employee a chance to provide a legitimate medical explanation, such as a legal prescription for the positive result. If the explanation and subsequent proof satisfy the MRO, the MRO reports a negative drug test to the Employer. Each specimen will be tested for the following substances and will be subject to the following cut off levels based on nanograms per milliliter:

<u>Substance</u>	<u>Initial Level</u>	<u>Confirmation Level</u>
Amphetamines		
Methamphetamine	1,000	500
Amphetamine	300	200
MDA	1,000	500
MDMA	1,000	500
Barbiturates		
Butalbital	300	200
Secobarb	300	200
Phenobarb	2,500	5,000
Benzodiazepines		
Alprazolam	300	300
Oxazepam	300	300
Nordiazepam	300	300
Cannabinoids		
THC-COOH	50	15
Cocaine Metabolites		
Benzoylcegonine	300	150
Methadone	300	300
Methaqualones	300	100
Opiates		
Morphine	300	300
Codeine	300	300
Hydrocodone	400	300
Hydromorphone	500	300
Oxycodone	1,000	500
Propoxyphene	300	300

J. Alcohol tests shall be administered using a breath or saliva initial screen with a confirmatory evidential breath test ("EBT") administered by a

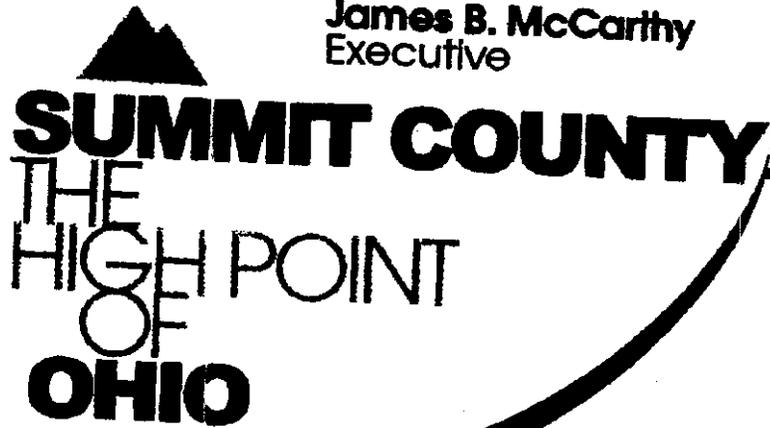
trained breath alcohol technician ("BAT") or a law enforcement officer certified to conduct such tests. All tests shall be administered in accordance with federal standards for alcohol testing.

- K. Refusal to submit to any of the alcohol or controlled substance tests required by this policy shall result in the employee's immediate termination. Actions constituting a refusal to submit to a test include:
1. Failing to provide adequate breath for alcohol testing;
 2. Failing to provide adequate urine for controlled substance testing;
 3. Engaging in conduct that clearly obstructs the testing procedure;
 4. Failing to remain readily available for a post-accident test;
 5. Attempting to substitute and/or adulterate the specimen;
 6. Attempting to delay a test.
- L. All employees shall receive at least two (2) hours of annual training covering the Employer's written policy and the dangers of, and signs and symptoms associated with, substance abuse. Each employee shall receive and sign an acknowledgment of receipt of the Employer's written policy and the required training annually. The training will be presented by a qualified educator holding one of the following substance-use credentials; (a) Substance Abuse Professional (SAP), (b) Certified Employee Assistance Professional (CEAP), (c) Certified Chemical Dependency Counselor (CCDCIII), (d) Ohio Certified Prevention Specialist (OCPS 1 or 2).
- M. All supervisors and selected union officials shall receive at least four (4) hours of initial training prior to implementation of any testing associated with this policy and two (2) hours of refresher training annually thereafter, on the supervisor's role and responsibility in administering this program. New supervisors shall receive at least two (2) hours of training within six

(6) weeks of becoming a supervisor, and will not be involved in testing responsibilities until trained. The training shall include the following topics: how to recognize a possible alcohol or drug problem; how to document behaviors that demonstrate an alcohol or drug problem; how to confront employees with the problem; how to initiate reasonable suspicion testing; how to make appropriate referrals for assessment or assistance; how to follow up with employees returning to work after a positive test; and how to operate consistently with collective bargaining agreements. The training will be presented by a qualified trainer, or a person supervised by a qualified trainer, holding one of the following substance-use credentials; (a) SAP, (b) CEAP, (c) CCDCIII, (d) OCPS 1 or 2.

- N. Information regarding the effects of alcohol and controlled substance use on an individual's health, work, and personal life, and information about drug and alcohol counseling, rehabilitation, and employee assistance programs is available through the Executive's Human Resource Department, and will be periodically provided to employees.
- O. All records relating to an employee's testing shall be maintained as confidential medical records. A tested employee must provide written authorization before his or her test results may be provided to any person, other than the Employer.
- P. The terms of this policy do not alter any employment-at-will relationship with employees. All employees subject to this policy remain subject to all other policies, procedures, rules, regulations, and collective bargaining agreements established by the Employer under its independent authority, which are not inconsistent with the requirements herein. All employees also remain subject to all other relevant federal, state, and local laws and regulations. Commercial Drivers License holders shall abide by this policy

James B. McCarthy
Executive



SUMMIT COUNTY
THE
HIGH POINT
OF
OHIO

COUNTY OF SUMMIT

SUBSTANCE ABUSE PREVENTION PROCEDURES

EXECUTIVE JAMES B. MCCARTHY

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SUBSTANCE ABUSE PREVENTION PROCEDURES

GOAL

Summit County's goal is to provide a safe workplace by eliminating the hazards to health and job safety created by alcohol and other drug abuse. We believe this goal to be in the best interest of our employees and the general public.

SECTION I - TESTING CATEGORIES AND PROCEDURES

An employee will be required to submit to testing for alcohol and/or controlled substances under the following circumstances:

A. Pre-Employment Testing:

Prior to the first time an employee performs official duties for the Employer, the employee will be tested for controlled substances. The employee will not be hired, unless the controlled substance test is negative. Any applicant who refuses a controlled substance test will not be hired.

As a condition of employment all potential employees of the County of Summit must successfully complete a pre-employment drug screen and a physical, if required. Pre-employment testing procedures are as follows:

1. Notice of vacancy is posted.
2. Applications are received and reviewed.
3. Interviews are conducted with desired candidates.
4. Selected candidate is offered employment, contingent upon the successful completion of a drug screen and pre-employment physical, if required.
5. Employer will schedule an appointment for the potential employee with the Occupational Health Care provider.
6. The employer will provide the employment candidate with an authorization form to receive the Substance Abuse Test.
7. The employment candidate is required to attend the scheduled appointment and provide the OHCP with a photo I.D and the authorization form.

8. The Occupational Health Care Provider will report the test result by **secured e-mail or secured fax** to the Summit County Substance Abuse Administrator.
9. If the test result is negative, the Human Resource Department will be notified that the candidate is permitted to start work on the established start date.
10. If the test is reported as a dilute sample, the employee is immediately retested. If second test is diluted the employment offer is rescinded.
11. If the test result is positive or the test is adulterated, Summit County will rescind the employment offer.

B. Random Drug and Alcohol Testing (CDL/SAFETY SENSITIVE ONLY)

1. Summit County Substance Abuse Administrator is notified of employees to be tested.
2. Work schedules are reviewed to determine if any employee to be tested has scheduled time off.
3. The Summit County Substance Abuse Administrator will schedule a mobile unit to be dispatched to the required location to perform the testing or a designated collection site.
4. At the scheduled time of the testing, the Summit County Substance Abuse Administrator or designated contact will check to see if any scheduled employee has reported off work, then informs the supervisor of the names of the employees that are to be tested at the location.
5. The Supervisor immediately sends those employees to the mobile unit or to a designated collection site for testing.
6. The tests are completed and the employees return to work.
7. The Substance Abuse Administrator is notified by **secured e-mail or secured fax**, that the test results are available.
8. The Substance Abuse Administrator calls the info line, enters a **secured password** and receives e-mail or requests the results be faxed to a **secured fax machine**.
9. Test results are then reviewed and appropriate action is taken. See Section I, D (11-15), E, F.

C. Post-Accident Testing:

All employees who have caused or contributed to an accident on the job, as defined below, may be required to submit to drug and alcohol test. The test will be administered as soon as possible after the employees involved have received the necessary medical treatment, or within three (3) hours for alcohol testing and eight (8) hours for testing of other drugs. An accident is defined as an unplanned, unexpected or unintended event that occurs on County property, during the conduct of County business, or during work hours, including but not limited to an event in the course of County business that results in a) [REDACTED], b) [REDACTED], 3) [REDACTED] or 4) [REDACTED].

1. Employees are required to immediately report any vehicle accident upon occurrence to the dispatcher using the radio system or other designated means of communication. Employees shall report personal injury accidents to their supervisor.
2. The immediate supervisor and/or department head will report to the scene of the accident.
3. **(Day Shift)** If the type of accident meets one (1) of the four testing criteria, the supervisor/department head will contact the Substance Abuse Administrator to initiate the testing procedure. The Substance Abuse Administrator or designated contact person will contact the testing vendor and request a mobile unit to report to the accident scene to administer the test or the supervisor will take the employee to a local designated collection site.
4. **(Evening Shift)** The supervisor/department head will contact the Occupational Health Care Provider directly, and will immediately call the Substance Abuse Administrator at (330) 643-7929 or email at substanceabuse@exec.summitoh.net to report the accident and testing information.
5. Upon receipt of the test results, appropriate action will be taken. See Section I, D (11-15), E, F.

A positive drug test or refusal to submit to a test after an accident may affect the employee's eligibility to receive workers' compensation benefits under Chapters 4121 and 2123 of the Ohio Revised Code.

D. Reasonable Suspicion Testing:

A trained supervisor or official may require an employee to undergo testing for alcohol and/or controlled substances based upon specific, objective facts and reasonable inferences drawn from these facts in light of experience and training. Such facts and inferences may be based on, but are not limited to, any of the following:

1. Observable phenomena, such as direct observation of drug or alcohol use, possession, or distribution or the physical symptoms of being under the influence of drugs or alcohol, such as, but not limited to, slurred speech, dilated pupils, odor of alcohol or marijuana, changes in affect, dynamic mood swings, etc.;
2. A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance, which appears to be related to substance abuse and does not appear to be attributable to other factors;
3. Repeated or flagrant violations of the Employer's safety or work rules, which are determined by a supervisor to pose a substantial risk of physical injury or property damage and which appear to be related to substance abuse or substance use and do not appear to be attributable to other factors.
4. If a supervisor observes an employee's behavior that gives reasonable suspicion to believe that such behavior is a result of substance abuse, the supervisor will contact another supervisor or department head to observe and discuss such observations.
5. The supervisor/department head will inform the employee of the observed behavior and provide employee with an opportunity to give a reasonable explanation.
6. If no acceptable explanation is provided, employee will be transported within two (2) hours to a medical collection lab for a drug and alcohol test.
7. If the employee refuses to cooperate with the administration of the test(s), the employee will be advised orally that the failure to cooperate with the test will be treated as a positive test result.
8. Supervisor will document date, arrival and ending time of the testing and call the Substance Abuse Administrator at (330) 643-7929, to report the name of employee, location of testing, reason for test, date and time of test.
9. Employee will be placed on Administrative Leave with or without pay depending upon the test result.
10. When the results are received, employee will be notified of the results.

11. If the test is negative, the employee will be paid for the time off of work and will return to work.
12. If test is positive, employee may be subject to disciplinary action, up to and including termination and will not be compensated for time off while awaiting test results.
13. If not discharged, employee shall be referred to the Summit County Employee Assistance Program for assessment and evaluation of treatment recommended by a Substance Abuse Professional.
14. Employee will be required to schedule an appointment with the Employee Assistance Program Substance Abuse Professional within three (3) days of receipt of positive test results.
15. Employee will not be compensated for the time off between testing and obtaining test results, however the employee may use sick leave and/or vacation during treatment. After sick leave and/or vacation time is exhausted, employee will be placed on Leave without pay until treatment is completed.

E. Return-to-Duty Testing:

Before an employee who has been found to be in violation of this policy may return to duty, the employee must undergo testing for alcohol and controlled substances. The results of the alcohol test must show less than .02% blood alcohol concentration from a Breathalyzer test, and the controlled substance test must be negative or such employee will not be permitted to return to duty and shall be terminated.

1. Upon successful completion of the counseling or treatment program recommended by the Substance Abuse Professional, employee will be required to undergo a drug and alcohol test prior to re-instatement.
2. A negative drug and alcohol test result will be required before an employee can return to work.
3. A positive drug and alcohol test will result in immediate termination.

F. Follow-Up Testing:

When an employee has been found to be in violation of this policy, the employee will be subject to a minimum of four (4) unannounced follow-up tests, in addition to the return-to-duty test, within the first twelve (12) months following the employee's return-to-duty. The results of any follow-up alcohol test must show less