



# **PERSONNEL POLICIES AND PROCEDURES HANDBOOK FOR SEASONAL AND PART-TIME EMPLOYEES**

**October 2016**

**Township of Brick  
401 Chambers Bridge Road  
Brick, New Jersey 08723**

The Township of Brick is an Equal Opportunity Employer

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## **DISCLAIMER OF EMPLOYMENT CONTRACT**

Brick Township has prepared this Personnel Policies and Procedures Handbook for Employees (Handbook) to summarize many of the Township's policies, procedures and benefit programs. No Handbook can anticipate every circumstance or question about policy. The Township reserves the right to revise, add to, or delete any policies or portion of this Handbook at any time as it deems appropriate, in its sole and absolute discretion with or without prior notice to employees. This Handbook replaces any prior written and oral communications about the subjects contained in it.

Except where otherwise provided by collective negotiations agreement, statute or regulation, employment with the Township is at-will, which means that it is for no definitive period, and may be terminated by either the employee or the Township at any time with or without cause, prior notice or procedural requirements. Neither this Handbook, nor any Township policy, procedure nor communication (with the exception of the Township's collective negotiations agreements) shall create any right for any employee or guarantee employment for any period. No representative of the Township may enter into any agreement or make any representations to alter an employee's at-will status or otherwise create a contractual obligation.

This Handbook has been written so as not to conflict with the collective negotiations agreement between the Township and its unionized employees. IF THERE IS A CONFLICT BETWEEN THIS HANDBOOK AND ANY COLLECTIVE NEGOTIATIONS AGREEMENT, THE PROVISIONS OF THE COLLECTIVE NEGOTIATIONS AGREEMENT WILL PREVAIL FOR REPRESENTED EMPLOYEES.

## **CHANGE NOTICE**

The Mayor and Administration recognize the fact that we live in an ever-changing environment. To that end, the Mayor and Administration reserve the right to amend and modify these policies, should it be deemed in the best interest of the Township to do so.

## **ANNUAL UPDATE**

The Business Administrator shall be charged with the responsibility to ensure that the Handbook is updated annually and kept current with all changes in Local, State and Federal Regulations.

## **SEASONAL AND PART-TIME EMPLOYEES**

Seasonal employees are employed by the Township for a period of six (6) months or less. Part-time employees work an average of 30 hours a week or less.

## **EQUAL EMPLOYMENT OPPORTUNITY**

The Township is committed to the principle of equal employment opportunity and anti-discrimination pursuant to Title VII of the 1964 Civil Rights Act as amended by the Equal Opportunity and Anti-Discrimination Act of 1972 and the New Jersey Law against Discrimination. Under no circumstances will the Township discriminate on the basis of race, color, national origin/nationality, religion/religious practices, age, gender, gender identity or expression, sexual orientation, marital/civil union/domestic partnership status, disability or perceived disability, genetic information or testing, veteran status, Family and Medical Leave, and/or any other characteristic protected by law. Decisions regarding the hiring, promotion, transfer, demotion or termination are based solely on the qualifications and performance of the employee or prospective employee. If any employee or prospective employee feels they have been treated unfairly, they have the right to address their concern with the Business Administrator. The Township prohibits retaliation against individuals who bring forth any complaint, orally or in writing, to the employer or government, or against any individuals who assist in the investigation of any complaint or otherwise oppose discrimination.

GINA Title II "The Genetic Information Nondiscrimination Act of 2008 "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 employees or their family members. In order to comply with this law, we are asking that you not provide any genetic information when responding to a request for medical information. '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."

## **AFFIRMATIVE ACTION POLICY**

The Township of Brick is committed to the principles of equal employment opportunity and prohibits discrimination in hiring, promotion and terms and conditions of employment on the basis of race, creed, color, national origin/nationality, ancestry, religion/religious practices or observances, age, sex, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, disability or perceived disability, atypical hereditary cellular or blood trait, genetic information, and status as a veteran or disabled veteran of, or liability for service in, the Armed Forces of the United States. This policy will be applied to all phases of employment such as recruitment, selection, hiring, placement, upgrading, demotion, transfer, termination, training, rates of pay, and use of all facilities.

The Township of Brick is subject to the provisions of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972. It shall interpret affirmative action as the actual plan that will provide equal employment opportunity to all segments of our society. Further, affirmative action should not give preferential treatment to some or cause

discrimination in the reverse. Employment will be based solely on the individual's merit and the fitness of applicants. Our objective is to remove barriers that discriminate through the implementation of the Affirmative Action Plan.

## **SAFETY POLICY**

The Township will provide a safe and healthy work environment and shall comply with the Public Employees Occupational Safety and Health Act (PEOSHA) and all provisions of the Safety Manual. The Township is equally concerned about the safety of the public. Consistent with this policy, employees will receive periodic safety training and will be provided with appropriate safety equipment. Employees are responsible for observing safety rules and using available safety devices including personal protective equipment. Failure to do so constitutes grounds for disciplinary action. Any occupational or public unsafe condition, practice, procedure or act must be immediately reported to the supervisor or Department Head. Any on-the-job accident or incident involving Township facilities, equipment or motor vehicles must also be immediately reported.

The Township has appointed an Executive Safety Committee that meets on a regular basis to discuss and recommend solutions to safety problems. Employees are encouraged to discuss safety concerns with their Executive Safety Committee Representative.

## **WORKERS' COMPENSATION POLICY**

Employees who suffer job related injuries and illnesses may be entitled to medical expenses, lost income and other compensation under the New Jersey Workers Compensation Act. The Township covers workers' compensation benefits through its membership in a joint insurance fund (JIF). Any occupational injury or illness must be **IMMEDIATELY** reported to the Office of Safety & Insurance along with the supervisor or Department Head. All required medical treatment must be performed by a designated Workers' Compensation Provider. Payment for unauthorized medical treatment may not be covered pursuant to the Act. When applicable, lost time due to a workers' compensation injury will be automatically designated as a Family and Medical Leave Act absence (please refer to FMLA/NJ FLA policy on page 38).

## **CONTAGIOUS/LIFE THREATENING ILLNESS POLICY**

The Township has a legal obligation to provide a safe and healthy work environment for all employees and to the public at large. In an effort to balance the needs of the Township, the public and employees, the Township has adopted certain regulations with respect to contagious/life threatening illnesses. To that end, employees of the Township who have been diagnosed with any illness that poses a health hazard to other employees or to the public at large must disclose this information to the Business Administrator at the earliest possible time.

An employee who does not disclose this information to the Township will be subject to appropriate disciplinary action up to and/or including termination of employment.

## **DRUG AND ALCOHOL POLICY**

The Township of Brick is committed to protecting the safety, health and well-being of our employees, our residents, and all people who come into contact with our employees and/or who use our services. The Township recognizes that drug and alcohol abuse, which impairs judgment and significantly increases the risk of injury, poses a direct and significant threat to the safety of our employees and members of the general public affected by our operations. In addition, the Township is mindful of the adverse effects of drug and alcohol misuse on employee performance in general. For these reasons, the Township has adopted this Policy – Township of Brick, Alcohol and Drug Free Workplace Policy (Policy).

This Policy is intended to comply with all applicable federal and state statutes and regulations governing workplace and anti-drug testing including, but not limited to the following:

Procedures for Transportation Workplace Drug Testing Programs: 49 CFR, Part 40.

Omnibus Transportation Employee Testing Act: 49 CFR, Part 382.

Notification and Reporting of Accidents: 49 CFR, Part 394.

This Policy applies to all Township employees, inclusive of the Department of Public Works. This policy shall not apply to Township Police Officers, who are governed by their own separate policy and by the Attorney General's Policy on Drug Testing Law Enforcement Officers.

### ***POLICY***

It is the responsibility of all employees to maintain personal health so that they are physically and mentally capable of performing in the workplace. The abuse of drugs or alcohol is an unsafe and counterproductive practice which will not be tolerated at the Township.

The Township of Brick has determined to take action against its employees who unlawfully use, manufacture, distribute or possess alcohol, drugs and/or controlled substances during or outside assigned working hours in order to prevent illegal activities and to protect employees, the public and the Township and its property from any danger which may result from the illegal use of alcohol, drugs and/or controlled substances.

The Township of Brick has further determined that it will not employ or use the services of any employee who refuses to be tested for drugs/alcohol and will discipline any employee who fails a drug/alcohol test, which may include termination of employment.

Any employee of the Township reporting for work and found to be under the influence of alcohol or drugs or using drugs or alcohol while at work or in possession of, manufacturing, selling, offering for sale, trading or providing illegal drugs or alcohol will be subject to disciplinary action, up to and including termination. This Policy is in effect for all employees while on

Township property, which includes the parking lots, or while engaged in Township business. The sale, possession, manufacture, distribution, dispensation, use or purchase of illegal drugs and/or alcohol on Township property or while conducting Township business is prohibited. Township property includes all areas in which the Township operates its equipment, property owned or leased by the Township, Township /employee-owned vehicles in use on Township property as well as lockers, desks, equipment, work space and storage facilities owned or leased by the Township. (Township -sponsored activities which may include the responsible service of alcoholic beverages are not included in this provision, provided that abuse does not occur.)

In an effort to ensure that the Township is an alcohol- and drug-free workplace and to comply with Department of Transportation (“DOT”) regulations, a drug testing program will be in effect for any person designated in a DOT regulation as subject to drug testing and/or alcohol testing, all applicants for employment subject to pre-employment testing, and all individuals currently performing a safety-sensitive function. By way of example and not limitation, safety sensitive positions include persons performing duties requiring a commercial driver’s license, Emergency Medical Technicians/Paramedics, Special Police Officers, Seasonal Workers serving as Lifeguards.

This Policy provides for pre-employment, random, post-accident, reasonable suspicion, return-to-duty and follow-up testing. The Township has retained a Medical Review Officer or Agency (hereinafter referred to as the “MRO”) to manage and administer the testing program.

Any employee reporting for work impaired and unable to properly perform his/her required duties will not be allowed to work. If, in the opinion of the supervisor, the employee is considered impaired, the employee will be required to be tested for alcohol and illicit substances depending on the supervisory determination of the observed impairment. (Under no circumstances should an impaired employee be allowed to drive.) The Township will make arrangements to have the employee driven to the test site and home.

Prescription drugs prescribed by the employee's licensed medical practitioner may be taken during working hours. The employee is, however, required to notify the supervisor if the use of properly prescribed prescription drugs may adversely affect the employee's work performance. Employees are cautioned that various over-the-counter and prescribed medications can adversely affect ability to operate vehicles and other equipment. It is the employee's responsibility to report to work each day fit for his or her duties. The abuse of prescription drugs will not be tolerated

The Township of Brick will provide an Employee Assistance Program (EAP) for its employees including supervisory personnel, which will include a program of education and training on the effects of drug/alcohol abuse. The Township will make available to all employees informational material related to the cause and effects of substance abuse and additionally will provide a community service hot-line telephone number, which can be used by its employees whenever assistance is required. It is the responsibility of all employees to seek assistance from the EAP before drug/alcohol problems lead to violations of this policy and/or disciplinary action.



All employees are required to acknowledge their receipt of this policy.

### ***PROHIBITED CONDUCT***

The following conduct is specifically prohibited:

- **Alcohol concentration:** No employee shall report for duty or remain on duty while having an alcohol concentration of 0.02% or greater, and no employer having actual knowledge that an employee has a concentration of 0.02% or greater shall permit an employee to perform or continue his/her duties. An alcohol concentration of 0.02 or greater means no functions can be performed for at least twenty-four (24) hours and another negative screen is revealed to the employee's supervisor
- **Alcohol possession:** No employee shall be on duty or operate a motor vehicle while on duty with the Township while possessing alcohol, unless the alcohol is manifested and transported as part of the shipment. No employer having actual knowledge that the employee possesses alcohol may permit the employee to drive or continue to drive a motor vehicle.
- **On-duty alcohol use:** No employee shall use alcohol while performing his/her duties and, if the Township of Brick has actual knowledge that an employee is using alcohol, the Township shall not permit the employee to perform or continue to perform his/her duties.
- **Pre-duty alcohol use:** No employee shall perform his/her duties within four hours after using alcohol if such use impairs the employee's duties and, if the Township of Brick has actual knowledge that an employee has used alcohol within the preceding four (4) hours, shall permit the employee to perform or continue to perform his/her duties if such use impairs the employee's duties.
- **Alcohol use following an accident:** No employee, who is subject to a post-accident alcohol test, shall use alcohol for eight hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.
- **Refusal to submit to a required alcohol or controlled substance test:** No employee shall refuse to submit to an alcohol or controlled substance test under any circumstances in which the Township rules require such a test. The Township of Brick shall not permit an employee who refuses to submit to such test to perform or continue to perform his/her duties.
- **Controlled substances use:** No employee shall report for duty or remain on duty when the employee uses any controlled substances, except when the use is pursuant to and in accordance with the instructions of a licensed medical practitioner who has advised the employee that the substance does not adversely affect the employee's ability. If the

Township of Brick has actual knowledge that an employee has used controlled substances, except where the use is pursuant to and in accordance with the instructions of a licensed medical practitioner who has advised the employee that the substance will not adversely affect the employee's ability to perform his/her duties, the Township shall not permit the employee to perform or continue to perform his/her duties. The Township of Brick requires an employee to inform the Township of the use of any prescription or non-prescription medication which may impair the employee's ability to perform his/her duties safely.

- **Positive test for controlled substances:** No employee shall report for duty or remain on duty if the employee tests positive for controlled substances. If the Township of Brick has actual knowledge that an employee has tested positive for controlled substances the Township shall not permit the employee to perform or continue to perform his/her duties.

### ***PRE-EMPLOYMENT TESTING***

All prospective employees selected for a position will be required to undergo post-offer, pre-employment testing for the presence of alcohol and prohibited drugs. A negative test result is a condition of employment and a positive test result will result in the individual being dropped from further consideration for employment with the Township at that time or in the future.

Failure to keep an appointment with the MRO to undergo testing for the presence of alcohol and/or prohibited drugs, which was previously agreed to by both the prospective employee and the MRO, will be viewed as a refusal to submit to the testing and will result in the individual being dropped from further consideration for employment with the Township of Brick at that time or in the future.

Pre-Employment Testing Procedure:

1. Once a candidate is selected for a position and an offer of employment is accepted, the candidate will be required to undergo a pre-employment drug screen. All offers of employment will be made by the Business Administrator and are conditional upon successful completion of a drug screening test.
2. Candidates will be scheduled for the test by the Human Resources Department.
3. Test results will be received by the Human Resources Department.
4. If the result is a positive test, a confirmation test will then be conducted by the medical laboratory. If the results of the confirmation test also are positive, the offer of employment will be rescinded.
5. Supervisors will be notified of the candidate's employment status.

## ***RANDOM TESTING***

All employees who have commercial drivers' licenses and those in safety-sensitive positions will be subject to random, unannounced alcohol and drug testing. By way of example and not limitation, safety sensitive positions include persons performing duties requiring a commercial driver's license, Emergency Medical Technicians/Paramedics, Special Police Officers, Seasonal Workers serving as Lifeguards. Testing will be done during working hours, except under exigent circumstances. The Township of Brick shall be responsible for the costs of the testing. Selection criteria, numbers of tests and test frequency will be determined by the language of the applicable Federal Motor Carrier Safety Administration (FMCSA) regulations and will be communicated to employees by Township management or the MRO. The minimum annual percentage rate for random testing will be performed in accordance with those standards. On a quarterly basis, a prorated number of employees will be tested. The portion will ensure that the required ratios are conducted over the calendar year. Any employee who is absent stays in the random pool and another employee will be drawn.

Upon notification of selection, the employee will report to the designated collection site immediately. Failure to report will be viewed as a refusal to submit to the test and will result in disciplinary action, up to and including termination.

## ***REASONABLE SUSPICION TESTING/EMPLOYEE PHYSICAL***

All employees are subject to a fitness-for-duty evaluation, to include urine and breath-testing and physical exam, if required, when there is reasonable suspicion to believe that the employee is in violation of this Policy. A reasonable cause referral for testing will be made on the basis of documented, objective facts and circumstances which are consistent with the long- and short-term effects of substance or alcohol abuse.

Examples of reasonable suspicion include, but are not limited to, the following: Physical signs and symptoms consistent with substance or alcohol abuse and/or evidence of the manufacture, distribution, dispensing, possession or use of controlled substances, alcohol, or drugs.

Reasonable cause testing determinations will be made by a supervisor or other Township official who can reasonably conclude that an employee may be adversely affected or impaired in his/her work performance due to substance abuse. If another supervisor or other Township official is immediately available, he/she will verify that there is reasonable cause before the employee is transported to the MRO's facility. At no time will this determination be made on the basis of third-party reports without verification.

The observations of the supervisors and the determination shall be set forth in a written report, which should be completed prior to testing, but no later than 2 hours after the employee is sent to the testing facility. The written report shall be forwarded to the Business Administrator who shall keep the report confidential.

Employees who are deemed to require a fitness-for-duty evaluation based on reasonable cause

will be sent to a health facility of the Township's choice. The attending physician will make every attempt to determine the cause of the observed behavior, including authorizing, when his/her medical opinion dictates, an additional alcohol or drug test. Employees will be placed on leave until the results of the examination are received by the Township. Receipt of a negative drug test result and/or doctor's statement that the employee was and is fit for duty is required prior to return to duty and continued employment. Employees who are returned to duty by this means will be reinstated without prejudice.

### ***POST-ACCIDENT TESTING***

Any employee involved in an accident, while on Township property or while engaged in Township business, will be required to submit to a post-accident alcohol and drug test if:

1. The driver involved in an accident received a citation for a moving violation;
2. There is a fatality as a result of an accident;
3. The accident meets the DOT criteria for an accident, including but not limited to: (a) bodily injury to any person who requires immediate medical treatment away from the scene of the accident; or (b) one or more vehicles are disabled at the accident scene and require towing or transport by another vehicle.
4. The accident meets the criteria for a Reportable accident per the NJ Police Crash Investigation Report.
5. The accident involves a Township vehicle.

When post-accident testing is indicated, the Township will make every effort to have such testing performed within two (2) hours of notification of the accident. At no time will a period of more than eight (8) hours transpire between notification and testing.

A positive test result may disqualify an employee from further employment or reinstatement at that time or any time in the future and subject the employee to disciplinary action, up to and including termination of employment.

### ***RETURN TO DUTY TESTING***

Any employee who tests positive for alcohol or illicit substances will not be permitted to return to work until he/she has met the following:

1. The employee must be evaluated by a substance abuse professional. This professional must meet the criteria outlined in the DOT's Alcohol and Drug Rules for Substance Abuse Professionals.
2. The employee must comply and complete all recommendations made by the substance

abuse professional and be able to document the same.

3. The employee must submit to return-to-duty testing and proof of a negative test result must be received by the Township.

If an employee is allowed to return to work, he/she will be subject to follow-up testing as required by applicable law, regulations and this Policy.

### ***FOLLOW UP TESTING***

Any employee returning to work with the Township after being disqualified for a positive alcohol or drug test or returning to work after a leave of absence for voluntary substance abuse treatment will be subject to random follow-up testing. The employee will be tested at least six (6) times in the first twelve (12) months after returning to duty and may be subject to follow-up testing without prior notice for up to thirty-six (36) months. However, the employee is not given a fresh start after this period; the verified positive result remains in his/her file. If any employee tests verified positive on a subsequent post-rehabilitation testing, or on any other test during employment with the Township, that employee shall be terminated from employment with the Township immediately.

### ***DRUG TESTING***

Collection of the urine specimen shall be done in accordance with federal regulations, as described in 49 C.F.R. §§ 40.41- 40.73. Collection will be done at a collection site designated by the MRO. A proper chain of custody shall be maintained. Should this chain be broken, the test shall be invalidated and a new collection made.

No test result will be reported by the laboratory to the MRO as a positive drug test result unless both the initial screening test and the confirmation test are positive. The laboratory shall report the test results to the MRO, who shall evaluate the chain of custody, urine custody form and test results. The Township will immediately suspend the employee from his/her job as a result of a verified positive drug test pending management review and determination of appropriate disciplinary action.

The MRO will perform the following duties for the Township of Brick:

1. The MRO will review the results of each drug test before it is reported to the Township.
2. The MRO will review and interpret each confirmed positive test result in the following manner to determine whether or not there is an acceptable medical explanation for the confirmed positive result:
  - a. The MRO/ will conduct a medical interview with the employee, either in person or by telephone.

- b. The MRO will review the employee's medical history and relevant biomedical factors.
  - c. The MRO will review medical records made available by the employee to determine if a confirmed positive result could be attributed to the use of legally prescribed medication.
  - d. The MRO will require, if deemed necessary, that the original specimen be reanalyzed.
  - e. The MRO will verify that the laboratory report and assessment are accurate.
  - f. If the MRO determines that there is a legitimate medical explanation for the confirmed positive result, he/she will take no further action other than informing the Township of his/her determination that the test result is negative.
3. If the MRO verifies that a confirmed positive test result is scientifically sufficient and that there is no legitimate medical explanation for the confirmed positive result, the MRO shall immediately contact the Township's designated representative (who will instruct the employee's supervisor to immediately suspend the employee pending management review and determination of appropriate action) and the employee.
4. When applicable the Substance Abuse Professional (SAP) will determine whether and when a rehabilitated employee may return to work.
5. The SAP will determine a schedule of post-rehabilitation testing, after consulting with the Township's designated representative, for an employee returning to work after rehabilitation.
6. The SAP will ensure that an employee is tested in strict compliance with the applicable DOT procedures and/or rehabilitation plan before an employee may return to work.
7. Reporting and review of positive results:
  - a. If, after making all reasonable efforts and documenting them, the MRO is unable to reach the individual directly, the MRO shall contact the Township's designated representative who shall direct the individual to contact the MRO as soon as possible.
  - b. If, after making all reasonable efforts, the Township's designated representative is unable to contact the employee, the employee will be placed on temporary, unpaid leave.
  - c. The MRO may verify a test as positive 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 Township's designated representative has successfully made and documented a contact with the employee and instructed the employee to contact the MRO, and more than five (5) calendar days have passed since the date the employee was successfully contacted by the designated representative, without the employee contacting the MRO; or
  - iii. If neither the designated representative nor MRO, after making and documenting all reasonable efforts, has been able to contact the employee within 10 days of the date the MRO received the confirmed test from the laboratory.
- d. If a test is verified positive under the circumstances specified in this Policy, 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 a confirmed positive test. If the MRO then concludes that there is a legitimate explanation, the MRO may declare the test to be negative.
- e. Following verification of a positive test result, the MRO shall refer the case to the Township's designated representative for other rehabilitation or administrative action.
- f. Only the MRO may order a reanalysis of the original primary specimen. The employee may submit a written request for a retest of the original specimen to the MRO for a reanalysis of the specimen within sixty (60) days following the day the employee was informed by the MRO that he/she tested verified positive for drug use. The MRO may then authorize the reanalysis at the Township's expense.
- g. Except as provided in this Policy, the MRO shall not disclose to any third party the results of the drug test or any medical information provided by the employee to the MRO as a part of the testing verification process without the employee's written consent, except:

The MRO may disclose such information to the Township, the DOT or other federal safety agency, law enforcement officials or a licensed medical practitioner responsible for determining the medical qualification of the employee under an applicable DOT agency regulation, as applicable, only if the information could result in the employee being determined to be medically unqualified for employment or the information indicates that continued performance by the employee of his/her safety-sensitive function could pose a significant safety risk. Any third party to whom the MRO discloses information pursuant to this

section shall maintain the confidentiality of the information consistent with the law.

### ***ALCOHOL TESTING***

The DOT Regulations require breath testing for alcohol. This testing must be done using an evidential breath-testing device approved by the National Highway Traffic Safety Administration. This testing can only be performed by a Breath Alcohol Technician (BAT) that is certified in the equipment being used.

Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a negative test, and no further testing is required. If the initial screening shows an alcohol concentration of 0.02 or greater, a second or confirmation test is required. The confirmation test must be taken fifteen (15) minutes after the initial screening. During that fifteen (15)-minute period the employee being tested is to remain with the BAT and must refrain from eating, drinking, smoking or belching. After the fifteen (15)-minute waiting period, a second breath test will be performed.

The results of the second become the official test result. If the confirmation test result shows an alcohol concentration of less than 0.02 the official test result is negative and no action is required. If the result of the confirmation test is 0.02 or greater, action by the Township is required pursuant to policies set forth herein.

As well as potential disciplinary action, other initial Township response to breath testing results that show an alcohol concentration of 0.02 or greater are as follows:

1. If the tested employee's alcohol concentration is between 0.02 and 0.039, the regulations call for the removal of the employee from performing safety-sensitive functions for at least 24 hours and until a negative result is received.
2. If the tested employee's alcohol concentration is 0.04 or greater, he/she must immediately be removed from any safety-sensitive duties until he/she has been evaluated by a substance abuse professional (DOT Regulations have specific guidelines for who qualifies as a substance abuse professional), has complied with any recommended treatment and has taken and passed a return-to-duty alcohol test (result must be less than 0.02). The employee is then subject to unannounced follow-up testing. (See Follow Up Testing.)

### ***CONFIDENTIALITY OF TEST RESULTS***

The results of any drug or alcohol test will be reported to the Township and recorded in a confidential manner. The results will not be reported to any additional parties without the employee's written authorization. A copy of the individual's test results will be available to the



individual upon his/her written request. No other medical information will be reported to the Township without an employee's written authorization, except if the information could result in the employee being determined to be medically unqualified for employment or the information indicates that continued performance of his/her safety-sensitive function could pose a significant safety risk.

### ***QUALITY ASSURANCE OF TESTING PROGRAM***

The Township of Brick, through its designated representative, will take steps in its arrangements for testing to ensure that the laboratory is certified by Substance Abuse and Mental Health Services Administration ("SAMHSA") and meets the requirements of the United States DOT.

The chain of custody for any urine sample shall be maintained at all times. If the chain of custody is broken, after the tamper proof seal is applied, the employee shall be retested at the Township's expense.

Any employee who receives a positive test result will have the right to ask the MRO to retest the sample at a National Institute on Drug Abuse ("NIDA") certified laboratory of the employee's choice at the employee's expense. Employees whose sample is retested with a negative test result will be reimbursed the cost of the test and returned to work.

The Township, through its designated representative, will make every reasonable effort to ensure that the equipment being used for alcohol breath testing meets all the requirements of the DOT, and all testing will be performed by a qualified BAT.

### ***DISCIPLINARY ACTION***

Any employee engaging in the manufacture, distribution, dispensing, possession or use of prohibited substances on Township premises, in Township vehicles or while on Township business will face disciplinary action, up to and including termination. Any manufacture, distribution, dispensing, possession or use of prohibited substances by any employee in any manner which adversely affects the employee's job performance or which may cause the public, a government body, or company to lose confidence in the Township's ability to perform its responsibilities may result in disciplinary action, up to and including termination. Law enforcement officials could be notified, as appropriate, where criminal activity is suspected. Any employee convicted of violating a criminal drug statute or drunken driving law/statute must notify the Business Administrator within five (5) calendar days of any such conviction.

Any refusal to submit to alcohol breath testing or urinalysis drug testing as directed by supervisory personnel will be considered a refusal-to-test and will subject the employee to disciplinary action. Any employee who refuses to comply with a request for testing shall be considered as having produced a positive test result and may be subject to disciplinary action, up to and including termination. Any employee who provides false information, in connection with a

test, or who attempts to falsify test results through tampering, contamination, adulteration or substitution shall face disciplinary action, up to and including termination. If the laboratory detects any substance which has been added to the sample to interfere with the normal testing process, this will be considered a refusal to test; the same sanctions and penalties, up to an including termination will apply.

If there is a positive test result (drug or alcohol), participation in the EAP or an alternate program approved by the Township shall be a prerequisite to continued employment. Refusal to enroll in an EAP or alternate program or to complete a full course of rehabilitation shall be cause for immediate termination of employment. A positive alcohol test is one with a level of 0.040 or greater. Employees with a pattern of readings between 0.020 and 0.039 will also be subject to enrollment in a mandatory counseling program as a condition of continued employment with the Township. Employees will be permitted to use accrued time, if available, to attend any counseling programs.

In addition to completing a mandatory course of rehabilitation, employees shall be subject to the following discipline(s):

1. Following the confirmation of a positive test result for drugs or alcohol, there shall be a suspension without pay of up to 30 days. In the case of an alcohol test result between 0.020 and 0.039, the penalty will be a suspension without pay for the remainder of that day's work shift unless a pattern of this type of abuse has developed. In either case, the suspension(s) shall also remain in full force and effect until there is a negative retest provided to the Township through a certified laboratory (all costs of testing to be borne by the Township), but failure on the part of the employee to present a negative test result within six weeks from the original incident date shall automatically result in his/her termination of employment with the Township. After two weeks, the Township reserves the right, for reasons of operational efficiency, to fill the suspended employee's position and, in such case; the suspended employee would be entitled to the next available opening, provided that all other conditions (rehabilitation and negative test result) are met.
2. Employees who test positive on a second occasion or found to be in violation of this Policy (confirmation of a positive drug or alcohol test result) on a second occasion will be immediately dismissed and permanently barred from future employment.

### ***INSPECTION***

The Township reserves the right to inspect, investigate and search for controlled substances at any time, without prior notice, on or in any and all Township premises and vehicles. All coolers are subject to inspection. Refusal by any employee to cooperate with any inspection, investigation or search that is authorized by a Township representative or by a court of competent jurisdiction shall result in disciplinary action up to and including termination.

## **EMPLOYEES VOLUNTARILY SEEKING HELP**

All employees are entitled to voluntarily participate in the Employee Assistance Program (“EAP”). The Township strongly encourages an employee with a drug/alcohol abuse problem to voluntarily step forward to tell the Township.

The Township will assist in referring the employee. Employees with accumulated sick and vacation time will be required to use their accumulated time during a leave of absence. If necessary, an unpaid leave of absence will be granted for a reasonable period for treatment.

It is crucial to note that the accommodations specified in this Section apply only when an employee voluntarily comes forward. If a substance abuse problem is disclosed to the Township only after there has been a positive drug test, a violation of a Township rule or standard, a violation of law or a violation of this Policy, disciplinary action will apply. If an employee fails to remain drug-free after the first voluntary rehabilitation, he/she will be discharged from employment with the Township.

## **ADMINISTRATION**

The Township has designated a qualified third party agent to administer its anti-drug/alcohol program. It has contracted with a qualified third party agent for the collection and testing to be done under Department of Transportation’s standard procedures. The Medical Review Officer and Drug/Alcohol Testing Laboratory shall be those utilized by the qualified third party agent in its contract with the Township.

The Township has established an employee awareness and supervisory training program as designed and administered by the contracted EAP Provider.

## **EMPLOYEE ASSISTANCE PROGRAM**

Recognizing that both job-related and personal problems may adversely affect an employee’s well-being, the Township provides an employee assistance program (EAP) to provide counseling and other services to Township employees and their families.

This service is provided at no cost to the employee. All consultations between the employee and the EAP are confidential.

Employees experiencing job-related difficulties that cannot be resolved in the workplace, or personal or family problems, are encouraged to use the employee assistance program.

A department head may require an employee to consult with EAP during working hours if the department head believes that a consultation may help improve an employee’s performance. In the case of mandatory referrals, the EAP will inform the Personnel Coordinator whether the employee has kept the required appointment and whether the employee is adhering to any

agreed-upon course of treatment. The EAP will not provide any details of the problem or the course of treatment except in cases in which, in the EAP's judgment, the employee is dangerous.

The employee may obtain information about the EAP from the Office of Human Resources.

Department heads should consult with the Business Administrator before making mandatory referrals to EAP.

## **ANTI-HARASSMENT POLICY**

It is the Township's policy to prohibit harassment of an employee by another employee, management representative, supplier, volunteer, or business invitee on the basis of actual or perceived race, creed, color, national origin/nationality, ancestry, religion/religious practices or observances, age, sex, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, disability or perceived disability (including HIV or AIDS infection), atypical hereditary, cellular or blood trait, genetic information, and status as a veteran or disabled veteran of, or liability for service in, the Armed Forces of the United States and/or any other characteristic protected by law. Harassment of non-employees by our employees is also prohibited. Harassment of employees, in connection with their work, by non-employees is also a violation of this policy.

It is the policy of the Township of Brick to promote and maintain a work environment in which all employees are treated with respect and decency. No form of discriminatory or disrespectful conduct by any employee will be tolerated. Acts or incidents of unlawful harassment should be promptly reported in accordance with the procedures outlined below. The Township will promptly investigate all reports of unlawful harassment. Violation of this policy is an extremely serious matter and constitutes cause for disciplinary action, up to and/or including immediate termination. Note: Employees who violate this policy also risk personal legal liability.

While it is not easy to define precisely what harassment is, improper conduct that may violate the Township's policy against harassment includes, but is not limited to the following:

- Unwelcome remarks and actions based on protected classifications. Some examples include slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing, caricatures or representations of persons using electronically or physically altered photos, drawings or images, and other similar verbal, written, printed or physical conduct.
- Threats or suggestions that an employee's employment work status will be adversely affected based upon the protected classifications.
- Affecting or denying employment opportunities or benefits to an employee based upon the protected classifications.
- Engaging in a negative tangible employment action based upon the protected classification.
- Retaliation against an employee who has reported an alleged violation of this Policy or

participated in an investigation related to this Policy.

Sexual harassment is among the forms of prohibited conduct. Sexual Harassment is defined as any unwelcome advance or request for sexual favors or any conduct of sexual nature where:

- Submission is made explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of the harassing conduct is threatened to be used, as the basis of employment decisions; or
- Such conduct has the purpose or effect of substantially interfering with an individual's work or creates an intimidating, hostile, or offensive working environment.

Sexual harassment is different from sexual attraction or flirtation. Sexual harassment is *unwelcome* sexual attention, which is demeaning and causes the recipient distress.

Sexual harassment does not refer to occasional inoffensive compliments. However, comments or behavior which may be intended to be complimentary may be viewed by the recipient as unwelcome and a form of sexual harassment.

Notification of appropriate personnel of any harassment problem is essential to the success of this policy. To that end, the Township encourages any employee who feels that he or she is a victim of harassment or a witness to harassment to report the incident to a supervisor, department head, Personnel Coordinator or Business Administrator. Every supervisor is responsible for preventing and reporting unlawful harassment. Refer to the Township's complaint policy below for more detailed reporting information.

The Township will promptly investigate all allegations of harassment. If the Township determines that unlawful harassment has occurred in violation of this policy, the individual who engaged in such harassing conduct shall face immediate and appropriate disciplinary action based upon the severity of the complaint and any prior history of past charges made against the individual and disciplinary action involving the individual. Disciplinary action may include suspension without pay pending the hearing, a written warning, suspension, demotion, or termination of employment. To the fullest extent possible without inhibiting the investigation; all persons involved with the harassment complaint will be given the utmost protection of privacy.

Retaliatory conduct toward any employee who presents a complaint of harassment is absolutely prohibited and any employee who engages in such retaliatory conduct will face severe disciplinary action, up to and/or including termination. Anyone who assists in the filing of a complaint or in the investigation of a claim of harassment will be protected from reprisals and retaliation. Reprisal or retaliation may be the basis of a separate complaint, even if the harassment complaint is found to be without merit.

Since a charge of harassment is a grave and serious one, false accusations of harassment are, and will be treated as, a disciplinary offense and will result in a level of punishment appropriate for a person engaging in such behavior.

Because the Township prohibits harassment of its employees in any form, any individual charged with harassment in a civil action or by way of an administrative complaint shall be solely responsible for paying all costs of defense and/or any damages resulting therefrom which are awarded by any proper court of law or after an administrative hearing.

If you have any questions regarding interpretation of this policy or wish to clarify your rights, please contact the Personnel Coordinator or the Business Administrator.

## **COMPLAINT POLICY**

Employee complaints should be reported in writing to the Supervisor or Department Head. In turn, the Supervisor or Department Head shall report the alleged occurrence and/or complaint to the Business Administrator or Personnel Coordinator. If the employee prefers, the employee may report the occurrence and/or complaint directly to the Business Administrator or Personnel Coordinator. In the event that the complaint is against the person to whom the employee would ordinarily report the complaint, that is, the Supervisor or Department Head, the employee shall then report the complaint directly to the Business Administrator or Personnel Coordinator.

Employees are encouraged to report complaints in writing, using the Employee Complaint Form (available on PowerDMS) whenever possible. Such written complaints should contain as much factual information and documentation as possible. The written complaint must include the following information: (1) the name and department of the complainant, (2) the name and department of the charged party, (3) the nature and circumstances, in detail, of the allegation, complaint and or occurrence, (4) injuries or consequences suffered by the complainant, (5) the names of witnesses to the occurrences or actions, (6) the duration of the actions in question, and (6) if, when and to whom the matter has been previously reported. The complainant can provide other information or documents he/she believes are essential to the fair adjudication of their case.

Employees will not be compelled to reduce a complaint to writing if they are reluctant to do so. The Township may proceed with its investigation without a formal written complaint. If the complaint is made orally, same shall be reduced to a written document, which shall, if it is deemed accurate, be signed by the complainant.

Whether a complaint is submitted in writing or verbally to the appropriate party, the Township takes all such complaints seriously. Each complaint will be investigated in a prompt, fair and thorough manner to determine the merit of the complaint. If warranted, appropriate and responsive action will be taken to remediate the situation.

Employees are assured that complaints will be kept confidential to the fullest extent possible as long as the investigation is not inhibited. Anonymity or confidentiality cannot be guaranteed. If action must be taken against the wrongdoer, testimony of the victim may be an essential element in disciplining, terminating, prosecuting or taking other legal action as deemed necessary and proper against the alleged wrongdoer. It should also be understood that

circumstances may preclude confidentiality where disclosure of a certain action is required by law.

### ***Identification and Screening***

Any complaint lodged by an employee, whether written or verbal, will be documented by the Business Administrator or Personnel Coordinator. Upon the receipt of a complaint, either from the Supervisor or Department Head, or directly from an employee, the Business Administrator or Personnel Coordinator will establish a file to document the fact that a complaint was made, the investigative procedure which the Business Administrator or Personnel Coordinator followed and the action taken to appropriately respond to the allegation. **Please Note:** the official complaint form is available on PowerDMS or upon request from Human Resources.

The initial screening consists of placing the written complaint in the file if it is a written complaint. And, if there is no written complaint, the Business Administrator or Personnel Coordinator will summarize the verbal allegation of the employee's complaint with as many specifics as possible. This will include the date, time, and place that the employee made the complaint.

If the employee is reluctant to sign a written complaint, then the Business Administrator or Personnel Coordinator shall document the file with written notations of the date, time, and place that the employee made the complaint, list the specific allegations of the employee, and make a notation that everything that was written in the file was read back to the employee and the employee affirmed verbally, or preferably, in writing, to the accuracy of the information noted in the file.

### ***Investigation of Complaint***

The Township is committed to conducting investigations in a prompt, objective and thorough fashion. The Business Administrator or Personnel Coordinator starts any investigation with a detailed statement from the complaining employee. The detailed statement should contain as many specifics as possible concerning the alleged incident or incidents and the wrongdoer or wrongdoers. The employee will be asked to indicate the date, time, and place of the alleged incident or incidents, the name or names of the alleged wrongdoer or wrongdoers, specific details concerning alleged statements, conduct, behavior, or other acts which the complaining employee deems or perceives to be in violation of his/her employment rights.

In addition, the complainant should provide the names of any and all persons, whether they are employees or non-employees, who may have witnessed all or any portion of the alleged wrongful act or wrongful acts.

All witnesses will be interviewed regarding their knowledge of the complaint.

At the completion of the investigation, the Business Administrator or Personnel Coordinator will review all of the information obtained and make a determination as to whether the complaint is sustained.

The complaining employee will be notified as to whether the complaint was or was not sustained.

## **CODE OF CONDUCT POLICY**

Employees are expected to always conduct themselves in a manner which will maintain and enhance the well-established positive reputation that the Township has in the community. Employees are expected to practice good citizenship at work and in public and to treat each other and members of the public fairly and respectfully.

It is the desire of the Township of Brick to operate in a manner that demonstrates the highest level of professionalism and public service and to avoid all circumstances which may create the appearance of impropriety or otherwise undermine this stated objective. Accordingly, the Mayor, all members of the Council, all members of any Boards, Commissions or Committees established under the auspices of the Township of Brick, the Business Administrator, Department Heads and employees (hereinafter referred to collectively as "Employees") shall conduct all business of the Township of Brick in accordance with this policy.

Employees are expected to anticipate and avoid areas of potential conflict or the appearance of conflict, when a matter that they become involved in may directly, or indirectly, benefit a spouse, close family member, friend, partner, business associate, prospective customer/client (hereinafter referred to collectively as "business or familial member") or under circumstances where the employee himself/herself may ultimately receive some pecuniary benefit, gain, employment, advantage, contract or favor.

This provision should not be construed to prevent the employee from participating in any action or project that, while conferring some general benefit to a business or familial member, nonetheless was conceived or intended to provide a benefit to the public as a whole. Further, the pecuniary interest, benefit or gain prohibited whether received by a business or familial member or employee must be immediate, definite and capable of demonstration, not remote, uncertain, contingent or speculative. Such pecuniary interest, benefit or gain must be of the type or magnitude that individuals of ordinary capacity, intelligence and means would be influenced by it.

### ***Business Transactions***

No employee shall have any direct personal or pecuniary interest in a contract or transaction with the Township of Brick, nor shall he/she furnish directly any equipment, goods, materials or supplies to the Township in exchange for any form of pecuniary gain, compensation or benefit, except as otherwise permitted by State law. No employee or individual who has benefitted



from the information supplied by a Township employee, where such information is not generally available to the public, shall participate in any auction conducted by or on behalf of the Township.

In the event an employee obtains employment with, or an interest in, any company or business which furnishes goods or services to the Township of Brick, the employee must declare his/her interest and refrain from recommending, debating, discussing, acting or ultimately voting on a question of contracting with the business or company. After such disclosure is made, the Business Administrator shall determine whether it is in the best interests of the Township to continue contracting with such business or company. Ultimately, the determination of whether to continue the contractual relationship will be determined based upon whether continuation of the relationship creates the appearance of impropriety or a conflict of interest; even though such conflict may not, in a technical sense, exist.

### ***Misuse of Information***

No employee shall utilize or dispense information gained through their official capacity in a manner that gives the employee any type of personal profit or pecuniary gain not otherwise available to members of the general public. Similarly, employees shall not share such information with family members, partners, clients, customers, friends, business associates or members of the general public, in exchange for any pecuniary gain, interest, employment, personal advantage or contract. This provision shall not apply to information that is already been made part of the public record. A violation of this provision shall not be found based solely upon circumstantial evidence.

### ***Collection of Fees OR GIFTS***

No employee shall collect any fees, salaries, favors or other payments in exchange for work performed within his/her scope of official duties, except as provided by ordinance or State law. No employee shall solicit or accept any employment, fee, gift, favor or gratuity that could, in any manner, be reasonably construed to affect, influence, diminish or impair the performance of his/her official duties. This shall include referral fees, finder's fees, commissions or other miscellaneous kickbacks. Similarly, no employee shall be involved in contracting with any vendor under circumstances where the employee will personally receive in exchange for any such purchase any pecuniary gain, free gifts, favors, commissions, employment, kickbacks, discounts on subsequent personal purchases or any other incentives that do not directly benefit the Township of Brick. This provision does not prevent employees from recognizing each other through the exchange of incidental holiday or birthday gifts, awards, plaques, trophies or retirement presents.

### ***Violations***

Violations of this policy undermine the confidence that the general public has in the Township government. The Township must operate effectively and efficiently, so that we will encourage

individuals and businesses to become, or remain, a part of the community. Accordingly, all employees must avoid circumstances that damage public confidence. Violations of this policy that occur under circumstances where the employee knew, or should have known, that the conduct in question violated this Code of Conduct, must have strong consequences. Accordingly, violations of this policy may subject the employee to sanctions, which may include, but are not limited to, written or oral warnings, suspension, termination of employment, removal from office, official censure or reprimand or forfeiture of elected seat. This policy shall be enforced by a Court of competent jurisdiction with regard to members of the Township Council or other elected officials and by the Mayor, Township Council or Business Administrator, as appropriate, with regard to Township employees, and individuals appointed to various Boards, Commissions or Committees thereby.

## **WORKPLACE VIOLENCE POLICY**

The Township will not tolerate workplace violence. Violent acts or threats made by an employee against another person or property are cause for immediate dismissal and will be fully prosecuted. This includes any violence or threats made on Township property, at Township events or under other circumstances that may negatively affect the Township's ability to conduct business.

Prohibited conduct includes:

- Causing physical injury to another person;
- Making threatening remarks;
- Aggressive, hostile, or bullying behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
- Intentionally damaging employer property or property of another employee;
- Possession of a weapon while on Township property or while on Township business except with the authority of the Police Chief; and
- Committing acts motivated by, or related to, sexual harassment or domestic violence.

Any potentially dangerous situations must be immediately reported. The Township will actively intervene in any potentially hostile or violent situation. The cooperation of employees in reporting such incidents is essential to the success of this policy. In the event that an employee witnesses or learns about any threat or violent act, the employee is to immediately notify the Business Administrator's office. Such acts must be reported regardless of the identity of the person engaging in such behavior. Any person who engages in such behavior on Township

property will be removed from the premises as quickly as safety permits and will remain off the Township's property pending an investigation.

Should an investigation substantiate that violations of this policy have occurred, the Township will take appropriate action including: reassignment, suspension or termination of employment, or termination of any business relationship. The Township will make every effort to protect the privacy of all reporting employees.

Employees are to notify Administration of any applied for, or court ordered, protective or restraining orders, which lists Township property as a protected area. A copy of the application and/or restraining order should be supplied to the Business Administrator.

## **CONFLICT OF INTEREST POLICY**

Employees including Township officials must conduct business according to the highest ethical standards of public service. Employees are expected to devote their best efforts to the interests of the Township. Violations of this policy will result in appropriate discipline including termination.

The Township recognizes the right of employees to engage in outside activities that are private in nature and unrelated to Township business. However, business dealings that appear to create a conflict between the employee and the Township's interests are unlawful under the New Jersey Local Government Ethics Act. Any employee who holds an interest in any business doing business with the Township must submit a written notice of these outside interests to the Business Administrator. Under the Act, certain employees and officials are required to annually file with the Township Clerk a state mandated disclosure form. The Township Clerk will notify employees and Township officials subject to the filing requirements of the Act.

A potential or actual conflict of interest occurs whenever an employee including a Township official is in a position to influence a Township decision that may result in a personal gain for the employee or an immediate relative including a spouse or significant other, child, parent, stepchild, sibling, grandparents, parent-in-law, daughter-in-law, son-in-law, grandchildren, niece, nephew, uncle, aunt, or any person related by blood or marriage residing in an employee's household. Employees are required to disclose possible conflicts so that the Township may assess and prevent potential conflicts. If there are any questions whether an action or proposed course of conduct would create a conflict of interest, immediately contact the Business Administrator to obtain clarification.

Employees may not accept donations, gratuities, contributions or gifts that could be interpreted to affect their Township duties. Under no circumstances may an employee accept discounts, donations, gratuities, contributions, gifts (monetary or otherwise) or services from a vendor doing business with or seeking to do business with the Township or any person or firm seeking to influence Township decisions. Employees are required to report to the Business

Administrator any offer of a donation, gratuity, contribution, gift or services including meals and entertainment that is in violation of this policy.

## **OUTSIDE EMPLOYMENT**

Employees are allowed to hold outside employment as long as it does not interfere with their Township responsibilities. Employees are prohibited from engaging in outside employment activities while on the job or using Township time, supplies or equipment in the outside employment activities. The Business Administrator may request employees to restrict outside employment if the quality of Township work diminishes. Employees who accept outside employment shall be expected to disclose the extent and nature to the Personnel Coordinator. In addition, the employee must provide the employer's name, address and contact information.

## **POLITICAL ACTIVITY POLICY**

Employees have exactly the same right as any other citizen to join political organizations and participate in political activities, as long as they maintain a clear separation between their official responsibilities and their political affiliations. Employees are prohibited from engaging in political activities while performing their public duties and from using Township time, supplies or equipment in any political activity. There are to be no political endorsements publicized in any Township offices or buildings. At no time should one's position with the Township of Brick be used to influence or solicit votes, regardless of political affiliation. Any violation of this policy must be reported to the supervisor, Department Head, Business Administrator, Personnel Coordinator or the General Counsel.

## **CRIMINAL CHARGES POLICY**

All employees are to notify the Business Administrator or Personnel Coordinator by the next work day if the employee is arrested or charged with any criminal offense, including the imposition of domestic violence restraining orders (whether temporary or final), and/or any other offense resulting in arrest.

## **DRIVER'S LICENSE POLICY**

Any employee whose work requires the operation of Township vehicles must hold a valid Driver's License. All police officers must possess a valid New Jersey Driver's License. All new employees who will be assigned work entailing the operating of a Township vehicle will be required to submit to a NJ Motor Vehicle Commission driving records check as a condition of employment. A report indicating a suspended or revoked license status may be cause to deny or terminate employment.

Periodic checks of employee's drivers' licenses will be conducted by Human Resources. Any employee who does not hold a valid driver's license will not be allowed to operate a Township vehicle until such time as a valid license is obtained.

Any employee performing work which requires the operation of a Township vehicle must notify the immediate supervisor and the HR office of any change in their driver's license status. This does not apply to employees whose duties are primarily clerical in nature or PS Telecommunicators. An employee that fails to report such an instance is subject to disciplinary action, including demotion or termination. An employee who fails to immediately report a revocation or suspension to their supervisor and continues to operate a Township vehicle shall be subject to termination.

Any information obtained by the Township in accordance with this section shall be used by the Township only for carrying out its lawful functions and for other lawful purposes in accordance with the Driver's Privacy Protection Act (18 U.S.C. §2721 et seq.)

## **TOWNSHIP PROPERTY POLICY**

Township property includes any piece of item, equipment, furnishing, vehicle, or building that is leased, owned or otherwise in the custodial care of the Township.

All employees must maintain his/her work environment in a neat and orderly manner. All proper use and maintenance rules must be followed. No employee should expect any privacy on Township premises or when using Township property, except that which is protected by law.

No employee may use Township property for personal use or remove any property owned by the Township from the premises without prior approval from the Business Administrator. This policy does not apply to the removal of property such as files (excluding personnel files or individual files contained therein) for legitimate work purposes.

Any employee found to be in violation of this policy will be subject to disciplinary action. Any employee found to have misused or misappropriated Township property will be subject to disciplinary action up to and including termination. The Township reserves the right to require an employee to pay for all or part of the cost to repair or replace property caused by his/her misuse of same.

## **VEHICLE POLICY**

All vehicle drivers must possess a current, valid New Jersey driver's license. Township vehicles are to be used for official (work related) business only, unless otherwise authorized. Unauthorized personal use of vehicles is prohibited and shall be cause for disciplinary action and/or termination of employment.

Municipally owned vehicles are required to display the logo and name of the Township on each side of the vehicle, with the exception of unmarked police vehicles. Employees are responsible for ensuring vehicles are clean, in good operating condition, serviced according to the established preventative maintenance schedule as coordinated by Public Works Fleet

Maintenance, and inspected by the New Jersey Motor Vehicle Commission as required. It is the operator's responsibility to be sure the current vehicle registration and insurance card are in his/her possession.

Only authorized personnel may be transported in Township vehicles. No employee shall use or allow the use of any car, truck or equipment belonging to the Township of Brick as a passenger conveyance, other than on official business.

All traffic laws are to be adhered to while driving a Township vehicle. No parking in a handicap space or fire lane. No employee shall allow any vehicle (gasoline or diesel) to idle for more than three (3) minutes - it is against the law (unless you are in traffic, where constantly turning engines off and on might cause safety issues). All occupants of Township vehicles must wear seat belts at all times. Use of handheld cellphones is prohibited.

Your conduct should be professional at all times when driving a township vehicle. Smoking is not permitted in any Township vehicle. All vehicles must be locked and secured when not in use. Vehicle keys should be kept in central location for use by other employees, as necessary. Napping or sleeping in any Township vehicle is not permitted.

All motor vehicle accidents must be reported to the Police, your Supervisor, and the Office of Safety and Insurance immediately. Any other damage to Township vehicles must be reported to the Office of Safety and Insurance within 24 hours of the occurrence.

Any employee who is negligent in the operation of a Township vehicle may be subject to disciplinary action.

## **NO SMOKING POLICY**

The New Jersey Legislature has declared that in all governmental buildings the rights of nonsmokers to breathe clean air supersedes the rights of smokers. In accordance with State law, the Township has adopted a smoke-free policy for all buildings. Township facilities shall be smoke-free and no employee or visitor will be permitted to smoke anywhere in Township buildings. Employees are permitted to smoke only outside Township buildings (in the designated areas). The entrance areas of Township buildings shall NOT be used for smoking. Smoking inside vehicles owned by the Township and near equipment that may be sensitive to smoke is prohibited. This policy shall be strictly enforced and any employee found in violation will be subject to disciplinary action.

Select designated smoking areas are as follows:

Public Works – truck wash on the left side of the building

Main Building – bottom of the stairs on the employee parking lot side of the building OR the sidewalk/bench area between the lots on the visitor parking lot side of the building.

## **DRESS CODE POLICY**

It is the policy of the Township of Brick that each employee's dress, grooming and personal hygiene should be appropriate to the work situation. Employees are expected to present a professional, businesslike image to coworkers and the public and to dress in a manner that is normally acceptable in similar business establishments. Employees who are in the field should follow basic requirements of safety and comfort, but should still be neat and businesslike to the extent that working conditions permit. Employees in the field should wear their Township shirts for ease of identification.

- All skirts must be of reasonable length (no shorter than 2" above the knee).
- Pants should fit appropriately – not too tight.
- Shirts should be suitable for the work environment. Township of Brick uniform shirts are acceptable. Collared shirts required for male employees.
- No jeans or jean skirts except on Fridays.
- No suggestive attire – no tank tops, tube tops or strapless tops. Dresses and blouses must not expose bare back.
- No athletic clothing (including shorts, sweatshirts or sweatpants).
- Shoes must be in good repair. No slippers, crocs, flip-flops (regardless of heel size) or sneakers (except on Fridays).
- Hair should be clean, combed and neatly trimmed or arranged.
- Sideburns, mustaches, and beards should be neatly trimmed.
- Manicures should be neat and conservative.
- Use care when wearing cologne or perfume. Fragrances must not be overpowering to others.

## **UNIFORM POLICY – PUBLIC WORKS & PARKS**

Employees must make themselves available when measurements are being taken. There will be two (2) dates scheduled at the Department of Public Works no less than 10 business days apart to accommodate employees on vacation, personal or sick time. Failure to be measured on either of these days will require the employee to be measured at the contractor's facility on his own time.

Without fail, employees issued uniforms will wear them. Employees reporting for work "out of uniform" will punch out and not report for duty until he/she is "in uniform." Failure to wear uniforms may result in disciplinary action. It will be the employee's supervisor or Department Head's duty to enforce this requirement. Failure to do so may result in disciplinary action.

Uniforms will only be worn while performing Township duties and while commuting between work and home.

All clothing belongs to the Contractor or the Township, not the employee. The employee will

take due care in the treatment of uniforms issued to him. Employees are responsible for all lost items or items not turned in upon separation of service or in exchange for new issues. The cost of the items will be deducted from the next pay due the employee. Employees will not request the Contractor or the Contractor's employees to make exchanges or replacements for any of the items issued to him. All requests must first be approved by the Department Head. Employees will sign for initial issuance and all items returned by laundry. The Township may authorize new sets of uniforms for weight loss. Old sets must be returned. Uniforms torn in the line of duty may be authorized for replacement at the Township's discretion.

Whenever new sets are issued or upon separation from Township employment, the employee must return all items assigned to him. The individual will be charged for any unreturned items. This deduction will take place and be noted on the employee's final paycheck.

## **E-MAIL, VOICEMAIL AND INTERNET USAGE POLICY**

The Township of Brick e-mail, voicemail and the Internet are for official business and use for non-business purposes is prohibited. All e-mail, voicemail and Internet messages are public records subject to possible disclosure to the public pursuant to the provisions of the Open Public Records Act. The Township reserves the right to monitor, obtain, review and disclose all e-mail messages, including personal e-mail accounts, such as Yahoo or Google Mail, accessed via Township computers, computer files, voicemail and Internet messages on the computer and communications systems of the Township as deemed necessary and appropriate. Employees have no expectation of privacy when using Township computers, including when they access personal accounts. By using the Township's e-mail, computer systems, voicemail and the Internet, each user agrees that the Township has unrestricted access and the right to disclose all information communicated or stored on the e-mail, computer systems, voicemail and the Internet for any security, health, employment or other legitimate business reasons. Legitimate reasons also include systems maintenance, message routing, retrieval of business information, trouble-shooting hardware and software problems, preventing system misuse, protecting confidential proprietary information, insuring compliance with software license policies and complying with legal and regulatory requests for information. E-mail shall not be used to harass, torment or disparage another party. Offensive and harassing communications are unacceptable and prohibited.

### ***Software***

The only software allowed to be on any computer owned by the Township of Brick is software purchased by the Township of Brick and licensed in accordance with the law. No one is to load any software or applications personally bought, or brought from home, no outlaw programs are to be loaded on any computer owned by the Township of Brick. Any unauthorized software currently existing on a computer owned by the Township of Brick is to be removed immediately. The employee to whom the computer is assigned will be considered to be responsible for any unauthorized installation. In the event there is unauthorized software loaded on your machine, contact the IT Help Desk to have it removed.



Software auditors have been retained by the Federal Government and have conducted audits in numerous municipalities in Monmouth and Ocean County. Please be advised that in the event the Township of Brick is cited for unauthorized software on a computer for which an employee is responsible that employee will be disciplined, and any fines levied on the Township of Brick will be paid by the employee.

### ***Internet Use***

Using the internet for entertainment purposes is strictly prohibited. This includes listening to internet radio, watching and listening to streaming media and live or recorded internet video other than for Township business. There is a limited amount of bandwidth and it is severely depleted when using streaming media. Usage of the internet has been and will continue to be monitored. Employees who abuse the internet will have their internet privileges revoked. Multiple offenses may result in disciplinary action.

## **SOCIAL MEDIA POLICY**

Social media as it pertains to this policy includes, but is not limited to Facebook, YouTube, Myspace, Twitter, and Instagram. Employees are not permitted to use external social media on Township issued property or during office hours. Employees have no right to privacy while accessing social media sites at work or on company owned equipment.

Employees are prohibited from using social media to disseminate information on behalf of the Township without prior approval. Be careful to express only your personal opinions and make it clear that your views do not represent those of your employer.

Employees shall not post information on such sites that would constitute a violation of the personnel policies of the Township if expressed or published using any other medium or in any other manner. The posting of words, phrases, photographs, images or any kind of information on a personal web site may be grounds for the imposition of disciplinary action against the employee if the words, phrases, photographs, images or information adversely reflects on the employee's fitness for duty or constitutes a violation of the personnel policies of the Township.

## **TELEPHONE USAGE POLICY**

Township phones are for official business. Employees may make or receive a personal call to inform their family of unexpected overtime or in an emergency. Other personal calls must be kept to a minimum. Abuse of this policy may result in disciplinary action.

Telephone calls may be monitored by the Township, either through recordings or other listening devices, to ensure accuracy and efficiency in the service of the public. Employees have no expectation of privacy when utilizing Township telephones to conduct personal or private business.

The use of cell phones during working hours is to be kept to a minimum. Please be sure to silence your personal cell phone during work hours to minimize disruption. Personal cell phone calls should be limited to breaks except in emergency situations. In addition, personal texting during work hours is not acceptable and may result in disciplinary action.

Hand held cell phone use while driving is illegal in the State of New Jersey. Fines for this infraction range from \$100-\$250. Any employee who receives a fine during the course of his/her work day will be responsible for the expense. Hands free cell phone equipment should be utilized while driving. A violation of this policy may result in discipline, up to and including termination.

## **RECORDING DEVICES POLICY**

Effective immediately, recording devices (including phones, tablets, computers, tape recorders or any other type of device) will not be used in the work environment to record conversations or internal meetings.

Employees are obligated to respect the reasonable expectations of privacy of other individuals in the workplace in an effort to foster an environment of trust and mutual respect. The use of recording devices can inhibit spontaneous and honest dialogue especially when sensitive or confidential matters are being discussed.

Therefore, employees are not permitted to make or attempt to make an audio or video recording of private, nonpublic conversations and/or meetings on Township premises, without the knowledge and consent of all participants subject to such recordings.

This provision does not extend to the recording of public events or discussions, or to recordings made for law enforcement purposes. Failure to follow this policy may result in disciplinary action.

## **PERSONAL DEVICE POLICY**

Except in emergency situations or as part of their officially assigned or regular or permitted duties, employees are prohibited from taking any photographs, pictures, digital images, or audio recordings of any crime scenes, traffic crashes, arrestees, detainees, people, or job related incident or occurrence with any personal analog or digital device, camera, imaging device, audio recorder or cellular telephone. This section also applies in off duty scenarios regarding any law enforcement related activities. Any photographs, images, or recordings taken with any personal device pursuant to or in violation of this section are considered evidence and are subject to applicable laws, code, guideline or directive concerning storage, release, and disposal. Employees who have recorded any photographs, images or recordings with any personal device shall notify their supervisor as soon as practical. For the purposes of this section, an "emergency situation" involves a sudden and unforeseen combination of

circumstances or the resulting state that calls for immediate action, assistance or relief, and may include accidents, crimes and flight from accidents or crimes.

Employees are prohibited from releasing or disclosing any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people, or job related incident or occurrence taken with a personal or agency analog or digital device, camera or cellular phone to any person, entity, business, media or Internet outlet whether on or off duty without the express written permission of the Business Administrator.

## **ATTENDANCE POLICY**

All employees are expected to be at work and ready to assume their duties at the beginning of the scheduled workday. Lateness and absence will be tolerated only in emergencies or when the supervisor gives prior approval. All absences must be reported to the supervisor at least one half hour prior to the start of the normal workday.

No one is to work through lunch and leave early on a regular basis without the approval of his/her Department Head AND the Business Administrator. This does not apply to Police Officers or Public Safety Telecommunicators.

## **OVERTIME POLICY**

Employees may not work overtime without advance permission from their supervisor. This includes reporting to work well in advance of his/her scheduled start time. Any employee who works unapproved overtime will be subject to disciplinary action.

Non-exempt employees should not access job related e-mails or conduct other business outside of work hours.

## **ABSENCE FROM DUTY**

All absences must be reported to the supervisor at least one half hour prior to the start of the normal workday.

## **BREAKS**

All employees are entitled to lunch breaks and breaks in accordance with the applicable collective bargaining agreement. Administrative personnel must arrange breaks so that offices continue to function. Breaks for employees will be scheduled by the supervisor.

## **WHISTLEBLOWER POLICY**

Employees have the right under the "Conscientious Employee Protection Act (CEPA)" to complain about any activity, policy or practice that the employees reasonably believe is in

violation of a law, rule, or regulation promulgated pursuant to law, without fear of retaliation or reprisal. This right shall be communicated to all employees in an annual notice outlining the specific employee complaint procedure and in a posted notice. An electronic acknowledgment that the employee received, read, and understood the annual notification will be maintained by Human Resources. The annual notice shall be in English and Spanish and must contain the name of the person who is designated to receive written notification of policies or practices that might violate CEPA. All complaints will be taken seriously and promptly investigated. The following person has been designated to receive written notifications pursuant to N.J.S.A. 34:19-4: **Joanne Bergin, Business Administrator**

The Township shall not take any retaliatory action or tolerate any reprisal against an employee for any of the following:

Disclosing or threatening to disclose to the Business Administrator, other official or to a public body, as defined in the Conscientious Employment Protection Act (N.J.S.A. 34:19) an activity, policy or practice of the Township or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care;

Providing information to or testifying before any public body conducting an investigation, hearing, an inquiry into any violation of law, or a rule or regulation promulgated pursuant to law; by the employer or another employer with whom there is a business relationship, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiring into quality of patient care; or

Providing information involving deception of or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.

Providing information regarding any perceived criminal or fraudulent activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud a shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.

Objecting to, or refusing to participate in any activity, policy, or practice that the employee reasonably believes is a violation of a law, or rule, or regulation issued under the law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care; is fraudulent or criminal; or is incompatible with a clear public policy mandate concerning the public health, safety, or welfare or protection of the environment. N.J.S.A. 34:19-3.

In accordance with the statute, the employee must bring the violation to the attention of the Business Administrator. However, disclosure is not required where (1) the employee is reasonably certain that the violation is known to one or more officials; (2) where the employee reasonably fears physical harm; or (3) the situation is in the nature of an emergency. Employees are encouraged to complain in writing, but may make a verbal complaint at their discretion. See Employee Complaint Policy. In the event that the policy or practice is a clear violation and the employee has a reasonable certainty that the abuse is known to his superiors and fears retaliation; said employee shall have the right to disclose same to the Department of Public Safety. Under the law, the employee must give the Authority a reasonable opportunity to correct the activity, policy or practice. The administration of whistle blower complaints is not subject to the limitations in the Grievance Policy. In accordance with the statute, a copy of this policy will be posted in all facilities.

## **NEW JERSEY LAW AGAINST DISCRIMINATION**

The New Jersey Law Against Discrimination (LAD) prohibits employment discrimination based on, among other things, an individual's sex. LAD claims can be filed with the New Jersey Division on Civil Rights (NJDCR) or directly in court. Remedies under the LAD may include an order restraining unlawful discrimination, back pay, and compensatory and punitive damages.

Another State law, N.J.S.A. 34:11-56.1 et seq. prohibits discrimination in the rate or method of payment of wages to an employee because of his or her sex. Claims under this wage discrimination law may be filed with the New Jersey Department of Labor and Workforce Development (NJDLWD) or directly in court. Remedies under this law may include the full amount of the salary or wages owed, plus an additional equal amount as liquidated damages.

Please be mindful that under the State wage discrimination law a differential pay in between employees based on a reasonable factor or factors other than sex shall not constitute discrimination.

There are strict time limits for filing charges of employment discrimination. For more information regarding LAD claims, contact the NJDCR at 609-292-4605 or at [www.njcivilrights.gov](http://www.njcivilrights.gov). For information concerning N.J.S.A. 34:11-56.1 et seq., contact the Division of Wage and Hour Compliance within the NJDLWD at 609-292-2305 or at <http://lwd.state.nj.us>.

## **AMERICANS WITH DISABILITIES ACT POLICY**

The Township of Brick is committed to the fair and equal employment of individuals with disabilities. It is the Township's policy to reasonably accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship on the organization. In accordance with the Americans with Disabilities Act (ADA) as amended, reasonable accommodations will be provided to qualified individuals with disabilities when such accommodations are necessary to enable them to perform the essential functions of their jobs, or

to enjoy the equal benefits and privileges of employment. This policy applies to all applicants for employment, and all employees.

### ***Disability***

“Disability” refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual. A “qualified person with a disability” means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the job.

### ***Reasonable Accommodation***

The Township will seek to provide reasonable accommodation for a known disability or at the request of an individual with a disability. Many individuals with disabilities can apply for and perform the essential functions of their jobs without any reasonable accommodations. However, there are situations where a workplace barrier may interfere. A reasonable accommodation is any change or adjustment to the job application process, work environment, or work processes that would make it possible for the individual with a disability to perform the essential functions of the job.

### ***Essential Job Functions***

For each position, the job description typically will identify essential job functions. Human Resources will generally review job descriptions on a periodic basis to evaluate job functions designated as essential. If there are any questions about the job requirements, they should be directed to your supervisor or Human Resources.

### ***Requesting a Reasonable Accommodation***

An employee with a disability is responsible for requesting an accommodation from Human Resources or his or her supervisor and providing medical documentation regarding the disability when requested. Once medical documentation is received, Human Resources will work with the employee to identify possible reasonable accommodations and to assess the effectiveness of each in allowing the employee to perform the essential functions of the job. Based on this interactive process, a reasonable accommodation will be selected that is most appropriate for both the Township and the individual employee. While an individual’s preference will be considered, the Township is free to choose between equally effective accommodations with consideration towards expense and impact on the rest of the organization.

A request for reasonable accommodation may be denied if it would create an undue hardship for the Township. Factors to be considered when determining whether an undue hardship exists include: The cost of the accommodation, the Township’s overall financial resources, the financial resources of the particular facility at which the accommodation is to be made, the number of

employees at the facility, the total number of employees of the organization, and the type of operation.

### ***Safety***

All employees are expected to comply with all safety procedures. The Township will not place qualified individuals with disabilities in positions in which they will pose a direct threat to the health or safety of others or themselves. A direct threat means a significant risk to the health or safety to one's self or others that cannot be eliminated by reasonable accommodation. The determination that an individual with a disability poses a direct threat will be made by Human Resources and will be based on factual, objective evidence. A written copy of the determination will be given to the employee so that he or she may submit additional information and/or challenge the determination that he or she poses a direct threat.

### ***Confidentiality***

All information obtained concerning the medical condition or history of an applicant or employee will be treated as confidential information, maintained in separate medical files, and disclosed only as permitted by law.

### ***Complaint Procedure***

It is the policy of the Township to prohibit any harassment of, or discriminatory treatment of employees on the basis of a disability or because an employee has requested a reasonable accommodation. If an employee feels he or she has been subject to such treatment, or has witnessed such treatment, the situation should be reported using the complaint procedure. Any employee found to have engaged in retaliation against an employee for making a request for reasonable accommodation under this policy, registering a complaint under this procedure, or for assisting in the investigation of any registered complaint will be subject to immediate disciplinary action up to and including discharge.

The Business Administrator for the Township of Brick is hereby designated as ADA Coordinator to coordinate compliance with the non-discrimination requirements contained in section 35.107 of the Department of Justice regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereunder, are available from the ADA Coordinator.

## **GENDER INEQUITY POLICY**

*New Jersey and federal law prohibit employers from discriminating against an individual with respect to his/her pay, compensation, benefits, or terms, conditions or privileges of employment because of the individual's sex.*

## FEDERAL LAW

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on, among other things, an individual's sex. Title VII claims must be filed with the United States Equal Employment Opportunity Commission (EEOC) before they can be brought in court. Remedies under Title VII may include an order restraining unlawful discrimination, back pay, and compensatory and punitive damages.

The Equal Pay Act of 1963 (EPA) prohibits discrimination in compensation based on sex. EPA claims can be filed either with the EEOC or directly with the court. Remedies under the EPA may include the amount of the salary or wages due from the employer, plus an additional equal amount as liquidated damages.

Please be mindful that in order for a disparity in compensation based on sex to be actionable under the EPA, it must be for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

There are strict time limits for filing charges of employment discrimination. For further information, contact the EEOC at 800-669-4000 or at [www.eeoc.gov](http://www.eeoc.gov).

## THE NEW JERSEY FAMILY LEAVE ACT AND FEDERAL FAMILY AND MEDICAL LEAVE ACT

A leave of absence may be granted in accordance with the provisions and requirements of the federal Family Medical Leave Act, 29 U.S.C. § 2601, et seq., the New Jersey Family Leave Act: N.J.S.A. 34:11 B-1, et seq., and 29 CFR 825.800 et seq. FMLA/NJ FLA Forms available on PowerDMS.

### ***THE FAMILY AND MEDICAL LEAVE ACT OF 1993***

The Family and Medical Leave Act ("FMLA") entitles eligible employees to take up to 12 weeks of job-protected leave in a 12 month period for specified family and medical reasons. The law contains provisions on employer coverage; employee eligibility for the law's benefits; entitlement to leave, maintenance of health benefits during leave, and job restoration after leave; notice and certification of the need for FMLA leave; and, protection for employees who request or take FMLA leave.

### ***Employee Eligibility***

To be eligible for FMLA benefits, an employee must:

1. have worked for Township of Brick for a total of 12 months (need not be consecutive); and
2. have worked at least 1,250 hours (including overtime) over the previous 12 months (subject to special rules applicable to returning reservists pursuant to the Uniformed Services Employment and Reemployment Act).



## ***Leave Entitlement***

An eligible employee may take up to a total of twelve (12) work weeks of FMLA leave during any 12-month period for one or more of the following reasons:

- The birth and care of an employee's newborn child;
- The placement of a child with the employee for adoption or foster care;
- The care for a spouse, parent, child, domestic partner or civil union partner with a serious health condition;
- Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job. An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment.
- Because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty). Eligible employees are entitled to FMLA leave to care for a current member of the Armed Forces, including a member of the National Guard or Reserves, or a member of the Armed Forces, the National Guard or Reserves who is on the temporary disability retired list, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy; or otherwise in outpatient status; or otherwise on the temporary disability retired list. Eligible employees may not take leave under this provision to care for former members of the Armed Forces, former members of the National Guard and Reserves, and members on the permanent disability retired list. A "serious injury or illness" means an injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank or rating. In order to care for a covered service member, an eligible employee must be the spouse, son, daughter, or parent, or next of kin of a covered service member.

## ***Extent of Leave***

1. An eligible employee is entitled to a total of up to twelve (12) work weeks of leave during any twelve-month period.
2. The twelve (12) month period will begin on the first day of the leave. Effective January 1, 2017, the twelve (12) month period will be the calendar year.
3. An eligible employee is entitled to twenty-six (26) workweeks of leave to care for a covered service member with a serious injury or illness during a single 12-month period.

### ***Intent on Return to Work***

The Township may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. The Township policy regarding such reports may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation.

An employee returning from leave taken because of his/her own serious health condition must provide certification from his/her health care provider that he/she is able to return to work with or without restrictions. The certification should be provided to the Township within ten (10) days to the leave expiring if possible or prior to the employee returning to work.

If an employee gives unequivocal notice of intent not to return to work, the Township's obligations under FMLA to maintain health benefits (subject to COBRA requirements) and to restore the employee cease. However, these obligations continue if an employee indicates he or she may be unable to return to work but expresses a continuing desire to do so.

An employee who does not return to work upon expiration of FMLA/NJFLA leave may be discharged.

### ***Employee Status after Leave***

An employee who takes FMLA will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. An employee is entitled to such reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence.

### ***Definitions***

1. Child – a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is under 18 years of age; or 18 years of age or older and incapable of self-care because of a mental or physical disability.
2. Parent – the biological parent of employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.
3. Spouse – Spouse means a *husband* or *wife* as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized or *civil union partner* or *domestic partner*.

The Township of Brick will apply the “rolling-forward” method to calculate an employee’s entitlement to FMLA leave. By this method, the 12-month FMLA “leave year” is the period measured forward from the date the employee’s FMLA leave begins.

When an employee takes leave for a reason covered by the New Jersey Family Leave Act (“FLA”) and the FMLA, the leave shall be simultaneously counted against an employee’s entitlement under both statutes to the extent permitted by law.

Spouses employed by the Township of Brick are jointly entitled to a combined total of 12 work-weeks of family leave for the birth and care of the newborn child, for placement of a child for adoption or foster care, and/or to care for a parent who has a serious health condition.

Leave for birth and care, or placement for adoption or foster care must conclude within twelve (12) months of the birth or placement during the 12 month period following such birth or placement.

No employee will be discriminated against for exercising his or her rights under FMLA or be discouraged from the use of Family Leave.

### ***Intermittent Leave***

Under some circumstances, employees may take FMLA leave intermittently — which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule.

If FMLA leave is for birth and care or placement for adoption or foster care, use of intermittent leave is subject to the Township of Brick’s approval.

Eligible employees may take FMLA leave intermittently or on a reduced leave schedule when medically necessary or to care for a seriously ill family member. Employees taking leave intermittently or on a reduced leave schedule must make a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the Township. The employee must provide the Township with prior notice of the care, medical treatment or continuing supervision by a healthcare provider that is necessary due to a serious health condition of the employee or an eligible family member in a manner which is reasonable and practicable.

For employees taking medical or family intermittent leave for themselves, the maximum leave allowed will be twelve (12) weeks.

For employees taking medical or family intermittent leave for a family member with a serious illness, the maximum leave allowed is twelve (12) weeks.

An eligible employee who has taken a family leave of absence to provide care to a spouse, child or parent with a serious health condition shall be entitled to apply to the Township for an extension of said leave for up to an additional twelve (12) weeks upon advance notice to the employer. The care of a newborn or newly adopted child is also covered by this provision. The granting of such extension is in the sole discretion of the Township.

Employees may elect to use applicable accrued paid leave (such as sick or vacation leave) to cover some or all of their FMLA leave. If the employee does not so elect, FMLA leave will be unpaid.

The Township of Brick is responsible for designating if an employee’s use of paid leave counts as FMLA leave based on information from the employee.

**Serious health condition** for purposes of the FMLA means an illness, injury, impairment, or physical or mental condition that involves either:

- Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or
- Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:
  - A health condition (including treatment therefore, or recovery therefrom) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:
    - Treatment two or more times by or under the supervision of a health care provider; or
    - One treatment by a health care provider with a continuing regimen of treatment; or
    - Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence; or
    - A chronic serious health condition which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; or
    - A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or
    - Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g., chemotherapy or radiation treatments for cancer).

**Health care provider** for purposes of the FMLA means:

- Doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctors practice; or
- Podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice, and performing within the scope of their practice, under state law; or

- Nurse practitioners, nurse-midwives and clinical social workers authorized to practice, and performing within the scope of their practice, as defined under state law; or
- Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; or
- Any health care provider recognized by the Township of Brick or Township of Brick's group health plan benefits manager.

### ***Maintenance of Health Benefits***

During FMLA leave, the employee's health insurance coverage will be maintained under the same terms and conditions as if the employee had continued to work. Employees may be required to pay their share of health insurance premiums while on leave.

In some instances, the Township may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

### ***Job Restoration***

Generally, upon return from FMLA leave, the employee will be restored to his/her original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. If the Township of Brick should experience a reduction in force or layoff, an employee who would have been affected by such a reduction in force or layoff had he/she not been on FMLA leave is not entitled to be returned to work following exhaustion or completion of FMLA leave, however, the employee retains all rights under any applicable lay off or recall system.

An employee's use of FMLA leave will not result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave and FMLA leave will not be considered in discipline related to tardiness and/or attendance.

Under specified and limited circumstances where restoration to employment will cause substantial and grievous economic injury to its operations, the Township of Brick may refuse to reinstate certain highly-paid "key" employees after using FMLA leave during which health coverage was maintained. In order to do so, the Township of Brick will:

- Notify the employee of his/her status as a "key" employee in response to the employee's notice of intent to take FMLA leave:
- Notify the employee as soon as the Township of Brick decides it will deny job restoration, and explain the reasons for this decision;
- Offer the employee a reasonable opportunity to return to work from FMLA leave after giving this notice; and
- Make a final determination as to whether reinstatement will be denied at the end of the leave period if the employee then requests restoration.

A "key" employee is a salaried "eligible" employee who is among the highest paid ten percent of employees.

### **NOTICE AND CERTIFICATION**

Employees seeking to use FMLA leave are required to provide 30-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable. Employees seeking to use FMLA leave when the need is unforeseeable must advise the Township of the need for leave as soon as practicable.

The employee will be required to provide medical certification (Form WH-380-E) supporting the need for leave due to a serious health condition affecting the employee or an immediate family member.

In the event an employee is out of work due to a workers compensation injury or illness, maternity leave, approved injury leave (PBA only) or any other documented qualified absence, the absence will automatically be designated as FMLA leave.

The Township of Brick may also require employees to provide:

- second or third medical opinions (at the Township of Brick's expense) and periodic recertification;
- periodic reports during FMLA leave regarding the employee's status and intent to return to work and
- medical certification of fitness for return to duty.

When intermittent leave is needed to care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the Township of Brick's operation.

### **No Retaliation**

There shall not be retaliation against any employee for exercising his/her rights under the FMLA and/or for taking leave.

### **Questions**

Any questions regarding this policy or FMLA leave should be directed to the Personnel Coordinator.

## **THE NEW JERSEY FAMILY LEAVE ACT**

The New Jersey Family Leave Act ("FLA") entitles eligible employees to take up to 12 weeks of job-protected leave in a 24-month period for specified reasons. The law contains provisions on employer coverage; employee eligibility for the law's benefits; entitlement to leave; notice and certification of the need for FLA leave; and, protection for employees who request or take FLA leave.

## ***Employee Eligibility***

To be eligible for FLA benefits, an employee must:

- have worked for the Township of Brick for a total of 12 months; and
- have worked at least 1,000 hours (including overtime) over the previous 12 months

## ***Leave Entitlement***

An eligible employee may take up to a total of 12 work weeks of FLA leave during any 24-month period for one or more of the following reasons:

1. Birth and care of the employee's newborn child (leave must be completed within 12 months of the date of birth);
2. The placement for adoption of a child with an employee for adoption or foster care (leave must be completed within 12 months of placement);
3. The serious health condition of a child, parent or spouse or spousal equivalent, requiring the employee's participation in care.

The NJFLA does not provide for leave for an employee's own medical condition.

The Township of Brick will apply the rolling forward method to calculate an employee's entitlement to FLA leave. By this method, the 24-month period is measured forward from the date the employee's FLA leave begins. Effective January 1, 2017, the Township will apply the calendar year method to calculate FLA Leave entitlement.

When an employee asks for leave for a reason covered by the federal Family and Medical Leave Act ("FMLA"), the leave shall be simultaneously counted against an employee's entitlement under both statutes to the extent applicable and permitted by law. In the case of maternity leave, the employee's FLA leave will not begin to run until the employee is released from disability by her health care provider or exhausts her FMLA leave, whichever occurs first. After release by her health care provider, any remaining FMLA leave will run concurrently with her FLA leave entitlement.

NJFLA leave taken on account of the serious illness of a family member may, in certain cases, be taken in the form of a reduced leave schedule, or when medically necessary, on an intermittent basis, rather than all at once. In the case of FLA leave taken on account of the birth or placement of a child for adoption, an employee may only take FLA leave intermittently or on a reduced leave schedule if the Township of Brick expressly so agrees. The employee shall not be entitled to a reduced leave schedule for a period exceeding 24 consecutive weeks. The employee shall make a reasonable effort to schedule reduced leave so as not to disrupt unduly the operations of the employer and the employee shall provide the employer with prior notice

of the care, medical treatment, or continuing supervision by a health care provider necessary due to a serious health condition of a family member, in a manner which is reasonable and practicable. Leave taken on a reduced leave schedule shall not result in a reduction of the total amount of leave which the employee is entitled.

Employees may elect to use applicable accrued paid leave (such as sick or vacation) to cover some or all of their FLA leave. If the employee does not so elect, the FLA leave will be unpaid.

The Township of Brick is responsible for designating if an employee's use of paid leave counts as FLA leave, based upon information from the employee.

"Serious Health Condition" for purposes of the FLA means an illness, injury, impairment, or physical or mental condition which requires:

- inpatient care in a hospital, hospice, or residential medical care facility;
- continuing medical treatment or continuing supervision by a health care provider.

"Health Care Provider" for purposes of the FLA means any person licensed under federal, state, or local law, or the laws of a foreign nation, to provide health care services; or any other person who has been authorized to provide health care by a licensed health care provider.

### ***Maintenance of Health Benefits***

During FLA leave, the employee's health insurance coverage will be maintained under the same terms and conditions as if the employee had continued to work. Employees may be required to pay their share of health insurance premiums while on leave.

### ***Job Restoration***

Generally, upon return from FLA leave, the employee will be restored to his/her original job, or to an equivalent job with like seniority, status, employment benefits, pay, and conditions of employment.

If the Township of Brick should experience a reduction in force or layoffs, an employee who would have been affected by such reduction in force or layoff had he/she not been on FLA leave is not entitled to be returned to work following exhaustion or completion of FLA leave, however, the employee retains all rights under any applicable layoff and recall system.

The Township of Brick may deny FLA leave if:

- The employee is a salaried employee who is among the highest paid 5% of the employer's employees or the seven highest paid employees of the employer, whichever is greater;



- The denial is necessary to prevent substantial and grievous economic injury to the employer's operations;
- The employer notifies the employee of its intent to deny the leave at the time the employer determines that the denial is necessary; and
- In any case, when the leave has commenced, the employee elects not to return to employment within 10 working days after receiving such a notice from the Township.

### ***Return to Work***

An employee who does not return to work upon expiration of NJFLA leave may be discharged.

### ***Notice and Certification***

When FLA leave is sought due to the birth or placement of a child for adoption, the employee must provide at least thirty (30) days notice of the intention to take FLA leave when reasonably practicable. When FLA leave is sought due to a family member's serious illness, the employee must provide at least fifteen (15) days notice of the intention to take FLA leave, except where emergent circumstances warrant shorter notice. Employees seeking to use FLA leave when the need is unforeseeable must provide the Township of the need for leave as soon as practicable.

An employee requesting FLA leave in order to care for the employee's seriously-ill spouse, child, or parent will be required to provide a certification issued by a health care provider supporting the need for the requested FLA leave. In the event an employee is out of work due to any documented qualified absence, the absence will automatically be designated as NJFLA leave.

### ***No Retaliation***

There shall be no retaliation against any employee for exercising his/her rights under the FLA and/or for taking FLA leave.

### **Definitions**

- Child– a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is 1.) under 18 years of age; or 2) 18 years of age or older and incapable of self-care because of a mental or physical disability.
- Parent – the biological parent of employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.
- Spouse – Spouse means a *husband* or *wife* as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized or *civil union partner* or *domestic partner*.

## **Questions**

Any questions regarding this policy or FLA leave should be directed to the Personnel Coordinator.

**NOTE:** In circumstances in which absences qualify under BOTH the FMLA and the NJFLA, they will be designated concurrently.

## **NEW JERSEY PAID FAMILY LEAVE INSURANCE**

New Jersey has become the second state in the nation to mandate a broad paid family leave insurance program for employees. The law applies to nearly all private and public employers and may be used by an employee for two specific reasons:

1. Care for a newborn or adopted child
2. Care for the serious health condition of a family member

The NJ Paid Family Leave provides for six (6) weeks of “family temporary disability leave” and is similar to Temporary Disability (short term disability) in that it is an insurance program that provides some income protection as opposed to the NJ Family Leave Act (NJFLA) and the Federal Family and Medical Leave Act (FMLA), which are unpaid leaves that provide the employee with job protection for specific reasons and time periods.

The FMLA, NJFLA and NJPFL often overlap and run concurrently. Each situation must be looked at to determine what the employee is eligible for. Please note that the State of NJ determines if the employee is eligible to collect the NJPFL, however, the Township provides approval for NJ Family Leave (NJFLA) and Family and Medical Leave (FMLA).

The NJ Paid Family Leave (NJPFL) is funded by employee contributions. Beginning January 1, 2009 employers are required to deduct the contributions and submit them to the state.

Benefits are payable to eligible employees after a seven (7) day waiting period. If the leave continues for three (3) or more weeks, benefits are payable for the first seven (7) days. The NJ Paid Family Leave insurance program provides for 2/3 of the employee’s weekly wages capped at a maximum (\$657 in 2016).

Employees are eligible for benefits if they: worked at least 20 weeks in covered employment OR earned a minimum amount (currently \$8,400) in covered employment during the preceding year.

## **NJ SAFE ACT LEAVE**

The New Jersey Security and Financial Empowerment Act (“NJ SAFE Act”), P.L. 2013, c.82, provides that certain employees are eligible to receive an unpaid leave of absence, for a period

not to exceed 20 days in a 12-month period, to address circumstances resulting from domestic violence or a sexually violent offense. To be eligible, the employee must have worked at least 1,000 hours during the immediately preceding 12-month period. Further, the employee must have worked for an employer in the State that employs 25 or more employees for each working day during each of 20 or more calendar workweeks in the then-current or immediately preceding calendar year.

Leave under the NJ SAFE Act may be taken by an employee who is a victim of domestic violence, as that term is defined in N.J.S.A. 2C:25-19, or a victim of a sexually violent offense, as that term is defined in N.J.S.A. 30:4-27.6 Leave may also be taken by an employee whose child, parent, spouse, domestic partner, or civil union partner is a victim of domestic violence or a sexually violent offense.

Leave under the NJ SAFE Act may be taken for the purpose of engaging in any of the following activities as they relate to an incident of domestic violence or a sexually violent offense:

- (1) Seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's child, parent, spouse, domestic partner, or civil union partner
- (2) Obtaining services from a victim services organization for the employee or the employee's child, parent, spouse, domestic partner, or civil union partner.
- (3) Obtaining psychological or other counseling for the employee or the employee's child, parent, spouse, domestic partner, or civil union partner.
- (4) Participating in safety planning, temporarily or permanently relocation, or taking other actions to increase the safety from future domestic violence or sexual violence or to ensure the economic security of the employee or the employee's child, parent, spouse, domestic partner, or civil union partner.
- (5) Seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's child, parent, spouse, domestic partner, or civil union partner, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic violence or sexual violence;  
or
- (6) Attending, participating in or preparing for a criminal or civil court proceeding relating to an incident of domestic or sexual violence of which the employee or the employee's child, parent, spouse, domestic partner, or civil union partner, was a victim.

Leave under the NJ SAFE Act must be used in the 12-month period immediately following an instance of domestic violence or a sexually violent offense. The unpaid leave may be taken intermittently in intervals of no less than one day. The unpaid leave shall run concurrently with any paid vacation leave, personal leave, or medical or sick leave that the employee elects to use or which the employer requires the employee to use during any part of the 20-day period of unpaid leave. If the employee requests leave for a reason covered by both the NJ SAFE Act and the Family Leave Act, N.J.S.A. 34:11B-1 et seq., or the federal Family and Medical Leave Act, 20

U.S.C. 2601 et seq., the leave shall count simultaneously against the employee's entitlement under each respective law.

Employees eligible to take leave under the NJ SAFE Act must, if the necessity for the leave is foreseeable, provide the employer with written notice of the need for the leave. The employee must provide the employer with written notice as far in advance as reasonable and practicable under the circumstances. The employer has the right to require the employee to provide the employer with documentation of the domestic violence or sexually violent offense that is the basis for the leave. The employer must retain documentation provided in the strictest confidentiality, unless the disclosure is voluntarily authorized in writing by the employee or is authorized by a federal or State law, rule or regulation.

The NJ SAFE Act also prohibits an employer from discharging, harassing or otherwise discriminating or retaliating or threatening to discharge, harass or otherwise discriminate against an employee with respect to the compensation, terms, conditions or privileges of employment on the basis that the employee took or requested any leave that the employee was entitled to under the NJ SAFE Act, or on the basis that the employee refused to authorize the release of information deemed confidential under the NJ SAFE Act.

To obtain relief for a violation of the NJ SAFE Act, an aggrieved person must file a private cause of action in the Superior Court within one year of the date of the alleged violation.

## **MILITARY LEAVE POLICY**

Military leave shall be provided to all eligible employees in accordance with law.

## **UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT**

The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services and applicants to the uniformed services.

Reemployment rights: You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and:

- you ensure that your employer receives advance written or verbal notice of your service;
- you have five years or less of cumulative service in the uniformed services while with that particular employer;
- you return to work or apply for reemployment in a timely manner after conclusion of service; and
- you have not been separated from service with a disqualifying discharge or under other than honorable conditions.

If you are eligible to be reemployed, you must be restored to the job (or in some cases a comparable job) and benefits you would have attained if you had not been absent due to military service.

Right to be free from discrimination and retaliation: If you are a past or present member of the uniformed service; have applied for membership in the uniformed service; or are obligated to serve in the uniformed service; **then** an employer may not deny you any of the following because of this status: initial employment; reemployment; retention in employment promotion; or any benefit of employment

In addition, an employer may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.

Health insurance protection: If you leave your job to perform military service, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military. Even if you don't elect to continue coverage during your military service, you have the right to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusion except for service-connected illnesses or injuries.

Enforcement:

The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations. For assistance in filing a complaint, or for any other information on USERRA, contact VETS at **1-866-4-USA-DOL** or visit its **website at <http://www.dol.gov/vets>** . An interactive online USERRA Advisor can be viewed at <http://www.dol.gov/elaws/userra.htm>. If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice or the Office of Special Counsel, as applicable, for representation. You may also bypass the VETS process and bring a civil action against an employer for violations of USERRA.

## **NJ EMERGENCY RESPONDERS EMPLOYMENT PROTECTION ACT**

The NJ Emergency Responders Employment Protection Act (P.L. 2009, Chapter 202) affords employment protection to certain volunteer emergency responders.

As used in this act, "volunteer emergency responder" means an active member in good standing of a volunteer fire company, a volunteer member of a duly incorporated first aid, rescue or ambulance squad, or a member of any county or municipal volunteer Office of Emergency Management, provided the member's official duties include responding to a fire or emergency call.

No employer shall terminate, dismiss or suspend an employee who fails to report for work at his place of employment because he is serving as a volunteer emergency responder during a state of emergency declared by the President of the United States or the Governor of this State or is actively engaged in responding to an emergency alarm; provided the volunteer emergency responder provides his employer with (1) notice, at least one hour before he is scheduled to report to his place of employment, that he is rendering emergency services in response to a declared state of emergency or emergency alarm; and (2) upon returning to his place of employment, a copy of the incident report and a certification by the incident commander, or other official or officer in charge, affirming that the volunteer emergency responder was actively engaged in and necessary for rendering emergency services and setting forth the date and time the volunteer emergency responder was relieved from emergency duty by that officer or official, as the case may be. If the volunteer emergency responder is actively engaged in rendering emergency services for more than one consecutive work day, the incident commander, or other official or officer in charge, shall direct that appropriate notice be given to the volunteer emergency responder's employer each day the volunteer is required to be absent from his employment.

No employer shall be required to pay any employee for any work time that the employee misses while serving as a volunteer emergency responder pursuant to this subsection; provided, however, a volunteer emergency responder may charge his absence as a vacation day or a sick day, if the volunteer has such days available.

The provisions of this act shall not apply to any employee who, by statute, or contract, is deemed an essential employee.

**RECEIPT FOR HANDBOOK**

I acknowledge that I have been given access to an electronic copy of Brick Township’s Personnel Policies and Procedures Handbook for Seasonal and Part-time Employees. I agree to read it thoroughly, including the statements describing the purpose and effect of the Handbook. I agree to comply with all terms and requirements set forth herein. I agree that if there is any policy or provision in the Handbook that I do not understand, I will seek clarification from the Personnel Coordinator or Business Administrator. I understand that a hard copy of the handbook will be made available to me upon request from Human Resources.

I understand that the purpose of this Handbook is to inform me about the Township’s current policies and procedures, and that nothing in this Handbook constitutes an employment contract or agreement to maintain any current level of benefit. I further understand that this Handbook is meant as a guideline only and does not create a promise of future benefits or a binding contract with the Township for any purpose. I also understand that these policies and procedures are continually evaluated and may be amended, modified or terminated at any time with or without prior notice to me.

I understand that Brick is an "at will" employer and as such, unless I am covered by a collective negotiations agreement or other statutory protection, employment with the Township is not for a fixed term or definite period and may be terminated at the will of either party, with or without cause, and without prior notice. No Supervisor or other representative of the Township, with the exception of the Mayor or his/her designee in writing and in compliance with law, has the authority to enter into any agreement for employment for any specified period of time, or to make any agreement contrary to the above.

I understand that if I am covered by a collective negotiations agreement, the terms of that agreement will govern when in conflict with the provisions herein.

If I am Police personnel, I understand I am subject to the policies of the Police Department and that the Police Department Rules and Regulations or Policies may supersede certain sections of this Handbook.

Please sign and date this acknowledgement and return it to Human Resources.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_