

Training Stipends for Volunteer Firefighters
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DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES
NOTICE OF ADOPTION

I.D No. HES-48-23-00001-A

Filing No. 180

Filing Date. Feb. 20, 2024

Effective Date. Mar. 06, 2024

Training Stipends for Volunteer Firefighters

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken:

Addition of Part 215 to Title 9 NYCRR.

Statutory authority:

General Municipal Law, section 200-aa(6); Executive Law, section 709(2)(n)

Subject:

Training stipends for volunteer firefighters.

Purpose:

To promulgate rules and regulations necessary to implement state and locally funded training stipends for volunteer firefighters.

Text of final rule:

A new Part 215 is added to read as follows:

215.1: Purpose

This Part provides for the implementation of payment of a training stipend to volunteer firefighters for the completion of certain training. The Office of Fire Prevention and Control is authorized to administer and award training stipends to volunteer firefighters for completion of certain firefighter training, subject to available state funding. In addition, volunteer fire departments are authorized to pay volunteer firefighters a training stipend, subject to available local funding, for the completion of certain courses, identified by the Office of Fire Prevention and Control.

215.2: Definitions

For the purposes of this Part:

(a) "Authority having Jurisdiction" shall mean the governmental body which possesses the legal responsibility for providing fire protection as follows:

- (1) for a fire district and joint fire district it shall mean the board of fire commissioners;*
- (2) for a village it shall mean the village board of trustees;*
- (3) for a fire protection district, it shall mean the town board that contracts to provide fire protection; and*
- (4) for a city it shall mean the governing body vested with such power.*

(b) "Fire Chief" shall mean the person that is the top executive rank or commanding officer of the Fire Department, including any person acting-as or temporarily performing the duties of that role.

(c) "Fire Department" shall have the same meaning as "fire company," as defined and used in section 200-aa of the General Municipal Law, and accordingly shall mean:

(1) a fire company of a county, city, town, village or fire district fire department, whether or not any such company has been incorporated under any general or special law;

(2) a fire corporation incorporated under or subject to the provisions of article ten of the Membership Corporations Law, which is not included within paragraph (1) above, if such corporation is by law under the general control of, or recognized as a fire corporation by, the governing board of a city, town, village or fire district; or

(3) a fire corporation incorporated under, or established pursuant to the provision of, any general or special law, which is not included within paragraphs (1) and (2) above, if such corporation is by law under the general control of, or recognized as a fire corporation by, the governing board of a city, town, village or fire district or Indian reservation.

(d) "Local Fire Training Stipend" shall mean payment of a nominal fee to a Volunteer Firefighter of a stipend by their Fire Department for the completion of certain firefighter training, as identified and published by OFPC.

(e) "Member in Good Standing" shall mean a firefighter that is responding to emergency incidents, attends meetings and training sessions, and meets the minimum qualifications, as determined by the Authority having Jurisdiction over the Fire Department.

(f) "OFPC" shall mean the New York State Division of Homeland Security and Emergency Services Office of Fire Prevention and Control.

(g) "State Fire Training Course" shall mean a specific training course developed, sponsored, or authorized by OFPC or its designated representatives.

(h) "State Fire Training Stipend" shall mean payment of a nominal fee by OFPC to a Volunteer Firefighter of a stipend for the completion of certain firefighter training, as identified and published by OFPC.

(i) "Volunteer Firefighter" shall mean an active volunteer member of a Fire Department.

215.3: State Fire Training Stipends

(a) **Firefighter Eligibility.** A State Fire Training Stipend will only be provided to a Volunteer Firefighter who is a Member in Good Standing of their Fire Department.

(b) **Fire Department Eligibility.** Applications for a State Fire Training Stipend will only be accepted from Fire Departments that:

(1) Submitted Fire Department incident data through the Fire Reporting System, as required by General Municipal Law section 204-d, for the prior reporting year.

(2) Submit Fire Department demographics to OFPC annually, using a form published by OFPC, to include the following information:

(i) fire station addresses, including substations;

(ii) number of interior firefighters;

(iii) number of exterior firefighters;

(iv) name and contact information of Fire Chief or equivalent; and

(v) name and contact information of assistant/deputy chiefs or equivalent Fire Chief successor positions.

(c) **Stipend Conditions and Requirements.**

(1) A State Fire Training Stipend may only be awarded to individuals the first time they complete a qualifying course.

(2) An individual does not qualify for a State Fire Training Stipend if they repeat a course or take a course equivalent to a course for which they have already received a State Fire Training Stipend.

(3) Any Volunteer Firefighter that receives a Local Fire Training Stipend cannot receive a State Fire Training Stipend for the same or equivalent course.

(4) The qualifying course must have been completed on or after August 31, 2023.

(5) State Fire Training Stipend awards will be prioritized based on the date OFPC received a complete application, as determined by OFPC.

(6) All course equivalents must be reviewed and approved through OFPC's equivalency process prior to submission of a stipend application.

(7) Submitting an application does not create a right or entitlement to the receipt of a State Fire Training Stipend.

(8) An award of State Fire Training Stipend is subject to the availability of allocated funds.

(d) Qualifying Courses and Stipend Amounts.

(1) Basic Exterior Firefighting Operations with Hazardous Material First Responder Operations course or equivalent: in an amount to be determined by OFPC, up to \$750.

(2) Self-Contained Breathing Apparatus with Interior Firefighting Operations course or equivalent: in an amount to be determined by OFPC, up to \$1,250.

(3) Fire Officer I course or completion of the five modules of the Fire Officer I program including Company Training and Community Risk Reduction, Firefighter Health and Safety, Leadership and Supervision, Planning and Emergency Response, and Fireground Strategies and Tactics for First Arriving Companies or equivalent: in an amount to be determined by OFPC, up to \$1,000.

(4) Any additional State Fire Training Course identified and published by OFPC: in an amount to be determined by OFPC, up to \$500.

(e) Process.

(1) Applications for a State Fire Training Stipend must be submitted by the Volunteer Firefighter's Fire Department to OFPC and must include, but are not limited to, the following components:

(i) signed statement from the Fire Chief of the Fire Department, or their designee, that:

(a) the Volunteer Firefighter is an active firefighter and Member in Good Standing;

(b) the Volunteer Firefighter was authorized by the Fire Department to take the course; and

(c) the Volunteer Firefighter successfully completed the course;

(ii) a Substitute W-9 form, if not already submitted during course registration.

(2) Applications must be submitted using the form published by OFPC.

(3) Application packets must be submitted through email to OFPC-Stipend@dhses.ny.gov.

(4) Upon receipt and verification of a complete application, OFPC will process the stipend payment directly to the Volunteer Firefighter, subject to the requirements of this Part and the availability of funds.

(f) In the event a Fire Department has not submitted an application for a State Training Stipend to OFPC within one year after completion of a qualifying course and any local requirements, the Authority Having Jurisdiction may submit an application and signed statement on behalf of a Volunteer Firefighter, subject to and in compliance with the eligibility, conditions, and process requirements listed in this section.

215.4: Local Fire Training Stipends

(a) The administration of a Local Fire Training Stipend requires authorization by the governing board of a city, town, village, or fire district, by local law, ordinance, or resolution.

(b) The governing board may establish, or require the Fire Department to establish, minimum standards or requirements for eligibility and processing of a Local Fire Training Stipend, consistent with this Part.

(c) A Local Fire Training Stipend may only be provided by a Fire Company to a Volunteer Firefighter who is a Member in Good Standing of their Fire Department.

(d) Stipend Conditions and Requirements.

(1) The Volunteer Firefighter must have received prior authorization from their Fire Department to take the course.

(2) The qualifying course must have been completed on or after August 31, 2023.

(3) Any Volunteer Firefighter that receives a State Fire Training Stipend cannot receive a Local Fire Training Stipend for the same or equivalent course.

(4) Awards of a Local Fire Training Stipend are subject to the availability of locally allocated funds.

(5) The Fire Department must submit fire incident data through the Fire Reporting System, as required by General Municipal Law section 204-d, for the prior reporting year.

(6) The Fire Department must submit Fire Department demographics to OFPC annually, using a form published by OFPC, to include the following information:

(i) fire station addresses, including substations;

(ii) number of interior firefighters;

(iii) number of exterior firefighters;

(iv) name and contact information of Fire Chief or equivalent; and

(v) name and contact information of assistant/deputy chiefs or equivalent Fire Chief successor positions.

(e) *Qualifying Courses and Stipend Amount.* A Local Fire Training Stipend may be authorized for the completion of any State Fire Training Courses or equivalents, as determined by OFPC: up to \$500.

(f) *Verification.* A Training Stipend shall only be issued after successful completion of a State Fire Training Course, or equivalent, that is verified through the Volunteer Firefighter's training transcript from the New York State Learning Management System.

(g) Fire Departments must submit Local Fire Training Stipend information to OFPC annually, to include:

(1) number of Volunteer Firefighters that receive a Local Fire Training Stipend during the calendar year;

(2) number of Local Fire Training Stipends paid for each course, listed out by course; and

(3) amount paid per course, listed out by course.

Final rule as compared with last published rule:

Nonsubstantial changes were made in section 215.4(c).

Text of rule and any required statements and analyses may be obtained from:

James Callahan, NYS Division of Homeland Security and Emergency Services, 1220 Washington Ave., Bldg. 7A, Albany, NY 12226, (518) 474-6746, email: Rule.Making@dhses.ny.gov

Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Modification of the Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, and Job Impact Statement that were published as a part of the Notice of Proposed Rule Making is unnecessary. A non-substantial revision was made to the rule, adding-in a limiting phrase that already exists in statute. This change makes the rule clearer without changing its scope of application. As such, the rule does not contain any substantial revisions and the non-substantial revision to the rule text does not render the Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement inadequate or incomplete.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2027, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The New York State Division of Homeland Security and Emergency Services (DHSES) received 17 comments in response to the proposed rulemaking to add Part 215 to the Official Compilation of Codes, Rules and Regulations of the State of New York, concerning the implementation of state and local fire training stipends through the New York State Office of Fire Prevention and Control (OFPC). This assessment uses the term "fire department" in the same manner that "fire company" is defined in section three of the Volunteer Firefighters' Benefit Law.

One submission on behalf of the Firefighters Association of the State of New York (FASNY) offered comments on several aspects of the proposed rule.

The FASNY comment suggests that the proposed rule improperly places the responsibility for applying for state training stipends on fire departments instead of the authority having jurisdiction over the fire department. The comment suggests that every use of "Fire Department" in the rule should be modified to add "or Authority Having Jurisdiction," with section 215.3(f) being removed as superfluous.

This particular suggestion was also raised during DHSES' initial outreach to statewide fire service organizations representative of impacted local governments. DHSES declines to adopt this suggestion. Under currently applicable OFPC procedures, the fire chiefs of fire departments approve authorizations to take State fire training courses. Accordingly, fire departments are the appropriate entity to assign the primary responsibility for submitting State fire training stipend applications following the completion of authorized training. As FASNY acknowledged in its comment, fire chiefs are appointed by the authority having jurisdiction, and are thus already answerable to that body for how they implement the stipend program. Further, this rule must be structured in a manner that works for fire departments across the state, and not just those in fire districts. Nevertheless, this concern prompted the inclusion of section 215.3(f), allowing the authority having jurisdiction to submit applications when fire departments fail to do so.

The FASNY comment suggests that sections 215.3(b) and 215.4(d)(6) should be removed. The comment claims DHSES already has the requested information, DHSES could get the information by adding it to the reporting requirements of a separate program, existing reporting requirements assign the responsibility for providing this information to the authority having jurisdiction rather than fire departments, and conditioning provision stipends to individuals on the submission of information by fire departments is improper and inconsistent with the goals of the stipend program.

DHSES declines to adopt this suggestion. DHSES views the factual information gathered by the proposed rule as necessary for assessing the scope and efficacy of the overall stipend program, so that state training stipends authorized under section 215.3(d)(4) can be most effectively targeted as needed. DHSES does not already have access to a complete and up-to-date version of the requested information. Requiring this information as a precondition is necessary to incentivize compliance, and DHSES views the requested submission to be simple enough to pose no practical burden on departments.

The FASNY comment suggests that section 215.3 should be streamlined by confirming course completions through the Acadis database instead of asking the firefighter to submit confirmation by printing information from that same database.

This suggestion misunderstands the process outlined in the proposed rule. The State fire training stipend asks applicants to sign an affirmation of successful completion within the context of a single form that asks the applicant to affirm all other elements of qualification for the stipend. It does not require the submission of a printout from the Acadis database. As such, DHSES declines to adopt this suggestion, as the additional affirmation is viewed as a minor addition to the requested form while still reminding applicants to only submit the form after a successful course completion.

The FASNY comment also suggests that OFPC should adopt an expedited timeline for approving course equivalencies, with a suggested target of 30 days.

DHSES declines to adopt this suggestion. The OFPC course equivalency process is a pre-existing program-function within OFPC. The stipend regulation is not designed or intended to reach into that program area and create a new process for assessing equivalency. Nevertheless, OFPC acknowledges the importance of providing prompt guidance on equivalency and will continue to work with fire departments on this topic as needed.

One comment expresses concern that the requirement that training stipends only be permitted where there is prior authorization from the volunteer firefighter's department could create an avenue for favoritism, with authorization to take training being granted or withheld on the basis of improper collateral considerations. The comment suggests requiring departments to allow all firefighters to take any training course, as a condition of participation in the stipend program.

DHSES declines to adopt this suggestion. Fire Departments need to be able to authorize training based on the needs and gaps of each department.

One comment expresses concern that section 215.4 of the proposed rule does not sufficiently clarify that only fire departments can provide local training stipends, and the comment suggested issues may be created if other local government entities pay the stipends directly.

DHSES is making a non-substantial change to the rule to clarify this point. General Municipal Law § 200-aa(2) only authorizes fire companies to provide training stipends to volunteer firefighters. The revised rule now restates this limitation in section 215.4(c).

One comment requests a clarification as to which OFPC courses qualify for local training stipends.

DHSES believes clarification is not needed. As stated in the rule, any state fire training course can be included in a local fire training stipend program, as authorized by an authority having jurisdiction. The qualification "as determined by OFPC" only modifies the authorization for "equivalents," which OFPC must review to verify equivalency. This review does not serve as a limitation on the permissible scope of local stipends for any OFPC course.

One comment suggests that the payment of stipends under this program be modified so that the stipend functions as an ongoing retention incentive for volunteer fire departments. The comment suggests that the stipends be paid in parts over the course of several years, provided that the qualifying firefighter remains an active member of a fire department.

DHSES declines to make this modification to the stipend program. DHSES views providing the stipend as a lump-sum as necessary to effectuate the recruitment and retention goals of the program. Further, section 215.4(b) of the rule allows the authority having jurisdiction to establish additional minimum requirements for participating in a local training stipend program.

One comment expresses concerns that allowing local stipends at all could create issues for volunteer departments, including competition between departments for volunteers on the basis of comparative ability to provide training stipends, additional pressure on department budgets, and additional administrative burden on the department to implement a local training stipend program.

This rule is necessary to enable the provision of local fire training stipends, as directed by General Municipal Law § 200-aa. DHSES believes that the goal of encouraging participation in firefighter training at the local level will benefit firefighter recruitment and retention. The burden of funding and administering a local training stipend program only exists to the extent a locality opts to create one, upon authorization from their authority having jurisdiction.

Several comments suggest changes or alternatives that were beyond the authorized scope of the stipend program, as permitted by General Municipal Law § 200-aa, including: offering a tax break for volunteer firefighters, adding additional retention incentives for volunteer firefighters, adding training stipends for emergency medical technicians, adding recruiting and retention incentives for emergency medical technicians, making the length of service award program mandatory for all departments, offering pay per call to all volunteers, offering state-funded pay to minimum station keepers, and allowing counties to also offer local training stipends for training for members of shared county specialized teams.

Regardless of the individual merit of these suggestions, this rule cannot go beyond the authorized scope of the program as specified by General Municipal Law § 200-aa.

Lastly, the majority of comments are broadly supportive of the proposed rule as furthering recruitment and retention efforts statewide. DHSES appreciates those who took the time to share their words of support.

END OF DOCUMENT