

# DRUG AND ALCOHOL ABUSE POLICY OF THE CLARENCE FIRE DISTRICT #1

## PREAMBLE

Contained herein, are the plans and procedures that govern the Clarence Fire District #1, herein after known as "the Fire District", for prohibited behavior as it relates to drug and alcohol abuse while engaging in any firematic activity; as well as while operating any fire district vehicle.

## I. SCOPE

This policy applies to all personnel of the Fire District. All personnel are bound by the general prohibitions of this policy and subsequent testing as described in the "occasions for testing" section.

## II. OBJECTIVE

The Fire District, whose principle place of business is at 10355 Main Street, Clarence, New York 14031, is formulating this drug and alcohol abuse policy in order to reduce and prevent injury and accidents to it's personnel. The Fire District recognizes that the use and abuse of controlled substances and alcohol poses a most serious problem in today's society and particularly in firematic related duties. Not only can this use and/or abuse of drugs and alcohol jeopardize the health, safety and well being of the individual user, but that of a fellow firefighter or the general public. This is especially true since many of the firefighters operate heavy rescue equipment and drive large apparatus under strenuous conditions. It is in regard to these risks to health and safety of firefighters that the Fire District is adopting this policy and procedure.

Provisions have been made to assist the firefighter with drug and alcohol related problems to find professional help through the firefighter assistance program (F.F.A.P.). Those who seek assistance through the F.F.A.P. will be treated confidentially in a sincere effort to preserve their dignity and privacy. The drug and alcohol program coordinators are the current Chairman of the Board of Fire Commissioners or the Board's designee, and the designated Fire Officers.

### DEFINITION OF TERMS:

**"Alcohol"**

The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

**"Alcohol Use"**

The consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

**"Breath Alcohol Technician (BAT)"**

An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

**"BAC"**

Breath alcohol concentration or blood alcohol concentration.

**"Custody and control form"**

A document used to properly label, identify, and secure the specimen throughout the collection, transport and testing process. (Also through storage if tested positive).

**"Collection Site"**

Location where urine specimen collections are performed to obtain the specimen in a "waterless" environment.

**"Confirmation Test"**

For alcohol testing means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substances testing means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.

**"Consortium"**

A unified group of member organizations that combine their efforts and resources to meet a common goal. (i.e. compliance to random testing, etc.)

**"Controlled substance"**

Any substance designated as controlled by local, state or federal law.

**"D.H.H.S."**

The Department of Health and Human Services, an arm of the federal government that oversees all health related matters and formulates policy-regulating health related programs.

**"Driver"**

Any person who operates a Fire District vehicle at any time.

**"Drug and alcohol program coordinator(s)"**

The person or persons appointed by the Board of Fire Commissioners to confidentially handle the details of the drug and alcohol abuse program.

**"Drug Test"**

A laboratory procedure that is used to detect the presence of a drug or its metabolite (breakdown product), which is confirmed by a second, different method, before reporting of a positive result. A custody and control form secures the specimen throughout the process. An M.R.O., Medical Review Officer interprets the results. This term is synonymous with "controlled substance test".

**"Evidential breath testing device (EBT)"**

A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Product's List of Evidential Breath Measurement Devices" (CPL)

**"Firefighter"**

A term used to include all personnel of the Fire District and to include all active members of the Fire District.

**"Firefighter Assistance Plan" (F.F.A.P.)**

A term referring to a program designed to confidentially assist a firefighter to get professional assistance with a drug or alcohol related problem. The Fire District will confidentially provide a list of professional resources to aid any of the personnel when it becomes apparent a chemical related problem is present. Utilization of the resources provided by this program will be the responsibility of the personnel and at the sole expense of the personnel.

**"Fire District"**

The entity responsible to render fire, rescue and general emergency services within the bounds of the Clarence Fire District #1. Personnel are responsible to their respective line officers and the Board of Fire Commissioners.

**"Fire District Vehicle"**

Any vehicle which is owned, leased, rented or otherwise provided by the Fire District.

**"GC/MS"**

Gas chromatography / Mass spectrometry. Highly advanced analytical methods a lab will utilize to detect the presence of a drug or its metabolite as a back up confirmation test before reporting a positive.

**"Insubordination"**

An act where an individual refuses to submit to the designated authorities or officers of this policy.

**"Laboratory"**

A testing facility certified by S.A.M.H.S.A. where the complete drug testing process is performed under rigid standards.

**"M.R.O."**

Medical Review Officer - A licensed physician knowledgeable in substance abuse disorders that interprets drug test results.

**"Negative"**

The result given to a drug test when the specimen does NOT contain a detectable amount of the drug or metabolite for which is being tested.

**"NHTSA"**

The National Highway Traffic Safety Administration - The agency, which approves the various methods and instruments used for alcohol testing.

**"Personnel"**

The term referring to all members of the Fire District #1 as well as applicants in the process of being admitted to membership of the Fire District.

**"Performing (In safety sensitive conduct)"**

Any period in which the firefighter is actually performing, has just performed, is ready to or immediately available to perform any firematic activity.

- "Pool"**  
The entire group of participants from which a random drug or alcohol test selection would take place.
- "Positive"**  
A lab positive is a drug test result that screened and confirmed positive. A verified positive is a lab positive, which has been reviewed and interpreted by the M.R.O. as an illegitimate drug use. An alcohol test has an action level of 0.02, and a positive test result is 0.04 or greater, confirmed by a second test for breath alcohol concentration.
- "Post Accident"**  
Non-suspicion based post accident testing mandated when, by determination of the fire chief or the drug and alcohol program coordinator(s), they are directly or indirectly involved in any accident involving a fire district vehicle.
- "Pre-employment"**  
Circumstance referring to the entry of new recruits or re-entry of personnel to the Fire District.
- "Reasonable Cause"**  
Testing based on the specific, unordinary behavior of the firefighter as directly observed by the fire chief, other trained line officers or drug and alcohol program coordinators. The determination to test will be based on the specific, articulable observations concerning appearance, behavior, speech or body odors of the firefighter.
- "Refusal to submit (to an alcohol or controlled substance test)"**  
When anyone (1) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement of the requirement for breath testing, (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing, or (3) engages in conduct that clearly obstructs the testing process.
- "Rehabilitation"**  
To restore to good standing or reputation by means of education, counseling or therapy.
- "Safety Sensitive Conduct"**  
Any conduct or actions performed by members except as those specifically sanctioned within the general prohibitions of this policy concerning drug or alcohol use and misuse.
- "SAMHSA"**  
The Substance Abuse and Mental Health Services Administration. A division of the federal government dealing with chemical dependency problems and laboratory quality assurance and certification.
- "Screen"**  
The first phase of drug or alcohol testing that leads to confirmation testing by the GC/MS methods for drugs and breath alcohol respectively.
- "Screening test (AKA initial test)"**  
In alcohol testing it means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system. In controlled substance testing it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.
- "Social time"**  
This shall be the period immediately following the completion of any and all "safety sensitive conduct". This will also include the time when personnel leave an emergency scene and go about their personal affairs, after response to an emergency scene, without returning to the Fire Hall or to any other Fire District related duty.
- "Substance Abuse Professional" (S.A.P.)**  
A licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.
- "Under the influence"**  
This term will refer to the status of a member who has a confirmed drug test result reported as positive from the laboratory, or a confirmed alcohol test result of 0.020 BAC or higher.
- "Verification"**  
The process by which an M.R.O. reviews and interprets drug test results via a medical interview.
- "Waterless"**  
Referring to a urine collection area where there is no accessible water, which is not colored with a bluing agent.

### III. DISTRICT GUIDELINES

#### A) OCCASIONS FOR DRUG AND ALCOHOL TESTING

The circumstances for drug and alcohol testing are to be as described here:

1. *New Recruits* – All applicants to the Fire District will be subject to a pre-employment drug test only. The new recruit shall be referred to, as "firefighter" while this will be called a pre-employment drug test.
2. *Reasonable Suspicion* – All firefighters will be subject to a reasonable cause drug and alcohol test when circumstance such as behavior, body odor, conduct or other actions lead the fire chief, designated chief officer in charge, or Board of Fire Commissioners to believe that the firefighter may be under the influence of drugs or alcohol while in a safety sensitive function.
3. *Post Accident*  
Any firefighter will be subject to a post accident drug and alcohol test when, by determination of the fire chief or the drug and alcohol program coordinator(s), they are directly or indirectly involved in any accident involving a fire district vehicle.

##### Special Post Accident Protocols

- a) In the case of an unconscious, but hospitalized firefighter, the Fire District will request that the hospital or medical facility obtains a sample from the firefighter.
- b) If a firefighter is conscious (firefighter can communicate and he/she is able to evidence consent firefighter able to sign custody control form to the drug test and is able to void normally without the aid of catheters) the specimen shall be collected.
- c) If a firefighter who is subject to post-accident testing is conscious, able to urinate normally (in the opinion of a medical professional), and refuses to be tested, that person shall be removed from safety sensitive function.

*Testing will be conducted as soon as possible by the Fire District appointed agent, within 32 hours for drug and up to 8 hours for alcohol, following an incident as noted above.*

NOTE: Treatment of an injury will not be delayed to conduct testing, but the firefighter will not delay the testing after treatment is rendered.

4. *Follow-up Testing*- Any firefighter returning to duty after having tested positive to drugs or alcohol will be subject to follow up drug and/or alcohol testing up to 60 months as a condition of re-entry to the Fire District as an active member. The testing will be organized by the Fire District with surprise notice and possibly at the expense of the firefighter.

#### B) POLICY STATEMENT - GENERAL PROHIBITIONS

##### DRUGS - PROHIBITED CONDUCT

The use, sale, transfer, possession or distribution of illegal drugs or other controlled substances on Fire District premises, in a Fire District vehicle, or in the course of any fire duty is strictly prohibited. No one who is under the influence of drugs or alcohol or other controlled substances will operate a Fire District vehicle. Violations of this mandate will constitute cause for disciplinary actions up to and including expulsion of personnel from the Fire District. Personnel suspected of being under the influence of drugs while in the course of any safety sensitive conduct may be subject to reasonable cause testing. Any personnel testing positive for drugs or alcohol may not perform any duty for the Fire District and should report to the drug program coordinators immediately upon notification of having tested positive.

Drugs, paraphernalia or other materials of suspicious nature found on Fire District premises or in a Fire District vehicle will be turned over to local law officials and the Fire District will cooperate with law officials concerning the investigation of such incidences.

##### ALCOHOL MISUSE / PROHIBITED CONDUCT

It is absolutely imperative that no firefighter uses any alcohol containing substance while involved in safety sensitive conduct. No one should respond to any emergency call for the Fire District when they have consumed alcohol. It is a violation of this policy to possess, transfer, sell or distribute any substance containing alcohol on Fire District premises or in a Fire District vehicle, or in the course of any safety sensitive conduct. No firefighter is to drive any Fire District vehicle while under the influence of alcohol. It is strictly prohibited for any firefighter to drive away from any scene where an alcohol test has determined that person to have a BAC of 0.02 or greater. Any violations of this mandate will constitute cause for disciplinary actions up to and including revocation of membership.

Alcohol consumption shall be permitted during social time in the "Day Room", "Banquet Hall", and "Pavilion" and events specifically sanctioned by The Fire District.

If a prescription drug is properly prescribed by a physician and DOES contain alcohol it must NEVER be used by or possessed by the Driver of a Fire District vehicle or used by ANY ON DUTY FIREFIGHTER OPERATING IN SAFETY SENSITIVE CONDUCT.

### PRESCRIPTION DRUGS

It is considered illegal drug use when prescription or over-the-counter medications are being used in an amount, for a purpose or by an individual for which they were not originally prescribed or designated or which were illegally obtained. Any firefighter operating in a safety sensitive conduct taking a prescription medication that may reasonably affect his/her performance of any duty is mandated to have the signed approval of their prescribing physician/practitioner. A special form is available for your physician to sign from the drug program coordinators.

## C) DRUG TESTING

### 1) LABORATORY ANALYSIS FOR DRUGS

Only a laboratory with specialized certification from Substance Abuse and Mental Health Services Administration (SAMHSA) will be utilized for drug testing to assure the highest quality standards in analysis. strict custody and control form procedure will secure the lab samples.

A urine specimen will be initially tested by the laboratory using the immunoassay technique. If a test is positive,

a second quantitative analytical procedure called Gas Chromatography/Mass Spectrometry (GC/MS) will be used. If a specimen tested using GC/MS is negative, the laboratory shall report the result as negative to the M.R.O.

Analysis of a split specimen shall be authorized only by the M.R.O. and utilizing the Gas Chromatography / Mass Spectrometry method. The mere presence of the drug or its metabolite shall be reason to re-confirm the original GC / MS positive result.

The five drugs for which the SAMHSA Lab will be testing are: Marijuana, cocaine, PCP, opiates, and amphetamines. Blind specimens will be sent to the lab for quality assurance checks. At least 80% of these samples will be negative for drugs.

### 2) THE COLLECTION PROCEDURE

When drug and/or alcohol testing is warranted, the site used for the collection may include physician's offices, on site facilities, or other locations where secure arrangements for collections have been made.

A collection site person will instruct and assist individuals one at a time at the collection site. The collection site person will receive and make an initial examination of the urine specimen provided. The specimen shall remain under the direct supervision of the collection site person and in the presence of the firefighter until secured for shipment. One of the following situations would permit a collection site person to observe collection of a specimen:

- a) The urine specimen falls outside the normal temperature range (90 degrees F to 100 degrees F).
- b) The collection site person observes an attempt to substitute or adulterate the sample.
- c) The firefighter is scheduled for a follow-up test.

In any case where a collection must be observed or collection is monitored, the collection site person will be a person of the same gender as the donor.

In each case a custody and control form procedure will be followed. These procedures are used to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. Every effort shall be made to limit the number of persons handling specimens. Each time a specimen is handled or transferred, each individual in the custody and control form shall be identified. The donor's name will not appear on the laboratory copy of the custody and control form.

A standard urine custody and control form will accompany the specimen to the laboratory. Copies of the form will be provided to the Medical Review Officer, the firefighter, the collection site, and the Fire District. The form will be a permanent record on which identifying data on the firefighter, on the specimen collection, and transfer process are retained. Urine samples will also be tested for specific gravity, pH, creatinine level or presence of adulterants as a quality assurance procedure.

A tamper-proof sealing system will be placed over the bottle and sides to protect against undetected opening. The bottle will be identified to the number appearing on the custody and control form form. Space will be provided to initial the bottle affirming its identity.

### 3) The Collection Protocol

- a) A "waterless environment" will be set up to secure the urine collection facility. Any source of water shall be turned off or secured with tamper tape. Any water present will be colored blue.
- b) The collection site person shall positively identify the firefighter selected for testing, through photo identification or identification by the firefighter's line officer. If the individual's identity cannot be established, the collection site person shall not proceed with the collection.
- c) If a firefighter fails to arrive at the assigned time, the collection site person shall contact the Fire District representative for further direction.
- d) The collection site person will ask the firefighter to remove outer garments and empty their pockets. The collection site person shall ensure that all personal belongings such as a purse or briefcase remains with the outer garments. The individual may retain his or her wallet.
- e) The firefighter shall be instructed to wash and dry his or her hands.
- f) After washing hands, the firefighter shall remain in the presence of the collection site person and shall not have access to any water fountain, soap dispenser, cleaning agent, or any other materials, which could be used to adulterate the specimen.
- g) The firefighter may provide their specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy. The collection site person shall provide the individual with a sealed specimen collection container.
- h) The collection site person shall note any unusual behavior or appearance on the urine custody and control form.
- i) If the firefighter is unable to provide at least 45 ml. of urine, the collection site person shall instruct the individual to drink not more than 24 ounces of fluids. If the firefighter is still unable to provide an adequate specimen within three hours from the first attempt, the insufficient specimen shall be discarded, testing discontinued, and the fire district notified. The MRO may be allowed to intervene to determine whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test.
- j) The collection site person notes the specimen temperature on the custody and control form within four minutes of collection. The acceptable range is 90 degrees F to 100 degrees F.
- k) The collection site person shall decant 30 ml of urine into the primary bottle and 15 ml. of urine into the split specimen bottle.
- l) The collection site person shall also inspect the specimen to determine its color and look for any signs of contaminants. Any unusual findings shall be noted on the custody and control form.
- m) All specimens suspected of being adulterated shall be forwarded to the laboratory for testing.
- n) Whenever there is reason to believe that a particular individual has altered or substituted the specimen, a second specimen shall be obtained as soon as possible under direct observation.
- o) The collection site person shall enter on the drug testing custody and control form all information identifying the specimen. The collection site person shall sign the drug testing custody and control form certifying that the collection was properly accomplished.
- p) The firefighter shall be asked to read and sign a statement on the drug testing custody and control form that the specimen collected from him/her is in fact that specimen he/she provided.
- q) If the specimen is not immediately picked up for shipment, the collection site person shall ensure that it is appropriately safeguarded during temporary storage until shipped to the lab.
- r) In the event that personnel refuse to cooperate with the drug test collection process in any way, the collection site person shall inform the drug program coordinator(s) and shall document the non-cooperation on the drug testing custody and control form. This may constitute a refusal to take a test and dealt with according to the "Insubordination" clause set forth in the policy.

#### 4) LABORATORY RESULT REPORTING AND SPECIMEN RETENTION

Reporting of all lab drug results will be directed to a licensed physician serving as a Medical Review Officer or MRO. When the lab reports a positive test to the MRO, an opportunity to discuss the results will be afforded to the firefighter. If the drug detected can be justified by a legitimate prescription with proper use, the MRO will designate the test as 'negative'. The MRO retains the right to make the final determinations in all cases involving the legitimacy of drug use. This process is to guard against discipline with appropriate drug usage. This is known as the MRO verification process. A verified positive drug test means a firefighter is not allowed to perform any duties for the Fire District. Re-analysis of the original split sample after a verified positive lab result must be paid for, by the firefighter making the request, in advance.

Confirmed positive split samples will be retained by the approved laboratory in secured, frozen storage at a temperature of -20 degrees C for at least sixty (60) days. If a written request for an extension to retain the sample is not received from the firefighter, a firefighter representative, or the Fire District within the sixty-day period, the laboratory may discard the sample.

The laboratory shall report all test results to the MRO as soon as possible. Specimens, which are confirmed positive, shall be reported specifically by drug.

#### 5) THE FUNCTIONS OF THE MRO ARE:

- a) Insure that a firefighter has been drug tested in full accordance with acceptable custody and control procedures.
- b) Conduct a medical interview with the individual firefighter tested.
- c) Review the individual's medical history and any relevant biomedical factors.
- d) Review and interpret all medical records made available by the firefighter tested to determine if a continued positive test resulted from legally prescribed medication. If it is determined to be the result of legally prescribed medication, being taken as prescribed, the MRO shall report the result as a negative.
- e) If any question arises regarding the validity of a positive test result, the MRO may require that the split specimen be analyzed at a different SAMHSA certified laboratory to determine the accuracy of the reported test results.
- f) Verify that the laboratory report and assessment are correct.
- g) Provide the firefighter an opportunity to discuss the test result with him/her before reporting any information to the Fire District.

\* The MRO shall contact the individual directly, on a confidential basis, to determine whether the firefighter wishes to discuss the test result.

\* If, after making all reasonable efforts and documenting them, the MRO is unable to reach the individual directly, the MRO shall contact the designated drug program coordinator of the Fire District who shall direct the individual to contact the MRO as soon as possible. If it becomes necessary to reach the individual through the designated drug program coordinator of the Fire District, to the maximum extent practicable, the requirement of the firefighter to contact the MRO will be held in strictest confidence.

\* The MRO may verify a test as positive without having communicated directly with the firefighter about the test results in the following circumstances:

- 1) The firefighter expressly declines the opportunity to discuss the test; or
  - 2) More than five days have passed since the date the firefighter was successfully directed by the drug program coordinator of the Fire District to contact the MRO. (Except if the firefighter presents to the MRO information documenting that serious illness, injury, or other circumstances unavoidably prevented the firefighter from timely contacting the MRO).
- h) If the MRO determines after appropriate review that there is no legitimate explanation of the confirmed positive test results other than the unauthorized use of a prohibited drug or the inappropriate use of a legal drug, the MRO shall report the confirmed positive result to the Fire District drug program coordinator.

The Medical Review Officer shall authorize a reconfirmation of the original sample if the firefighter makes a request for retesting within 72 Hours after being notified of a positive test by the MRO. The firefighter may specify retesting by another SAMHSA certified laboratory. *The firefighter will be required to pay the cost of shipment and reanalysis of the split sample, in advance.* The firefighter will be reimbursed for such expense if the result of the split specimen test is negative. The original laboratory must follow approved custody and control form procedures in transferring a portion of the sample to a second laboratory, if applicable. Removal from safety sensitive functions shall NOT be stayed during the analysis of the split specimen according to Fire District policy.

#### **D) ALCOHOL TESTING**

Alcohol testing will be done by saliva or breath in routine cases (blood alcohol in special post accident cases as explained in section IV). An evidential breath tester capable of determining alcohol concentration approved by the National Highway Traffic Safety Administration (NHTSA), or a saliva alcohol testing device approved by NHTSA shall be used.

- 1) An initial screening test will be administered by a trained technician. An STT (saliva testing technician) will administer a saliva test or a BAT (breath alcohol technician) will administer a breath alcohol test for alcohol concentration. If the screening test alcohol concentration is at or above 0.02, a BAT using a breath alcohol testing device will administer a confirmation test.
- 2) An alcohol test will be started by the initiation of a breath alcohol testing form. The form is not needed if a breath testing device is used that prints all the information onto a test form. Step one of the form will contain the firefighter name and ID, Fire District name and address with phone number. You will be asked for positive identification.
- 3) The firefighter will be informed of testing protocol.
- 4) The firefighter will sign Section 2 and date form. Refusal to sign and date the form in this step is a refusal to take the test.
- 5) The firefighter will be instructed in the procedure of providing a breath sample; a six second exhalation or until the device indicates an adequate sample is obtained will be required for breath testing.
- 6) If the result is an alcohol concentration less than 0.02, the steps are:
  - a) The BAT (Breath Alcohol Technician) will sign and date the form.
  - b) The firefighter will sign and date the form in Section 4.
  - c) Copy 2 of the form goes to the firefighter.
  - d) The Fire District gets Copy 1.
  - e) BAT keeps Copy 3.
  - f) Testing is complete.
  - g) If the firefighter refuses to sign and date Section 4 and initial the BAT's logbook, it is NOT considered a refusal but notation of the action is made in the remark section.
- 7) If the results are an alcohol concentration of 0.02 or greater, a second confirmatory test must be initiated.
- 8) A BAT must administer a breath alcohol test.
- 9) If another BAT is to conduct the confirmation test, the first alcohol testing form and logbook will be signed, dated, and initialed with copies distributed to each party as explained in Step F above. The next BAT will initiate a new form for the confirmatory test.
- 10) If the original BAT is to conduct the confirmation test, the same alcohol form may be used.
- 11) Confirmation test procedure is:
  - a) The test procedure is explained to the firefighter.
  - b) A 15-minute waiting procedure will be explained where the firefighter:
    - May not EAT or DRINK.
    - May not put any object or substance in their mouth.
    - May not, to the extent possible, belch during the waiting period before the confirmation test.



b) A 15-minute waiting procedure will be explained where: (con't)

- The BAT will inform the firefighter that the test will be administered at the end of the waiting period but before 30 minutes has elapsed. The test will be done even if the firefighter has not complied with the instructions.
- An air blank will be tested by the E.B.T. Unit and a reading of 0.000 will be obtained or another unit will be employed.
- The firefighter will provide a breath sample after a new mouthpiece has been put in place.
- The results will be attached to the breath alcohol form or directly initiated if all information is contained on the printout.
- If any discrepancies in test number or sequence take place it will be noted onto the form.
- The results of the confirmation test is deemed to be the final result upon which any actions will be based.
- Improper performance by the E.B.T. will invalidate the test and will be explained to the firefighter.

12) A refusal to take an alcohol test is when an firefighter refuses to:

- a) Sign and date Section 2 on the Breath Alcohol or E.B.T. test form.
- b) Provide breath or saliva
- c) Provide an adequate amount of breath or saliva
- d) Cooperate with the testing process so that the test is completed.

13) If a firefighter is unable or alleges that he/she is unable to provide an amount of breath sufficient to permit a valid breath test because of a medical condition, another attempt will be made with proper instructions. If the firefighter again fails to provide an adequate amount of breath, it will be noted in "Remarks" and the Fire District immediately notified. If it is determined that no medical condition exists preventing an adequate breath to perform the alcohol test, it will be considered a refusal to test.

#### E) INSUBORDINATION

Any firefighter refusing to: provide a urine, saliva, breath or blood sample, sign any relevant documentation, such as the custody and control form, the breath alcohol testing form, the S.A.P. or firefighter assistance release of information form, or release and consent forms shall be considered insubordinate and disciplined in accordance with the following actions. If a firefighter fails to present him or herself at the designated collection site at the appointed time and remain until testing is complete, cooperate with the MRO, collection site personnel, or engages in any conduct which creates a reason to believe any sample to be used for drug or alcohol testing has been altered or substitute, the firefighter will therefore be suspended pending action by the Board. An applicant found to be insubordinate shall be ineligible for membership at that time.

#### F) DISCIPLINE

The following actions will be taken in the event of a positive drug or alcohol test result;

Any new recruit that tests positive to a drug test shall not be considered for membership at that time.

Any firefighter that tests positive to a drug or alcohol test shall be suspended by the drug and alcohol program coordinator from all safety sensitive conduct. The Board of Fire Commissioners shall consider all relevant circumstances and dispense any discipline, up to any including revocation of membership. The individual shall be referred to a professional for help, as outlined in the section titled "Rehabilitation/Firefighter Assistance/Reinstatement" below.

Any firefighter that tests POSITIVE to a drug or alcohol test after having tested positive to a previous drug or alcohol test shall have their membership revoked.

#### G) DRUG EDUCATION AND AWARENESS

A drug and alcohol awareness campaign will be implemented in the Fire District. Designated line officers will receive 60 minutes of training on the effects and behavior manifestations of drugs and alcohol on individuals for proper actions in reasonable cause circumstances.

## H) REHABILITATION/FIREFIGHTER ASSISTANCE/REINSTATEMENT

### 1) REHABILITATION

In the event of a positive drug or alcohol test or due to repeat alcohol tests in the range of 0.02 % to 0.039 %, the drug program coordinator shall make an *ADMINISTRATIVE REFERRAL* to an accredited S.A.P. or to a clinical coordinator of the employee assistance contract group. The firefighter shall be suspended from safety sensitive conduct after referral to the SAP until restored by the SAP to firematic safety sensitive conduct.

All responsibility for participation in a rehabilitation program belongs with the firefighter. It is the responsibility of the firefighter to utilize his/her health benefits or personal resources to pay for these services. In an effort to assist the firefighter in seeking the professional help, the drug program coordinators, are available to confidentially handle this aspect for the Fire District. The Fire District's M.R.O. is available to recommend certified counseling services.

### 2) REINSTATEMENT

Once a firefighter has been suspended due to a drug or alcohol related incident, it will be required that the firefighter provides clearance from an accredited S.A.P. as well as a negative drug and/or alcohol test before being considered for re-entry to duty. The S.A.P. must provide a written release that he or she classifies the firefighter as safe to be reinstated into safety sensitive conduct. The Medical Review Officer is empowered to override an S.A.P. return-to-duty recommendation if any question arises as to the appropriate return to safety sensitive conduct. Reinstatement will be considered by The Board of Fire Commissioners after the above conditions are met to the satisfaction of the MRO.

A Firefighter who has self referred him or herself for treatment into the Firefighter Assistance Program may not perform any safety sensitive conduct until deemed ready to do so by the S.A.P. managing his or her case. This opinion must be provided in writing and to the satisfaction of the MRO. A return to duty as well as follow up testing may be appropriate if deemed so by the S.A.P. with the employee obligated to submit to the testing as recommended by the S.A.P.

## I) RECORD KEEPING AND RETENTION

The Fire District drug program coordinators will keep the testing program records and work with the testing agency to make certain all collections are performed with a custody and control form.

Information regarding an individual's drug and alcohol testing results or rehabilitation will be released only upon the written consent of the individual to ensure confidentiality.

## J) MRO EXAMINATIONS

It will be up to the discretion of the MRO to order a physical examination of the firefighter / applicant who tests positive on any drug or alcohol test. This is to determine the firefighter's fitness for duty to safely participate in firematic duties. Failure to cooperate on the part of the firefighter / applicant in question will be considered "insubordination" and dealt with in accordance to that procedure as outlined in this policy.

## K) PRIVACY

No results of drug or alcohol tests or participation in a rehabilitation program will be released to a third party without the written consent of the firefighter.

#### **I.) CONCLUSION**

The Fire District will strive to provide a safe and chemical-free on-duty environment. The Fire District's concern is to keep illegal drug use and alcohol misuse out of all firematic duty for the ultimate safety of all the firefighters as well as that of the general public.

The Fire District cannot condone the possession or use of controlled substances or alcohol abuse in firematic duty, while operating a Fire District vehicle, or on Fire District premises. It is also imperative that firefighters remain free of the influences of controlled substances and alcohol while participating in any safety sensitive conduct. This Fire District will not tolerate the health and safety risks associated with the misuse of drugs or alcohol.

#### **IV) REVISION**

This policy may be amended or terminated by the Board of Fire Commissioners at any time.

#### **V) EFFECTIVE DATE**

This policy is adopted effective September 13, 2004 by The Board of Fire Commissioners of The Clarence Fire District #1.

*After the firefighter signs the acknowledgement on attachment "A", file it in the personnel file.*

**DRAFT**

November 15, 2004

All Active Firefighters:

Prior to the November 3, 2004 Fire Company meeting, the Fire District distributed the recently approved Drug and Alcohol Policy. We asked that you read the policy and if you have no further questions, that you sign the acknowledgement form and return it to the District. If there are questions, the Commissioners will try to answer them at the December Fire Company meeting. And finally, if there are still outstanding questions, arrangements will be made to have them answered by John Haller of Occumed who assisted us in the development of the policy.

At the November 8, 2004 Fire District meeting, the Board of Fire Commissioners established a closing date for this process. All acknowledgement forms need to be returned to the District by February 1, 2005.

During the November 8<sup>th</sup> District meeting, President Heim conveyed to us that some firefighters had expressed concerns and may be reluctant to sign the acknowledgement form. We would like to try to further explain the reasons for the Board's decisions on this issue. In order to do that, it is worthwhile to give a brief description of the duties and obligations of the Board of Fire Commissioners.

A Fire District is a political subdivision of the State of New York, which is governed by a board of five publicly elected commissioners. The Board is responsible to the taxpayers of the District and to the State. The Board is responsible for providing whatever is needed to maintain fire protection within its boundaries, including the organization and orderly operation of fire companies. The Board is required to make prudent decisions with regard to any and all expenditures of taxpayer funds. The duties, responsibilities and obligations of Fire Commissioners are referenced in various laws of New York State including General Municipal Law, Town Law, Public Officers' Law, as well as others.

OK, so how does that relate to the Drug and Alcohol Policy? First, the "operation includes the safety and welfare of all District employees. By Town Law, active firefighters in a volunteer fire company within a Fire District are employees of the District. Secondly, prudent fiscal decisions. Included with this decision making is the protecting of District funds should there be any legal proceedings initiated against the District. By adopting this policy and requiring your acknowledgement of it, we, the Fire Commissioners, have met all of our legal requirements.

BUT, it is more than that! We have a moral obligation to do everything possible, within our powers, to maintain a safe work environment for all of you. Do we feel that there are any current problems? Absolutely not! In fact, it is our sincere hope that this policy need not ever be used. However, to proceed forward without proper protections being in place would be irresponsible on our part.

The duties you perform in the fire service are dangerous enough on their own. No one should have to worry about the condition of the person driving the apparatus to an emergency scene, or the person who is going into a burning building with you. In these and many other situations your safety, your life, depends upon it.

In conclusion, we assure you that no questions will go unanswered. We again ask you to sign the acknowledgement form and return it to the District as soon as possible. To remain on active status, the form needs to be returned by February 1, 2005.

This letter has been sent to all active firefighters. If you have already signed and returned the form, we thank you for your cooperation.

Thanks to all of you for the valuable service you provide to the citizens of the Fire District.

Sincerely,  
The Board of Fire Commissioners of Clarence Fire District No. 1

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Doug Garlapo

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John Pulli

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Dave Metzger

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Dave Bissonette

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Vic Miller