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Conducting Motor Vehicle Record Checks

Public entities have many drivers in their employ. Law enforcement officers are on patrol around the clock. Volunteer firefighters and emergency medical technicians respond in their private vehicles before getting in apparatus and ambulances. Public works and utility employees drive large vehicles that require Commercial Drivers Licenses (CDL). Administrative personnel may occasionally use agency or private vehicles to conduct official business. **Managers of public agencies must verify that all employees who drive on the agency's behalf possess a valid driver's license and an acceptable driving record.**

Public entities should have a motor vehicle policy that encompasses all the types of drivers they employ. The Model Employee Handbook on the MEL website (www.njmel.org) includes a basic policy. Department managers should supplement the general policies and procedures to fully reflect their operations. The Safety Directors recommend Motor Vehicle Records (MVRs) be obtained and reviewed:

- once a year for all full-time, part-time, seasonal and volunteer employees who drive a public or personal vehicle as part of their job responsibilities.
- As part of the pre-employment screening process, MVRs of prospective employees should also be reviewed.
- Before approving a "Blue Light" application, the volunteer's MVR should be reviewed.

Here are answers to several frequently asked questions:

IS IT LEGAL TO OBTAIN MVR'S?

Employer may order MVRs on their employees under the Federal Driver's Privacy Act (effective 9-13-97). The Act defines the following "permissible uses" of an MVR:

- i. For use by any governmental agency...in carrying out its functions...
- ii. For use by any insurer or insurance support organization or by a self-insured entity...in connection with claims investigation activities, antifraud activities rating or underwriting.
- iii. For use by an employer ... to obtain or verify information relating to a holder of a commercial drivers license (CDL) that is required under Chapter 313 of Title 49.

WHO SHOULD OBTAIN THE MVR ABSTRACTS?

Designate one or two authorized individuals to order the MVRs from the N.J. Motor Vehicle Commission, by establishing a CAIR account. MVRs may not be obtained through the local Police Department. Authorized individuals may be the Clerk, an Administrator, a Human Resource representative or the Police Chief. The designated individual must understand they are not to share the information with unauthorized individuals. **Remember, these are confidential reports.** Department heads who review or act upon the MVR reports must also be aware of the confidential nature of driving histories.

WHAT ABOUT VOLUNTEERS AND SEASONAL EMPLOYEES?

Ensure that all part-time or seasonal employees and volunteers who may operate a public agency's or personal vehicles as part of their job duties are informed their MVRs will be periodically checked. The policy must be enforced consistently and without discrimination.

This bulletin is intended for general information purposes only. It should not be construed as legal advice or legal opinion regarding any specific or factual situation. Always follow your organization's policies and procedures as presented by your manager or supervisor. For further information regarding this bulletin, contact your Safety Director at 877.398.3046.

HOW DO I ORDER MVRs?

New Jersey Public Entities and/or Authorities can order MVR abstracts from the NJ Motor Vehicle Commission (NJMVC). If you *are ordering less than 25 MVRs per year and your agency has not received notification from the NJMVC of the CAIR system then you are eligible to request MVRs by mail. Mail your request on letterhead to New Jersey Motor Vehicle Commission, Business and Government Services, 225 East State Street, 3rd Floor East Wing, P.O. Box 122, Trenton, New Jersey 08666-0122. If you have any questions, you can call 609-292-4572.*

Public employers requiring more than 25 MVRs will need to establish a Customer Abstract Information Retrieval (CAIR) account by applying on-line at <http://www.state.nj.us/mvcbiz/Records/CAIR.htm> . There is an annual fee. This allows the employer to request up to 5,000 MVRs per year. A User Guide is also available on the CAIR homepage. New regulations require users to log in to their account at least every 45 days or their account will be suspended. I will need to be reactivated by a CAIR Administrator. The Safety Director suggests users put a reminder on their calendars.

HOW DO I EVALUATE INFORMATION ON THE MVR?

A **sample policy for evaluating MVR information** is provided below. It is up to each public entity / authority to establish evaluation standards for their agency. Be sure to apply standards consistently among all drivers.

All employees authorized to drive vehicles owned, leased, or controlled by the [Public Entity Name] or use their personal vehicles to conduct business on behalf of the [Entity Name] may have their MVRs reviewed prior to entrustment of a vehicle and annually thereafter.

*Drivers with acceptable, marginal or probation grading **may** be allowed to operate [Entity Name] vehicles or their personal vehicles to conduct business on behalf of the agency.*

Drivers with marginal or probation grading will have their MVRs reviewed more frequently. [Semiannual or quarterly reports are recommended] Additional violations or accidents may result in suspension of driving privileges for [Public Entity / Department Name].

Drivers with unacceptable driving records will not be permitted to operate an agency or their personal vehicle to conduct business on behalf of [Public Entity Name].

Acceptable: *No moving violations and/or preventable accidents over the last 36 months.*

Marginal: *Up to 2 moving violations and/or preventable accidents in the last 36 months.*

Probation: *Up to 3 moving violations and/or preventable accidents within the last 36 months.*

Unacceptable: *More than 3 moving violations and/or preventable accidents within the last 36 months, or more than 2 moving violations and/or preventable accidents within the most recent year, or **any** of the violations listed below:*

- *Driving while under the influence (DWI or DUI)*
- *Leaving the scene of an accident*
- *Reckless driving violations*
- *Homicide or assault through the use of a motor vehicle*
- *Drivers who currently have a revoked or suspended license*
- *Attempting to elude a police officer*

If an accident is shown on an MVR, it will be assumed to be an “at-fault,” chargeable accident. Any change to such a classification will be made only upon receipt of a police report or ruling from the Accident Review Panel showing that the driver in question was not at fault.

Please contact your Risk Control Consultant or JIF Safety Director if you have any additional Motor Vehicle Record questions.