



## **OFFICE OF THE SHERIFF**

**SERVING ULSTER COUNTY SINCE 1683 - ACCREDITED SINCE 1992**

**SHERIFF P. J. VAN BLARCUM ★ ULSTER COUNTY, NEW YORK**

# **Ulster County Sheriff's Office Substance Abuse Policy for**

## **Ulster County Deputy Sheriff's Police Benevolent Association, Inc. Employees (PBA)**



### **Ulster County Sheriff's Office**

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**Ulster County Sheriff’s Office Substance Abuse Policy**

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## **Purpose**

The purpose of Ulster County Sheriff's Office Substance Abuse Policy is one of establishing rules, regulations and programs to ensure that the Ulster County Sheriff's Office workplace and its employees are free from the detrimental effects of drugs and alcohol. The policy is in compliance with applicable laws and the mandates contained in Title 49 CFR Part 40.

## **Policy**

### **This policy covers the Ulster County Deputy Sheriff's Police Benevolent Association Employees (PBA) and Non-Union Management**

#### Prohibited Drug and Alcohol

No employee shall use, sell, possess, distribute, or manufacture any alcoholic beverage or illegal drug at any time on County property, while on duty; or in a County vehicle, a vehicle leased for County business, or a privately owned vehicle being used for County business during the employees work hours.

No employee shall report to work at the beginning of a shift or upon returning from any break, lunch or rest period under the influence of alcohol, or any illegal drugs.

No employee shall possess alcohol during work hours, perform any duties of the Ulster County Sheriff's Office within four (4) hours after using alcohol, for eight (8) hours following an accident (as defined as part of this plan) or until he/she undergoes a Post-Accident alcohol test, whichever occurs first.

Employees of the Ulster County Sheriff's Office shall be tested in the performance of their duties for prohibited drugs and alcohol under the following work related conditions: Random, Reasonable Cause / Suspicion, Post Accident, Return-to-duty, and Follow-up testing. All testing procedures shall be conducted pursuant to Federal Regulations Title 49 CFR Part 40.

Any policies and procedures pertaining to alcohol and prohibited drugs, as they pertain to the (PBA) employees of the Ulster County Sheriff's Office shall be superceded by the policy and procedures set forth by this Ulster County Sheriff's Office Substance Abuse Policy.

## **Definitions**

For purposes of this Ulster County Sheriff's Office (UCSO) Substance Abuse Policy the following definitions apply:

**Accident** – An occurrence associated with the operation of a vehicle while in the performance of his/her job duties with the UCSO.

**Air Blank** – A reading by an EBT (Evidential Breath Testing device) of ambient air containing no alcohol.

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

**Alcohol Concentration** – (or content) The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

**Alcohol Screening Test** – An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

**Alcohol Use** – The consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

**Assistant Substance Abuse Program Manager (ASAPM)** - Responsible for the preparation, testing and administration of this policy.

**Blind Specimen or Blind Performance Test Specimen** – A specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from an employee specimen.

**Breath Alcohol Technician (BAT)** – A person who instructs and assists employees in the alcohol testing process and operates an evidential breath-testing device.

**Chain of Custody** – The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form. (CCF).

**Collection Site** – A place selected by the employer where employees present themselves for the purpose of providing a urine specimen for a drug test.

**Collection Site Person** – A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the chain of custody form (CCF).

**Confirmatory Alcohol Test** – For alcohol testing, it means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. If there is a difference between the results of the initial alcohol screening result and the confirmation, the value of the confirmation test is the final result.

**Confirmatory Drug Test** – A second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. (Gas chromatography / mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, phencyclidine).

## **Definitions - continued**

**Covered Employee** – A covered employee for the purposes of this policy is an employee who is a bargaining unit member of the Ulster County Deputy Sheriff's Police Benevolent Association, Inc. (PBA)

**Cut Off Levels** – The minimum value established for designating a test result as positive. These levels are set by the Department of Health and Human Services (Federal).

**Dilute Specimen** - A urine specimen with creatinine and specific gravity values that lower than expected for human urine.

**Drugs Prohibited** – Alcohol, Amphetamines, Cocaine, Marijuana, Opiates, Phencyclidine, and Steroids.

**EAP (Employee Assistance Program)** – Ulster County provides all employees with a means of obtaining confidential professional assistance in handling personal problems, which may adversely affect job performance. EAP shall function as a means to provide a (SAP) Substance Abuse Professional.

**Evidential Breath Testing Device (EBT)** – A device approved by NHTSA (National Highway Traffic Safety Administration for the evidential testing of breath.

**Fail an Alcohol Test or Test Positive** – A confirmation test for alcohol that shows positive evidence of the presence of alcohol in the employee's specimen of 0.02 or greater.

**Fail a Drug Test or Test Positive** – A confirmation test result shows positive evidence of the presence of drug metabolites in the employee's / applicants specimen over the established cut-off levels under 49CFR part 40. (Federal)

**Initial Drug or Alcohol Test (also known as a Screening test)** – In a drug-screening test it is an immunoassay test to eliminate "negative" urine specimens from further consideration and to identify the presumptively positive specimens that require confirmation or further testing. In an alcohol screening test it means an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in his or her system.

**Medical Review Officer (MRO)** – A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other biomedical information.

**Pass an Alcohol Test or Test Negative** – A result of less than 0.02 in an alcohol-screening test.

**Pass a Drug Test or Test Negative** – The initial testing or confirmation testing does not show evidence of any prohibited drug metabolites above the established cut-off levels in the employee or applicant's system.

**Oxidizing Adulterant** - A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or drug metabolites, or affects the reagents in either the initial or confirmatory drug test.

## **Definitions - continued**

**Refusal to Submit (to an alcohol or controlled substances test)** – As an employee, you have refused to take a drug test if you:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, (30 minutes once told to report to the collection site by the (UCSODPS) Ulster County Sheriff's Office Designated Program Supervisor.
- (2) Fail to remain at the testing site until the testing process is complete; provided, that an employee who leaves the testing site before the process commences for a pre-employment test is not deemed to have refused to test.
- (3) Fail to provide a urine specimen for any drug test required by these regulations and policy; provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test.
- (4) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen.
- (5) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
- (6) Fail or decline to take an additional drug test the employer or collector has directed you to take.
- (7) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
- (8) For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- (9) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- (10) Admit to the collector or MRO that you adulterated or substituted the specimen.
  - a. As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

**As an employee, if you refuse to take a drug or alcohol test, you incur the consequences of a Positive Test for drugs under this policy.**

**Substance Abuse Program Manager (SAPM)** – Responsible for the preparation, testing and administration of this policy.

**Split Specimen** – In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of a primary specimen or a verified adulterated or substituted test result.

## **Definitions - continued**

**Substance Abuse Professional (SAP)** – A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addition counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and controlled substances related disorders.

**Ulster County Sheriff's Office Designated Program Supervisor (UCSODPS)** – Responsible for the scheduling of the random testing once communicated by the SAPM or the ASAPM.

**Verified Test** – A drug test result or validity testing result from a certified laboratory that has undergone review and final determination by the MRO.

## **Responsibilities**

**Substance Abuse Program Manager and Assistant (SAPM / ASAPM)** – The SAPM shall be responsible for the preparation of the testing covered in this policy, which complies with Title 49, CFR Part 40. The SAPM shall be responsible for oversight and evaluation of the policy; providing guidance and counseling; review of all discipline applied under the policy for consistency and conformance to human resources' policies and procedures; the scheduling of all drug and alcohol testing associated with this policy. Maintaining a secure file system on the policy testing results; keeping all necessary records and overseeing the employee assistance program as it relates to this policy.

**Medical Review Officer (MRO)** – The MRO is responsible to review the laboratory results to verify and validate the test. This licensed physician has knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate an individual's confirmed positive test results together with his or her medical history and any relevant biomedical information. The MRO shall follow all procedures set forth in 49CFR Part 40 as amended. The MRO, a licensed physician may be an employee of the County or a private physician retained for this purpose of review and evaluation. The MRO shall not be an employee of the laboratory conducting the drug test unless the laboratory establishes a clear separation of functions to prevent any appearance of a conflict of interest including assuring that the MRO has no responsibility for, and is not supervised by or the supervisor of, any persons who have responsibility for the drug testing or quality control operations of the laboratory. The MRO shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from a legally prescribed medication. The MRO shall not disclose to any third party medical information provided by the individual to the MRO as a part of the testing verification process. This review shall be performed by the MRO prior to the transmission of results to the SAPM or ASAPM. The duties of the MRO with respect to negative results are purely administrative.

**Substance Abuse Professional (SAP)** – The SAP may be a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, or employee assistance professional with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders or an addition counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commissioner. The SAP shall evaluate the employee who may have refused to submit to a drug or alcohol test or who has a verified positive drug or alcohol test and is in need of assistance in resolving the problems associated with prohibited drug and alcohol use. The SAP shall evaluate an employee who has a verified positive drug or alcohol test result if he or she has complied with the SAP recommendations. The SAP shall determine when return-to-duty testing is appropriate and whether it should be for drugs and/or alcohol. The SAP shall set the length and schedule of

**Responsibilities - continued**

**SAP –continued** - testing (with a minimum of six tests during the first 12 months and a maximum of 24 months) and whether it will be for drugs and/or alcohol. The SAP may not refer the employee to the SAP private practice from which the SAP receives remuneration or to a person or organization in which the SAP has a financial interest. The SAP shall follow the procedures and responsibilities set forth in 49CFR Part 40.

**Ulster County Sheriff or Undersheriff** – It is the responsibility of the Sheriff or Undersheriff to administer the consequences of a verified positive drug or alcohol test.

**Ulster County Sheriff’s Office Designated Program Supervisor (UCSODPS)** – a designated employee, by the Sheriff, to schedule random testing once communicated by the SAPM or ASAPM. It is the responsibility of the UCSODPS to respond back to the SAPM or ASAPM in a timely manner in order for the SAPM or ASAPM to secure testing appointments.

**Supervisors** – Supervisors have been specifically trained and are responsible for observing performance and behavior of employees. The documenting of events suggestive of reasonable cause testing. Requesting a second supervisor for substantiation and concurrence for reasonable cause testing, if applicable.

**Employee** – Each member of the bargaining unit will have the responsibility to be knowledgeable for the requirements of this policy and to fully comply with the provisions of its contents. Employees must notify their supervisor of any criminal drug arrest immediately and or of any conviction within five days. Any drug prescribed by a licensed physician, self-prescribed or any therapeutic use is required to notify his/her supervisor when such use may impact the employee’s ability to perform his/her duties safely.

**Drug and Alcohol Testing Applicability**

**Employees Subject to Drug and Alcohol Testing:** All employees who are bargaining unit members of the Ulster County Deputy Sheriff’s Police Benevolent Association, Inc.. (PBA)

- 1) **Procedure for Notifying Employees:** All employees who are bargaining unit members of the Ulster County Deputy Sheriff’s Police Benevolent Association, Inc. (PBA) shall receive a copy of the Ulster County Sheriff’s Office Substance Abuse Policy and shall be held responsible for the content of this policy and agree to abide by the policy. The employee shall sign receipt of the Ulster County Sheriff’s Office Substance Abuse Policy (appendix a). Any clarification or questions regarding the content of this policy shall be directed to the SAPM or ASAPM. All newly hired employees shall receive a copy of the policy and review by the SAPM or ASAPM upon the day of their orientation with Ulster County.
- 2) **Substances for Which Testing Shall Be Conducted:** The cutoff levels for detecting these drugs / alcohol are as follows:

<b>Drug Name</b>	<b>Initial Cut-off Levels (ng/ml)</b>	<b>Confirmatory Cut-off Levels (ng/ml)</b>
<b>Alcohol</b>	<b>0.02 (gr/lt)</b>	<b>0.02 (gr/lt)</b>
<b>Amphetamines</b>	<b>1000 (ng/ml)</b>	<b>500 (ng/ml)</b>
<b>Cocaine metabolites</b>	<b>300 (ng/ml)</b>	<b>150 (ng/ml)</b>
<b>Marijuana metabolites</b>	<b>50 (ng/ml)</b>	<b>15 (ng/ml)</b>
<b>Opiates – Morphine / Codeine</b>	<b>2000 (ng/ml)</b>	<b>2000 (ng/ml)</b>
<b>PCP – Phencyclidine</b>	<b>25 (ng/ml)</b>	<b>25 (ng/ml)</b>
<b>Steroids</b>	<b>Pass / Fail</b>	<b>Pass / Fail</b>



## **Required Types of Testing**

**1. Random Testing** – All covered employees shall be subject to drug and alcohol testing on an unannounced and random basis. The County shall conduct a number of drug tests on covered employees equal to 50 percent of the average number of covered employees each calendar year, spread reasonably over a 12-month period. In addition, the County shall conduct a number of alcohol tests on covered employees equal to 10 percent of the number of such covered employees each calendar year, spread reasonably over a 12-month period. These rates will be reviewed annually by the Sheriff and collective bargaining unit.

The following is an outline of the key aspects of the random testing selection process.

- a) Employees shall be selected for testing using a computer based random number generator or equivalent random selection method owned and operated by the testing site. The numbers generated on the random basis will then be matched with a covered employees social security number or County employee number.
- b) Employees shall remain in the random selection pool at all times regardless of whether or not they have been previously selected for testing.
- c) The process will be unannounced as well as random. Employees will be notified that they have been selected for testing after they have reported for duty on the day of the collection. The time may be at any time the covered employee is working.
- d) Employees will be selected for random testing based on the number of covered employees at the time and the necessary testing rate.
- e) Specimen collection shall be conducted on different days of the week throughout the annual cycle.
- f) The SAPM or ASAPM, on a pre-determined date, shall use the random selection procedures to compile a list of covered employees selected for random testing during that testing cycle.
- g) On the day of the test, the UCSODPS shall be contacted with the covered employee's names as a result of the random process. Once the UCSODPS notifies the covered employee that he / she has been chosen as result of the random process, he / she shall report immediately to the collection site or the collection site within 30 minutes, plus travel time.
- h) If the employee once directed to report to the collection site for the random test, refuses or does not show up at the collection site within the allotted time, this shall be considered a refusal to test, and will be treated as a positive test.
- i) Upon arrival at the collection site, the employee will be required to identify himself / herself to the collection site personnel by presenting a picture identification (i.e. County photo identification, UCSO photo identification, or driver's license).
- j) The employee will provide his / her urine specimen and, if applicable a breath sample in accordance with the procedures set forth in 49CFR part 40.
- k) Upon request of an covered employee to the SAPM or ASAPM for a copy of a returned test, a copy of the test shall be furnished to the covered employee by the SAPM or ASAPM after a documented formal request has been submitted to the SAPM or ASAPM.
- l) Random testing shall include drug test screening for alcohol, amphetamines, cocaine metabolites, marijuana metabolites, opiates – morphine / codeine, and PCP phencyclidine.

## **Required Types of Testing – (continued)**

**2. Post-Accident Testing** – UCSO requires all covered employees by this policy to submit to drug and alcohol testing if he / she is involved in a motor vehicle accident while driving a County vehicle. An accident defined for purposes of Post-Accident Testing requiring a Post-Accident Test shall be defined as:

- a) There is a fatality as the result of the accident;
- b) An individual involved in the accident / incident suffers injuries that require medical treatment away from the scene of the accident;
- c) The vehicle involved incurs disabling damage as a result of the accident and must be transported from the scene of the accident by a tow truck or other vehicle.

### **The following procedure involving Post Accident Testing shall be followed:**

1. The employee involved in the accident must immediately notify the shift supervisor.
2. A supervisor shall be dispatched to the scene of the accident.
3. A supervisor shall notify the SAPM or ASAPM of the impending test so that it may be setup by the SAPM or ASAPM.
4. A supervisor shall begin an investigation.
5. A supervisor shall take the employee to the drug and alcohol testing site.
6. If the employee is being treated at the hospital, the supervisor shall contact the SAPM or ASAPM to inform them of the situation. When treatment allows testing shall be performed at the hospital or the collection site within the time generally allotted for testing. The alcohol testing shall occur first; if the alcohol test is not administered within two (2) hours following the accident; documentation must be provided to the SAPM or ASAPM and maintained on file stating the reasons the test was not promptly administered. If the employee has not been tested within eight (8) hours following the accident all attempts to alcohol test must cease. If the collection was not performed the supervisor must prepare and produce documentation as to why the test was not performed. If the alcohol test is 0.02 or greater on the initial test, the confirmation test shall take place no more than 30 minutes from the initial test. If the confirmation test is 0.02 or greater the BAT must notify the SAPM or ASAPM immediately. The SAPM or ASAPM will then notify the Watch Commander of the test results. Urine collection for the drug test shall be performed within 24 hours.
7. After the drug test is completed, the employee cannot return to his / her position until a negative result is received by the SAPM or ASAPM. The employee shall be subject to modified duty.

Any employee involved in an accident that involves drug and alcohol testing must remain readily available for testing. If the employee does not do so, the employer can treat such behavior as a refusal to test, refusal to test results in a positive test consequence. This does not mean that the employee cannot leave the scene of the accident to obtain emergency medical assistance or that medical attention will be delayed for an employee.

### **Required Types of Testing - continued**

**3. Reasonable Cause / Suspicion Testing** – Reasonable cause / suspicion testing is designed to provide supervisors with a tool to identify drug / alcohol affected employees who may pose a danger to themselves and/or others in their job performance. A supervisor may have reason to believe that an employee may be at work in a condition that raises concern regarding his/her safety or productivity. A supervisor must then make a decision as to whether there is reasonable cause to initiate the process to request a reasonable cause / suspicion to be performed.

**All substances, Amphetamines, Cocaine Metabolites, Marijuana Metabolites, Opiates – Morphine / Codeine, PCP – Phencyclidine, Steroids, along with alcohol testing shall be tested for in a “Reasonable Cause / Suspicion Test”.**

### **Procedure for Utilizing “Reasonable Cause / Suspicion Testing**

- 1) Any supervisor who utilizes reasonable cause / suspicion testing shall receive two (2) hours of training every year on the physical, behavioral, speech and performance indicators of probable misuse of alcohol or use of prohibited drugs.
- 2) The supervisor executing reasonable cause / suspicion must have current training, which is required yearly.
- 3) When an observation of an employee has been made by the supervisor or it has been brought to the attention of a supervisor, that an employee is exhibiting signs of being under the influence of a prohibited substance as outlined in this policy, the supervisor is obligated to investigate the situation, or occurrence.
- 4) The supervisor is advised to obtain assistance from another trained supervisor or appropriate employee to assist and witness the situation and provide additional documentation.
- 5) The supervisor shall or instruct their assistance to initiate contact with the Substance Abuse Program Manager (SAPM) or the Assistant Substance Abuse Program Manager (ASAPM) through the provided contact information (given to supervisors at the supervisory training) for after regular business hours or if during regular working hours, at the Safety Office 340-3410, so they may begin their response to the situation and provide setup for the test. Be sure to provide an exact location and contact number.
- 6) The supervisor shall use the County’s “Reasonable Suspicion / Supervisor’s Observation” form.
- 7) The supervisor with assistance shall approach the employee and remove him / her from their work area and bring the employee to a private location in order to review the circumstances that initiated this pending reasonable cause test.
- 8) After informing the employee of their undesirable actions or unsafe actions, the supervisor shall ask the employee if they are willing to test. The supervisor shall inform the employee that if they refuse to test it will count as an automatic positive test.
- 9) The supervisor shall inform the employee that with a refusal they will have to be transported to their residence (gender specific) and that someone may pickup their car later. At this point they will be an automatic positive.
- 10) If the employee becomes unmanageable or belligerent and tries to leave of his or her own accord, the supervisor shall inform the employee that they will be forced to contact Law Enforcement (Sheriff’s Dispatch 338-3640) because they will be driving while being suspected of being under the influence.
- 11) If the employee decides to cooperate with the testing process, the supervisor will inform the employee, that they may contact counsel or have a Union representative present, as long as such attempts do not result in undue delay in the testing process. Reasonable efforts shall be made, without delaying the testing process, to assist the employee in contacting legal counsel or a Union representative if requested by the employee.
- 12) The “Reasonable Cause / Suspicion form should be complete with signatures upon arrival of the Program Manager or Assistant in order to expedite a test.
- 13) Upon arrival of the Program Manager or Assistant, they will review the form and make their observation of the employee.
- 14) If the test is to proceed the employee shall be transported to the testing site, by appropriate gender or accompanying supervisor.

### **Required Types of Testing – Reasonable Cause / Suspicion continued**

- 15) When the test is complete the employee shall be transported to their residence and shall be placed on paid administrative leave (dependent on work schedule and time of test) until a test result has been received.
- 16) If the test is negative the supervisor will be contacted by the SAPM or ASAPM in order to return the employee to work.
- 17) If the test is positive, the employee shall incur the consequences of a positive test, as outlined in this policy.

**4. Return-to-Duty Testing** – If the employee is on leave from his / her position as result of a positive test and is in treatment with a SAP, or the employee has been on medical disability or family leave or anything that would have resulted in the employee being out of work 90 days or more shall be subject to Return-to-Duty testing. Before an employee returns-to-duty he / she shall test negative in the results of the test. If the prohibited conduct resulting in the positive test consequence involved alcohol, the employee shall test for alcohol and have results of an alcohol test less than 0.02. If the conduct resulting in the positive test consequence involved drugs, the employee shall have results of a verified negative.

- a. The time an employee is on leave for a medical or family leave or any time out that would have resulted in 90 days or more, the SAPM or ASAPM shall test he / she upon the employee's eligibility to return to work. The employee shall be tested for drugs and alcohol.
- b. The employee in treatment with a SAP as a result of a positive test shall be tested under Return-to Duty testing when the SAP has contacted the SAPM or ASAPM and has recommended that the test be given. This test does not indicate the end of treatment with the SAP.

### **Require Types of Testing - continued**

**5. Follow-up Testing** – Based on the SAP's recommendation an employee who has a negative return-to-duty shall be subject to unannounced follow-up testing. The SAP will determine the frequency and duration. There shall be a minimum of 6 tests in the first 12 months. Follow-up testing shall not have a duration of greater than 24 months. In addition to follow-up testing, employees remain in the random pool, and are subject to normal random testing.

## Review of Drug Testing Results and Consequences

**1. Negative Results** – Negative test results are given directly to the SAPM or ASAPM from the MRO and collection site.

**2. Positive Results** – The MRO shall review confirmed positive test results. A positive test result does not automatically identify an employee / applicant as having used drugs in violation of this policy. The MRO, an individual with a detailed knowledge of possible alternate medical explanations is essential to the review of the results.

a) When the MRO has reviewed a laboratory positive test result, the MRO shall contact the employee of the test and review all medical and prescription history of the employee and to question the employee about the findings of the test. **The MRO shall not disclose to any third party, medical information provided by the employee to the MRO as part of the testing verification.** If, after a good faith effort, the MRO cannot contact the employee from the furnished contact information provided by the employee, the MRO shall contact the SAPM or ASAPM to notify them of the employee of the verified positive test result. All of the information will be used by the MRO to verify a laboratory positive test. After the complete review of all information by the MRO, the MRO verifies the test.

b) Once the employee has been notified of the confirmed positive test, the employee has 72 hours in which to request the MRO to test the split specimen. The MRO shall have the split sample analyzed at another certified laboratory. If the analysis of the split sample fails to confirm the presence of the drug(s) found in the primary specimen, is unavailable, inadequate for testing, or un-testable, the MRO shall cancel the test and report the cancellation and reasons for it to the SAPM or ASAPM and employee. Payment for the testing of the split sample is the responsibility of the employee. If the split sample is negative or cancelled, the County will reimburse the employee for the costs incurred for the reanalysis.

c) After the MRO's review with the employee and the MRO has verified a positive test. The MRO will then contact the SAPM or ASAPM with the verified positive test result. At this point the employee already has knowledge of the failed test.

d) Once the SAPM or ASAPM have been notified of a confirmed verified positive test of an employee. The SAPM or ASAPM shall contact the Sheriff or Undersheriff with the information. The SAPM or ASAPM will begin to process the necessary paperwork for the Sheriff / Employee review meeting.

## Review of Drug Testing Results and Consequences

### 2. Positive Results – continued

e) The Sheriff once notified of the failed test of the employee, shall contact the employee and the review process shall begin, and include: **(The employee has right to representation by legal counsel, or a Union representative at the time of his review as long as legal counsel or Union representation can respond without causing a delay in the review process. Reasonable efforts shall be made to assist the employee in contacting legal counsel or a Union representative.)**

1) Immediate suspension without pay;

2) Review and completion of the employee information disclosure form; (this form allows information regarding the progress of the treatment with the SAP to be released to the SAPM or ASAPM.)

3 The employee will be reminded of the contact number for EAP, EAP will have already been contacted by the SAPM or ASAPM, and EAP will be expecting the employee's contact.

f) An employee who has tested positive for prohibited drugs shall be suspended immediately without pay (suspension begins the day of the review process) for a period of 30 days. The 30 days are concurrent and include weekends. An employee may not use their accrued / earned leave time to substitute for suspensions without pay.

An employee who tests positive for alcohol at level of 0.02 or between 0.02 and 0.04 will incur the following penalties:

- 1) 1<sup>st</sup> occasion – 5 day suspension without pay (no treatment plan required)
- 2) 2<sup>nd</sup> occasion – 10 day suspension without pay (no treatment plan required)
- 3) 3<sup>rd</sup> occasion – 15 day suspension without pay (no treatment plan required)
- 4) 4<sup>th</sup> occasion – 30 day suspension without pay (treated as a positive test and referral to EAP required)

An employee who tests positive for alcohol at a level of 0.04 or greater shall be suspended immediately without pay (suspension begins the day of the review process) for a period of 30 days. The 30 days are concurrent and include weekends. An employee may not use their accrued / earned leave time to substitute for suspensions without pay.

**After the second failed test of an employee for drugs or alcohol with a level of 0.04 or greater, the employer shall seek to terminate the employee pursuant to Section 75 of the New York State Civil Service Law (NYSCSL).**

g) The completion of the 30 day suspension does not mean the employee is cleared to return-to-duty. At this point the employee should be in treatment with his / her SAP. The SAP decides when the employee is ready for Return-to-Duty testing. When the SAP decides the employee is ready, the SAP shall contact the SAPM or ASAPM in order to inform them that they may begin with Return-to-Duty testing.

h) When the employee has completed the 30 days without pay and has not returned-to-duty, the employee may then begin to use accrued / earned leave time. If the accrued / earned leave time is depleted before return-to-duty, the employee shall be off without pay until such time that his / her SAP has cleared the employee for Return-to-Duty testing and the Return-to-Duty testing has been returned to the SAPM or ASAPM with a negative result.

## **Review of Drug Testing Results and Consequences**

### **2. Positive Results – continued**

- i) The employee should upon leaving the review with the Sheriff, contact EAP immediately in order to schedule himself / herself with an SAP and begin a treatment process. **An employee who does not contact EAP within 48 hours even if it is the first positive test consequence, the employer will seek to terminate the employee pursuant to Section 75 of the New York State Civil Service Law (NYSCSL).**
- j) As soon as the SAP contacts the SAPM or ASAPM with information that the employee has complied or is complying with the treatment process; supplies a follow-up testing schedule and states the employee is ready for Return-to-Duty testing, the SAPM or ASAPM will schedule a Return-to-Duty test and contact the UCSODPS to inform him / her of the test time, in order for the UCSODPS to contact the employee.
- k) When a negative result for a Return-to-Duty test is received by the SAPM or ASAPM, the information shall be communicated to the Sheriff or Undersheriff by the SAPM or ASAPM.

### **Retention of Specimens**

**A. General** – Specimens that yield positive results on confirmation must be retained by the laboratory in properly secured, long-term storage for at least 365 days.

#### **B. Retention Period**

- 1) Within this 365 day period, the employee or designated representative, or other state agencies with jurisdiction, or the County may request in writing that the specimen be retained for an additional period.
- 2) If the laboratory does not receive the request to retain the sample within the 365 day period, the sample may be discarded.
- 3) Because some analytes deteriorate or are lost during freezing and / or storage, quantitation for a retest is not subject to specific cutoff requirements but must provide data sufficient to confirm the presence of the drug or metabolite.

### **Record-keeping Procedures**

#### **A. General**

- 1) The SAPM or ASAPM shall maintain a double locked file system, which contains drug, and alcohol test results. The file shall be maintained as strictly confidential.
- 2) Drug / Alcohol test results shall not be included in personnel files. Information regarding an individual's drug and alcohol testing results or rehabilitation may be released only upon written consent of the affected Employee, except:
  - a) Such information must be released regardless of consent to a government agency as a part of an accident investigation; or
  - b) Such information may be disclosed regardless of consent in a lawsuit, grievance or other proceeding initiated by or on behalf of the employee and arising from a verified positive drug or alcohol test.

**B. Statistical Data** – Statistical data related to drug and alcohol testing and rehabilitation that is non-name specified and training records may be released to governmental agencies upon request.

**Record-keeping Procedures - continued**

**C. Record Retention** – The County shall maintain records of this policy as provided below. The records shall be maintained in a secure location with controlled access. All records of an employee's drug and alcohol testing shall be maintained for a minimum of the length of employment with the County.

**D. Employee Access** – Any employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's drug and alcohol file. The employee shall obtain copies within 72 hours of the request.

**E. 49 CFR Part 40 – Title 49 Transportation, Part 40 Procedures For Transportation Workplace Drug and Alcohol Testing Programs** – This procedure is available upon request from the SAPM or ASAPM.



**Substance Abuse Policy Personnel and Services**

**1. Ulster County Safety Office**

**Office Hours: Monday – Friday 8:00am – 4:00pm (845) 340-3410**

**Physical Address:** 380 Boulevard, Kingston, N.Y. 12401

**Mailing Address:** P.O. Box 1800, Kingston, N.Y. 12402

**Substance Abuse Program Manager (SAPM)**

Diane K. Beitzl – U. C. Safety Officer

**Assistant Substance Abuse Program Manager (ASAPM)**

Emmett L. Vedder – U. C. Deputy Safety Officer

**2. Collection Site:**

Emergency One, 40 Hurley Ave., Kingston, N.Y. 12401 (845) 338-5600

**3. Medical Review Officer (MRO)**

Emergency One, 40 Hurley Ave. Kingston, NY. 12401

**4. Employee Assistance Program (EAP)**

Emergency One, 40 Hurley Ave. Kingston, N.Y. 12401 (845) – 338-5600

**EMPLOYEE RECEIPT OF THE ULSTER COUNTY'S SHERIFF'S OFFICE SUBSTANCE ABUSE POLICY**

**Return this completed form to the Substance Abuse Program Manager or the Assistant Substance Abuse Program Manager.**

**Print Employee Name:** \_\_\_\_\_

I have received and will read the Ulster County Sheriff's Office Substance Abuse Policy. I understand that I will be held responsible for the content of this policy and I agree to abide by the policy. If I need any clarification or if I have any questions regarding the content of this policy, I will address them with the Substance Abuse Program Manager or the Assistant Substance Abuse Program Manager.

I understand that a violation of this policy may be grounds for immediate disciplinary action.

**Employee Name (please print):** \_\_\_\_\_

**Employee Signature:** \_\_\_\_\_

**Date Signed:** \_\_\_\_\_

**Witnessed by:** \_\_\_\_\_

**Sheriff's Patrol / Non-Union Mgmt.**



## REASONABLE SUSPICION – SUPERVISOR’S OBSERVATION

Complete this checklist when you have reasonable suspicion that an employee is under the influence of a prohibited drug or alcohol. Page 1 of 3

<b>Employee Name:</b>	<b>Social Security # :</b>	<b>Day / Time of Incident or Observation:</b>
<b>Immediate Supervisor:</b>		<b>Telephone:</b>
<b>Senior Supervisor:</b>		<b>Telephone:</b>

Check those behaviors and symptoms that led to your decision to request a drug or alcohol test.  
Check any category and circle the appropriate symptom(s).

Nature of Incident / Cause for Suspicion	Behavioral Indicators Noted
<input type="checkbox"/> <b>1. Illicit Behavior</b> (observed) or (reported) possession, use, transaction or "under the influence" behavior of a prohibited substance.	<input type="checkbox"/> <b>1. Speech Behavior</b> (verbally abusive),(rambling and nonsensical). Specify: _____
<input type="checkbox"/> <b>2. Under Influence</b> (observed) or (reported) apparent "under the influence" behavior.	<input type="checkbox"/> <b>2. Physical Behavior</b> (extreme aggressiveness) (agitation) (physical abusiveness). Specify: _____
<input type="checkbox"/> <b>3. Erratic Behavior</b> (observed) or (reported) abnormal or erratic behavior.	<input type="checkbox"/> <b>3. Attitude</b> (withdrawn) (depressed) (tearful) (secretive) (unresponsive). Specify: _____
<input type="checkbox"/> <b>4. Other</b> (e.g., flagrant violation of safety or serious misconduct, accident or "near miss" fighting or argumentative abusive language, unauthorized absence from the job). Specify: _____ _____	<input type="checkbox"/> <b>4. Other</b> Erratic or inappropriate behavior (e.g., hallucinating, disoriented, excessive euphoria, talkativeness, confused, frequent absences). Specify: _____ _____

Physical Signs or Symptoms	
<input type="checkbox"/> <b>1. Eyes</b> (red) (pupils dilated) (pupils constricted).	<input type="checkbox"/> <b>6. Physical Control</b> (gait unsteady) (poor coordination) (tremors) (twitching).
<input type="checkbox"/> <b>2. Nose</b> (runny) (sores in or on nostrils) (red and inflamed).	<input type="checkbox"/> <b>7. Muscle Tone</b> (rigid) (shakes and tremors) (limp).
<input type="checkbox"/> <b>3. Skin</b> (flushed and sweating) (pale) (blood spots and needle marks).	<input type="checkbox"/> <b>8. Speech</b> (rapid) (slurred).
<input type="checkbox"/> <b>4. Breath</b> (odor of alcohol) (solvents) (marijuana).	<input type="checkbox"/> <b>9. Mental State</b> (confusion) (hyperactive) (lackadaisical).
<input type="checkbox"/> <b>5. Breathing Rate</b> (rapid) (shallow)	<input type="checkbox"/> <b>10. Other</b> Please specify: _____ _____

### LONG TERM INDICATOR CHECK LIST (Circle what applies)

Quality and Quantity of Work	
<ul style="list-style-type: none"> <li>* Clear refusal to do assigned tasks</li> <li>* Significant increase in errors</li> <li>* Repeated errors in spite of increased guidance</li> <li>* Reduced quantity of work</li> <li>* Inconsistent, "up and down" quality and quantity of work</li> <li>* Behavior that disrupts work flow</li> <li>* Procrastination on significant decisions or tasks</li> </ul>	<ul style="list-style-type: none"> <li>* More than usual supervision necessary</li> <li>* Frequent, unsupported explanations for poor work performance</li> <li>* Noticeable change in written or verbal communication</li> <li>* Other (please specify): _____</li> </ul>

**Continued - LONG TERM INDICATOR CHECK LIST (Circle what applies)**

**Interpersonal Work Relationships**

- \* Significant changes in relationships with co-workers, supervisors.
- \* Major change in physical health
- \* Concerns about sexual behavior or sexual harassment
- \* Frequent or intense arguments
- \* Verbal abusiveness
- \* Physical abusiveness
- \* Passive-aggressive attitude or behavior, doing things "behind your back"
- \* Intentional avoidance of supervisor
- \* Expressions of frustration or discontent
- \* Change in frequency or nature of complaints
- \* Cynical "distrustful of human nature" comments
- \* Unusual sensitivity to advice or critique of work
- \* Unpredictable response to supervision
- \* Persistently withdrawn or less involved with people"

**General Job Performance**

- \* Excessive number of unauthorized absences in last 12 months
- \* Excessive authorized absences in last 12 months
- \* Excessive used of sick leave in last 12 months
- \* Frequent Monday / Friday absence or other patterns
- \* Excessive "extensions" of breaks or lunches
- \* Frequently left work early
- \* Increased concern about, or actual incidents of, safety offenses involving the employee
- \* Experienced or caused job accidents
- \* Major change in duties or responsibilities
- \* Interfered with or ignored established procedures
- \* Inability to follow through on job performance

**Personal Matters**

- \* Changes in or unusual personal appearances (dress, hygiene)
- \* Changes in or unusual speech (incoherent, stuttering, loud)
- \* Changes in or unusual topics of conversation
- \* Changes in or unusual facial expressions
- \* Concerns about sexual behavior or sexual harassment
- \* Demanding, rigid, inflexible
- \* Increasingly irritable or tearful
- \* Excessive fatigue
- \* Frequent colds, flu, or other illness
- \* Major change in physical health
- \* Temper tantrums or angry outbursts
- \* Persistently boisterous or rambunctious
- \* Unpredictable or out-of-context displays of emotion or fears
- \* Lack appropriate caution
- \* Secretive or furtive
- \* Makes unreliable or false statements
- \* Unrealistic self-appraisal or grandiose statements
- \* Engages in detailed discussions about death, suicide, or harming someone
- \* Has personal relationship problems
- \* Has received professional assistance for emotional or physical problems
- \* Makes unfounded accusations toward others; i.e., has feelings of persecution
- \* Changes in or unusual level of activity – significantly reduced or increased

**Observing Supervisor's Written Summary**

Please summarize the facts and circumstances of the incident, employee response, supervisor actions taken, and any other pertinent information not previously noted. Please note the date, time, and location of reasonable cause testing or note if employee refused the test. Attach additional sheets as needed.

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Witness Signatures (If Applicable)			
Witness 1:	Date / Time	Witness 2:	Date / Time

Signature of Observing Supervisor	Date / Time
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<b>Witnessing Supervisor’s Written Summary (If applicable a higher ranking authority)</b>
Please summarize the facts and circumstances of the incident, employee response, supervisor actions taken, and any other pertinent information not previously noted. Please note the date, time, and location of reasonable cause testing or note if employee refused the test. Attach additional sheets as needed.

<b>Signature of Witnessing Supervisor</b>	<b>Date / Time</b>
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**Appendix C**

**MEMORANDUM OF AGREEMENT  
Between  
COUNTY OF ULSTER  
and the**

Names of all our Collective Bargaining Units

The County of Ulster hereinafter referred to as the "Employer", and The Ulster County Deputy Sheriff's Police Benevolent Association, Inc. (PBA), hereinafter referred to as the "Union" are parties to a collective bargaining agreement. In accordance with Section 204 of the New York State Public Employee's Fair Employment Act, the parties hereby agree to the following alcohol and drug testing procedure for the Ulster County Deputy Sheriff's Office (PBA) employees:

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**ALCOHOL AND DRUG TESTING PROCEDURE**

**Section 1. Notice Requirements**

1.1 Employer's Policy: The Employer shall promulgate a policy on the misuse of alcohol and use of prohibited drugs and shall provide a copy of the policy and procedures to each covered employee and the Union. The term "prohibited drugs," means amphetamines, cocaine, marijuana, opiates, phencyclidine and steroids (steroids is only tested for under "Reasonable Cause and Suspicion Testing along with the other prohibited drugs mentioned above). At a minimum, the policy shall include detailed provisions on alcohol concentration, alcohol possession, on-duty use of alcohol, pre-duty use of alcohol, use of alcohol following an accident, drug use, drug testing, and refusal to submit to a required alcohol or drug test.

1.2 Alcohol and Drug information: The Employer shall explain the requirements of the program. At a minimum, the topics shall include detailed information regarding, but not limited to:

- 1) The employees subject to the procedures and regulations of the policy.
- 2) The conduct that is prohibited by the employees covered by the policy.
- 3) The circumstances under which an employee shall be tested.
- 4) The period of the workday an employee is required to be in compliance with the policy and regulations of the policy.
- 5) The requirement that an employee submits to alcohol and controlled drug testing.
- 6) An explanation of what constitutes a "refusal to submit" to an alcohol or controlled drug test and the attendant consequences.
- 7) When the employee shall be removed from duty under the provisions of the policy.
- 8) The provisions of treatment in regards to referral, evaluation, and treatment.
- 9) The consequences of a confirmed positive alcohol or drug test.
- 10) The procedure of testing for drugs and alcohol.
- 11) The procedure to protect the employee and the integrity and validity of the test.
- 12) The person(s) designated by the Employer to be contacted for questions and / or additional information.

## Section 1 Notice Requirements – continued

1.3 Required Tests: The Employer shall provide a detailed description of alcohol and drug testing requirements to each covered employee which explains the requirements as they pertain to random, post-accident, reasonable cause / suspicion, return-to-duty and follow-up testing.

1.4 Requirement for Notice: The Employer shall notify the employee covered by the policy that the alcohol or drug test is required under the policy regulations.

## Section 2. Testing Procedures

### 2.1 Tests for Alcohol:

2.1.1 Tests for alcohol shall only be conducted by a breath alcohol technician using an evidential breath-testing device. Testing devices shall meet the requirements of Federal Register NHSTA -2012-0061. Currently a CMI INC., Intoxilyzer 400 Model 401 is used by our contracted collection / testing site.

2.1.2 The supervisor of an employee who is to be tested shall not administer the test.

2.1.3 An employee shall be paid for all time pertaining to an alcohol test including providing a breath sample and travel time to and from the test site. Such time shall be considered as time worked for the purpose of computing overtime and employee benefits.

2.1.4 Each alcohol test shall be reviewed by the Substance Abuse Program Manager (SAPM), or Assistant Substance Abuse Program Manager (ASAPM) to ensure compliance with all procedures set forth in this MOA as well as all Agency regulations, including the validity of the test. Any employee adversely affected by an invalid test will be made whole for all losses by the Employer.

### 2.2 Test for Prohibited Drugs:

2.2.1 Tests for prohibited drugs shall be conducted only by urinalysis and shall be performed only by the U.S. Department of Health and Human Services certified laboratories.

2.2.2 A specimen may be tested only for amphetamines, cocaine, marijuana, opiates, phencyclidine and (steroids not tested for in a regular random test only reasonable cause testing). A specimen may not be used to conduct any other analysis or test.

2.2.3 If the test result of the primary specimen is positive, the employee may request that the Medical Review Officer (MRO) direct that the split specimen be re-tested within 72 hours of notification by the MRO, and if the second test is negative, the Employer will pay the cost of the second test.

2.2.4 Visual observation of urination shall be required under the requirements of 49 Code of Federal Regulations (CFR) part 40. When visual observation is required, the observer shall be of the same gender as the employee being tested.

2.2.5 The employee shall be permitted to be present to observe the sealing and tagging of the specimen containers.

2.2.6 An employee shall be paid for all time pertaining to a drug test including providing a urine sample and travel time to and from the collection site. Such time shall be considered as time worked for the purpose of calculating overtime and employee benefits.

## 2.2 Test for Prohibited Drugs:- continued

2.2.7 Each drug test shall be reviewed by the Substance Abuse Program Manager (SAPM), or Assistant Substance Abuse Program Manager (ASAPM) to ensure compliance with all procedures set forth in this MOA as well as all Agency regulations, including the validity of the test. Any employee adversely affected by an invalid test will be made whole for all losses by the Employer.

### Section 3 Random Testing

3.1 Random Alcohol Tests: The Employer shall test 10% (ten percent) of the pool of covered employees spread reasonably over a 12-month period. The rate will be reviewed annually by the Sheriff and the collective bargaining unit.

3.2 Random Drug Tests: The Employer shall test 50% (fifty percent) of the pool of covered employees spread reasonably over a 12-month period. The rate will be reviewed annually by the Sheriff and the collective bargaining unit.

3.3 Selection of Employees: The Employer shall select employees for testing only through a computer based random number generator utilizing an appropriate employee identification number. Lists for random testing must be generated by an independent agency.

### Section 4 Reasonable Cause / Suspicion Testing

4.1 Determination of Reasonable Cause / Suspicion Testing: The decision to test must be based on a reasonable and articulate belief that the employee is demonstrating signs and symptoms of prohibited drug and / or alcohol use as a result of specific, contemporaneous physical, behavioral or performance indicators. Supervisors shall utilize Reasonable Cause / Suspicion Testing form available through the Ulster County Safety Office, which documents witnesses (if any), behavior, appearance, and other indicators that would cause testing. Supervisors utilizing this type of testing will require Reasonable Cause / Suspicion Supervisory training once yearly. The supervisor shall have valid training at the time they utilize this test. When an employee is confronted with Reasonable Cause / Suspicion Testing the employee shall be advised that the employee shall be given a reasonable opportunity to consult with legal counsel or a union representative, as long as they can respond without causing delay in the testing process, as outlined by the policy.

### Section 5 Post-Accident Testing

5.1 If alcohol testing is not performed within two (2) hours of the time of the accident, documentation shall be on file with the SAPM or ASAPM of reasons the test was not completed. If the employee has not been tested within eight (8) hours of the time of accident, all testing for alcohol shall cease. Urine collection for drug testing shall occur within 24 hours of the time of the accident.

### Section 6 Call-in Procedure

6.1 In the event an employee is called for overtime, the employee will have opportunity to acknowledge unavailability for work.

### Section 7 Consequences of a Positive Test

7.1 When an employee tests positive for drugs, the MRO will contact the said employee. If, after a good faith effort, the MRO cannot locate or contact the employee to come for a private discussion, the MRO will contact the SAPM or ASAPM to notify them of the employee with the positive testing.



## Section 7 Consequences of a Positive Test – continued

7.2 An employee who tests positive for prohibited drugs or tests positive for alcohol with a level of 0.04 or greater will incur a 30 day suspension without pay. The employee may not use their accrued leave time to substitute for suspensions without pay. An employee who tests positive is required to contact a SAP through the County Employee Assistance Program for evaluation and treatment. An employee who fails to contact the County Employee Assistance Program within 48 hours, the Employer will seek to terminate the employee pursuant to Section 75 of the New York State Civil Service Law (NYSCSL).

7.3 An employee who has tested positive for alcohol at a level of 0.02 or between 0.02 and up to and not including 0.04 will incur the following penalties:

- 1) 1<sup>st</sup> occasion – 5 day suspension without pay (no treatment plan required)
- 2) 2<sup>nd</sup> occasion – 10 day suspension without pay (no treatment plan required)
- 3) 3<sup>rd</sup> occasion – 15 day suspension without pay (no treatment plan required)
- 4) 4<sup>th</sup> occasion – 30 day suspension without pay (treated as a positive test and referral to EAP required)

Any alcohol test result at 0.04 or above shall incur the same consequences as a positive drug test. (30 day suspension)

7.4 An employee who does not contact the Employee Assistance Program within 48 hours, the Employer will seek to terminate the employee pursuant to Section 75 of the New York State Civil Service Law (NYSCSL).

7.3 After two occasions of a positive test for drugs or alcohol at a level of 0.04 or greater, the Employer will seek to terminate the employee pursuant to Section 75 of the New York State Civil Service Law (NYSCSL).

## Section 8 Referral, Evaluation and Treatment

8.1 Designation of Substance Abuse Professional (SAP) – The SAP shall be a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, or employee assistance professional with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders or an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission.

8.2 Employee Assistance Program (EAP) – The Employer shall make available and adequately fund an Employee Assistance Program capable of evaluating and resolving problems associated with the misuses of alcohol and the use of prohibited drugs.

8.3 Rehabilitation Program – The Employer shall make available a rehabilitation program through established health insurance programs. If such a program is not available through the employee's insurance, the Employer shall cover the costs of a rehabilitation program comparable to that provided through the New York State Health Insurance Program. The employee shall be responsible for any additional costs for and associated with any treatment program in which the employee participates.

8.4 Any costs involving the use of a SAP under the regulations shall be borne by the employee's health insurance.

8.5 Leave of Absence – A leave of absence beyond the punitive period of the 30 day suspension will be allowed for treatment on an in-patient or out-patient basis. While on a leave of absence, the employee may use accumulated sick leave credit, vacation leave credits, holidays and other accrued leave time up to the limits set forth in the Collective Bargaining Agreement or other applicable laws, rules or regulations, including any discretionary leave rights. Otherwise, the leave of absence shall be without pay. Nothing herein shall be construed to diminish any rights,

## Section 8 Referral, Evaluation and Treatment- continued

which may apply under the Americans with Disabilities Act, Family Medical Leave Act, or other relevant laws.

8.6 Return to Work – Reinstatement to the employee's position after completion of a rehabilitation program may only occur upon certification from the program that the employee has satisfactorily participated in the program and the program recommends return to regular duty assignment. The employee must pass a Return to Duty test before being allowed to return to work. The final decision as to whether to permit an employee to return to full duties in the employee's position or an equivalent position shall be made after consultation with the Substance Abuse Professional and the SAPM or ASAPM.

## Section 9 Follow-up Testing

9.1 Frequency – The number and frequency of the follow-up testing shall be as directed by the Substance Abuse Professional (SAP) and consist of at least six (6) tests in the first twelve (12) months following the employee's return to duty. The employer shall not impose follow-up testing beyond six (6) tests unless the SAP has set a pre-determined schedule of testing not to exceed twenty-four (24) months from the date of the employee's return to duty.

## Section 10 Previous Policies and Procedures

10.1 Any policies and procedures pertaining to alcohol and prohibited drugs, as they pertain to the employees shall be superseded by the procedures set forth by this Memorandum of Agreement, and the Ulster County Sheriff's Office Substance Abuse Policy. Ulster County and the Union will meet as necessary in order to resolve unanticipated or unexpected problems related to the drug and alcohol testing. This updated Memorandum of Agreement will take effect concurrent with the Ulster County's Sheriff's Office Substance Abuse Policy.

## Section 11 Copies of Agreement

11.1 The Employer shall provide the union(s) with sufficient copies of the Memorandum of Agreement, at no cost, for distribution to current members of the bargaining unit.

11.2 The Employer shall provide each new affected employee with a copy of this Memorandum of Agreement, at no cost, on the employee's first day of employment.

## Section 12 Savings Clause

12.1 In the event that any portion of this Memorandum of Agreement should be found to be invalid by a decision of a tribunal of competent jurisdiction, then such specific portion specified in such decision shall be of no force and effect, unless that would lead to unjust or impractical results.

12.2 Upon the issuance of such a decision, then either party shall have the right immediately to reopen negotiations with respect to a substitute for such portion of this Memorandum of Agreement involved.