

## Policies regarding Accident Preventability Review Process

Information compiled February 3, 2006

**The Question:** Please describe your accident preventability review process. Please include who makes the determination on preventability, where appeals go (if anywhere), and where the final decision rests.

**Ben Franklin Transit** says ... On reviewable Events, the Safety & Training Supervisor will make an initial decision of preventability regarding the driver/operator responsibility. Once a ruling is made, the decision is sent on to the involved employee. If the employee disagrees with the initial ruling and chooses to appeal the decision, said driver/operator/employee can request the case be re-reviewed by BFT's Safety & Health Committee. On appealed cases, and at the discretion of the Safety & Health Committee, the involved employee may be asked to come and explain their actions before the Committee. An employee, who disagrees with the decision made by the Safety & Health Committee may appeal his/her case to NSC by submitting a written statement to the Safety & Training Supervisor (within seven working days from the date the employee received notice) outlining why they feel the preventable decision is unjust. Employee appeals, rendered by NSC will be final and binding.

**Clallam Transit** says ... CTS maintains an Accident Review Board that reviews all vehicle/property accidents. The voting members of the Board are composed of two Transit Operators, a Maintenance Dept. representative, and the Maintenance Manager, determine preventability. An employee may appeal the Board's decision to the General Manager. The decision of the General Manager is final.

**Community Transit** says ... Our accident review process is: (1) Supervisor of Training makes preventability determination, (2) Employees can appeal to the Accident Review Committee (led by the risk manager, two representatives selected by the union (must be accident free) and two management selected representatives. Risk manager serves as the tie breaker. The employee or the agency can appeal to the National Safety Council. The NSC's decision is final.

**Everett Transit** says... Here is our policy: The purpose of this policy is to establish accident review procedures that will establish criteria to be followed by the Accident Review Board (ARB).

1.2 This policy will apply to all departments of the City of Everett with the exception of commissioned law enforcement officers.

1.3 This policy is initiated by City Administration and the Safety Division.

## 2.0 Policy

The intent of this policy is to establish criteria to analyze vehicle and equipment accidents for all City employees in an effort to determine the preventability of an accident, reduce the number of accidents and consequently reduce costs to the City.

## 3.0 Definition

3.1 For the purpose of this policy the following definition will apply:

A. Accident - An unplanned event resulting in damage to equipment or vehicles or causing bodily injury.

## 4.0 Procedures

### 4.1 City of Everett Accident Review Board

A. The Accident Review Board will review information provided on the accident report and investigation that would be important in determining the preventability or non-preventability of an accident.

B. The Accident Review Board will meet once a month, if necessary, and will consist of the City Safety Official, Transit Operations Manager and the Motor Vehicles Superintendent. In addition, AFSCME and ATU may appoint one representative respectively to the ARB. The appointed operators must have had no preventable accidents in the past year, and will serve a one year term. The Everett Fire Department may send a representative to the ARB if an accident being reviewed involves Everett Fire Department apparatus.

C. The Accident Review Board will make a determination based on the available information surrounding the incident.

D. The City Safety Official will notify the employee and the Department Head in writing of the Accident Review Board's determination.

### 4.2 Employee Appeal Procedures

A. If the employee disagrees with the determination of the ARB, the employee may request, within 7 working days of notification, a second review. The request for the second review should

be made to the City Safety Official, and should be supported by additional information not available for consideration at the time of the ARB's original determination. If the City Safety Official believes this criteria is met, he/she will take the information to the following ARB meeting. The purpose of the second review is to ensure that the operator understands the position of the Accident Review Board.

B. If the ARB is unable to make a determination based on the newly provided information, the ARB may elect to send all available information pertaining to the accident to the National Safety Council's Accident Review Board for evaluation. The National Safety Council's determination on the accident will be binding.

**Grays Harbor Transit** says... Our operations supervisor reviews the accidents and determines if they are preventable or non-preventable. If there is an appeal it goes to a panel of three and they discuss and make a determination. If the party is still not satisfied then we forward it to the National Safety Council as it is their guidelines we follow.

**Island Transit** says ... Here is our policy:

#### ACCIDENT REVIEW COMMITTEE

The Accident Review Committee's Mission Statement: "To review accidents and make recommendations as to preventable or non-preventable accidents, to heighten awareness of safety issues and to keep current on accident reviews and process them in a timely manner."

As needed, the Safety Committee shall appoint members to the Accident Review Committee (ARC). Members present constitutes a quorum. (In review of an accident, however, a minimum of three committee members must be present.) Not all accidents will be reviewed by ARC. Accidents that are very clear cut and/or not questioned by the employee involved may not need to be reviewed by ARC.

1. On a case by case basis, the employee involved in the accident may make a presentation outlining his interpretation of the events leading up to the accident. After the employee has made his presentation, the employee is asked to leave the meeting while the committee discusses the accident.
2. ARC members may also conduct an on-site investigation where the accident occurred.
3. After conducting an initial investigation of each accident, ARC members shall present their recommendation and make suggestions for procedural/safety changes to the Operations Manager.
4. The Operations Manager (or Executive Director in the absence of the Operations Manager) shall meet with the ARC members to discuss the recommendation.

5. The employee involved in the accident/incident is recalled into the room to discuss the determination of preventable or non-preventable accident/incident.
6. If a member of the ARC is being reviewed, an alternate may be asked to fill in on the ARC for the review.
7. If a recommendation or determination is not made at that time, then the accident will be noted as, "Recommendation (or Determination) pending further investigation".
8. If the employee disagrees with the recommendation of the ARC, they may appeal the decision through the following procedures:
  - a. Operator's written appeal to Executive Director;
  - b. Fact finding process by the Executive Director involving both ARC and the employee if necessary;
  - c. Interview with employee; and
  - d. Executive Director's final decision.

**Jefferson Transit** says... This varies a bit depending on when the accident occurs. If during normal operating hours, I as the operator's immediate supervisor, do the initial investigation. If outside of operating hours there is an On-Call Supervisor (a manager – sometimes me again) who will do the initial investigation. Each incident is logged (with just general description of the incident) on an e-mail template by the initial investigator so it gets around to all management types who may have an interest. If they do, these management members reply to the e-mail for more details; if not they simply delete it. I then do a more thorough investigation and present written findings to the Operations Manager for a preventability determination. He uses the NSC Guide to Determining Accident Preventability to make a final determination. A points matrix is used to determine final adjudication of the incident (currently being revised and negotiated with ATU 587). The GM is the appeal authority for all accidents, should that be necessary (of course, we're a small organization).

**Kitsap Transit** says... Our process goes like this:

1. Accident reported on Accident Report form.
2. Form goes to Accident Review Committee. (This group is made up of supervisory representatives from our fixed route and paratransit groups) They make preventability determination.
3. Employee is notified in writing of determination.
4. Employee can appeal to Safety Committee (This committee is made up of driver and supervisor reps from fixed route, paratransit, vanpool and maintenance organizations.)

5. If employee still does not like the results that can appeal to National Safety Council. But they pay the costs. If preventability is overturned then we would reimburse costs.

**Mason Transit** says ... The process is under review at this time. The Road Supervisor reviews for preventability and makes a recommendation to the Operations Manager. The Operations Manager confirms the preventability and, with the road supervisor, counsels the employee and sets any retraining or warning level. Informally, at this time, any appeals go to the General Manager. But we haven't had to go there, yet. We would like to have a more formal structure, but have not gotten to it yet. I'll be interested to learn what others do.

**Pullman Transit** says...Preventability is determined by the responding supervisor. It is also reviewed at the same time by the responding supervisors, supervisor. After this the employee can appeal the decision to the Transit manager if they wish. The Transit manager determines whether the appeal is valid or not, if it is determined to be valid a committee is formed to review the incident. For corrective measures the responding supervisor will, on the incident report, describe a way to have the incident avoided in the future. Also we have an accident review committee that meets once a month to make their recommendation. These recommendations are then posted in the drives break room.

**Skagit Transit** says... I use the National Safety Council's "A Guide to Determine Motor Vehicle Accident Preventability" when I do the initial ruling on all Events. If the Coach Operator does not agree with my ruling, they can request an Event Review Panel be convened to look at the Event. Following the Event Review Panel's ruling, if the Coach Operator doesn't agree with their ruling, he/she can request an Event Review Board be convened to investigate the Event. If the Coach Operator doesn't agree with the board's ruling, he/she can request the Executive Director investigate the Event. The Executive Director's ruling is final.

**Spokane Transit** says ... Spokane Transit Authority uses the National Safety Council's guide to determining vehicle accident preventability as an outline as to what is or is not preventable. The Superintendent of Transportation makes the determination of preventability based on written documents and input for investigating Supervisors and those employees involved. Should an employee decide to challenge accident grading, the company and the union enlist the services of a mediator to make the final determination. In our case, we are fortunate to have a law school in the community and we have made an agreement with a professor that teaches law and does mediation as a side line. The company and the union split the cost of this mediation, approximately \$35.00 per case and the decision of the mediator is final.

**Valley Transit** says... Here is our policy:

## ACCIDENT REVIEW AND APPEAL PROCEDURES

### A. Accident Review Committee

The Accident Review Committee will be comprised of four voting members including: three bus operators (one will serve as an alternate), one Road Supervisor and the Operations Manager. The operators will be selected by vote from their fellow operators. To be eligible, an operator must have been in active service for more than three years and must not have been involved in a preventable accident for at least the previous two years. Operators on the Accident Review Committee will be elected every two years. The members will take turns acting as chairperson of the committee.

### B. Accident Review Procedure

The committee will meet as necessary to conduct accident reviews. The committee will use the National Safety Council Safe Driver Award Rules guidelines and the For Experts Only booklet to make these determinations. Accidents will be reviewed and determined within 35-days of the occurrence of the accident unless a reasonable request for an extension is mutually accepted between Valley Transit and the Union.

The format of the meetings will generally include: a review of all reports and documentation relating to the accident, a vote of the committee by secret ballot, and the counting of ballots by the chairperson. All voting members of the committee must be present and must vote to validate the decision. If the Committee is tied on a decision, the General Manager will review the accident and cast the final ballot.

All accident reports, determination decisions, and requests for appeals will be forwarded to the Operations Manager. The Operations Manager will be responsible for the tracking of accidents and for the scheduling of accident review meetings.

Following the review of an accident, the Accident Review Committee will decide and notify the employee of its decision within five days.

### C. Appeal Procedure

If an accident is judged preventable and the Operator later remembers facts or gets additional evidence, they may ask for a re-read of the accident by the Accident Review Committee. The request must be in writing listing the new information and shall be submitted within 15 days of the notification of the Accident Review Committee. When there are extenuating circumstances such as laboratory work, or hospitalization of persons involved, this may be extended.

If an employee disagrees with the decision of the Accident Review Committee, they may request final review of the accident by the National Safety Council Accident Review Committee. The employee has a maximum of 15 days from the receipt of the Accident Review Committee decision to request such a review. Within 15 days following a request for final review, the employee must submit a written statement of explanation outlining the reasons why the accident should not be judged preventable. The employee may concurrently submit any additional materials that may support their position regarding the preventability of the accident.

**Whatcom Transit** says ...Here is WTA's Preventable Accident Policy including the accountability process.

#### Preventable Accidents and Incidents

##### PURPOSE:

- To reduce the number and minimize the severity of accidents involving WTA vehicles.
- To provide WTA vehicle operators with clear guidelines as to disciplinary actions that may be invoked when they are involved in an accident.
- To establish a system for:
  - holding employees accountable for incidents and accidents they could have prevented;
  - determining the preventability of incidents and accidents;
  - remedial training associated with accidents and
  - classifying vehicle incidents and accidents.

##### DEFINITIONS

**Accident:** Any incident in which a WTA vehicle is involved (whether in motion, temporarily stopped, parked, or being unloaded or loaded) that results in personal injury and/or property damage, regardless of who was hurt, what property was damaged, or who was responsible (NSC Motor Fleet Safety Manual).

**Administrative Working Day:** Those days of the week, Monday through Friday, excluding designated holidays.

**Incident:** A classification for non-damage/non-injury vehicle collisions resulting in damage so minimal it can be rubbed out or washed off or items can be re-attached without replacement cost; non-collision events that could result in the filing of a verifiable claim for damages or personal injury.

Injury:

- A verbal statement of physical hurt or damage from the afflicted person or attending medical first aid provider.
- A visible physical hurt or damage which requires immediate treatment.
- A physical hurt or damage which requires the afflicted person to be transported to a medical provider or facility for treatment.
- A physical hurt or damage identified in a claim filed within two weeks of the occurrence.

Minor Accident: Non-injury vehicle collisions resulting in less than \$2500 damage.

Major Accident: Vehicle collisions or non-collision accidents resulting in injuries and/or \$2500 or more damage.

Preventable: An accident or incident in which the driver failed to do everything that reasonably could have been done to avoid the accident (National Safety Council).

## ACCOUNTABILITY PROCESS

### Classification

Each incident and accident will be reviewed to determine preventability (See definition of Preventable.)

### Procedure

Unless information regarding an injury comes forth later or is pending, incidents and accidents will be categorized as minor or major and as preventable or non-preventable within 30 administrative working days of the occurrence. The classification of minor or major will be made by the Supervisor of Safety and Training (designee) after consultation with the Fleet Maintenance Supervisor (designee) and the Director of Finance (designee).

The Director of Operations will decide on preventability or non-preventability of the accident. This determination will be based on the recommendation of the Supervisor of Safety & Training and on information from on-scene investigation, the employee's Operators Report, witness reports, law enforcement reports and consultation with the Fleet Maintenance Supervisor and investigating Supervisor(s).

Any employee may appeal the preventability determination to the WTA Accident Appeals Board (AAB). The appeal process and membership of the AAB may be found in Appendix A.

The AAB will follow standards established in the NSC Guide to Determine Motor Vehicle Accident Preventability.

## Consequences

An employee will be held accountable for any incident or accident he or she could have prevented. The consequences of having preventable incidents or accidents follow a system of progressive discipline. Levels of discipline are based on a rolling three-year period. If an employee operates WTA vehicles for three full years without a preventable incident or accident, discipline for the next successive incident or accident will typically begin at the classification's initial corrective level. See Appendix B.

## Appendix A Preventability Determination Appeal Procedure

Accidents & incidents will be judged for preventability as soon as possible after the initial investigation is complete. Employees will be informed quickly thereafter about the status of the event.

A chronological presentation of the process is as follows:

The Supervisor of Safety & Training (designee) will determine if the accident in fact has resulted in damage or injury. If not, the accident would be classified as an incident (see accident classification process).

The Accident/Incident determination information will be conveyed to the Director of Operations (designee) with an initial recommendation of "preventable" or "non-preventable."

The Director of Operations shall determine accidents to be preventable or non-preventable. The Director will notify the employee of this determination within five administrative working days of the decision. Any associated discipline or corrective action will then be applied.

An employee may request a review of the decision through the AAB,\* following this process: Within 10 administrative working days of the notification of preventability, the employee will state, in writing to the Director of Operations, why his or her accident does not meet the definition of a preventable accident, as described in this policy.

The Director of Operations will evaluate the appeal and, if it follows the steps outlined above, convene the AAB.

The AAB, after a review all available information, will recommend to the Director of Operations an affirmation or reversal of the original preventability determination. The Director of Operations will make a final ruling.

This final decision will be conveyed to the appellant as soon as practicable.

\*The Accident Appeals Board shall consist of:  
One member of the Fixed Route Operator work group;  
One Member of the Paratransit work group;  
One Member from Fleet and Facilities;  
One Trainer from the Safety/Training Department and  
The Safety/Training Supervisor.

The Appeals Board will be ad hoc, and members 1, 2 and 3 may consist of currently sitting elected members of the Safety Committee.

## Appendix B

### Consequences of Preventable Accidents and Incidents

If an employee is involved in a Preventable accident or incident, progressive discipline shall be applied as described below, up to and including termination. However, when in the judgment of the Whatcom Transportation Authority, the cause for discipline is serious enough, the WTA may determine the level of discipline without regard to the order indicated below.

#### INCIDENTS (in a rolling three-year period) \*

- First: Corrective Counseling with the employee's supervisor.
- Second: One-on-one corrective counseling with the Supervisor of Safety & Training. Remedial training to occur as indicated.
- Third: Verbal warning and remedial training.
- Fourth: Written warning and remedial training.
- Fifth: One-day suspension without pay and remedial training.
- Sixth: Termination.

#### MINOR ACCIDENTS (in a rolling three-year period)\*

- First: One-on-one corrective counseling with the Supervisor of Safety & Training. Remedial training as indicated.
- Second: Verbal warning and remedial training.
- Third: Written warning and remedial training.
- Fourth: One-day suspension without pay and remedial training.
- Fifth: Termination.

#### MAJOR ACCIDENTS (in a rolling three-year period)\*

- First: Verbal warning and remedial training.
- Second: Written warning and remedial training.
- Third: One-day suspension without pay and remedial training.

#### Fourth: Termination.

Incidents and accidents within any rolling three-year period will be considered in combination. The principles of progressive discipline apply; the discipline levied for any incident or accident will be one step higher than the highest form of discipline already reached.

#### Examples:

An employee has one minor accident on record and is involved in an incident. The discipline for the minor accident was a one-on-one corrective counseling with the Supervisor of Safety & Training. The discipline for the incident will be at the next level, a verbal warning and remedial training.

An employee has one major accident on record and is involved in a minor accident. The discipline for the major accident was a verbal warning, with remedial training as indicated. The discipline for the minor accident will be at the next level, a written warning and remedial training.

An employee has had two major accidents and is involved in an incident. The discipline for the second major accident was a written warning and remedial training. The discipline for the incident will be at the next level, a one-day suspension without pay and remedial training.

An employee has had five incidents and has a minor accident. The discipline for the fifth incident was a one-day suspension without pay and remedial training. The discipline for the minor accident will be at the next level, termination.

A rolling three year period begins on the date of the first Preventable accident or incident. This can be thought of as the Discipline Period. If the employee reaches the end of this established three-year period without another Preventable accident or incident, the incident-/accident-related discipline record is wiped clean. However, each Preventable accident or incident within the original three-year period establishes a new three-year period. Progressive discipline continues until a preventable incident- or accident-free three-year period is reached.