

**RULES  
OF  
THE TENNESSEE COMMISSION ON FIREFIGHTING  
PERSONNEL STANDARDS AND EDUCATION**

**CHAPTER 0360-07-01  
EDUCATIONAL INCENTIVE PAY**

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**0360-07-01-.01 MINIMUM STANDARDS.**

- (1) All persons who are hired as a firefighter by an eligible unit of government on or after January 1, 1986, or who volunteer with a fire department on or after July 1, 2021, shall:
  - (a) Be at least eighteen (18) years of age;
  - (b) Be a citizen of the United States;
  - (c) Be a high school graduate or possess equivalency;
  - (d) Not have been convicted of any felony charge, have not pled guilty to any felony charge, have not entered a plea of nolo contendere to any felony charge that directly relates to the profession of firefighting subject to the Fresh Start Act;
  - (e) Not have been released or discharged for any other reason than honorable discharge from any of the armed forces of the United States;
  - (f) Be in compliance with the fire department's drug-free workplace program and policy;
  - (g) Be proficient in the English language, both written and spoken, in accordance with National Fire Protection Association (NFPA) 1001, 1072 and 1582 and be proficient in identifying hazardous materials; and
  - (h) Have a good moral character in accordance with the Code of Ethics adopted by the Commission on Firefighting Personnel Standards and Education; or
  - (i) Have successfully appealed such cause of ineligibility to the appropriate local authority having jurisdiction.
- (2) The local authority having jurisdiction may establish minimum standards for its department that are more stringent than these standards established by the Commission.

**Authority:** T.C.A. §§ 4-24-107 and 4-24-202. **Administrative History:** Original rule filed August 27, 1979; effective October 10, 1979. Amendment filed November 8, 1990; effective December 23, 1990. Amendment filed April 25, 2005; effective July 9, 2005. Repeal and new rule filed October 27, 2014; effective January 25, 2015. Amendments filed July 27, 2018; effective October 25, 2018. Emergency rules filed September 2, 2021; effective through March 1, 2022. Emergency rules expired effective March

(Rule 0360-07-01-.01, continued)

2, 2022, and the rules reverted to their previous statuses. Amendments filed August 29, 2022; effective November 27, 2022.

### **0360-07-01-.02 FIREFIGHTER ELIGIBILITY.**

- (1) For the purpose of qualifying for the Volunteer Educational Incentive Pay Program, a person must meet the following criteria:
  - (a) Serve as a volunteer firefighter as defined in T.C.A. § 4-24-201(4) with a fire department recognized pursuant to T.C.A. §§ 68-102-301 et seq.; and
  - (b) Complete thirty (30) hours of in-service training in firefighting or prevention of fires approved by the Commission.
- (2) For the purpose of qualifying for the Career Educational Incentive Pay Program, a person must meet the following criteria:
  - (a) Serve in the employ of a municipality, county or political subdivision as a full-time employee of the fire department recognized pursuant to T.C.A. §§ 68-102-301 et seq.; and
  - (b) Complete forty (40) hours of in-service training in firefighting or prevention of fires approved by the Commission and be actively engaged in such work.

**Authority:** T.C.A. §§ 4-24-107 and 4-24-201. **Administrative History:** Original rule filed August 27, 1979; effective October 10, 1979. Amendment filed November 8, 1990; effective December 23, 1990. Amendment filed October 14, 1994; effective February 28, 1995. Repeal and new rule filed October 27, 2014; effective January 25, 2015. Amendments filed July 27, 2018; effective October 25, 2018. Emergency rules filed September 2, 2021; effective through March 1, 2022. Emergency rules expired effective March 2, 2022, and the rules reverted to their previous statuses. Amendments filed August 29, 2022; effective November 27, 2022.

### **0360-07-01-.03 RESERVED.**

**Authority:** T.C.A. § 4-24-107. **Administrative History:** Original rule filed August 27, 1979; effective October 10, 1979. Amendment filed September 30, 1983; effective December 14, 1983. Amendment filed November 8, 1990; effective December 23, 1990. Amendment filed October 14, 1994; effective February 28, 1995. Repeal filed April 25, 2005; effective July 9, 2005. Repeal and new rule filed October 27, 2014; effective January 25, 2015.

### **0360-07-01-.04 ENTRY LEVEL PERSONNEL.**

- (1)
  - (a) It shall be mandatory for all qualified volunteer firefighters to become certified, when eligible, at the Fire Fighter I level in order to become eligible for educational incentive pay.
  - (b) It shall be mandatory for all qualified career firefighters to become certified, when eligible, at the Fire Fighter I level and progress when eligible through the Fire Fighter II level of certification in order to become eligible for educational incentive pay.
- (2)
  - (a)
    1. A volunteer firefighter must complete CPR training within twelve (12) months of the firefighter's service or not later than December 31, 2021.
    2. The volunteer firefighter must complete the sixteen (16) hour Introduction to Fire and Emergency Services Course, the sixty-four (64) hour Basic Firefighting

(Rule 0360-07-01-.04, continued)

Course and the Commission approved Live Burn by the end of the calendar year in which the volunteer reaches the firefighter's thirty-sixth (36th) month of service with a recognized department or within thirty-six (36) months after July 1, 2021. This requirement will be satisfied if the firefighter can show proof of having completed the sixteen (16) hour Introduction to Fire and Emergency Services Course, the sixty-four (64) hour Basic Firefighting Course, Commission approved Live Burn within ten (10) years of December 31, 2021, or Fire Fighter I or above, having no break in service exceeding sixty (60) months.

3. A volunteer firefighter must complete Fire Fighter I, Hazardous Materials Awareness and Hazardous Materials Operations certification levels by the end of the calendar year in which the volunteer applicant reaches his/her sixtieth (60th) month of service with a recognized department or within the firefighter's sixtieth (60th) month after July 1, 2021. Firefighters who have not obtained Fire Fighter I, Hazardous Materials Awareness and Hazardous Materials Operations certification after that date shall not be eligible for educational incentive pay until required certification(s) have been obtained. This requirement will be satisfied if the firefighter can show proof of having completed Fire Fighter I and no break in service exceeding sixty (60) months.
  - (b) A career firefighter must complete Fire Fighter I, Fire Fighter II, Hazardous Materials Awareness and Hazardous Materials Operations certification levels by the end of the calendar year in which the applicant reaches the applicant's thirty-sixth (36th) month of employment with a participating fire department. Firefighters who have not obtained Fire Fighter I, Fire Fighter II, Hazardous Materials Awareness and Hazardous Materials Operations certification after that date shall not be eligible for educational incentive pay until required certification(s) have been obtained.
- (3) Qualified personnel, who are separated from the fire service for a period of greater than 60 months and then reenter the fire service shall subsequently obtain certification in accordance with rule 0360-05-01-.02.
- (4) Individuals hired into a department as Fire Safety Inspectors after December 31, 1990, and who are not trained in fire suppression may meet the requirements of this section by completing certification as prescribed by T.C.A. § 68-120-113 by the end of the calendar year in which they reach their twelfth (12th) month of employment. If an individual is hired as a Fire Safety Inspector and later transfers to fire suppression, the individual shall achieve Fire Fighter I, Fire Fighter II, Hazardous Materials Awareness and Hazardous Materials Operations certifications within thirty-six (36) months after the transfer date.
- (5) Individuals hired into a department as Public Fire and Life Safety Educators after December 31, 1990, and who are not trained in fire suppression may meet the requirements of this section by completing certifications as Public Fire and Life Safety Educator I and Public Fire and Life Safety Educator II by the end of the calendar year in which they reach their twenty-fourth (24th) month of employment. If an individual is hired as a Public Fire and Life Safety Educator and later transfers to fire suppression, the individual shall achieve Fire Fighter I, Fire Fighter II, and Hazardous Materials Awareness and Operations certifications within thirty-six (36) months after the transfer date.
- (6) The date an individual became employed as a firefighter or volunteered as a firefighter, respectively, for participation in the Educational Incentive Pay Program shall be the date used to calculate deadlines for certification.
- (7) All career fire departments participating in the Educational Incentive Pay Program shall ensure to have their qualified personnel obtain the Fire Fighter II level of certification no later than the thirty-sixth (36<sup>th</sup>) month from the date the department enters into the Educational

(Rule 0360-07-01-.04, continued)

Incentive Pay Program. Department personnel that have not obtained the required certification(s), as provided in rule 0360-07-01-.04(1)(a) and (b) and (2)(a) and (b), shall be ineligible to receive educational incentive pay until the required certification(s) have been obtained.

**Authority:** T.C.A. §§ 4-24-101, 4-24-106, 4-24-107, 4-24-201, and 4-24-202. **Administrative History:** Original rule filed August 27, 1979; effective October 10, 1979. Amendment filed September 30, 1983; effective December 14, 1983. Amendment filed November 8, 1990; effective December 23, 1990. Repeal and new rule filed October 14, 1994; effective February 28, 1995. Amendment filed April 25, 2005; effective July 9, 2005. Amendment filed December 14, 2009; effective March 14, 2010. Repeal and new rule filed October 27, 2014; effective January 25, 2015. Amendments filed July 27, 2018; effective October 25, 2018. Emergency rules filed September 2, 2021; effective through March 1, 2022. Emergency rules expired effective March 2, 2022, and the rules reverted to their previous statuses. Amendments filed August 29, 2022; effective November 27, 2022.

### **0360-07-01-.05 REQUIREMENTS FOR IN-SERVICE TRAINING PROGRAMS.**

- (1) Length of Training
  - (a) Certified or recognized programs shall be of at least forty (40) hours duration for the career educational incentive pay and at least thirty (30) hours duration for the volunteer educational incentive pay. A department may count one (1) hour for testing as part of the department's in-service training program.
  - (b) Instructor led program(s) shall be scheduled for not less than two (2) hours.
  - (c) Online/computer courses shall be a minimum of one (1) hour in duration.
- (2) Appointment of Training Coordinator
  - (a) Each department conducting an In-Service Training Program shall meet the minimum standards as defined in the Commission's rules, regulations, and policies.
  - (b) In order to participate in the Educational Incentive Pay Program, the Training Coordinator shall attend a training session on the Commission's laws, rules, regulations, programs, policies and procedures. Commission staff may offer one-on-one training sessions at the Commission office and will hold at least one (1) regional training session in each Grand Division of the state per year.
- (3) Appointment of Instructor
  - (a) Instructors used for in-service training shall be approved by the Fire Chief or Training Coordinator and shall be qualified by experience and training in the subject matter of the course to be taught except for other authorized specialized courses.
  - (b) Instructors are required to be certified as Fire Instructor I unless otherwise authorized by the Fire Chief or Training Coordinator.
  - (c) Instructors shall not teach themselves. However, instructors of Commission-approved in-service training classes shall receive one (1) hour credit for each hour taught provided that the teaching shall not consist of the use of electronic media exclusively and shall require the instructor to interact with the attendees of the class to obtain credit.
  - (d) Fire service personnel who serve as evaluators at Commission Sponsored Practical or Live Burn Practical Examinations shall receive four (4) hours Specialized Training

(Rule 0360-07-01-.05, continued)

Credit for each practical where the firefighter serves as an evaluator up to a maximum of two (2) practicals per calendar year for a maximum of eight (8) hours credit. In-house practical/live burn examinations do not qualify. One (1) In-Service Training Substitution form shall be submitted per evaluator for the year noting the date(s) the applicant served as an evaluator.

(4) Course Curriculum Requirements

(a) Course curricula shall be based on a needs survey of the area served and courses required by the Commission. All curricula shall be substantially derived from the appropriate standards as set forth in the Commission's rules, Chapter 0360-06-01, with the exception of any required subject material not adequately covered in these standards. All curricula shall be submitted for review by the Director or his/her designee, and be approved by the Commission. At least thirty (30) days prior to commencement of training, a copy of the curriculum noting whether the instructors are certified as Fire Instructor I, or not, shall be submitted to the Commission. If the instructors are not certified as Fire Instructor I, then the instructors' qualifications, the dates and location of training, the dates of testing, and a copy of the testing instruments and answers, and other such data as required by the Commission, shall be submitted to the Commission for approval. If a course is taught by a person not certified as Fire Instructor I, then the qualifications of the instructor in the subject matter taught shall be included with the course records for Commission audit purposes.

1. (i) All Training Programs shall be submitted to the Commission office for approval no later than October 1 of the current calendar year for the training to be conducted in the following calendar year. Failure to provide all information by the required date may result in a rejection of educational incentive pay. All information shall be submitted in a form prescribed by the Commission. Peer reviews shall be performed and notification sent to departments by December 31.

(ii) Training Programs for the Volunteer Educational Incentive Pay Program for the calendar year 2021 are not required to be submitted to the Commission for prior approval but training records shall be submitted by December 31, 2021. Training Programs for the volunteer incentive program will be required to be submitted to the Commission by October 1, 2021, for the 2022 calendar year.

2. Course dates submitted for a department's In-Service Training Program are the dates on which the courses are to be taught. However, due to unforeseen circumstances, changes sometimes occur. If a change in a date is necessary less than thirty (30) days from the scheduled date, a department is to make note of the change in their program along with the reason for the change. If a change in class date is required thirty (30) or more days before the scheduled date, a written notification shall be sent to the Commission office with the new class date and the reason for change. The notice may be submitted by fax, electronically or U.S. Mail.

3. If a department is required to provide a range of dates and locations that a particular class will be taught when submitting its In-Service Training Program, the department shall provide to the Commission office the exact dates, times, and locations of the classes a minimum of seventy-two (72) hours prior to the classes being taught. This notice may be submitted in a form prescribed by the Commission; however if by mail, sufficient time should be allowed so that the notice has time to arrive in the Commission office a minimum of seventy-two (72)

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hours in advance of the new class dates. No credit shall be given for classes for which the Commission office has not received advance notice of specific dates.

4. A department may not use the substantially same In-Service Training Program in consecutive years.
- (b) The Commission requires that the following minimum training be included in all training programs that are submitted for Commission approval:
1. At least four (4) hours each year on firefighter health and safety; and
  2. At least once every three (3) years, four (4) hours of the following subjects:
    - (i) Post Traumatic/Critical Incident Stress Training;
    - (ii) Domestic violence training/Sudden Infant Death Syndrome ("SIDS") training;
    - (iii) Hazardous Materials; and
  3. The Commission also requires that eligible firefighters maintain active CPR certification, whether annual or bi-annual, and demonstrate proficiency in the skills of CPR by an agency recognized by the Commission. A maximum of four (4) hours credit toward the required in-service training shall be allowed for this training.
- (c) Courses taught by a department that include routine functions (hose testing, pre-planning, pumper testing, vehicle maintenance, station maintenance, etc.) may be considered training for purposes of the In-Service Training Program when approved by the Commission.
- (d) Training provided to members of a department shall be appropriate to a firefighter's rank and responsibility and the size and location of a firefighter's department (e.g., an Arson Investigator or Codes Enforcement Officer who has no fire suppression duties should not complete a course in fire suppression activities).
- (e) Computerized training courses and/or internet courses may be part of a department's In-Service Training Program but shall meet the following conditions:
1. The course software shall provide sufficient safeguards to ensure each individual claiming credit has completed his/her own work.
  2. The course software shall prohibit the individual from skipping any of the courses and proceeding to the final examination.
  3. The training provider shall provide a Certificate of Completion for each individual who successfully completes the course. This Certificate shall be kept on file by the department for audit purposes.
  4. The training provider shall provide information that outlines the course objectives, instructional method(s), and the time it takes to complete the course. This information shall be briefly outlined as part of the department's In-Service Training Program.
  5. The department shall schedule the training in accordance with the requirements of the Commission.

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6. The Training Coordinator or a Fire Department Instructor I shall be available (either in person or by telephone) during the normal business hours to answer any questions that an individual may have regarding the course.
  7. The department shall have audit procedures in place to ensure that an individual is completing his/her own work.
  8. No more than twenty (20) hours of credit will be given for computerized training. Instructor-led training utilizing technology shall not be considered "computerized training."
  9. In-Service Training Programs for volunteer educational incentive pay for calendar year 2021 are not required to meet the standards above, but the training must address the prevention of fires, hazardous materials, and firefighter health and safety.
- (5) Attendance Records. Attendance records shall be maintained on each firefighter in a form prescribed by the Commission and shall be made available for inspection upon request by the Commission or its representative. The Training Coordinator and head of the department conducting in-service training shall certify to the local unit of government those firefighters who successfully completed the training, and certified records shall be maintained in each individual department for a period of thirty-six (36) months. Such records shall be included on a form prescribed by the Commission.
- (6) Testing Instrument
- (a) Multiple testing instruments shall be designed to assure that the same examination is not administered to two (2) consecutive training sessions using the same curriculum. The examination shall be in the form of multiple-choice questions and a separate examination administered to cover each unique course of instruction in the training program. Each examination shall contain the greater of ten (10) questions relating to a course of instruction or one (1) question relating to each hour of course instruction (e.g., sixteen (16) hazardous materials questions for a sixteen (16)-hour hazardous materials course). The examinations may be administered either independently or in a single cumulative examination at the conclusion of the training program. If a cumulative option is selected, the examination shall be divided by section of each unique course of instruction.
  - (b) Answer sheets shall follow a format which contains the following:
    1. Name;
    2. Employee Identification Number or Public Safety Identification (PSID) Number;
    3. Employing department or volunteer department; and
    4. Score.
  - (c) Testing Instruments which combine the questions with the answer sheet shall not be accepted for grading. Answer sheets shall be maintained as a record for at least three (3) years and shall be submitted to the Commission office upon request by the Commission.
  - (d) Each examination covering a course of instruction shall be developed, administered and scored by the Training Coordinator or Instructor. Each individual shall score at

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least seventy percent (70%) on each examination. Only one retest will be allowed for individuals failing to achieve seventy percent (70%). If administered as a single cumulative examination, each individual shall score at least seventy percent (70%) on each section of the examination. If the individual fails any section of the examination, the individual may retest one (1) time on each section.

(7) Approval of Specialized Schools/Courses

- (a) If a firefighter attends a specialized school appropriate to the firefighter's rank (or position) and responsibility, the eligibility of the school shall be approved by the Commission office. Only schools of a fire service-related nature of at least two (2) hours in duration, except for approved online courses and curriculum for which one (1) hour is acceptable, will be considered for in-service credit toward meeting the training requirement. When submitting a course for Commission approval, the department shall indicate the NFPA Standard Number and Section that is applicable to the course being submitted. When applicable, the course will be submitted by March 1 for pre-approval by the Commission office. In cases where the curriculum and instructors are unknown and when admittance is by short notice, the curriculum and proof of successful completion will be submitted after the course is completed.
- (b) If no examination is administered, the attending firefighter should submit to the firefighter's Training Coordinator a detailed evaluation of the course and a correlation sheet showing how their coursework meets the appropriate NFPA Standard. If satisfied that the training was valid and beneficial, the Training Coordinator shall submit a statement to that effect, along with a copy of the report, to the Commission office. If this is not done, no credit shall be given.
- (c) In-service credit requests will be reviewed and may be granted for an individual firefighter for the current training year only if the course is relevant to the firefighter's duties and responsibilities.
- (d) In some instances, the above type training session may be combined with the regularly scheduled and Commission-approved in-service training sessions. If this is done, the attending firefighter shall be tested on those hours attended in the departmental program. This will necessitate the local Training Coordinator being responsible for identifying the appropriate questions involved in the Commission-approved testing instrument.
- (e) Fire service personnel attending the National Fire Academy and successfully completing courses taught on campus will be given credit. In addition, a current CPR certification is required in order to be qualified for educational incentive pay.

(8) Approval of Fire Courses (Colleges and Universities)

- (a) Any firefighter who successfully completes a fire related course (or courses) at any accredited institution, institution of higher education, college or university, may be considered for annual fulfillment of all or a portion of the required in-service training, not to include the eight (8) hours of hazardous material training or the CPR certification requirements as provided for in the provisions herein and approved by the Commission.
- (b) Course completion toward credit for the annual in-service training requirements may be met by completing three (3) semester hours (45 classroom hours) or four (4) quarter hours (40 classroom hours) of instruction with a passing grade. The completion date of the course shall be within the calendar (training) year for which in-service training credit is sought.



(Rule 0360-07-01-.05, continued)

- (c) Applicants for in-service training credit under these provisions shall have the approval of the department head and shall submit the required Commission form for consideration to the Commission office. When submitting a course for Commission approval, the department shall indicate the NFPA Standard Number and Section that is applicable to the course being submitted.
  - (d) In some instances, the above type training hours may be combined with the regularly scheduled and Commission-approved in-service training sessions. If this is done, the attending firefighter shall be tested on those hours attended in the departmental program. This will necessitate the local Training Coordinator being responsible for identifying the appropriate questions involved in the Commission-approved testing instrument.
  - (e) Final approval by the Commission is contingent upon official notification from the institution in which the course was completed with a passing grade.
- (9) Approval of Certification Programs
- (a) Firefighters completing the required number of hours of preparation training, certified by the training officer, and successfully passing the appropriate progression level examination in the Commission's certification program within the calendar year for which training is sought, shall be considered as having fulfilled the in-service requirement and therefore eligible for the educational incentive pay.
  - (b) Any firefighter qualifying for in-service training credit in this manner shall also meet the four (4) hours of firefighter health and safety training requirements and the CPR certification requirements as provided in these rules.
- (10) Emergency Medical Training
- (a) Emergency Medical Training shall be considered meeting the requirements of in-service training so long as all other mandatory programs, as provided in these rules, are met.
  - (b) No more than sixteen (16) hours of credit shall be awarded for this training.
- (11) Records Storage
- (a) All department records related to the Educational Incentive Pay Program shall be kept by the department in a secure location. Access to the records shall be limited to the fire chief, the chief of training or their designee.
  - (b) Any department that maintains training records via computer or other electronic means shall submit a request to the Commission office. The department's electronic records shall be subject to audit by the Commission. The department shall describe the electronic records system, identifying the security safeguards that are in place.

**Authority:** T.C.A. §§ 4-24-101, 4-24-106, 4-24-107, 4-24-111, and 4-24-202. **Administrative History:** Original rule filed August 27, 1979; effective October 10, 1979. Amendment filed November 8, 1990; effective December 23, 1990. Amendment filed October 14, 1994; effective February 28, 1995. Amendments filed April 25, 2005; effective July 9, 2005. Amendment filed December 14, 2009; effective March 14, 2010. Repeal and new rule filed October 27, 2014; effective January 25, 2015. Amendments filed July 27, 2018; effective October 25, 2018. Emergency rules filed September 2, 2021; effective through March 1, 2022. Emergency rules expired effective March 2, 2022, and the rules reverted to their previous statuses. Amendments filed August 29, 2022; effective November 27, 2022.

**0360-07-01-.06 PAYMENT PROCEDURES.**

- (1) The Commission shall review and, if approved, direct the disbursement to eligible fire departments the educational incentive pay awarded to firefighters who have established eligibility for such under the provisions of the Commission's rules and regulations. At the selection of a department, the educational incentive pay shall be disbursed to the county or municipality where the fire department is located. The disbursement of these funds shall be subject to all of the following conditions:
  - (a) The Educational Incentive Pay Program shall be based on the availability of funds appropriated by the General Assembly.
  - (b) Payment will be made only upon request by the fire department and upon submission of the necessary documentation by the administrative officer of the eligible department.
    1. Proof of the successful completion of a Commission-approved training program, by submission of a copy of the following forms by March 1 of the calendar year:
      - (i) Educational Incentive Pay Program Request;
      - (ii) In-Service Training Report;
      - (iii) Notarized Statement of the Fire Chief attesting to accuracy and completeness of the information; and
      - (iv) Training Substitution Forms for previous year.
    2. Payment shall be made in a lump sum directly to the governmental entity handling the disbursement of funds for the eligible departments.
  - (c) No payment shall be made after the end of the fiscal year, June 30, unless such payment is authorized by the departments of Commerce and Insurance and Finance and Administration.
  - (d) It shall be the responsibility of the unit of government to disburse the funds to the individual firefighters after the deduction of the applicable taxes.
  - (e) The governmental entity receiving the funds shall be responsible for any increase in the employer's contribution to social security or like programs necessitated by the increase in the employee's annual base earnings.
  - (f) A firefighter shall not be eligible for the educational incentive pay from more than one (1) fire department.
  - (g) Effective August 31, 2018, information and training programs required by the Commission shall be received at the Commission office by October 1 of the preceding calendar year in which training is to be taught. Failure to provide all information by the required date may result in a rejection of a request for educational incentive pay.
  - (h) Departments submitting a certified list of eligible firefighters who have qualified themselves for the in-service training, shall also certify to the Commission that each qualifying individual is a member of the department whose name was on the department payroll as of December 31, as a volunteer firefighter of the department or as a volunteer firefighter of the department for training purposes as of December 31, of the calendar year in which training was received.

(Rule 0360-07-01-.06, continued)

If a qualifying individual is separated from the fire service for any of the following reasons, after becoming qualified, the firefighter will be considered as having met the December 31 requirements if the firefighter:

1. Becomes eligible and accepts a service retirement and begins drawing retirement benefits;
  2. Becomes eligible and accepts a disability retirement; or
  3. Dies while employed or serving as a volunteer.
- (i) All requests for educational incentive pay shall be submitted to the Commission office by certified mail and postmarked no later than March 1 of each calendar year.
1. A department shall have fifteen (15) calendar days from the date it receives notice that a correction is required to its request for educational incentive pay to make the necessary correction and return the request to the Commission.
  2. Departments may submit additions to their requests for educational incentive pay for up to sixty (60) days from the date educational incentive pay checks were mailed or deposited if not later than June 30. Payment of these additions is contingent upon availability of funds.
- (j) If a volunteer firefighter completes the required training but is unable to find a local government willing to accept firefighter's payment, the volunteer firefighter may coordinate with the State Fire Marshal's Office to arrange for payment to be issued directly to the volunteer firefighter as long as all requirements from the Department of Finance and Administration are satisfied.

**Authority:** T.C.A. §§ 4-24-101, 4-24-106, 4-24-107, and 4-24-202. **Administrative History:** Original rule filed August 27, 1979; effective October 10, 1979. Amendment filed November 8, 1990; effective December 23, 1990. Amendment filed December 14, 2009; effective March 14, 2010. Repeal and new rule filed October 27, 2014; effective January 25, 2015. Amendments filed July 27, 2018; effective October 25, 2018. Amendments filed January 22, 2020; effective April 21, 2020. Emergency rules filed September 2, 2021; effective through March 1, 2022. Emergency rules expired effective March 2, 2022, and the rules reverted to their previous statuses. Amendments filed August 29, 2022; effective November 27, 2022.

**0360-07-01-.07 WAIVER.**

- (1) The Commission shall only consider requests to waive the following rules and regulations:
  - (a) The waiting periods between certifications in rules 0360-02-02 and 0360-03-01;
  - (b) The deadline for submission of training programs for approval in rule 0360-07-01-.05(4); and
  - (c) The deadline for submitting requests for educational incentive pay in rule 0360-07-01-.06(1)(i).
- (2) When considering whether good cause has been shown to grant a waiver pursuant to this rule, the Commission may consider, but is not limited to, the following:
  - (a) Hardships on departments through time, staffing, budget or facilities limitations;

(Rule 0360-07-01-.07, continued)

- (b) Unavailability of qualified instructors or test proctors due to financial, staffing or time constraints;
  - (c) Inclement weather, natural disasters, etc.; and
  - (d) Illness, injury or disability of training officer that causes the department to miss the submission deadlines in rule 0360-07-01-.05(4) or 0360-07-01-.06(1)(i).
- (3) A waiver shall not be granted in two (2) consecutive years unless otherwise authorized by the Commission.
  - (4) A request for a waiver shall be submitted in writing to the Commission.

**Authority:** T.C.A. §§ 4-24-101 and 4-24-107. **Administrative History:** Original rule filed August 27, 1979; effective October 10, 1979. Amendment filed November 8, 1990; effective December 23, 1990. Amendment filed December 14, 2009; effective March 14, 2010. Amendment filed October 5, 2010; effective March 31, 2011. Repeal and new rule filed October 27, 2014; effective January 25, 2015. Amendments filed July 27, 2018; effective October 25, 2018. Amendments filed January 22, 2020; effective April 21, 2020. Emergency rules filed September 2, 2021; effective through March 1, 2022. Emergency rules expired effective March 2, 2022, and the rules reverted to their previous statuses. Amendments filed August 29, 2022; effective November 27, 2022.

#### **0360-07-01-.08 AUDIT.**

- (1) All accounts shall be subject to audit by the State Comptroller.
- (2) All records pertaining to the educational incentive pay shall be available for inspection by a member of the Commission or its staff and shall be kept for sixty (60) months after the educational incentive pay was issued.
- (3) An audit committee of the Commission, made up of the Director and a Commission Member or a Commission-approved designee, shall review the educational incentive pay records of every participating department at least once every sixty (60) months.
  - (a) The audit committee shall present its findings to the Commission for consideration. The audit committee shall review the records of the department to ensure compliance with Commission rules, including, but not limited to:
    - 1. In-Service Training Verification Sheets are signed;
    - 2. Attendance records were properly filled out as required by rule 0360-07-01-.05(5);
    - 3. Examination records were properly graded and filled out as required by rule 0360-07-01-.05(6);
    - 4. Records required by NFPA 1001, Chapter 4 are properly maintained; and
    - 5. Electronic records, if kept, are properly maintained and secured.
  - (b) The audit committee shall make one (1) of the following recommendations to the Commission:
    - 1. Audit was in compliance with Commission requirements;

(Rule 0360-07-01-.08, continued)

2. No action required. This recommendation is for a minor infraction. Committee counseled the department on the corrective actions needed;
  3. Informal Review. This recommendation is for minor infractions that the committee determines need to be reviewed to ensure corrective action was taken. This review would only encompass the areas that needed reviewing and shall be performed by the participants of the original audit;
  4. Probation. This recommendation is for more significant infractions. The committee shall recommend that the department be audited again for a period ranging from twelve (12) months to thirty-six (36) months; or
  5. Formal Hearing. The Committee has information that a major violation of the Commission's rules or state statute may have occurred, and a hearing for formal disciplinary action under the Commission's rules, regulations and policies is justified.
- (c) When making its report to the Commission, the Committee may make any additional comments and recommendations which are appropriate, but the above general guidelines are to be used. The Commission or Commission's designee shall send each audited department a copy of the completed audit report.
- (4) Commission staff and Commission members may conduct unannounced visits to departments' training classes. The visit shall not disrupt the training session; however, information may be solicited from the participants and/or instructor during a break or after the class. Documentation shall be completed about the visit and filed with that department's In-Service Training Program for that year. If training is not being conducted as scheduled, that department will be invited to the next regularly scheduled Commission meeting to offer an explanation.
- (5) All new fire departments entering into the incentive pay program shall be audited in the first (1st) year of their participation in the program.

**Authority:** T.C.A. §§ 4-24-101, 4-24-106, and 4-24-107. **Administrative History:** Original rule filed August 27, 1979; effective October 10, 1979. Amendment filed November 8, 1990; effective December 23, 1990. Amendment filed December 14, 2009; effective March 14, 2010. Repeal and new rule filed October 27, 2014; effective January 25, 2015. Amendments filed July 27, 2018; effective October 25, 2018. Emergency rules filed September 2, 2021; effective through March 1, 2022. Emergency rules expired effective March 2, 2022, and the rules reverted to their previous statuses. Amendments filed August 29, 2022; effective November 27, 2022.

#### **0360-07-01-.09 DISCIPLINARY MATTERS.**

- (1) The Commission may revoke, modify, suspend or condition the educational incentive pay, to the fire department or governmental entity handling salary accounts for the otherwise eligible departments, if it finds, after appropriate notice and hearing, that:
  - (a) The requirements for the educational incentive pay had not been met as per the Commission's Rules and Regulations; or
  - (b) Any fraud, collusion, misrepresentation or substantial mistake was involved in the procurement of the educational incentive pay.

**Authority:** T.C.A. §§ 4-24-101, 4-24-106, 4-24-107, and 4-24-201. **Administrative History:** Original rule filed October 14, 1994; effective February 28, 1995. Amendment filed December 14, 2009; effective March 14, 2010. Repeal and new rule filed October 27, 2014; effective January 25, 2015. Emergency

(Rule 0360-07-01-.09, continued)

*rules filed September 2, 2021; effective through March 1, 2022. Emergency rules expired effective March 2, 2022, and the rules reverted to their previous statuses. Amendments filed August 29, 2022; effective November 27, 2022.*

**0360-07-01-.10 PROSECUTION OF FALSE CLAIMS FOR EDUCATIONAL INCENTIVE PAY.**

- (1) As an added measure to guard against the misuse of State funds, the Firefighting Commission and staff will vigorously seek criminal prosecution through the Attorney General's Office against any individual or individuals it finds have engaged in fraudulent conduct or false representation in connection with the completion of training requirements in order to unjustly obtain educational incentive pay.
- (2) The Commission will recognize the possibility of inadvertent mistakes involved in a Department's record keeping, and after close scrutiny of such facts will make the proper recommendation to such Department involved and seek immediate reimbursement of such funds erroneously paid due to the Department's oversight. If such reimbursement is not immediately forthcoming, the Firefighting Commission and Staff will commence legal action accordingly.

**Authority:** T.C.A. §§ 4-24-101, 4-24-106, 4-24-107, and 4-24-201. **Administrative History:** Original rule filed October 14, 1994; effective February 28, 1995. Amendment filed December 14, 2009; effective March 14, 2010. Repeal and new rule filed October 27, 2014; effective January 25, 2015. Emergency rules filed September 2, 2021; effective through March 1, 2022. Emergency rules expired effective March 2, 2022, and the rules reverted to their previous statuses. Amendments filed August 29, 2022; effective November 27, 2022.

**0360-07-01-.11 THROUGH 0360-07-01-.18 RESERVED.**

**Authority:** T.C.A. § 4-24-107. **Administrative History:** Original rule filed August 27, 1979; effective October 10, 1979. Repeal filed November 8, 1990; effective December 23, 1990. Repeal and new rule filed October 27, 2014; effective January 25, 2015.