

Model Guidelines for Volunteer Emergency Personnel



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Introduction

For many years, several municipalities throughout Connecticut have included language in their collective bargaining agreements restricting or prohibiting fire department bargaining unit employees from participating in certain activities including serving as volunteer firefighters. The International Association of Firefighters (IAFF) also discourages its members from serving as volunteers. In responding to concerns from municipalities impacted by this language, the Connecticut General Assembly has considered several proposed bills to prohibit this activity. During the 2006 Legislative Session Public Act 06-22 ***An Act Concerning Model Guidelines for Volunteer Emergency Personnel*** was enacted as the result of a compromise to allow the fire service and municipalities an opportunity to cooperatively discuss the issue.

Background

While a career firefighter's place of residence and their community's volunteer fire department clearly benefit from having volunteers available with firefighting experience, there has been a concern raised by cities and towns with full career fire departments. The identified issues are:

- **Lost Time Injuries** – There is the potential for career firefighters to be injured while acting in their capacity as a volunteer firefighter. Doing so would cause a financial burden on the primary employer, the career fire department (due to payment of backfill and overtime to cover for the firefighter while they are off work injured). In addition, it could create a situation where the firefighter re-injures themselves at their primary career firefighting job and the employer town incurs the cost of replacing the firefighter and workers compensation costs associated with any re-injury.

- **Training Issues** – At least one city fire chief and his municipal administration have expressed concern that firefighters are trained differently therefore emergency scene procedural differences may reduce the operating efficiency of the career fire department and increase the potential for the firefighter to be injured from a lack of team integration.
- **Communicable or Other Illnesses** – In situations where a firefighter is injured, it is relatively easy to identify if they were injured as a career firefighter, volunteer firefighter or elsewhere. If the firefighter contracts a communicable disease, cancer, cardiac symptoms or suffers hearing loss, it is difficult to impossible to determine to what extent (or percentage) their career and volunteer firefighting activities each contributed to the illness or health condition. As a result, the firefighter may have difficulty obtaining workers compensation benefits from both of the towns. In addition, there is presently no clear process or procedure by which one municipality can be reimbursed by another municipality for sharing an employee.
- **Heart and Hypertension** – Current State Statutes specifically state that volunteer firefighters have a beneficial presumption that any heart and hypertension injury occurred “on the job,” while career firefighters do not enjoy such a presumption. As such, there is a likelihood that any person suffering such symptoms and who serves as a volunteer firefighter in one community and a career firefighter in another municipality would file for heart and hypertension benefits through his/her volunteer fire department. This could place an inordinate financial burden on that municipality if, in fact, the firefighter’s condition resulted from duties performed for the primary career employer.
- **Lack of Available Data** – In evaluating this situation and attempting to identify viable procedures to recommend, it immediately became apparent that there is no summary data or information available that would quantify

the extent of this problem or how much money any municipality has expended due to their career firefighters being injured or contracting illnesses while serving as volunteer firefighters for another municipality.

Public Act 06-22

Section 1. The State Fire Administrator, within available appropriations, shall develop model guidelines, on or before January 1, 2007, to be used by municipalities with paid municipal emergency personnel and municipalities with volunteer emergency personnel in entering into agreements authorizing volunteer emergency service personnel [who are paid municipal emergency personnel in the other municipality] to serve [as volunteers] during personal time.

The remainder of this document is an attempt to identify the current body of law and related guidelines to form a basis for negotiations and development of an inter-local agreement.

It is important to note the intent of these guidelines is to be voluntary; they do not supersede any collective bargaining agreements nor do they prohibit any form of collective bargaining, including the prohibition of volunteering. It is recommended that any inter-local agreement be signed by both the Fire Chief and the Chief Elected Official of each affected municipality. Also, for the protection of the individual firefighter, any agreement should contain language that addresses the issue that could arise from a dispute between the municipalities as to who is financially responsible for an injury or disability until the dispute is settled.

Voluntary Guidelines for Municipalities with Career Firefighters Who Are Also Volunteer Firefighters in Other Municipalities

(a) Definitions:

1. Death, Disability and Injury. See C.G.S. 7-314a.
2. Fire Duties. See C.G.S. 7-314(a).
3. Municipality. See C.G.S. 7-314.

There is an established body of law defining terms of art such as "municipality," "fire duties" and "active member of a fire company" etc. A fear of complicating Workers' Compensation claims leads the State Fire Administrator to use the existing definitions while acknowledging other more lucid and definitive ones may be available.

Other Statutes of Interest:

1. Active Member of a Fire Company. See C.G.S. 7-314.
2. Fire Company. See C.G.S. 7-322.
3. Volunteer Fire Department. See 7-314.
4. Volunteer Fire Duty. See 7-314a.
5. Volunteer Fire Services. See 7-314a.

(b) Policy: The policy of the State of Connecticut is:

1. Fire departments are organized as Career, Volunteer or Paid on Call.
2. That existing legislation, C.G.S. 7-301, allows for independence among fire departments, and an infinite variety of relationships and structures among municipalities and fire departments.
3. That existing legislation, C.G.S. 7-322b, encourages firefighters from one municipality to offer to become firefighters in a second municipality, encourages the second municipality to accept firefighters from the first and already provides a mechanism for allocation of Workers' Compensation benefits among the municipalities. Enhanced supplemental insurance coverage may be procured to provide optimum coverage.
4. In situations where a municipality chooses to allow its Career fire service personnel to Volunteer in another community there may be value in having an inter-local agreement among the cooperating municipalities.
5. That there should never be an adverse consequence to a Career firefighter for performing as a Volunteer firefighter for another municipality.

(c) Workers Compensation: Unless otherwise stated or as otherwise enhanced by private agreements:

1. Responsibility for Death, Disability and Injury benefits for firefighters shall be as set forth and as allocated in C.G.S. Chapter 7, (including C.G.S. 7-314a, 7-322, 7-322a, 7-322b) and C.G.S. Chapter 568.

Nothing in this guideline shall prevent a Career or Volunteer fire Department from individually negotiating enhanced supplemental coverage for their personnel.

[Currently firefighters are covered by their own municipality regardless of whether they are responding individually or responding as a mutual aid department summoned to the scene. The State has long had a policy encouraging both Career and Volunteer fire firefighters to offer to provide mutual support and assistance if they are passing through a town where a fire or other emergency occurs, so long as their offer to help is accepted by an appropriate officer in charge.]

Currently firefighters who suffer Death, Disability of Injury while pursuing second jobs or other occupations are compensated under the rules set forth in the ordinary workers compensation statutes.

2. Heart and Hypertension benefits shall, at a minimum, be as currently set forth in the Connecticut General Statutes. Nothing in this guideline shall prevent a Career department from individually negotiating a favorable presumption.

[Currently, volunteer firefighters have a beneficial presumption that the heart and hypertension Death, Disability of Injury occurred "on the job" while Career firefighters hired after July 1, 1996 do not enjoy such a presumption. In an effort to provide consistent benefits, it may be appropriate to restore the former practice of granting career fire service personnel this presumption, perhaps combined with legislation that restores the former practice of deeming the volunteer firefighter rate of compensation to be the maximum workers compensation rate.]

(d) Training:

1. Training requirements are already covered by OSHA and various consensus (i.e. National Fire Protection Association Professional Qualification [NFPA]) standards. An inter-local agreement may

address specific requirements referencing ConnOSHA and/or NFPA and other regulatory agencies and organizations depending upon assignments assumed by the employer.

(e) Death, Disability and Injury:

1. Any death, disability and injury which results from fire duties shall be reported by the municipality where the Death, Disability or Injury occurred to the other municipality within twenty-four hours by telephone. This verbal report shall be confirmed in writing within seventy-two hours of the verbal report on ordinary workers compensation first report of injury forms. The original report form shall be maintained at both municipalities for a minimum of two years. A copy shall be forwarded to the Commission on Fire Prevention and Control, but with the firefighter's personal identifying information deleted.

[This provision provides for information/data gathering on a state-wide level to identify trends and distinguish perceptions from realities, along with specific notice to the other municipalities that might be affected by a firefighter death, disability or injury, regardless of where or how it occurred.]

(f) Backfilling:

1. An inter-local agreement may consider addressing backfill expenses incurred by a career fire department that loses the services of its employee due to an injury/illness/death while volunteering. To aid in data/information gathering, a report describing any backfilling expense a municipality believes is associated with any report described in subsection (e) should be forwarded to the Commission on Fire Prevention and Control and copied to the respondent municipality.

[This provision is the second of two that provides for information-gathering on a state-wide level to identify trends and distinguish perceptions from realities. If, for example, it becomes documented that backfilling, in fact, is a significant expense consequence to Career firefighters Volunteering as firefighters in another municipality, as compared to suffering death, disability or injury in some other fashion other than in the course of their employment as a Career firefighter, then the Commission would then have a factual base with which to recommend corrective action, such as recommend legislation to provide a fund to compensate for backfilling expenses.]

(g) Pension Agreements:

1. If the municipality using Career firefighter provides pension benefits if the firefighter suffered Death, Disability of Injury in non-firefighting activities, then there should be no reason to address this in an inter-local agreement.

(h) Special Situations:

1. If there is a specific circumstance that the applicable municipalities believe could trigger some issue not addressed in these guidelines or in the Connecticut General Statutes, it makes sense for the two municipalities to work the circumstances out in an inter-local agreement. Inter-local agreements should not be used to shift statutory allocations of responsibilities except as already otherwise provided for in the statutes.

[The statutes already provide mechanisms for a variety of inter-local agreements in connection with firefighting. In the context of Career firefighters volunteering in other communities, while an inter-local agreement may offer an opportunity to provide enhanced benefits to firefighters, an inter-local agreement should not be used as a work-around the current statutory and Constitutional scheme for allocating duties, rights and benefits, including those regarding Workers Compensation benefits.]

Conclusion

The State Fire Administrator gratefully acknowledges the assistance of the many contributors toward this project including members of the Commission on Fire Prevention and Control, fire chiefs, state and municipal officials. Information gathered for the Model Guidelines is a result of both research and public meetings. It is further acknowledged that these voluntary guidelines attempt to address a very complicated and at times controversial issue impacting fire service personnel and the municipalities they serve. It is recommended that this document be reviewed and updated on a regular basis to reflect any Statutory or other related changes. All parties with a vested interest in the topic are encouraged to maintain an open dialog on the issue.

Sample of Referenced Statutes

Sec. 7-314a. Death, disability and injury benefits. Presumption. (a) Except as provided in subsections (e) and (f) of this section, active members of volunteer fire departments and active members of organizations certified as a volunteer ambulance service in accordance with section 19a-180 shall be construed to be employees of the municipality for the benefit of which volunteer fire services or such ambulance services are rendered while in training or engaged in volunteer fire duty or such ambulance service and shall be subject to the jurisdiction of the Workers' Compensation Commission and shall be compensated in accordance with the provisions of chapter 568 for death, disability or injury incurred while in training for or engaged in volunteer fire duty or such ambulance service.

(b) For the purpose of this section, the average weekly wage of a volunteer fireman or volunteer ambulance service member shall be construed to be the average production wage in the state as determined by the Labor Commissioner under the provisions of section 31-309.

(c) For the purpose of this section, there shall be no prorating of compensation benefits because of other employment by a volunteer fireman or volunteer ambulance service provider.

(d) For the purpose of adjudication of claims for the payment of benefits under the provisions of chapter 568, any condition of impairment of health occurring to an active member of a volunteer fire department or organization certified as a volunteer ambulance service in accordance with section 19a-180 while such member is in training for or engaged in volunteer fire duty or such ambulance service, caused by hypertension or heart disease resulting in death or temporary or permanent total or partial disability, shall be presumed to have been suffered in the line of duty and within the scope of his employment, provided such member had previously successfully passed a physical examination by a licensed physician appointed by such department or ambulance service which examination failed to reveal any evidence of such condition.

(e) Any member of a volunteer fire company or department or organization certified as a volunteer ambulance service in accordance with section 19a-180 performing fire duties or such ambulance service pursuant to a mutual aid understanding between municipalities shall be entitled to all benefits pursuant to this section and shall be construed to be an employee of the municipality in which his fire company or department or such ambulance service is located.

(f) Any member of a volunteer fire company or department and any person summoned by the State Forest Fire Warden or by any state forest fire personnel or district or deputy fire warden under the supervision of the State Forest Fire Warden pursuant to section 23-37, who performs fire duties under the direction of such personnel or warden pursuant to section 23-37, shall be construed to be an employee of the state for the purpose of receiving compensation in accordance with the provisions of chapter 568 for death, disability or injury incurred while performing such fire duties under such direction.

(1967, P.A. 892, S. 2; 1969, P.A. 464, S. 1; P.A. 79-376, S. 10; P.A. 89-22, S. 2, 3; P.A. 95-243, S. 1; June 18 Sp. Sess. P.A. 97-8, S. 84, 88; June 18 Sp. Sess. P.A. 97-10, S. 4, 7.)

History: 1969 act deleted provision distinguishing state and municipal employees acting as volunteer firemen from others in Subsec. (a) and added Subsecs. (c) and (d) prohibiting prorating of compensation benefits and making provisions concerning hypertension and heart disease; P.A. 79-376 substituted "workers' compensation" for "workmen's compensation"; P.A. 89-22 added Subsec. (e) concerning liability for workers' compensation coverage for firemen injured while performing duties pursuant to a mutual aid agreement, amending Subsec. (a) to reflect its inclusion; P.A. 95-243 added Subsec. (f) to include members of a volunteer fire company or department and any person summoned by the State Forest Fire Warden who performs fire fighting duty under such authority as an employee of the state for workers' compensation purposes and amended Subsec. (a) to refer to said subsection; June 18 Sp. Sess. P.A. 97-8 added volunteer and municipal ambulance service members as employees, effective July 1, 1997; June 18 Sp. Sess. P.A. 97-10 deleted references to municipal ambulance service members as employees, effective July 1, 1997.

Sec. 7-314. Definitions. Exemption from Freedom of Information Act. (a) Wherever used in this section and sections 7-314a and 7-322a, the word "municipality" includes each town, consolidated town and city, consolidated town and borough, city, borough, school district, fire district, fire and sewer district, sewer district, lighting district, improvement association or any other municipal corporation or taxing district, upon which is placed the duty of, or which has itself assumed the duty of, protecting its inhabitants from loss by fire; the term "fire duties" includes duties performed while at fires, while answering alarms of fire, while answering calls for mutual aid assistance, while returning from calls for mutual aid assistance, while directly returning from fires, while at fire drills or parades, while going directly to or returning directly from fire drills or parades, while at tests or trials of any apparatus or equipment normally used by the fire department, while going directly to or returning directly from such tests or trials, while instructing or being instructed in fire duties, while answering or returning from ambulance calls where the ambulance service is part of the fire service, while answering or returning from fire department emergency calls and any other duty ordered to be performed by a superior or commanding officer in the fire department; the term "active member of a volunteer fire company" includes all active members of said fire company, fire patrol or fire and police patrol company, whether paid or not paid for their services, except firemen who, because of contract of employment, come under the Workers' Compensation Act.

(b) The records and meetings of a volunteer fire department which is established by municipal charter or constituted as a not-for-profit Connecticut corporation shall not be subject to the provisions of the Freedom of Information Act, as defined in section 1-200, if such records and meetings concern fraternal or social matters. Records and meetings concerning matters of public safety, expenditures of public funds or other public business shall be subject to disclosure under said sections.

(1949 Rev., S. 910; 1959, P.A. 567, S. 1; 1963, P.A. 19; 1967, P.A. 892, S. 1; P.A. 79-376, S. 9; P.A. 86-408, S. 3, 4; P.A. 89-22, S. 1, 3; P.A. 96-83, S. 2, 3; P.A. 97-47, S. 15.)

History: 1959 act included members of fire patrol or fire and police patrol companies in definition of "active member of a volunteer fire company"; 1963 act included going to and returning from fire drills or parades and tests or trials of apparatus in definition of "fire duties"; 1967 act made technical changes; P.A. 79-376 substituted "workers' compensation" for "workmen's compensation"; P.A. 86-408 added Subsec. (b) exempting operational meetings of active members of volunteer fire department from requirements of freedom of information act; P.A. 89-22 added answering and returning calls for mutual aid assistance to the definition of fire duties; P.A. 96-83 amended Subsec. (b) by exempting from the Freedom of Information Act the records and meetings of a volunteer fire department established by municipal charter or constituted as a not-for-profit

Connecticut corporation if such records and meetings concern fraternal or social matters and specified that records and meetings concerning public safety, expenditures of public funds or other public business are not exempt, effective May 8, 1996; P.A. 97-47 amended Subsec. (b) by substituting "the Freedom of Information Act, as defined in Sec. 1-18a" for list of sections.

Sec. 7-322a. Benefits for volunteers rendering service to another fire company. Any active member of a volunteer fire company who offers his services to an officer or person in charge of another fire company which is actively engaged in fire duties, and whose services are accepted by such officer or person, shall be entitled to receive all benefits payable under the provisions of sections 7-314 and 7-314a. Such payments shall be made by the municipality in which the fire company of which such a fireman is a member is located.

(February, 1965, P.A. 264; 1967, P.A. 892, S. 3; 1969, P.A. 464, S. 2.)

History: 1967 act made technical changes; 1969 act deleted provision restricting offer of services to other volunteer fire companies by removing word "volunteer".

Sec. 7-322b. Volunteers serving in municipality where employed. Fire and ambulance leaves. Enactment by municipality. List of participating members. Benefits. (a) Any active member of a volunteer fire company, as defined in section 7-314, or any emergency medical technician, as defined in section 19a-175, who is a member of an emergency medical service organization and employed between the hours of eight o'clock a.m. and five o'clock p.m. in a municipality other than the municipality in which the volunteer fire company or emergency medical service organization to which the individual belongs is located, may serve as a member of any volunteer fire company or emergency medical service organization located in the municipality where such individual is employed during such hours, subject to the provisions of this section. Nothing herein shall be construed to require any volunteer fire company or emergency medical service organization to accept the services of persons who are available for service pursuant to this section.

(b) Upon the request of a volunteer fire company or an emergency medical service organization, a municipality may, by vote of its legislative body, provide that the municipality and any person, firm or corporation located within such municipality which employs ten or more persons at one location shall allow any active member of a volunteer fire company, as defined in section 7-314, or any emergency medical technician, as defined in section 19a-175, to leave his place of employment, without loss of pay, vacation time, sick leave or earned overtime accumulation, to respond to an emergency to which a volunteer fire company or emergency medical service organization of the municipality is responding, subject to such conditions and regulations as the municipality may provide by ordinance. No employer shall (1) discharge, discipline or reduce the wages, vacation time, sick leave or earned overtime accumulation of any employee because such employee is a member in a volunteer fire company or emergency medical service organization or (2) require refusal to respond to an emergency as a condition of continued employment. The requirements of this section shall not be altered by any collective bargaining agreement.

(c) Any such member or technician who participates pursuant to this section shall register with the volunteer fire department or emergency medical service organization in the municipality in which such person is employed. Each volunteer fire company or emergency medical service organization shall maintain a list of individuals employed within the municipality where such volunteer fire company or emergency medical service organization is located and available to respond to an emergency between the hours of eight o'clock a.m. and five o'clock p.m.

(d) The services of a member of a volunteer fire company or emergency medical service organization who leaves a place of employment to respond to an emergency shall be provided in accordance with any internal operating procedures established by the volunteer fire company or

emergency medical service organization.

(e) Any member of a volunteer fire company or emergency medical service organization who responds to an emergency pursuant to the provisions of this section shall be entitled to receive all benefits payable under the provisions of sections 7-314 and 7-314a. Such payments shall be made by the municipality in which the fire company or the emergency medical service organization of which such a fireman or technician is a member is located.

(f) Any volunteer fire company or emergency medical service organization may request the municipality where such company or organization is located to enact the provisions of this section. Such a request shall be made to the chief executive officer of the municipality and shall be considered by the legislative body.

(P.A. 89-379, S. 1; P.A. 96-180, S. 6, 166; June 18 Sp. Sess. P.A. 97-8, S. 86, 88.)

History: P.A. 96-180 amended Subsec. (a) by deleting reference to Subsec. (e) of Sec. 19a-175, effective June 3, 1996; June 18 Sp. Sess. P.A. 97-8 amended Subsec. (e) by deleting references to Secs. 19a-191 and 19a-192, effective July 1, 1997.

Sec. 7-323b. Acceptance of part. Any municipality may, by ordinance, accept the provisions of this part, as to its policemen or firemen, or both, but such acceptance shall not repeal, amend or replace, or affect the continuance of, any pension system established in such municipality by or under the authority of any special act or charter provision and all such special acts or charter provisions shall remain in full force and effect until repealed or amended by the General Assembly or as provided by chapter 99. When such ordinance has been adopted by the legislative body of any municipality, a certified copy thereof shall be forwarded to the Retirement Commission by the clerk of such municipality. The effective date of participation shall be the first day of July at least ninety days subsequent to the receipt by the Retirement Commission of the certified copy of such ordinance or resolution. The Retirement Commission shall furnish to any municipality contemplating acceptance of this part, at the expense of such municipality, an estimate of the probable cost to such municipality of such acceptance. If any municipality accepts the provisions of this part as to its policemen or firemen, or both, and such municipality provides survivors' benefits for such policemen or firemen, or both, under authority of any special act or charter provision, any such policeman or fireman of such municipality for whom such benefits are provided may elect to be covered under the provisions of this part, provided such election shall be made within ninety days from the date upon which the municipality accepts the provisions of this part for such policeman or fireman and such election shall be in writing and filed with the clerk of the municipality and with the Retirement Commission. Upon such election, the survivors' benefits for such policeman or fireman provided under special act or charter provision shall cease, and only those benefits provided under the provisions of this part shall be available.

(1963, P.A. 390, S. 2; February, 1965, P.A. 197, S. 1.)

History: 1965 act specified section may be applied either to policemen or firemen or both instead of only to both and added provisions concerning election of benefits under policemen and firemen survivors' benefit fund rather than benefits provided under special act or charter provision.

Sec. 7-301. Establishment of fire department. Any town may provide by ordinance for the protection of property within its limits from fire and for the establishment of a town fire department and for the management, discipline and control thereof by the board of selectmen or, if there is a town council, by the town council, or by a board of fire commissioners of such number, chosen in such manner and for such terms as the ordinance provides. The board of selectmen, town council or board of fire commissioners

may make regulations for the conduct of the fire department and may appoint, discipline and remove for cause shown all employees of the department and purchase supplies and equipment necessary for its operation; provided, if the ordinance so provides, the board of selectmen, town council or board of fire commissioners shall enter into an agreement with any volunteer fire company or companies within the town for the protection thereof from fire on such conditions as to financial assistance and the observance of the regulations of the board of selectmen, town council or board of fire commissioners as such ordinance prescribes; and provided no town fire department established under the provisions of this section shall supersede any volunteer fire company which is the owner of any building, fire apparatus or other property without having first come to an agreement with such company with regard to the disposition of and compensation for such building, apparatus or other property. Such town may, at any meeting specially warned for the purpose, make appropriations and lay taxes for the support thereof; but this section shall not be operative within the limits of any city, borough or incorporated fire district which has an established fire department. Nothing in this section shall prevent any town, city, borough or incorporated fire district from appropriating funds to a volunteer fire company or companies for services rendered or to be rendered within the confines of such town, city, borough or district by such fire company or companies, provided such town, city, borough or incorporated fire district shall deem it in the public interest to do so.

(1949 Rev., S. 677; 1957, P.A. 13, S. 18; 1959, P.A. 606, S. 1.)

History: 1959 act added provision protecting town's, city's or borough's power to appropriate funds to volunteer fire companies for services.