

# AGREEMENT

Between the

**HENRIETTA FIRE DISTRICT**

and the

**HENRIETTA PROFESSIONAL FIREFIGHTERS  
AND DISPATCHERS ASSOCIATION**

**IAFF LOCAL 3738**

**JANUARY 1, 2018 – DECEMBER 31, 2022**

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## **Article 1**

### **PREAMBLE**

This Agreement is entered into as of the first day of January, 2018, by and between The Henrietta Fire District, (hereinafter referred to as the "Employer"), and The Henrietta Professional Firefighters and Dispatchers Association, International Association of Fire Fighters - Local #3738, (hereinafter referred to as the "Association").

## **Article 2**

### **PURPOSES**

The purpose of this Agreement is to provide orderly collective bargaining relations between the Employer and Association, to establish fair wages, hours, safety and working conditions.

The Employer and the Association recognize the need to provide efficient service to the public and to maintain the quality of service. Further, both parties agree to the need for establishing and maintaining a sound labor-management relationship and mutually agree to continue working towards that goal. Each side has been afforded the opportunity to put forth all its proposals and to bargain in good faith and both parties agree that this Agreement expresses the results of their negotiations. Therefore, to ensure the stability of this Agreement, no new provisions or amendments shall be proposed during the term unless provided for elsewhere in the Agreement or such proposal is entertained by mutual agreement of the parties in writing.

## **Article 3**

### **RECOGNITION, DUES AND AGENCY SHOP**

The Employer recognizes the Association as the exclusive representative of "Employees" as defined below.

Whenever used in this Agreement, the term "Employees" shall mean all career Captains, Lieutenants, Firefighters and Dispatchers employed by the Employer. Excluded from the term "Employees" are all other employees, including the Assistant Chief, Chief, Secretary/Treasurer, Mechanic, temporary employees, office and clerical employees, managerial employees and confidential personnel.

The Employer will deduct from the pay of each Employee, every pay period, the regularly assessed Association membership dues, provided that at the time of such deductions

there is in the possession of the Employer, a voluntarily executed, unrevoked, written authorization for such deduction executed by such Employee. The Employer shall deduct only that amount of money which the Association has certified to the Employer, in writing, as the amount of dues and fees established by the Association and required of all employees as a condition of acquiring and obtaining membership in the Association. The Association shall give the Employer at least thirty (30) days notice of any change in the amount of uniform dues to be deducted.

The Employer further agrees to remit such deductions to the Association, and to forward an itemized statement of such deductions to the Association's designated treasurer.

The parties recognize that this is an Agency Shop. In accordance with applicable law, it is understood that each individual who is an "Employee" as herein defined, but is not a member of the Association, shall be liable to contribute to said Association as representative costs, an amount equivalent to Association dues as are from time to time authorized, levied and collected from the general membership of the Association. The Employer agrees to deduct an amount equal to the normal dues paid by Association members from the earnings of each said Employee who is not an Association member as their representative costs.

Names of the officers of the Association, including the name of the treasurer of the Association, will be given in writing to the chairman of the Employer's Board of Commissioners and to the chairman of the Employer's Personnel Committee within five (5) days after the Association's elections of officers, and such list will be kept current by the Association and any changes forwarded immediately, in writing, to the chairman of the Employer's Board of Commissioners and the chairman of the Employer's Personnel Committee.

The Association agrees to hold the Employer harmless from any and all liability which may arise through the implementation of this article.

The Employer shall not be liable in the operation of the Association fee deductions for any mistake or error of judgment or any other act of omission or commission and the Association shall agree to hold the Employer harmless against any claim whatsoever arising out of the deduction and transmittal of said Association fee.

#### **Article 4**

### **RIGHTS OF EMPLOYEES**

The Employer will not subject any Employee to discrimination, harassment or retaliation because of membership in, or lawful activity on behalf of, the Association, nor will the Employer attempt to dominate or interfere with the Association.

The Association and the Employer will not subject any Employee to discrimination, harassment or retaliation for lack of membership in the Association.

The Employer and the Association agree to refrain from any unlawful discrimination under federal and state laws, rules and regulations. In the event of a discrimination claim by any Employee, the grievance procedure contained herein may be utilized; however, arbitration shall not be available and such claim, if unresolved, may be submitted to the state or federal agency with jurisdiction.

## **Article 5**

### **UNION BUSINESS**

The Association President or his designee may receive a maximum of six (6) full shifts of paid leave, at the Employee's regular rate of pay, per calendar year to attend conventions or meetings of the Association, when attendance at such conventions or meetings conflicts with the Employee's regularly scheduled work shift. Such leave must be taken in full shift blocks and must be requested at least fourteen (14) days in advance. Requests for such leave must be submitted to the Chief, and such requests shall not be unreasonably denied. Unused leave shall be forfeited at the end of the calendar year.

## **Article 6**

### **GRIEVANCE PROCEDURE**

#### **Section 6.1 -- Definition of Grievance.**

For the purpose of this Agreement, a grievance shall be defined as a dispute or controversy arising out of the application of this Agreement, and "days" shall not include Saturday, Sunday or holidays, as defined in Article 16.

#### **Section 6.2 -- Procedures.**

A. In the event of a grievance as defined in Section 1 of this Article, the parties shall resolve the grievance in the following manner:

Step 1 - The grievance shall be presented in writing by the Association to the Fire Chief, or the District Secretary / Treasurer within five (5) business days of the act or omission giving rise to the grievance, or if not readily discoverable, within ten (10) business days of the date upon which the Employee affected by the situation, condition, or action to be grieved, should reasonably have become aware of such act or omission. Upon submission, the Fire Chief, or Secretary / Treasurer will stamp the document with the date of receipt and provide a copy of the stamped

document to the complainant. The Fire Chief shall respond to the Association within ten (10) business days. If the grievance is not presented as set forth in this step, the grievance shall be deemed waived.

Step 2 - If the grievance is not settled at Step 1, the grievance shall be presented in writing to the Employer's Personnel Committee within ten (10) business days after the Chief's response is given or is due, whichever is first. The Employer's Personnel Committee shall respond to the Association in writing within ten (10) business days after the grievance is received. If the grievance is not presented as set forth in this step, the grievance shall be deemed waived.

Step 3 - If the grievance is not settled at Step 2, the Association will present the grievance in writing to the Employer's Board of Fire Commissioners within ten (10) business days after the response at Step 2 is given or due, whichever is first. The Employer's Board of Fire Commissioners will discuss the grievance with the Association representative, if requested, and reply in writing within ten (10) business days after the grievance is received or discussions with the Association representative, whichever is later. If the grievance is not presented as set forth in this step, the grievance shall be deemed waived.

Step 4 - If a settlement is not reached at Step 3, either the Association or the Employer may, within ten (10) business days after the response at Step 3 is given or due, whichever is first, and upon written notice to the other, request arbitration. Such notice must be given to the Chairman of the Employer's Board of Fire Commissioners or the President of the Association. If arbitration is not requested as set forth in this step, it shall be deemed waived.

**B.** The time limits in this grievance procedure for Steps 1,2,3, and 4 may be extended by mutual agreement of the Association and the Employer.

**C.** Any grievance is required to be in writing, and shall contain a summary of the facts and where appropriate, include the name(s) or the Employee or Employees involved, the specific provision or provisions of the Agreement in dispute, and the remedy being sought.

### **Section 6.3 -- Arbitration Procedure.**

**A.** The arbitration proceedings for the grievance shall be conducted by an arbitrator to be selected by the Employer and the Association within seven (7) business days after notice requesting arbitration has been given. If the parties cannot mutually agree upon an arbitrator, they shall jointly request the Public Employee Relations Board to submit a list of names from which the arbitrator will be chosen, within ten (10) business days after receipt of the list, by each party alternately striking one (1) name from the list until one (1) name remains who shall be designated as the arbitrator. The right to strike the first name shall be determined by lot.

**B.** The decision of the arbitrator shall be final and binding on the parties, and the arbitrator shall be requested to issue his/her decision within thirty (30) business days after the conclusion of the testimony and argument.

**C.** The arbitrator shall have no power to amend, modify, nullify, ignore, add to, subtract from or delete any provision of this Agreement, and shall confine his/her decision and award solely to the interpretation and application of this Agreement. The arbitrator shall confine

himself or herself to the grievance submitted for arbitration and shall have no authority or power to determine any other cases not so submitted to him or her. No arbitrator shall decide more than one (1) grievance on the same hearing or series of hearings except by mutual agreement of the parties.

D. Expenses for the arbitrator's services and the proceedings shall be borne equally by the Employer and the Association. However, each party shall be responsible for the cost of preparing and presenting its own case, including compensating its own witnesses. If either party desires a transcript of the proceedings, it may cause the transcript to be made, providing it pays for the transcript and makes a copy available without charge to the arbitrator. Upon agreement of the Employer and the Association, the costs of preparing a transcript shall be equally shared, and both parties shall be entitled to a copy of such transcript.

## **Article 7**

### **DISCIPLINARY PROCEDURE**

The Employer shall have the right and responsibility to maintain efficiency, administer discipline and to hire, terminate, discharge or layoff Employees.

All disciplinary action shall be conducted in accordance with the procedures and requirements of the New York Civil Service Law, including Civil Service Law Section 75 where applicable. All new Employees shall serve a probationary period as required by the Civil Service Law and local civil service rules and regulations. In any proceeding under Civil Service Law Section 75, the Employer shall not appoint a Commissioner, Employee or member of the Henrietta Fire District to serve as a Hearing Officer.

## **Article 8**

### **TRAINING PROGRAM**

The Employer hereby agrees to establish a training program wherein Employees will receive on the job training. When possible all training will be scheduled evenly throughout the year. Employees are required to attend all training sessions scheduled by the Chief, Assistant Chief or the Municipal Training Officer (MTO), unless specifically excused by the Chief, Assistant Chief or MTO. Such training shall meet or exceed the requirements of the New York State Minimum Standards. When training is scheduled outside of the Employee's regular work schedule, those affected shall receive two (2) weeks' notice, where practical. No Employee shall lose any pay or benefits while attending training required by the Employer.

Employees may be reassigned from their regular scheduled dates and/or times for certain District required training which covers a forty (40) hour or more per week training program to which they are assigned by a specific Training Order with specific date(s) and/or time(s).

Employees may be reassigned from their regular scheduled shift times for certain training which covers less than forty (40) hours per week training program to which they are assigned by a specific Training Order with specific time(s). It is agreed and understood that in the case of a District required training program which covers less than forty (40) hours per week, the employee will not have their work days altered.

Employees may be reassigned from their regular scheduled dates and/or times for any employee requested training to which they are assigned by a specific Training Order with specific date(s) and/or time(s).

All required in-service training, except for specialized training, shall be conducted by a New York State Level I Fire Instructor or the New York State equivalent, or an instructor with higher certification. Specialized training shall be conducted by an individual qualified to provide such training.

If the Association Training Committee wishes to make suggestions to the MTO concerning the Training Program, including its planning and coordination, the committee must make those suggestions known to the MTO, in writing. The MTO will discuss these suggestions with the Association Training Committee.

The Employer shall offer reasonable training on all new equipment before such equipment is placed in service. All Employees shall demonstrate a proficiency in the use of new equipment.

The Employer will consider high heat and humidity when scheduling outside training activities. However, the Employer shall retain the right to schedule, in its sole discretion, outside training activities as it deems necessary.

Training in CPR will be provided, by the Employer, annually without lapse in certification. The District also agrees to participate in the New York State Department of Health EMT - Basic CME Based Recertification Program, or its equivalent, and provide all necessary training on an annual basis without lapse in certification. This program shall be administered in accordance with requirements and/or guidelines as set by the New York State Department of Health Bureau of EMS. All other EMS training will be the responsibility of the Employee and will be scheduled so as not to conflict with the Employee's work schedule, whenever possible. The Employer will agree to act as the sponsoring agency if required by the course rules and/or regulations.

Employees may attend special seminars, special training offered by qualified persons in fire fighting fields and/or attend classes at the New York State Academy at Montour Falls or any other location that hosts such training. Employees may request such training by submitting a written request to the MTO at least thirty (30) days in advance of such training whenever possible. Within fifteen (15) days of receiving such written request, the MTO will issue a written response to the Employee stating whether such training has initially been approved or denied and

if denied a reason for the denial. If the Employee does not receive such written response from the MTO, the Employee may submit his written request directly to the District Chief or his designee. At its discretion, the Employer may grant paid or unpaid leave for the Employee requested job-related training. The Employer shall have the final authority to determine who shall attend such training programs, how many Employees shall attend, when those Employees shall go, and which courses are deemed appropriate. If approved by the Employer, the Employer will pay fees associated with the course.

## **Article 9**

### **SCHOOLING**

Subject to the approval of the Employer as to the course, its costs and the times when the course meets, the Employer will pay for the costs of tuition, required books and fees, for Employees attending and successfully completing courses required for a degree in Fire Science, Fire Protection Technology, Public Administration or other courses or programs relevant to the fire service.

It is understood by the Employee that to be eligible for reimbursement under this article, requests must be submitted on the Henrietta Fire District's approved form, and course work must be completed through a state or nationally accredited institution. It is further understood that it is the responsibility of the Employee to ascertain the eligibility of the institution, from the District, prior to enrolling.

Total reimbursement, per employee, shall not exceed the cost of tuition for sixty (60) credit hours. Reimbursement costs are based on the cost of tuition for courses taken at Monroe Community College. Reimbursement is conditioned upon both the successful completion of the course with at least a "C" or equivalent grade, and the Employee's written agreement to repay the Employer for such reimbursement if the Employee voluntarily terminates his or her employment within two years of completion.

## **Article 10**

### **BULLETIN BOARD**

The Employer will furnish bulletin board space in the bunk rooms at all stations normally staffed by Employees for the posting of Association notices and related matters.

## Article 11

### WORKING SCHEDULE

#### Section 11.1

The established work shifts for Employees will be as follows:

#### **Day Shift / Light Duty Personnel**

Firefighters or officers assigned to work the day shift schedule will work a five shift tour. The hours to be worked for this shift are 0800 - 1600 hours, with weekends and contract holidays off.

#### **Recruit Firefighters**

Recruit firefighters will be assigned to work the recruit firefighter schedule while enrolled in the Recruit Firefighter Training Program required by the Henrietta Fire District. Recruit firefighters will be assigned to the day shift or the rotation shift at the discretion of the Fire Chief.

When recruit class is in session, the hours to be worked will be dictated by the class schedule, and /or instructor or course facilitator. This schedule includes weekend and evening evolutions or sessions.

Recruit firefighter status ends upon successful completion of all recruit firefighter training requirements.

#### **Rotation Firefighters / Officers / Dispatchers**

Firefighters, officers and dispatchers assigned to work the rotation schedule will work a twenty four hour shift rotation. Schedule to consist of one shift on, two shifts off, one shift on, four shifts off. This schedule shall be reevaluated after one year. Any changes must be mutually agreed to by both parties before implementation.

Start time for twenty four (24) hour shifts shall be 0700 hours.

#### **Staff Personnel / Flex Schedule**

Staff personnel are defined as firefighters, or officers whose primary responsibilities are non-line related. These functions include but are not limited to: Fire Safety, Fire Prevention, Training etc. In conjunction with Article 12, Section 12.2, employees assigned to Staff are still eligible to fulfill line functions, but when working staff schedule, do not count toward minimum staffing.

Employees assigned to work the staff schedule will be given the option of working a four day schedule or a five day schedule. This decision shall be approved by the Chief.

The four day schedule will consist of four days within a given week, with the total number of hours worked not to exceed forty hours.

The five day schedule will consist of five days within a given week, with the total

number of hours not to exceed forty hours.

When performing the duties of Staff Personnel make it necessary to work outside the regularly scheduled work hours, time off will be granted within the work week so the employee does not exceed forty hours within a given work week. This change in work schedule and subsequent time off will be approved by the Chief prior to the change. Any additional duties performed outside the scope of Staff Personnel will be subject to applicable overtime or benefits.

All individuals assigned to Staff must meet all required annual training requirements for their rank.

### **Section 11.1(a) -- Work Shift Deviation**

The Employer, in an emergency situation, may temporarily deviate from the above-referenced work shifts whenever it determines that a deviation is necessary to fulfill the Employer's mission to the public, upon notice to the Association. Notification may be made by use of e-mail, telephone, and/or paging system. The basic work shifts will be restored as soon as the emergency situation is deemed resolved. If the Employer determines that it is necessary to make a permanent change to the work shifts, it shall provide the Association with an opportunity to negotiate before the change is made.

### **Section 11.1(b) – Dress Down**

Dress down will be allowed after 2200 hours if no function is going on in quarters. Bunk time for Employees will be from 2300 hours to 0600 hours, or at the discretion of the shift officer.

### **Section 11.2 – Work Substitution**

An Employee may agree, solely at the option of such Employee and with the advance approval of the Employer, to substitute during scheduled work hours for another Employee who is employed in the same job title. Under such circumstances, all additional hours worked by the Employee as a substitute shall be excluded from the hours for which the employee is entitled to overtime compensation. Where one Employee substitutes for another, each Employee will be entitled to compensation as if he or she had worked his or her normal work schedule. Approval of such substitutions shall not be unreasonably withheld by the Employer; however, approval shall not be granted unless:

1. The request for approval must be in writing and signed by both individuals.
2. The date upon which the substitution will be returned is within 6 months of the original substitution.
3. The substitute shall be responsible for coverage of the shift.

Nothing in this paragraph shall be deemed to authorize permanent shift or rotation switches without the express consent of the Employer.

### **Section 11.3 – Cycle Time**

It is understood that all Firefighters, Lieutenants and Captains assigned to the rotation schedule, as defined in the article Working Schedule, work an average of forty two (42) hours per week. Additionally, it is understood that each employee's pay is based on a forty (40) hour work week. To compensate the employees assigned to work the rotation schedule for the additional work hours, those employees will be paid for the additional 4 hours, per pay period, at a rate of time and one half.

## **Article 12**

### **MINIMUM STAFFING**

#### **Section 12.1 Staffing Levels.**

For the period starting January 1, 2018 and ending June 30, 2018, the Employer agrees to maintain a minimum staffing of at least two (2) career officers, six (6) career Firefighters, and one (1) Public Safety Dispatcher on each shift as defined in article 11 and all apparatus that is normally staffed by Employees shall respond to an incident with no less than two (2) career Firefighters or officers.

Effective July 1, 2018, on each shift as defined in Article 11, the Employer agrees to maintain a minimum staffing of at least three (3) career line officers, six (6) career Firefighters, and one (1) Public Safety Dispatcher. For extended incidents or other events that render our on duty personnel unavailable to respond, a call back will be initiated.

All apparatus that is normally staffed by Employees shall respond to an incident with no less than one career line officer and two career firefighters.

#### **Section 12.2 Vacancy.**

In the event of a vacancy arising in the Captain position and a Captain is not available to cover the shift, the Chief or Assistant Chief may satisfy his/her obligations under this Article by assigning a Lieutenant to serve as an Acting Captain for the shift. In the event of a vacancy arising in the Lieutenant position and a Lieutenant is not available to cover the shift, the Chief or Assistant Chief may satisfy his/her obligations under this article by assigning a Captain to cover the shift. In the event a Captain is unable to cover the shift, the Chief or Assistant Chief may assign a Firefighter to serve as Acting Lieutenant. Under no circumstances shall a Firefighter serve as an Acting Captain.

Shifts will be limited to two (2) Acting Officers, and the civil service appointed officer for the shift will be assigned to station four for that shift. For all hours worked as an Acting Officer, the Employee will receive an additional hourly premium equal to the difference in pay between the officer's pay and the Employee's pay as defined in Article 38. No Employee shall be

assigned to serve as an Acting Officer unless he or she is qualified as outlined in District policy.

In the event of a vacancy arising in the Public Safety Dispatcher position and a Public Safety Dispatcher is not available to cover a shift; the Employer may satisfy its obligations under this Article by assigning a Firefighter to serve as a Public Safety Dispatcher for the shift. No Firefighter shall suffer any loss of pay for hours worked as a Public Safety Dispatcher.

Any shifts that require an employee to work in excess of 38 straight hours will require approval of the Chief or Assistant Chief.

**Filling open shifts** - If all resources have been exhausted, the Scheduling Officer shall retry to fill the open shift by paging and telephone.

**Mandatory Overtime** – In the event a sick call is received, the on duty officer will be responsible for filling the shift using acceptable means as outlined above. In the event the shift cannot be filled by the above means, the shift officer shall assign an individual to stay to fill the vacant shift. This mandatory assignment shall be based on seniority and the individual shall be selected from the group on duty at the time of the sick call. Employees will not be required to stay if the additional hours create a work shift that exceeds 38 consecutive hours. It is also understood that the mandatory assignment shall be done on a rank for rank basis.

In the event the assigned individual refuses to stay to fill the vacant shift, and has not arranged for adequate coverage, the Employee recognizes that he/she will forfeit step one of the Discipline Procedure and move directly to the Written Reprimand phase of the procedure.

## Article 13

### SENIORITY

Seniority shall be determined as follows:

- For Employees hired prior to January 1, 1991: Seniority is determined by continuous service with the Employer from the date of hire.
- For Employees hired after January 2, 1991: Seniority is determined by continuous service with the Employer from the date of civil service appointment.
- For Employees that transfer from a non-uniformed position to a uniformed position: Seniority is determined by continuous service with the Employer from the date of civil service appointment in the uniformed position.

Continuous service shall be interrupted by resignation, discharge, or retirement. Employees with the same civil service appointment date (or hire date) will be assigned seniority status based on their civil service test score. Effective January 1, 2007, in the event Employees appointed (or

hired) at the same time have the same test score, seniority shall be determined by the order of the appointments at the meeting of the Commissioners. The order of the appointments shall be determined by the rankings according to the candidate selection process.

## Article 14

### OVERTIME

For purposes of complying with the Fair Labor Standards Act, the work period for all Firefighters, Lieutenants and Captains shall be eight (8) days. A Firefighter, Lieutenant and/or Captain shall be paid overtime, as required by the Fair Labor Standards Act, for all hours worked in excess of sixty (60) in an eight (8) day period. A Dispatcher shall be entitled to overtime, as required by the Fair Labor Standards Act, for hours worked in excess of forty (40) per week.

An Employee shall be entitled to premium pay at one and one-half times such Employee's regular hourly rate of pay for hours worked outside of the Employee's normally scheduled work shift assignments. For purposes of premium pay as provided herein, the "regular hourly rate of pay" for a Firefighter, Lieutenant and Captain shall be calculated by dividing the Employee's annual salary by two thousand eighty (2,080). For purposes of premium pay as provided herein, the "regular hourly rate of pay" for a Dispatcher shall be the Employee's hourly rate as set forth in Article 38.

An Employee shall not be entitled to either overtime or premium pay for hours worked during a shift substitution as permitted by Article 11, and there shall be no pyramiding of overtime and premium pay.

Unless an Employee makes a written request to receive payment for overtime or premium pay hours, each Employee shall accrue compensatory time off in lieu of overtime and premium pay. Compensatory time off shall accrue at a rate of one and one-half hours for each hour of employment for which the Employee is entitled to either overtime or premium pay. No Employee may accrue more than four hundred eighty (480) hours of compensatory time off. A request for use of compensatory time shall be submitted to the Employer's Shift Officer and may be granted at the sole discretion of the Employer's Shift Officer based upon the Employer's operational needs. Such requests should be submitted with no less than forty-eight (48) hours notice, when practical. Notwithstanding this provision, an Employee in his first year of service may carryover no more than 480 hours to the following year and any accrued unused compensatory time will be paid out in the final paycheck in December of the Employee's second year of service.

**Emergency Call Back** - Any Employee called to duty at the station or the scene of a response on his or her scheduled day off, or called back to the workplace after having left for the day, will receive a minimum of two (2) hours of pay. Scheduled overtime (example: training) is not considered an emergency call back.

Whenever possible, non-emergency overtime shifts shall be filled at least one week in advance.

A rotating schedule for overtime and premium pay time shall be established by the

Employer and posted in the schedule book. An updated overtime list will be published in the schedule book every pay period. This updated list will include the number of overtime hours worked as well as any future overtime that has been scheduled for each employee. The total hours for each employee will reflect the sum of the overtime hours worked and the future hours scheduled. Whenever possible, the Employer shall award overtime in accordance with the total hours listed on the overtime list. At the beginning of each year, where a new overtime list is to be established, overtime shall be assigned according to the overtime list of the previous year.

If the Employer determines the overtime duties require an Employee with special skills or special training, the Employer may award the overtime to a qualified Employee without regard to the overtime list. For purposes of equalizing overtime, all Employees in the first year of employment shall be treated as having worked the average number of overtime hours available prior to each Firefighter's date of graduation from the fire academy. When the names of such first-year Employees appear on the overtime list they shall be treated as if they had worked the number of overtime hours as is the average of all Employees appearing on the list prior to the first pay period in which the new Employee's name appears.

#### **Article 15**

#### **PAY DAY AND PAYROLL DEPOSIT**

All Employees will be paid every two weeks, and pay day will occur on Thursday with Employees checks being available to them no later than twelve noon of said day at Station 4. The Employer will offer to each Employee the opportunity to have their pay directly deposited into the Employee's personal checking or savings account, at any mutually agreeable financial institution.

#### **Article 16**

#### **HOLIDAYS**

Employees, who as of the last pay period in December of each year of this Agreement have completed twelve (12) consecutive months or more of employment, shall be eligible for ten (10) holidays. Any Employee who as of the last pay period in December that has been employed less than twelve (12) months, shall be eligible to receive the holidays that fell during his or her period of employment. Holidays are as follows: New Years' Day, Presidents Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day.

Holiday pay shall be figured on a ten (10) hour work day. All holiday hours will be put into a holiday hour bank, for each Employee, as the holidays pass. The Employee will receive a check for the balance of their holiday bank at the last pay period in December.

Every Employee is expected to work all holidays that fall in his or her schedule, unless

prior approval for time off is obtained from the Employer. If prior approval is obtained for time off, the hours will come from the Employee's holiday bank. An Employee shall not be eligible to receive holiday pay for any holiday on which the Employee uses sick leave (unless the Employee provides a doctor's excuse), military leave, or long term sick leave (non-job related).

## **Article 17**

### **SICK LEAVE**

#### **Section 17.1 General Municipal Law Section 207-a.**

A Probationary Firefighter, Recruit Firefighter, Firefighter, Lieutenant or Captain shall continue to receive his or her regular salary, as required by General Municipal Law Section 207 - a, for absences from work due to an injury or illness incurred in the performance of his or her duties ("Section 207-a Benefits"). Nothing in this Agreement shall be deemed to alter or impair the rights and responsibilities of either the Employer or any Employee under General Municipal Law Section 207 -a.

An Employee who believes that he or she is eligible for Section 207-a benefits shall provide the Employer with written notice as set forth in Section 17.4, below.

If the Employer believes that a question exists regarding an Employee's eligibility or continued eligibility for Section 207-(a) benefits, the Employer shall provide the Employee and the Association with written notice that the Employer's Personnel Committee will review evidence, medical reports or other documentation relevant to the question of the Employee's eligibility for benefits. The written notice should be provided to the Employee and the Association as soon as possible after the Employer learns of the question regarding the Employee's eligibility. Before the Personnel Committee meets to consider the matter, the Employee and the Association shall have a minimum of fourteen (14) calendar days to submit any evidence, medical reports or other documentation relevant to the Employee's eligibility for Section 207-a Benefits. Either the Employee or the Association may request an extension of time to submit such information, and such request shall not be unreasonably denied. In addition, before the Personnel Committee meets to consider the matter, the Employer may require the Employee to be examined by a physician or physician(s) of the Employer's choice. Upon request, the Employee shall receive a copy of any report produced by all physicians who have examined the Employee on behalf of the Employer.

The Personnel Committee shall make a determination regarding the Employee's eligibility for Section 207-(a) benefits after considering the relevant evidence, medical reports or other documentation. A written statement of such determination shall be provided to the Employee and the Association no later than fourteen (14) calendar days after the date of the Personnel Committee meeting.

If the Personnel Committee denies an Employee's eligibility for Section 207-(a) benefits, the Employee may request a due process hearing regarding the question of eligibility. Any

request for such hearing must be provided to the Personnel Committee no later than fourteen (14) calendar days after the Employee receives the written determination. Within thirty (30) calendar days after receipt of the Employee's request, the Employer shall schedule the due process hearing.

Within seven (7) calendar days after receipt of the Employee's request, the Employer and the Association shall agree upon a Hearing Officer. The Hearing Officer shall conduct the due process hearing, hear evidence and make a recommendation to the Employer's Personnel Committee regarding the Employee's eligibility for Section 207-(a) benefits. Expenses for the Hearing Officer's services and the proceedings shall be borne equally by the Employer and the Association. However, each party shall be responsible for the cost of preparing and presenting its own case and evidence, including compensating its own witnesses. If either party desires a transcript of the proceedings, it may cause the transcript to be made, providing it pays for the transcript and makes a copy available without charge to the Hearing Officer. Upon agreement of the Employer and the Association, the costs of preparing a transcript shall be equally shared, and both parties shall be entitled to a copy of such transcript.

After conducting the hearing, the Hearing Officer shall issue a written recommendation to the Employer's Personnel Committee, and a copy of such recommendation shall be provided to the Employee and the Association. If the Personnel Committee decides to reject or modify the Hearing Officer's recommendation, then the Personnel Committee shall provide the Employee and the Association with written notice of such decision. The written notice must be provided within fourteen (14) calendar days after receiving the Hearing Officer's recommendation.

The determination of either the Hearing Officer or the Personnel Committee shall not be grievable under Article 6 of this Agreement. Any final determination under these procedures shall be subject to review only as provided in Article 78 of the Civil Practice Law and Rules.

Pending the determination of a question regarding an Employee's eligibility for Section 207a Benefits, any absence from duty shall be charged to the Employee's Sick Leave and Extended Disability Leave until exhausted. After exhausting available Sick Leave and Extended Disability Leave, the Employee may use accrued Vacation Leave. If the Employee is later determined to be eligible for Section 207-a benefits, the Employer shall restore all Sick Leave, Extended Disability Leave and Vacation Leave used pursuant to this provision.

### **Section 17.2 Sick Leave.**

Sick Leave may be used when an Employee suffers an injury or illness which prevents the Employee from working and the Employee is not entitled to compensation under Section 17.1, above. An employee that is using sick leave may not engage in recreational activities or other employment during the period of the sick leave. Each Employee with at least one year of continuous service will, at the start of each calendar year, receive one hundred forty-four (144) hours of Sick Leave.

New Employees are not eligible for Sick Leave for the first six (6) months of service. Between the first six (6) months of service and the first twelve (12) months of service the Employee will receive one hundred forty-four (144) hours of Sick Leave.

Employees who do not utilize their allotted sick leave shall be entitled to compensation for any unused sick leave according to the following conditions;

<b>Sick Leave Usage Per Calendar Year</b>	
<b>If An Employee Uses</b>	<b>Incentive To Be Paid</b>
0 – 48 hrs. of sick leave	\$800
49 – 120 hrs. of sick leave	\$400
121 or more hrs. of sick leave	\$0

Yearly sick leave incentive is to be paid out in the second pay period of the following January.

Employees that attempt to use sick leave for conditions covered by this section, and whose sick leave hours have been depleted, will have the appropriate number of hours deducted from another time bank at the discretion of the Secretary / Treasurer. Notification will be made to the employee regarding the deduction of hours and the affected time bank.

**Section 17.3 Extended Disability Leave.**

Extended Disability Leave may be used when an Employee suffers an injury or illness that requires an extended recuperation, such as surgery, illnesses or broken bones, and the Employee is not entitled to compensation under Section 17.1, above. This extended disability leave shall be used if an Employee suffers an injury or illness that requires sick leave totaling more than four (4) consecutive shifts.

At the end of each calendar year, unused Sick Leave shall be converted into Extended Disability Leave benefits. An Employee may accumulate a maximum of one thousand nine hundred eighty (1,980) hours of Extended Disability Leave.

The hours will be kept in an Extended Disability Leave bank for each Employee. Time is lost as used and may be re-accumulated. The District agrees to implement the provisions of 341j regarding the payout of unused sick time as service credit, as allowed by statute, at time of retirement for all members of the Police and Fire Retirement system (PFRS) and the provisions of 41(j) for those employees in the Employees Retirement System (ERS).

The maximum additional service credit shall be one hundred sixty-five (165) days. These days are based on twelve (12) hours.

#### **Section 17.4 Notification.**

An Employee who is unable to appear for his or her scheduled work shift due to personal injury or illness shall, as soon as possible but no later than two (2) hours before the start of the Employee's work shift, notify the Employer of the absence and the reasons therefore. The Employee shall personally contact the Shift Officer in Charge. If the Shift Officer in Charge is not available, the Employee shall personally notify the Dispatcher of the absence and reasons therefore.

An Employee who believes that his or her injury or illness was sustained in the performance of the Employee's duties shall submit an injury report to the on-duty officer immediately upon returning to the station or as soon as signs/symptoms occur. The on-duty officer will immediately contact the Safety Officer and he/she shall make notifications as necessary or instructed by the Chief or Assistant Chief. Such report shall be made on an insurance form provided by the District.

#### **Section 17.5 Doctor's Certificate & Light Duty.**

It is understood and agreed that each Employee who is on Sick Leave for more than two consecutive shifts, whether service or non-service related, or who is on Extended Disability Leave shall provide the Employer with a doctor's statement certifying the Employee's illness/injury and an expected return to work date. The Employer may request additional medical verification of the Employee's condition while on Sick Leave or Extended Disability Leave, as it deems appropriate. If the employee fails to provide the requested documentation within a reasonable time frame, the employee will have the appropriate number of hours deducted from a time bank determined by the District. Notification will be made to the employee regarding the deduction of hours and the affected time bank.

It is understood and agreed that any Employee who calls in sick the day immediately before his vacation leave is scheduled to begin or calls in sick the day after his vacation leave is scheduled to end must provide a doctor's note upon his return verifying his illness regardless of the number of days the Employee remains on Sick Leave.

If the Employer's Personnel Committee, acting in good faith, has reason to suspect that an Employee has abused sick leave, the Employer shall notify the Employee in writing. Thereafter, the Employer may require the Employee to provide a doctor's certificate for any use of Sick Leave or Extended Disability Leave.

It is further understood that if the Employee can be cleared by the Employer's physician to return to work on "Light Duty Status" the Employee must return to work. "Light Duty Status" shall be defined by the Employer's physician.

It is also understood that any compensation from State Disability or Workers' Compensation that is received by an Employee, while receiving compensation from the Employer, shall be reimbursed to the Employer.

## **Article 18**

### **VACATION**

Vacation allowance will be in accordance with the following provisions:

Any Employee working any shifts as defined in Article 11 shall be credited with the following vacation allowances:

Completion of one year of service:	48 Vacation Hours
Completion of two years of service:	96 Vacation Hours
Completion of five years of service:	144 Vacation Hours
Completion of ten years of service:	192 Vacation Hours
Completion of twenty years of service:	240 Vacation Hours

Vacation time can be taken in the following forms; Ten (10) hour day, fourteen (14) hour night or twenty four (24) hour full shift. It is understood that the day shift vacation interval will be from 07:00 -17:00 hours, the night shift vacation interval will be from 17:00 – 07:00 hours and the 24 hour full shift will be from 07:00 -07:00 the following day. All vacation requests must be submitted to the Scheduling Officer with a minimum of two (2) weeks' notice. Exceptions to this will be at the discretion of the Scheduling Officer.

If a conflict arises in scheduling that cannot be worked out between individuals involved, the Scheduling Officer will make the decision based on submission date. In the event employees submit requests on the same date, the Scheduling officer will make the decision based on seniority.

## **Article 19**

### **FUNERAL LEAVE**

In the event of a death in the Employee's immediate family, the Employee shall be allowed time off with pay for the days he or she has been scheduled to work, up to three (3) shifts. Immediate family shall mean spouse, child, parent or stepparent, brother or sister or stepbrother or stepsister, or stepchild, mother and father in-law, grandparents and spouse's grandparents. For any other family member or in-law, time off will be granted for the day of the funeral. Any other family member shall be defined as aunt, uncle, first cousins and brother in-law and sister in-laws. Additional time off may be granted with the approval of the Assistant Chief or Chief.

Within 30 days, the Employee shall provide a copy of the death notice from the newspaper or a statement from the funeral home confirming the death of the family member. This notice

must be submitted to the Assistant Chief or Chief.

If the service schedule is separate from the death notice, the service schedule must be submitted to the Assistant Chief or the Chief or the Scheduling Officer as soon as possible.

## **Article 20**

### **PERSONAL LEAVE**

Each Employee will receive twenty-four (24) hours per year of personal leave. When possible, personal leave should be scheduled forty-eight (48) hours prior to the leave.

Personal leave cannot be carried over to the following year. All unused personal leave will be paid at the last pay period in December.

## **Article 21**

### **HEALTH BENEFITS**

#### **Section 21.1 Health Insurance Benefits.**

All Employees shall be eligible to receive health insurance benefits through the Excellus Simply Blue 15/25 Plan or a plan / provider that have been mutually agreed to by both parties. All employees shall be eligible for dental insurance benefits. The dental insurance program will include an orthodontic option mutually agreed to by both parties, currently the Smile Saver I with the \$1500 orthodontic option. An Employee may receive individual, two-person, family or family with no spouse coverage, provided the Employee meets the qualifications established by the insurer.

#### **Section 21.2 Cost Sharing of Health Insurance Premiums.**

The District will pay 90% of the premium cost for health insurance and 100% of the premium cost for dental insurance under any Henrietta Fire District sponsored plan.

#### **Section 21.3 Payroll Deduction.**

An Employee's payment for health and dental insurance coverage shall be made via payroll deduction authorized by the Employee in writing.

#### **Section 21.4 Decline of Health Insurance Benefits.**

An Employee may decline health insurance coverage if he or she is covered under a

health insurance plan to which another individual subscribes. An Employee who declines health insurance coverage will receive a gross bonus, less taxes, in the first pay period of December of each full calendar year that he or she has declined coverage. Bonus payouts will be made according to the follow parameters;

- if 1-5 employees opt out -- \$3000
- if 6-9 employees opt out -- \$4000
- if 10-15 employees opt out -- \$5000
- if 15 or more employees opt out -- \$6000

### **Section 21.5 Health Insurance Benefits - Line of Duty Death.**

In the event of a line-of-duty death of any Employee, the Employer will provide and pay the cost, in full, of the same health and dental insurance coverage as provided to active employees (as it may change from time to time) for the spouse of the deceased Employee until the spouse dies or remarries, and the dependent children of the deceased Employee until such dependents marry or reach the maximum age set by the insurance company. Notwithstanding the foregoing, the Employer shall only be required to provide health and dental insurance coverage to such deceased Employee's spouse and/or dependent if such individual is not covered under another insurance plan.

### **Section 21.6 Health Insurance Benefits - Not in the Line of Duty Death.**

In the event of death of any Employee (not in the line-of-duty), the Employer shall allow the deceased Employee's spouse and/or dependents to purchase the health and dental insurance coverage provided to active employees (as it may change from time to time), at the group rate provided to the Employer until the spouse dies or remarries, and until the dependent children of the deceased Employee marry or reach the maximum age set by the insurance company. The Employer will continue payment of its portion of the Employee's health and dental insurance premiums for a period of ninety (90) days from the date of death, and thereafter the family may opt to continue the coverage at its own expense, or let it lapse.

### **Section 21.7 Health Insurance Benefits - Retirees.**

**(i) Eligibility for Retiree Health Insurance Benefit:** Employees with 20 years of continuous, full-time service with the District immediately prior to retirement and who retire and are drawing a pension under Retirement and Social Security Law or under the New York State Employees Retirement System (NYSERS) are eligible for retiree health insurance benefits, including dental, as described in this Section. If Retiree has health insurance coverage through a spouse's carrier, through an employer other than the District, or by any other means and loses such coverage, Retiree is then eligible for Retiree Health Insurance benefits through the District so long as he otherwise qualified for such benefits at time of retirement under this collective bargaining agreement.

- Retiree Health Insurance:** Eligible retirees may elect a single, two-person, or family plan as provided by the carrier.

- **Cost of Retiree Health Insurance Premium:** For employees that elect to retire from service with the Henrietta Fire District, the District will pay the health insurance premiums for an eligible Retiree until the Retiree is Medicare eligible. Costs for retiree health care premiums shall meet the following conditions;
  - For employees that elect to retire and have earned 20 – 24 years of service with the Henrietta Fire District, the District will pay 85% of the health care premium for which the retiree is enrolled.
  - For employees that elect to retire and have earned 25 or more years of service with the Henrietta Fire District, the District will pay 90% of the health care premium for which the retiree is enrolled.
  - For employees that elect to retire and were hired on or before December 31, 1991, and have earned 30 or more years of service with the Henrietta Fire District, the District will pay 100% of the health care premiums for which the retiree is enrolled.
  - When the retiree reaches the age where he/she is eligible for Medicare, the District will pay 100% of the premium for Supplemental Medicare Insurance (Medigap) coverage. This benefit applies to the single or two person plans only.
  - In the event one or more covered persons on the retired member's plan become eligible for Medicare, those persons will be switched to the Medicare and/or Medicare Supplemental insurance plan. The remaining covered persons shall continue to receive medical insurance benefits, at the same rate and contributory percentage as defined above, as long as they remain eligible for such coverage.
  - Upon the passing of a retiree, the surviving spouse will be eligible to continue coverage for up to six (6) months. Employee/employer contributions will remain the same. After six (6) months, the surviving spouse can elect to continue coverage with no financial contribution for the Fire District.
  - Retirees will be billed quarterly for their portion of the health care premiums. Failure to pay will result in cancellation of health care policy. Retiree must be given proper, advance notice of pending cancellation in an effort to make payment arrangements or provide adequate documentation as to why a premium payment may be delayed.
  - For retirees that elect to move to areas that are considered “out of area” and elect to obtain insurance from another source other than provided by the District, the District shall reimburse the retiree for health care coverage up to the cost of the current premium as offered to current employees. In such instances, the retiree is responsible to obtain their own health care coverage and pay the necessary premium to the carrier. The retiree must then submit a voucher and a copy of the carrier invoice showing health insurance premium paid to the Fire District for reimbursement to be processed.

## **Article 22**

### **DEATH BENEFITS**

The Employer will provide, throughout the length of this Agreement Term Life Insurance coverage, for each Employee, in the amount of \$175,000. The cost of said coverage shall be paid in full by the Employer.

The Employer will make available the family coverage to each Employee. The cost of the additional coverage shall be the responsibility of the Employee.

Upon an Employee's death, medical or disability separation from service, the Employer shall pay the Employee or Employee's beneficiary, or the estate, all wages and leave benefits owed to the Employee, for the year in which the separation occurs. This payment will be at the Employee's current pay rate and will be paid within thirty (30) days.

## **Article 23**

### **RETIREMENT PLAN**

#### **Firefighters/ Officers**

All Firefighters, Lieutenants and Captains shall be eligible for coverage under Retirement and Social Security Law 384-d according to the terms and condition of such plan. All Firefighters, Lieutenants and Captains hired prior to April 12, 2018 shall also be eligible for coverage under Retirement and Social Security Law 384-e, according to the terms and conditions of such plan. Those hired after April 12, 2018 will not be eligible for coverage under 384-e unless the District extends such coverage.

#### **Public Safety Dispatchers**

For Public Safety Dispatchers the retirement plans now in effect under the New York State Employees Retirement System (NYSERS) shall be continued.

Upon the request of either party, the Employer and the Union agree to reopen contract negotiations on any early retirement incentive plan offered after January 1, 2010 to Public Safety Dispatchers by the New York State Employees Retirement System. Such re-opener shall be limited to negotiation of the retirement incentive plan alone, and shall affect no other provision of the collective bargaining agreement.

#### **Retiring Planning Incentive**

Retirement planning incentive is offered as a one-time benefit. A \$3,000 bonus will be paid to the retiree when a minimum of 13 months' advanced notice is provided. A \$1,500 bonus will be paid when a minimum of 6 months' advanced notice is provided. Advanced retirement date that is given must be met to be eligible. The bonus is paid with the final payroll.

## **Article 24**

### **RULES AND REGULATIONS**

The Employer retains the sole discretion to adopt rules and regulations for the operation and administration of the Henrietta Fire District. The Employer further retains the sole discretion to amend, modify or delete such rules and regulations from time to time. Such rules and regulations shall not contravene the specific language of any article or section of this Agreement.

Before adoption of a new or revised rule or regulation that affects an Employee or group of Employees covered by this agreement, the Association President shall be provided with a copy of the proposed rule or regulation and shall be given a reasonable opportunity to comment upon the proposed new or revised rule or regulation. Such opportunity to comment, however, will not in any way impair the Employer's unilateral right to implement the new or revised rule or regulation. The Employer will, where practical, allow ten (10) days prior to enacting such changes.

## **Article 25**

### **UNIFORMS AND EQUIPMENT**

The Employer shall provide work uniforms for all Employees. Whenever possible, all Firefighter's uniforms shall meet the requirements of the NFPA Station Wear standard. The employer may deviate from the NFPA Station Wear standard if the alternative uniform is mutually agreeable to both parties. Uniforms should be issued upon start of employment, or as soon as possible after start date.

Firefighters will receive a complete issue of turnout gear. Such gear shall meet or exceed OSHA and NFPA Standards for Firefighter protective clothing and safety equipment.

While on duty, all Employees will wear the issued uniform as required. The Employee agrees to maintain and properly clean all issued equipment and uniforms.

Replacement for worn, damaged and permanently soiled equipment shall be made after inspection by the Shift Officer. Before replacement equipment is issued, the worn, damaged or permanently soiled equipment will be turned in to the Shift Officer.

Upon leaving the employ of the Employer, the Employee shall return all inventoried equipment issued to the Employee. It is agreed and understood that the Employee shall not be entitled to receive payment of any and all final compensation from the Employer until all inventoried equipment is returned to the Employer. It is further agreed that an annual inventory shall be done of all inventoried equipment.

## **Article 26**

### **JURY DUTY**

Employees shall be granted a leave of absence with pay, when they are required to report for jury duty or grand jury duty. An Employee must notify his immediate supervisor no later than his or her first scheduled shift following the receipt of notice of selection for jury duty or examination, and must provide proof of the necessity of such service. Otherwise employees are required to return to their regular work schedule the day after their jury service is concluded.

An Employee on jury duty shall receive his or her regular pay for the duration of the jury service. Any and all allowances made to the juror for his or her service, shall be forfeited to the Employer.

## **Article 27**

### **DEFERRED COMPENSATION**

The Employer agrees to sponsor and act as the administrator of a Deferred Compensation Plan. The plan shall meet the State and federal requirements for such and be agreed upon by the Association.

## **Article 28**

### **IRS SECTION 125 FLEX SPENDING PLAN**

The Employer agrees to sponsor and act as the administrator of an IRS Section 125 Flex Spending Plan. The plan shall meet State and federal requirements and shall otherwise be administered by the Employer, at its discretion.

## **Article 29**

### **RETIREMENT AGE**

It is understood and agreed that the mandatory retirement age for the Employees shall be subject to the applicable federal and state statutes.

## **Article 30**

### **NO WORK INTERRUPTION**

During the term of this Agreement there shall be no work stoppage or interruption or slowdown or any other concerted refusal to perform diligently the responsibilities of Firefighters or Employees of the Henrietta Fire District.

The Union recognizes that Employees of the Employer are "public employees", and the provisions of law applicable thereto, which prohibits strikes, failure to report for duty, the willful absence from one's position, the stoppage of work, or the abstinence in whole or in part from the full faithful and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in conditions or compensation or the rights privileges or obligations of employment.

## **Article 31**

### **RELATIONSHIP OF STATUTE TO AGREEMENT**

The Employer shall maintain all the powers and duties accorded to it under Town Law, as amended from time to time, and in the event of any conflict between said Town Law or any other statute and the provisions of this Agreement, then the statute shall prevail, except that with respect to matters having to do with the individual relationship of an Employee either individually or under the Association, to the Fire District, as the Employer, the provisions of this Agreement shall prevail. It is agreed that this Agreement may only be modified by a written amendment, voluntarily accepted by the parties to this Agreement, and executed by their representatives.

## **Article 32**

### **MANAGEMENT RIGHTS**

The Association recognizes that all of the functions, rights, powers, responsibilities and authority of the Employer with regard to the operation of its work and business and the direction of its work force which the Employer has not specifically abridged, deleted, delegated, granted or modified by this Agreement are and shall remain exclusively those of the Employer. Not by way of limitation of the foregoing, the Employer retains the sole right to decide the number and location of the operations to be conducted and rendered; the methods, processes and means to be utilized; the control of buildings, real estate, materials and equipment; to maintain order and efficiency; to discipline, suspend, discharge, hire, layoff, assign, transfer, promote and determine the qualifications of Employees; to determine the hours of work and to enforce rules and regulations for the conduct of Employees; provided, however, that the foregoing rights shall be subject to any limitations that are contained in any Article or section of this Agreement. In exercising these rights the Employer shall comply with all applicable laws.

### **Article 33**

#### **SECTION 204 NOTICE**

**IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION, BY AMENDMENT OF LAW, OR BY PROVIDING THE ADDITIONAL FUNDS THEREFORE, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.**

### **Article 34**

#### **CIVIL SERVICE LIST**

The Employer agrees to communicate with the Civil Service Commission throughout the period of this Agreement to schedule an examination for the ranks of Firefighters, Fire Lieutenants, Fire Captain, and Public Safety Dispatcher so that a list for each position will be available through the period of this Agreement. The Employer will make reasonable efforts to accommodate time off requests for employees taking promotional examinations and will ensure that an Employee taking a promotional examination does not incur loss of work time.

### **Article 35**

#### **PHYSICALS**

All Captains, Lieutenants, Firefighters and Public Safety Dispatchers shall receive an annual physical examination from an Employer designated health care facility at Employer expense in order to ensure that each such Employee is able to perform the duties of his or her position. All Captains, Lieutenants and Firefighters must meet the requirements for interior firefighters as set forth in NFPA 1582 2000 Standard. The Public Safety Dispatchers must meet the physical requirements for public safety dispatcher, as set forth by the Employer.

Any Employee not meeting the Employer's requirements at his or her annual examination shall have the opportunity to be reexamined as soon as scheduling allows, for the necessary requirements. If upon completion of a second examination the Employee does not meet the requirements, he or she will be referred to his or her personal physician for appropriate medical treatment/guidance in order to rectify the situation.

Except for an Employee eligible for benefits under Section 17.1, any Employee that does

not pass such annual physical examination and thereby not meeting the Employer's requirements for his or her position by reason of a disability shall be placed on authorized medical leave without pay for a maximum period of six (6) months. Said Employee shall be entitled to all accrued sick time, vacation time and/or long-term disability provided by the Employer. Upon the advice of his or her physician, an Employee may, at any time during the six-month period request to be reexamined in an attempt to pass the portion of the initial physical examination that was failed. If the Employee passes that examination, then he or she shall be placed back on active duty as soon as possible after the necessary documentation is received by the Employer.

At the end of the first six (6) month period of authorized medical leave as set forth hereinabove, any Employee that has not yet returned to active duty shall be given a second examination by the Employer designated health care facility. Employees that do not yet pass the physical examination shall be given additional unpaid authorized medical leave up to a maximum period of six (6) months. Any Employee qualifying for a second six (6) month period of time shall be given a third physical examination at the end of the second six (6) month period unless sooner requested by the Employee. Any Employee not passing this examination shall be terminated and his or her position filled by permanent appointment.

Any such Employee terminated as aforesaid, may, within one (1) year after the termination of such disability, make application to the Employer for a medical examination to be conducted by the designated health care facility. If, such individual passes and is determined to be physically able to perform the duties of his or her former position, he or she shall be reinstated to his or her former position, if vacant, or to a vacancy in a similar position or in a lower grade in the same field. If no such vacancy exists, or if the workload does not warrant the filling of such vacancy, the name of such individual shall be placed on a preferred list for a period of four (4) years. In the event such person is reinstated to a position in a grade lower than that of his or her former position, his or her name shall be placed on the preferred eligible list for his or her former position or any similar position.

While on authorized medical leave as defined herein, an Employee will continue to receive all health insurance, life insurance and retirement benefits allowed to all Employees of his or her position. An Employee on authorized medical leave shall not accrue any additional sick leave, vacation time and/or any other benefits provided for in this Agreement.

## **Article 36**

### **DRUG AND ALCOHOL TESTING**

The Employer agrees to accept, and adopt into the Standard Operating Guidelines, Appendix A titled "Henrietta Fire District Drug and Alcohol Testing Policy and Procedures", which is hereby incorporated by reference. The Employer further agrees that the Drug and Alcohol Testing Policy will remain unchanged throughout the term of this Agreement as defined in Article 41. Nothing contained in this Article shall prevent either the Association or an Employee from maintaining a grievance claiming that the Drug and Alcohol Testing Policy has been incorrectly or unfairly applied.

**Article 37  
PERSONNEL FILES**

An Employee may see his or her personnel and medical files, which are maintained by the Employer, upon written request to the Personnel Committee. If an Employee wishes to answer, add, or supplement any material found in his or her personnel file, the Employee may do so and his or her written statements shall become part of the personnel file. Requests for such viewing must be honored within fifteen (15) days of such request. All employees' personnel files must be purged of any counseling memos that are over 24 months old, as well as any written reprimands that are over 60 months old, providing a repeat offense or other act that would warrant an extension has not occurred.

An Employee may submit a written request for a copy of any and all material in the Employee's medical or personnel file, and upon request, the Employer shall provide such copy within fifteen (15) days.

**Article 38**

**SALARY**

**Section 38.1 Salaries and Wages.**

**Rotation Personnel.** All Firefighters, Lieutenants and Captains assigned to work the rotation schedule shall receive an annual salary according to the salary schedules set forth below. The salary set forth below compensates such Employees for all regularly scheduled working shifts up to a maximum of forty-eight (48) hours in an eight (8) day period. Such Employees shall also receive overtime and premium pay as provided in Article 14.

**Staff Personnel.** All Firefighters, Lieutenants and Captains assigned to work a staff / flex schedule outlined in Article 11 shall receive an annual salary according to the salary schedules set forth below. The salary set forth below compensates such Employees for all regularly scheduled working shifts up to a maximum of forty (40) hours in a four (4) or five (5) day period. Such Employees shall also receive overtime and premium pay as provided in Article 14.

<b>Firefighters</b>					
	<b>2018 (1%)</b>	<b>2019 (1.5%)</b>	<b>2020 (2%)</b>	<b>2021 (2.5%)</b>	<b>2022 (3%)</b>
<b>Length of Service</b>					
Start	48859	49592	50584	51849	53404
End of 12 months	55518	56351	57478	58915	60682

End of 24 months	62179	63112	64374	65983	67962
End of 36 months	68838	69871	71268	73050	75242
End of 48 months	75498	76630	78163	80117	82521

<b>Lieutenants</b>					
	<b>2018 (1%)</b>	<b>2019 (1.5%)</b>	<b>2020 (2%)</b>	<b>2021 (2.5%)</b>	<b>2022 (3%)</b>
<b>Length of Service</b>					
Start	80792	82004	83644	85735	88307
End of 12 months	86087	87378	89126	91354	94095
<b>Captains</b>					
	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>Length of Service</b>					
Start	93835	95243	97148	99577	102564
<b>Dispatchers</b>					
	<b>2018 (1%)</b>	<b>2019 (1.5%)</b>	<b>2020 (2%)</b>	<b>2021 (2.5%)</b>	<b>2022 (3%)</b>
<b>Length of Service</b>					
Start	20.06	20.36	20.77	21.29	21.93
End of 12 months	22.73	23.07	23.53	24.12	24.84
End of 24 months	24.89	25.26	25.77	26.41	27.20
End of 36 months	27.47	27.88	28.44	29.15	30.02
End of 48 months	30.14	30.59	31.20	31.98	32.94

**Section 38.2 Longevity.**

Longevity shall be based on the original date of employment and shall be paid in one lump sum in the first pay period following the Employee's anniversary date each year. Longevity shall be based on the following schedule:

5 to 9 years of service	\$650
10 to 14 years of service	\$1300
15 to 19 years of service	\$1950
20 to 24 years of service	\$2600
25 or more years of service	\$3250

**Section 38.3 Incentive.**

Educational incentive pay for Firefighters, Captains, Lieutenants and Dispatchers shall be paid the first pay period in June. EMT incentive pay for dispatchers shall be paid the first pay period in December. Incentive pay shall be paid in accordance with the following:

Incentive Pay					
	2018	2019	2020	2021	2022
<b>Associates Degree</b>	\$1250	\$1250	\$1250	\$1250	\$1250
<b>Bachelors Degree</b>	\$2000	\$2000	\$2000	\$2000	\$2000
<b>Masters Degree</b>	\$2750	\$2750	\$2750	\$2750	\$2750
<b>Dispatcher EMT</b>	\$1250	\$1250	\$1250	\$1250	\$1250
<b>CPSE-- CFO</b>	\$3000**	\$3000**	\$3000**	\$3000**	\$3000**
<b>NFA – EFO</b>	\$3000**	\$3000**	\$3000**	\$3000**	\$3000**
<b>NFA – MOP</b>	\$2000**	\$2000**	\$2000**	\$2000**	\$2000**
<b>CPSE</b>	\$2000**	\$2000**	\$2000**	\$2000**	\$2000**

\* -- Qualifying degrees are limited to Fire Science, Fire Protection Technology, Public Administration, Para-medicine or Emergency Management and must be approved and completed through a state or nationally accredited institution. Incentive pay applies to each degree however the annual incentive applies to the highest degree obtained.

\*\* -- These incentives are a one time payout and will be paid on the next full payroll period following presentation of official documentation of the certification to the Employer. If recertification is required, an additional \$1000 will be paid upon completion of recertification and presentation of official documentation.

These incentives shall start on the next full payroll period following the presentation of official documentation of the degree to the Employer.

## Article 39

### FIRE LABOR / MANAGEMENT COMMITTEE

The Employer and the Association recognize that cooperation between labor and management is indispensable to the accomplishment of sound and harmonious labor relations and agree to jointly maintain and support a Fire Labor-Management Committee.

The Committee shall consider and may recommend to the Employer's Board of Fire Commissioners changes in the working conditions of the Employees, including, but not limited to, training, health, and safety issues. The Committee will facilitate improved Labor-Management relationships by providing a forum for free discussion of mutual concerns and problems which may include discussion of the implementation of major new Employer programs or substantial modifications of existing Employer programs that will have significant impact on work schedules or duties. Matters subject to the grievance procedure contained in this Agreement shall be appropriate items for consideration by the Committee, but submission of a matter to the Committee shall not affect the right to grieve the matter. Similarly, submission of a matter to the Committee shall not affect or modify the rights of any party under this Agreement.

The Committee shall consist of six (6) members. The President of the Association or his designee shall serve on the committee. The President of the Association shall select two additional members to serve on the committee and may designate one alternate to serve in this member's absence. The Fire Chief and the Chairman of the Employer's Board of Fire Commissioners and one other District member shall serve on the committee. The Chairman of the Employer's Board of Fire Commissioners shall designate one alternate member to serve in this member's absence. Members shall serve for the term of this Agreement, provided, however, that the appointing party may remove members he or she has appointed at any time. The appointing party shall fill vacancies.

The Committee shall select a Chairman from among its members at each meeting. The Chairmanship of the Committee shall alternate between the members designated by the Employer and the members designated by the Association. The Committee shall meet a minimum of every three months. This schedule may be deviated from if mutually agreed to by both parties. Representatives of the Association on the Committee who are Employees shall not lose pay or benefits for meetings mutually scheduled during their duty times.

The Committee may, if it deems proper, suggest recommendations to the Employer's Fire Chief and/or Board of Fire Commissioners for their consideration and determination. The Committee shall act exclusively in an advisory capacity, and shall have no power to modify any term of this Agreement.

**Article 40**

**SAVINGS CLAUSE**

If any provision of this Agreement is found to be in contravention of any applicable law, such provision of this Agreement shall be invalid and superseded by the applicable law. All other provisions of this Agreement shall continue in full force and effect and shall not be impaired or affected by such invalidity.

**Article 41**

**TERM OF AGREEMENT**

The provisions of this Agreement shall become effective January 1, 2018, and shall continue in full force and effect until midnight, December 31, 2022, and unless written notice is given at least one hundred twenty (120) days but no more than one hundred fifty (150) days prior to September 20, 2021, by either party, requesting a change or termination of the same, this Agreement shall continue in effect from year to year until such notice is given at least one hundred twenty (120) days but not more than one hundred fifty (150) days prior to the twentieth day of September in any subsequent year.

**HENRIETTA FIRE DISTRICT**

By: \_\_\_\_\_  
Name: *[Signature]*  
Title: Commissioner CHAIRMAN  
Date: 11/9/18

**HENRIETTA PROFESSIONAL FIREFIGHTERS AND DISPATCHERS ASSOCIATION, IAFF LOCAL 3738**

By: \_\_\_\_\_  
Name: *[Signature]*  
Title: PRESIDENT  
Date: 1/9/18

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

## APPENDIX A

### DRUG AND ALCOHOL TESTING POLICY AND PROCEDURES

#### INTRODUCTION

The Henrietta Fire District (the "District") recognizes that drug and alcohol abuse by employees and/or members constitutes a threat to the public welfare and the safety of District personnel. The District has a responsibility to provide the highest quality service to its taxpayers and the responsibility to ensure the safety of District employees, members and the general public the District is committed to serve. Any impairment of an employee's or member's physical or mental condition as a result of substance abuse, may effect the District's ability in meeting these responsibilities.

It is the goal of this policy to eliminate illegal drug usage and alcohol abuse through education and rehabilitation of the effected personnel. The use, sale, transfer, possession, distribution or manufacture of alcohol, drugs or any controlled substances, drug paraphernalia or any combination thereof, or the misuse of prescription medication, in any premises of the District or work sites including but not limited to District or department-owned vehicles and any private vehicle parked on District premises or work sites by employees or members of the Henrietta Fire District is strictly prohibited.

An employee or member under the influence of alcohol and/or drugs should not report to work under any circumstances. Even an attempt to work will be interpreted to be in violation of this policy and will subject the employee or member to the provisions of the policy.

**A. Informing Employees, Members and Applicants for same about Drug and Alcohol Testing.** All employees, members and applicants for employment or membership shall be fully informed of the District's Drug and Alcohol Testing Policy. All employees and members of the District shall receive a copy of this policy with receipts to be signed indicating the policy has been received.

**B. Pre-employment Testing/Screening.** It is the policy of the District to require pre-employment drug and alcohol screening for persons applying for employment or membership with the Henrietta Fire District. All applicants for employment or membership with the Henrietta Fire District shall be required to submit to a drug/alcohol test and must sign a drug/alcohol test consent agreement. Failure to sign the consent and/or submit a sample for testing shall disqualify the candidate for consideration for employment or membership in the District. Positive test results shall also disqualify the candidate for consideration for employment or membership in the District. However, such candidate shall have the opportunity to reapply for employment or membership in the District upon proof of rehabilitation satisfactory to the District.

**C. Employee/Member Testing - Reasonable Suspicion Testing.** Employees

and/or members of the District shall not be subjected to random medical testing involving urine and blood analysis or other similar related tests for the purpose of discovering possible drug or alcohol abuse.

If, however, there is a reasonable suspicion to believe an employee's or member's work performance is impaired due to drug or alcohol use, the District will require the employee or member to undergo a medical test consistent with the conditions as set forth in this policy. This reasonable suspicion may be based upon the following:

- .An observable phenomena, such as direct observation of drug/alcohol use or the physical symptoms of being under the influence of drugs/alcohol; or
- .A pattern of abnormal conduct or erratic behavior; or
- .An arrest and conviction of a drug-related offense; or
- .Information provided by reliable and credible sources that have been independently corroborated.

Reasonable suspicion testing determinations will be made by the involved member's immediate supervisor along with the supervisor from the next higher level in the chain of command.

The supervisors shall be trained to detect the short and long term effects and symptoms of drug and alcohol use and be able to reasonably conclude that an employee or member may be adversely affected or impaired in their work performance due to substance abuse.

All requests for testing must be accompanied by a reasonable suspicion incident checklist and/or reasonable suspicion observation checklist. These forms shall be filled out completely and note all physical signs or symptoms and pertinent behaviors which lead to a reasonable suspicion that an employee or member has recently used, or is under the influence of a prohibited substance.

Examples of reasonable suspicion include, but are not limited to, the following:

- (a) Adequate documentation of unsatisfactory performance or on the job behavior.
- (b) Physical signs and symptoms consistent with substance use, both long and short term.

Examples of short-term indicators of possible substance abuse:

- . Poor physical coordination, slow reaction or slurred speech
- . The odor of marijuana smoke in the area
- . Hand tremors and unsteady walking
- . Dilated or constricted pupils

- . Disorientation, unusual restlessness
- . Combative behavior, loud arguing or fighting
- . The presence of drug paraphernalia
- . Observing the employee or member inject, smoke or inhale a prohibited substance

**D. Post Accident/Post Injury Testing.** Employees and/or members of the District will also be required to submit to medical testing involving urine and blood analysis, or other similar related tests for the purposes of discovering possible drug or alcohol abuse in the event that such employee or member is involved in any motor vehicle accident or any fire ground injury serious enough to require medical attention at a hospital, in which case such testing would include the person injured and any other employee or member directly involved in the accident or injury. Whenever possible, a sample for such testing will be submitted before the employee or member leaves the hospital.

**E. Technical Testing Issues/Sample Collection.** Testing will be conducted using scientifically sound techniques that ensure optimal accuracy, validity and reliability of test results. The collection and testing of the samples should be performed only by a laboratory and by a physician or health care professional qualified and authorized to administer and determine the meaning of any test results. Only testing in laboratory facilities which have been certified by the Substance Abuse and Mental Health Services Administration will be utilized for conducting urine or blood analysis. Collection of urine, blood or breath samples shall be conducted in a manner which provides the highest degree of security for the sample and freedom from adulteration. Recognized strict chain of custody procedures must be followed for all samples as set by SAMHSA. If it is determined by the MRO that the security of the sample is compromised, any positive test shall be invalid and may not be used for any purpose.

A split sample shall be reserved in all cases for an independent analysis in the event of a positive test result. All samples must be stored in a scientific acceptable preserved manner as established by SAMHSA. All positive confirmed samples and related paperwork must be retained by the laboratory for at least six (6) months or for the duration of any grievance disciplinary action or legal proceedings, whichever is longer. At the conclusion of the period, the paperwork and specimen shall be destroyed.

Tests shall be conducted in a manner to ensure that an employee's or member's legal drug use and/or diet does not effect the test results. In order to assist with this process, all employees and/or members shall list their medications on the consent form.

A licensed physician, knowledgeable about drug testing and drug use, will be utilized to function as the District's Medical Review Officer (MRO), and he/she will be the sole party responsible for the initial receipt, evaluation and interpretation of test results.

**F. Consent Forms.** Both the District and the testing facility require that all

employees and/or members give prior written consent for the collection of urine, blood and breath samples, their toxicological analysis, and the reporting of test results. The signed statement ensures that the employees and/or member understands the nature and purpose of the testing, and it serves to obtain the employee and/or members consent for testing to be performed and for the results and other relevant documentation to be released to the District's MRO for review.

**G. Failure to Comply with Testing Requirements.** Refusal on the employee's or member's part to sign a consent form, report for testing when assigned, or submit to specimen collection will be considered a positive test. Further, if it is proven that an employee has attempted to alter, substitute or in any way tamper with his/her specimen, he/she will be suspended for 30 calendar days without pay. This will also be considered a positive test.

**H. Drug Testing.** The laboratory shall test for only the substances and within the limits for the initial and confirmation test as provided within SAMHSA standards. The initial test shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The following initial cut off levels shall be used when screening specimen to determine whether they are negative for these five (5) drugs or classes of drugs:

Marijuana metabolites	50 ng/ml
Cocaine metabolites	300 ng/ml
Opiate metabolites	300 ng/ml
Phencyclidine	25 ng/ml
Amphetamines	1,000 ng/ml

If initial testing results are negative, testing shall be discontinued, all samples destroyed and records from the testing expunged from the employee's and/or member's file. Only specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS), techniques or a similarly reliable method at the following listed cutoff values.

Marijuana metabolites 1 Cocaine metabolites<sup>2</sup> Opiates:  
Morphine  
Codeine  
Phencyclidine Amphetamines: Amphetamine Methamphetamine<sup>3</sup>

15 ng/ml 150 ng/ml

300 ng/ml 300 ng/ml 25 ng/ml

500 ng/ml 500 ng/ml

If confirmatory testing results are negative all samples shall be destroyed and records of the testing expunged from the employee's or member's file with the District.

**1. Alcohol Testing.** A breathalyzer or similar test equipment which meets or exceeds that certified by the SAMHSA program for alcohol testing shall be used to screen for alcohol use and if positive shall be confirmed by a blood alcohol test performed by the laboratory. This screening test shall be performed by individuals who are certified breath alcohol technicians. An initial positive alcohol level shall be .04 grams per 210 L of breath. If initial testing results are negative, testing shall be discontinued, all samples destroyed and records of the testing expunged from the employee's or member's file with the District. If initial testing results are positive, the test shall be confirmed using a blood alcohol level. A positive blood alcohol level shall be .10 grams per 100 ml of blood. If confirmatory testing results are negative all samples shall be destroyed and records of the testing expunged from the employee's or member's file.

Delta - 9- tetrahydrocannabinol 1-9-carboxylic acid

Benzoylcegonine

Specimen must also contain amphetamine at a concentration of > 200 ng/ml - 29

**J. Laboratory Results.** The laboratory will advise only the employee or member and the Medical Review Officer of any positive results. The results of a positive drug or alcohol test will only be released to the District by the Medical Review Officer once he/she has completed his/her review and analysis of the laboratory's test. The District will be required to keep the results confidential and it shall not be released to the general public.

**K. Testing Program Costs.** The District shall pay for all costs involving drug and alcohol testing, as well as the expenses involved of the Medical Review Officer.

**L. Rehabilitation Program.** Any employee and/or member, who tests positive for drug or alcohol abuse should be medically evaluated, counseled and treated for rehabilitation as recommended by EAP counselor. Any employee/member who has previously tested positive and is later approved for return to work will be subject to periodic, unscheduled follow up testing for twenty- four (24) months following completion of the aftercare/rehabilitation program. The frequency and length of time established for follow up testing will be based upon the recommendations of the District's MRO and/or a recognized expert in the field of substance abuse rehabilitation. Such determinations will be based upon the degree of substance dependency, the substance of abuse and other factors.

Furthermore, employee/members who have participated in a self-referred, voluntary program of substance abuse rehabilitation - and voluntarily disclose such rehabilitation to the District's Personnel Committee, in writing - will be subject to periodic, unscheduled follow up testing for a specified period of time of twenty-four (24) months after returning to work. The follow up testing will be based upon the recommendations of the District's MRO and/or a recognized expert in the field of substance abuse rehabilitation. Such determinations will be based upon the degree of substance dependency, the substance of abuse and other factors.

For policy administration purposes, the term "self-referred voluntary rehabilitation" applies only to those rehabilitation efforts that are initiated by the employee or member and they take place prior to any request for testing or the District's knowledge of any violation of this policy.

Any treatment in self-referred voluntary rehabilitation shall be paid for by the employee's or member's insurance program. Any costs over and above the insurance coverage of such an employee shall be paid for by the District for initial treatment and rehabilitation. Employees will be allowed to use their accrued and earned leave for the necessary time off involved in the rehabilitation program.

Any other employee in rehabilitation or subject to follow-up testing shall be responsible for the costs of such rehabilitation and testing.

**M. Re-entry.** In order for an employee or member to return to his/her regular duty assignment, such individual must provide proof of the following:

- .evidence of passing a drug/alcohol test;
- .a release to work/active duty statement from the district MRO and the release to work or active duty statement from an approved treatment specialist if applicable;
- .proof of completion of the course of treatment prescribed.

**N. Disciplinary Action.** Violations of this Substance Abuse Policy will result in disciplinary action which may include suspension, expulsion or termination from the Henrietta Fire District as follows:

<b>POSITIVE DRUG OR ALCOHOL TEST</b>		
<b>Categories</b>	<b>First Offense</b>	<b>Second Offense</b>
1. Positive test	Rehabilitation as set forth herein	Termination
2. Refusal to test	Considered a positive test resulting in up to eighty (80) hour suspension without pay	Termination
3. Sample alteration	Considered a positive test; all parties involved - thirty (30) day suspension without pay	Termination
4. Voluntary request for assistance	No disciplinary action	Termination
5. Possession of illegal drugs while on duty	Subject to testing and criminal investigation by the proper authorities and disciplinary action	Termination
6. Possession of alcohol while on duty	Subject to testing and disciplinary action	Termination

**O. Right of Appeal.** The employee or member has the right to challenge the results of the drug or alcohol test and in the case of positive test results, have same sample tested by a State approved laboratory of his/her choice at his/her expense within three (3) days of notification of the initial positive test result.

**P. Responsibilities.**

**1. Employees/Members:** District employees and members are responsible for adhering to all of the rules established in this policy, including notifying the District of the required use of potentially impairing prescription drugs.

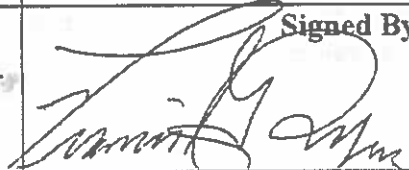
**2. Officers:** District Officers, at all levels, will be held strictly accountable for fair and consistent enforcement of the substance abuse policy. Further, supervisory and management staff must apply all policy provisions in an unbiased, impartial and nondiscriminatory manner. Any officer who knowingly fails to enforce the requirements of this policy, or intentionally misuses this policy in regard to subordinates will be subject to disciplinary action.

**3. Medical Review Officer:** The Medical Review Officer is responsible for receiving, evaluating and interpreting all drug and alcohol test results from the laboratory. He/she assesses the reasonableness of reported positive test results; reviews medical history; discusses positive results with the tested individual; assesses/verifies whether a legitimate medical explanation exist and determines whether a positive test could have resulted from legally prescribed medication, or other factors.

**Q. Unique Circumstances.** The District or its Personnel Committee may, in its sole discretion, expressly approve the possession of alcoholic beverages and/or the consumption of alcoholic beverages at certain District-sponsored activities.



# Henrietta Fire District Operation Guidelines

<b>Rescinds Guideline</b>	<b>Date of Issue</b> <i>6/8/99</i>	<b>Effective Date</b> <i>6/8/99</i>	<b>Guideline Number</b>  <b>D-016</b>
<b>Subjects</b>  Career Personnel	<b>Distribution</b>  Career Personnel		<b>Amends</b>
<b>Guideline Title</b> <b>Progressive Discipline for Career Staff Members</b>	<b>Signed By</b> 		<b># of Pages</b>  <b>5</b>

**Purpose:**

The purpose of this guideline is to establish a process to provide positive solutions for situations involving incompetence or misconduct. Also to outline guidelines for discipline in the event a positive solution can not be reached through progressive discipline of the Career Staff members of the Henrietta Fire District.

All reports of situations involving incompetence or misconduct will be acted upon. Career Officers will define violations to be minor or severe in nature. All Disciplinary procedures with the member will be held in private, but the employee is entitled by contract to have a recognized or certified employee organization representative<sup>1</sup> on hand during the proceeding.

Disciplinary proceedings involving civil service employees of the Henrietta Fire District are governed by Section 75, 76 and 77 of the Civil Service Laws<sup>2</sup> and/or the negotiated agreements between the bargaining union and the public employer.

**Discipline:**

As per the agreement between the Henrietta Fire District and the Henrietta Professional Firefighters and Dispatchers Association, the Henrietta Fire District shall have the right and responsibility to maintain efficiency, administer discipline and to hire, terminate, discharge or layoff Career Staff for just cause and to review the performance of each employee.

**Civil Service Employees:**

Persons holding a position by permanent appointment in the competitive class of the classified civil service, or a person holding a position by permanent appointment or employment in the classified civil service in a fire district who is

an honorably discharged member of the armed forces of the United States having served as such member in time of war, or who is an exempt volunteer firefighter, or is an employee holding a position in the non-competitive class and has completed at least five years of continuous service in such non-competitive class, shall not be removed or otherwise subjected to any disciplinary penalty except for incompetency or misconduct shown after a hearing upon stated charges.

**Offenses subject to Disciplinary Action:**

Incompetency - Lacking requisite knowledge, skills and ability for specified task.  
Misconduct - Violation of rules, regulations and/or policies of the Henrietta Fire District; being convicted of a crime; engaging in conduct which poses a serious safety risk and/or danger to the individual or District, and/or undermines the ability of the District to function effectively.

**Verbal Reprimand:**

This type of reprimand shall be utilized for violations minor in nature. A Career Officer will discuss a given situation with the employee. A memo<sup>3</sup> will be written to document the verbal reprimand. This memo will be placed in the employee's personnel folder. This memo will stay in the employee's file forever, however, cannot be referred to after six (6) months except to establish a pattern.

**Written Reprimand:**

This type of reprimand shall be utilized for continuous minor violations or serious violations. The Career Captain and the Commissioner from the Personnel committee shall have a formal session with the employee. A written reprimand form<sup>4</sup> will be completed. The employee will sign the written reprimand. If in the event the employee refuses to sign the written reprimand, the Career Captain and the Commissioner will note this on the written reprimand. This reprimand will be placed in the employee's personnel folder. This memo will stay in the employee's file forever, however, cannot be referred to after one (1) year except to establish a pattern. The employee shall have the right to insert a written response to the written reprimand.

**Preparation of Charges:**

The principal purpose of the charges is to apprise the employee of the specific offense or offenses of which he/she is accused and which the Board of Fire Commissioners intend to prove. It is essential, therefore, that each act or omission constituting the charge or charges be identified and particularized sufficiently so that the employee can know with reasonable specificity what he/she is accused of and be able to answer and prepare his/her defense.

The notice and statement of charges are set forth in a letter<sup>5</sup> from the Board of Fire Commissioners addressed to the employee.

A charge is a general accusation (e.g., misconduct evidenced by failure to exercise reasonable care in use of equipment, striking an individual, and etc.). It is stated in general terms only and, of itself, need not identify any particular act or omission.

Each charge should be followed by one or more specifications. These are statements setting forth in detail the specific acts or omissions of which the employee is accused. The specification must identify the alleged acts or omissions with particularity, stating, so far as possible, dates, times, places, name of persons involved; listing pertinent memoranda, correspondence or other documents; identifying materials or equipment which may be involved; and referring to any previous warnings given to the employee.

He/she must be furnished a copy of the charges referred against him/her and shall be allowed at least eight (8) days for answering such charges in writing.

### **Suspension:**

The Board of Fire Commissioners will decide and execute all suspensions and penalties. Pending the hearing and the determination of the charges of incompetency or misconduct, the officer or employee against whom such charges have been referred may be suspended without pay for a period not exceeding thirty (30) days. The Chief will be notified, in writing, within forty eight (48) hours.

### **Statute of Limitations:**

No removal or disciplinary proceeding shall be commenced more than eighteen (18) months after the occurrence of the alleged incompetency or misconduct. Such limitation shall not apply where the incompetency or misconduct complained of and described in the charges would, if proved in a court of appropriate jurisdiction constitute a crime.

### **Hearing:**

Hearings upon such charges shall be held by a person appointed by the Board of Fire Commissioners to act as a hearing officer. If a hearing officer is appointed, such appointment must be in writing.<sup>6</sup> In case a person is so designated, he/she shall, for the purpose of such hearing, be vested with all of the powers of the Board of Fire Commissioners. It is recommended that a hearing officer always be appointed. While the Board of Fire Commissioners can legally hear the case, it is recommended that the Board of Fire Commissioners not act as the judge, jury and prosecutor. Upon the request of the person charged, the hearing officer shall permit such person to be represented by counsel at the hearing and at all proceedings connected with the hearing or to be represented by a representative of a recognized or certified employee organization. The person charged shall also be permitted to subpoena<sup>7</sup> witnesses on his/her behalf. The burden of proving incompetence or misconduct shall be upon the person alleging the same. Further, technical rules of evidence need not be followed. The hearing officer shall appoint

or employ a stenographer in order to take the full testimony at the hearing. The hearing officer shall make a record<sup>8</sup> of such hearing which he/she will then send to the Board of Fire Commissioners together with his/her recommendations.

#### **Determination:**

The Board of Fire Commissioners, after reviewing the findings and recommendations, and after reading the transcript of the hearing, provided to them by the hearing officer, shall decide the final outcome. The Board of Fire Commissioners shall prepare a notice of determination<sup>9</sup> and shall furnish a copy of said document to the accused.

An appropriate notice of the disciplinary penalty must be given to the civil service commission or personnel officer. Notice is given on "Personnel Transactions Form" which is also used in the case of a penalty of suspension, and subsequently, at the expiration of the suspension period, notice of reinstatement.

#### **Reinstatement if found Not Guilty:**

An employee found not guilty on all charges and specifications is entitled to be reinstated forthwith to his/her position and to receive back pay for the period of the suspension.

#### **Penalties:**

An employee found guilty of any of the specifications is not entitled to back pay for the period of suspension, even though he/she is not removed from his/her position. Upon a finding of guilt on one or more specifications, the penalty or punishment may consist of:

1. Reprimand
2. Fine not exceeding \$100. to be deducted from the salary of the employee
3. Anytime the person charged has already been suspended
4. Suspension without pay for a period not exceeding two (2) months
5. Reassignment
6. Demotion in grade and title
7. Dismissal

#### **Appeals:**

If the accused is found guilty, he may appeal such determination either to the appropriate Civil Service Commission or to the courts. If he appeals to the Civil Service Commission, such appeal must be taken within twenty (20) days. If he chooses an Article 78 proceeding in the court, the appeal must be taken within four (4) months.

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<sup>1</sup> The IAFF, HPPFDA or the NYSPFFA (New York State Professional Fire Fighters Association)  
Footnotes:

All examples of appropriate documents can be found in the "Manual of Appointing Officers" published by the Monroe County Civil Service Commission. Copies of this publication are on hand in the office of the Secretary/Treasurer of the Fire District and in the office of the Career Captain of the Fire District.

<sup>2</sup> Civil Service Law, Sections 75, 75-a, 75-b, 76, 77 - Appendix I Manual of Procedure in Disciplinary Actions; Appendix Sheet I through VI

<sup>3</sup> Verbal Reprimand Memorandum - Appendix I Manual of Procedure in Disciplinary Actions; Appendix Sheet VII

<sup>4</sup> Written Reprimand Memorandum - Appendix I Manual of Procedure in Disciplinary Actions; Appendix Sheet VII  
(add place for employee signature)

<sup>5</sup> Notice of Statement of Charges - Appendix I Manual of Procedure in Disciplinary Actions; Appendix Sheets VII and IX

<sup>6</sup> Designation of Hearing Officer - Appendix I Manual of Procedure in Disciplinary Actions; Appendix X

<sup>7</sup> Subpoenas - Appendix I Manual of Procedure in Disciplinary Actions; Appendix Sheets XI and XII

<sup>8</sup> Report and Recommendation of Hearing Officer - Appendix I Manual of Procedure in Disciplinary Actions; Appendix Sheets XIII through XIX

<sup>9</sup> Notice of Determination - Appendix I Manual of Procedure in Disciplinary Actions; Appendix XX

