

Department of State
Division of Publications
 312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 09-02-21
 Rule ID(s): 9597
 File Date: 9/2/2021
 Last Effective Day: 3/1/2022

Emergency Rule Filing Form

Emergency rules are effective from date of filing, unless otherwise stated in the rule, for a period of up to 180 days.

Agency/Board/Commission:	Commission on Fire Fighting Personnel Standards and Education
Division:	Commerce and Insurance- Division of Fire Prevention
Contact Person:	Leigh Ferguson
Address:	500 James Robertson
Zip:	37243
Phone:	615-360-4435
Email:	Leigh.j.ferguson@tn.gov

Revision Type (check all that apply):

- ☒ Amendment
☐ New
☐ Repeal

Statement of Necessity:

On May 3, the General Assembly passed HB0772/SB0778, which became Public Chapter 478 (2021) creating a voluntary educational incentive program for volunteer firefighters to receive six hundred dollars (\$600.00) for completing thirty (30) hours of in-service training. The bill became effective immediately for rulemaking purposes and on July 1, 2021, for all other purposes. This emergency rule is being filed pursuant to T.C.A. § 4-5-208 (a)(5) to implement rules governing the program following the passage of Public Chapter 478 creating the Volunteer Educational Incentive Pay Program on July 1, 2021. While the Department conducted a rulemaking hearing on July 15, 2021, that rulemaking process cannot be completed in enough time to allow for sufficient notice and opportunity for participation in the program during this calendar year. By filing this emergency rule, volunteer fire departments will have notice to begin planning and scheduling training to ensure their firefighters complete the required thirty (30) hours of training before the end of the calendar year to be eligible to receive the incentive pay of six hundred dollars (\$600.00).

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0360-07-01	Educational Incentive Pay
Rule Number	Rule Title
0360-07-01-.01	Minimum Employment Standards – Definitions
0360-07-01-.02	Fire Fighter – Definition
0360-07-01-.04	Entry Level Personnel
0360-07-01-.05	Requirements for In-Service Training Programs
0360-07-01-.06	Payment Procedures
0360-07-01-.07	Waiver
0360-07-01-.08	Audit
0360-07-01-.09	Disciplinary Matters
0360-07-01-.10	Prosecution of False Claims for Educational Incentive Pay

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Public Chapter 478 (2021) amended T.C.A. Title 4, Chapter 24, Part 2 to allow volunteer firefighters to participate in the Educational Incentive Pay Program previously only available to career firefighters. The rules allow volunteer firefighters three (3) years to complete the sixteen (16) hour Introduction to Fire and Emergency Services Course, the sixty-four (64) hour Basic Firefighting Course, and the Commission approved Live Burn. The rules also allow firefighters five (5) years to obtain Fire Fighter I certification, Hazardous Materials Awareness, and Hazardous Materials Operations to continue participating in the program. For firefighters who have been in the fire service prior to July 1, 2021, the Commission will recognize proof of training within ten years of December 31, 2021, to satisfy the above requirements.

The rules change the break-in-service time from three (3) years to five (5) years for volunteer and career firefighters.

The rules also clarify existing requirements to more clearly state expectations though the substance of the rule has not changed. Examples of this include clearly stating that CPR training must occur on an annual or biannual basis, where before the rule just required current training. The rules also clarify that in-service training that includes routine functions, such as maintenance, pre-planning and testing, may be approved by the Commission. Routine functions alone may not be approved, but if a course is taught in conjunction with routine functions, those courses may be approved.

The rules are also amended throughout for consistency and clarity, removing specific references to in-service hour requirements, such as forty (40) hours for career firefighters, when the provision applies to both career and volunteer firefighters. The specific hours required for in-service, forty (40) for career firefighters and thirty (30) for volunteer firefighters, have been added where appropriate.

Finally, at the recommendation of the last Comptroller's Audit, the Commission changed from three (3) years to five (5) years the required time for departments to maintain their records for the Educational Incentive Pay Program.

Amendments
Rules of the
Tennessee Commission on Fire Fighting Personnel Standards and Education

Chapter 0360-07-01
Educational Incentive Pay

Table of Contents

0360-07-01-.01	Minimum Standards	0360-07-01-.07	Waiver
0360-07-01-.02	Firefighter Eligibility	0360-07-01-.08	Audit
0360-07-01-.04	Entry Level Personnel	0360-07-01-.09	Disciplinary Matters
0360-07-01-.05	Requirements for In-Service Training Programs	0360-07-01-.10	Prosecution of False Claims for Educational Incentive Pay
0360-07-01-.06	Payment Procedures		

Rule 0360-07-01-.01 is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

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.

Rule 0360-07-01-.02 is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

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.

Rule 0360-07-01-.04 is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

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 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 (36th) month from the date the department enters into the Educational 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.

Rule 0360-07-01-.05 is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

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 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 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) 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.
 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 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.
- (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

Rule 0360-07-01-.06 is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

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.

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.

Rule 0360-07-01-.07 is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

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;
 - (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.

Rule 0360-07-01-.08 is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

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;
 - 2. No action required. This recommendation is for a minor infraction. Committee counselled the department on the corrective actions needed;
 - 3. Informal Review. This recommendation is for minor infractions that the committee determines needs 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.

Rule 0360-07-01-.09 is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

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.
 - (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.

Rule 0360-07-01-.10 is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

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 Fire Fighting 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 Fire Fighting 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.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
David Windrow	X				
William Scott	X				
Tommy Kelley	X				
Brian Biggs	X				
Jay Moore	X				
Michael Henry	X				
Travis Solomon	X				
Stephanie Specht	X				
Vacant Position					

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: Jul 29, 2021

Signature: 
(Jul 29, 2021 17:02 CDT)

Name of Officer: Leigh Ferguson


Chief Counsel for Fire Prevention and Law

Title of Officer: Enforcement

Agency/Board/Commission: Tennessee Commission on Fire Fighting Personnel and Standards and Education

Rule Chapter Number(s): Chapter 0360-07-01

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.


Herbert H. Slatery III
Attorney General and Reporter
9/1/2021
Date

Department of State Use Only

Filed with the Department of State on: 9/2/2021

RECEIVED

Effective for: 180 **days*

SEP 02 2021

Effective through: 3/1/2022

Secretary of State
Division of Publications

** Emergency rule(s) may be effective for up to 180 days from the date of filing.*


Tre Hargett
Secretary of State

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly.)

The rule will have a projected impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Public Chapter 478 (2021) amended T.C.A. Title 4, Chapter 24, Part 2 to allow volunteer firefighters to participate in the Educational Incentive Pay Program previously only available to career firefighters. The rules allow volunteer firefighters three (3) years to complete the sixteen (16) hour Introduction to Fire and Emergency Services Course, the sixty-four (64) hour Basic Firefighting Course, and the Commission approved Live Burn. The rules also allow firefighters five (5) years to obtain Fire Fighter I certification, Hazardous Materials Awareness, and Hazardous Materials Operations to continue participating in the program. For firefighters who have been in the fire service prior to July 1, 2021, the Commission will recognize proof of training within ten years of December 31, 2021, to satisfy the above requirements.

The rules change the break-in-service time from three (3) years to five (5) years for volunteer and career firefighters.

The rules also clarify existing requirements to more clearly state expectations though the substance of the rule has not changed. Examples of this include clearly stating that CPR training must occur on an annual or biannual basis, where before the rule just required current training. The rules also clarify that in-service training that includes routine functions, such as maintenance, pre-planning and testing, may be approved by the Commission. Routine functions alone may not be approved, but if a course is taught in conjunction with routine functions, those courses may be approved.

The rules are also amended throughout for consistency and clarity, removing specific references to in-service hour requirements, such as forty (40) hours for career firefighters, when the provision applies to both career and volunteer firefighters. The specific hours required for in-service, forty (40) for career firefighters and thirty (30) for volunteer firefighters, have been added where appropriate.

Finally, at the recommendation of the last Comptroller's Audit, the Commission changed from three (3) years to five (5) years the required time for departments to maintain their records for the Educational Incentive Pay Program.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Public Chapter 478 (2021) amending T.C.A. Title 4, Chapter 24, Part 2.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The volunteer fire service in Tennessee and the local governments they serve will be most directly affected by this rule. The volunteer fire service urges adoption of this rule, and we have received no comments urging rejection of this rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The estimated fiscal impact on state and local government revenues and expenditures resulting from the promulgation of this rule is minimal. The Assistant Commissioner of the Division of Fire Prevention is working with the Tennessee Fire Service and Codes Enforcement Academy (TFACA) to provide as many opportunities

giving volunteer firefighters five (5) years to meet the certification requirements to ensure that firefighters, departments, local governments and TFACA have time to prepare, budget for, and obtain the training while allowing the volunteers to continue to participate in the program.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Gary Farley, Assistant Commissioner of the Division of Fire Prevention
Anthony Grande, Executive Director of the Fire Fighting Commission
Mary Beth Gribble, Programs and Policy Director

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Gary Farley, Assistant Commissioner of the Division of Fire Prevention
Anthony Grande, Executive Director of the Fire Fighting Commission
Mary Beth Gribble, Programs and Policy Director
Leigh Ferguson, Chief Counsel for Fire Prevention and Law Enforcement

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

500 James Robertson Parkway
Nashville, TN 37243

Gary.farley@tn.gov; 615-532-5805
Anthony.grande@tn.gov; 615-532-6631
Marybeth.gribble@tn.gov; 615-532-3272
Leigh.j.ferguson@tn.gov; 615-360-4435

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Rules of the
Tennessee Commission on Fire Fighting Personnel Standards and Education

Chapter 0360-07-01
Educational Incentive Pay

Table of Contents

0360-07-01-.01	Minimum Employment Standards – Definitions	0360-07-01-.07	Waiver
0360-07-01-.02	FireFighter Eligibility—Definition	0360-07-01-.08	Audit
0360-07-01-.04	Entry Level Personnel	0360-07-01-.09	Disciplinary Matters
0360-07-01-.05	Requirements for In-Service Training Programs	0360-07-01-.10	Prosecution of False Claims for Educational Incentive Pay
0360-07-01-.06	Payment Procedures		

0360-07-01-.01 ~~Minimum Employment Standards—Definitions.~~

- (1) All persons who are hired as a ~~fire fighter~~ 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 ~~deed~~ 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) ~~Have no history, within the past three (3) years, of habitual intoxication and/or personal misuse of any drugs, and/or the use of intoxicating liquors, narcotics, controlled substances and/or stimulants in such a manner as to adversely affect the person's ability to perform as a fire fighter to cause discredit to the fire service; Be in compliance with the fire department's drug-free workplace program and policy.~~
 - (g) ~~Shall meet all local requirements~~ 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 passed a physical examination by a licensed physician which, at minimum, meets the requirements of Section E of Occupational Health and Safety Administration ("OSHA") regulation 1910.134; and~~
 - (ih) Have a good moral character in accordance with the Code of Ethics adopted by the Commission on Firefighting Personnel Standards and Education; or
 - (ji) 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.

0360-07-01-.02 ~~Fire Fighter~~ Firefighter Eligibility—~~Definition.~~

- (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 pPay Program supplement, a person ~~shall~~ must meet ~~all of~~ the following criteria:
 - (a) Any person Serve in the employ of a unit of government who is 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. of such unit; and
 - (b) Is Complete forty (40) hours of trained in-service training in fire-fighting or prevention of fires approved by the Commission and is be actively engaged in such work. ~~and~~
 - (c) ~~Whose primary livelihood is derived from such work.~~

Authority: T.C.A. §§ 4-24-107 and 4-24-201.

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 personnel career firefighters that have entered the fire service after December 31, 1990, 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 supplemental Educational Incentive Ppay.
- (2) (a) 1. The 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 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, Fire-Fighter II, Hazardous Materials Awareness and Hazardous Materials Operations certification levels shall be completed by the end of the calendar year in which the volunteer applicant reaches his/her thirty-sixth (36th) sixtieth (60th) month of employment service with a participating recognized department or within the firefighter's sixtieth (60th) month after July 1, 2021. Fire Service personnel that Firefighters who have not obtained Fire Fighter I, Fire-Fighter II, Hazardous Materials Awareness and Hazardous Materials Operations certification after this that date shall not be eligible for Educational Incentive Ppay until said 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 ~~three (3) years~~ 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 ~~three (3) years~~ 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 ~~thirty-sixth (36th)~~ 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 ~~three (3) years~~ thirty-six (36) months after the transfer date.
- (6) The date an individual ~~entered the fire service 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. ~~the individual joins a paid department in Tennessee that participates in the educational incentive pay program as a full-time paid fire fighter of that department. Service as a volunteer, paid on call, part-time firefighter or other non-full-time fire fighter shall not count toward an individual's time in the fire service as it relates to Educational Incentive Pay Program.~~
- (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 (36th) month from the date the department enters into the Educational 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.

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 ~~forty (40) hour~~ 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 ~~forty (40) hour~~ in-service training program shall meet the minimum standards as defined in Commission's rules, regulations, and policies.
- (b) ~~Within twelve (12) months of their appointment, each new the Training Coordinator for a department participating in the Educational Incentive Pay Program~~ In order to participate in the Educational Incentive Pay Program 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 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. and 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 ~~2018~~ for the training to be conducted in the following calendar year ~~2019~~. ~~Thereafter, information and training programs required by the Commission shall be received at the Commission office no later than 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 ~~supplemental~~ 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 ~~their~~ 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) 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 ~~fire-fighter~~ 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, ~~no more than (16) hours/year~~; and
 3. The Commission also requires that eligible ~~fire-fighter~~ firefighters maintain active CPR certification, whether annual or bi-annual, ~~be currently trained~~ 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 ~~forty (40) hours~~ in-service training shall be allowed for this training.
 4. ~~If a department elects to participate in a two (2) year CPR training program, a minimum of thirty (30) hours for volunteer departments or forty (40) hours for career departments in-service training shall still be required in order to qualify for the Educational Incentive Pay.~~
- (c) Courses taught by a department ~~on that include~~ routine functions ~~of the department~~ (hose testing, pre-planning, pumper testing, vehicle maintenance, station maintenance, etc.) ~~may~~ shall not 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 ~~fire-fighter~~ firefighter's rank and responsibility and the size and location of ~~fire-fighter 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.
 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 ~~fire-fighter~~ 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 ~~fire-fighter~~ firefighters who successfully completed the training, and certified records shall be maintained in each individual department for a period of ~~three (3) years~~ 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 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 ~~fire-fighter~~ firefighter attends a specialized school appropriate to ~~his~~ 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 ~~forty (40) hour~~ 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 ~~fire-fighter~~ firefighter should submit to ~~his~~ 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 ~~fire-fighter~~ firefighter for the current training year only if the course is relevant to ~~his~~ 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 ~~forty (40) hour~~ in-service training sessions. If this is done, the attending ~~fire-fighter~~ firefighter shall be tested on those hours attended in the departmental ~~forty (40) hour~~ 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 ~~fire-fighter~~ 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 ~~forty (40) hour~~ 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 ~~forty (40) hour~~ 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.
 - (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 ~~forty (40) hour~~ in-service training sessions. If this is done, the attending ~~fire fighter~~ firefighter shall be tested on those hours attended in the departmental ~~forty (40) hour~~ 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) ~~Fire fighter~~ 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 ~~forty (40) hour~~ in-service requirement and therefore eligible for the ~~supplemental~~ educational incentive pay.
 - (b) Any ~~fire fighter~~ firefighter qualifying for in-service training credit in this manner shall also meet the four (4) hours of ~~fire fighter~~ 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

0360-07-01-.06 Payment Procedures

- (1) The Commission shall review and, if approved, direct the disbursement to eligible ~~units of government fire departments~~ the Educational Incentive Pay awarded to ~~fire fighter~~ 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 ~~unit of government~~ 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 ~~and~~ 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 ~~salary accounts~~ 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 ~~eCommerce~~ and ~~iInsurance~~ and ~~fFinance~~ and ~~aAdministration~~.
- (d) It shall be the responsibility of the unit of government to disburse the funds to the individual ~~fire-fighter~~ firefighters after the deduction of the applicable taxes.
- (e) The ~~unit of government~~ 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) ~~Members of the Fire Service~~ A firefighter shall not be eligible for supplement the educational incentive pay from more than one (1) agency 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 supplemental educational incentive pay.
- (h) Departments submitting a certified list of eligible ~~names fire-fighter~~ firefighters who have qualified themselves for the ~~forty (40) hour~~ in-service training, ~~Educational Incentive Pay~~, 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.

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

 - 1. Becomes s eligible and accepts s a service retirement and begins s drawing retirement benefits;
 - 2. Becomes s eligible and accepts s a disability retirement; or
 - 3. Dies while employed or serving as a volunteer.

- (i) All requests for ~~supplemental 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 their~~ request for ~~Ee~~educational ~~incentive~~ ~~P~~pay to make the necessary correction and return the request to the Commission.
 - 2. Departments may submit additions to their requests for ~~supplemental educational incentive~~ pay for up to sixty (60) days from the date ~~Ee~~educational ~~incentive~~ ~~P~~pay checks were mailed ~~or deposited to departments~~ 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 the 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.

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 ~~supplemental 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;
 - (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.

0360-07-01-.08 Audit

- (1) All accounts shall be subject to audit by the State Comptroller.
- (2) All records pertaining to the ~~Ee~~educational ~~incentive~~ ~~P~~pay ~~Program~~ shall be available for inspection by a member of the Commission or its staff and shall be kept for ~~three (3) years~~ sixty (60) months after the ~~Ee~~educational ~~incentive~~ ~~P~~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 ~~Eeducational lincensive Ppay Program records of every participating department at least once every sixty (60) months. a minimum of ten percent (10%) of departments participating in the Educational Incentive Pay Program each year. Departments subject to review each year will be selected at random.~~

(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;
2. No action required. This recommendation is for a minor infraction. Committee counselled the department on the corrective actions needed;
3. Informal Review. This recommendation is for minor infractions that the committee determines needs 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 ~~one (1) to three (3) years~~ 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) If a department is found in compliance for two (2) immediately preceding, consecutive years of audits, then its selection for a third (3rd) consecutive audit will be nullified and void.~~

~~(65) All new fire departments entering into the incentive pay program shall be audited in the first (1st) year of their participation in the program. The new fire departments will not count toward the ten percent (10%) requirement for audits of fire departments in the incentive pay program.~~

0360-07-01-.09 Disciplinary Matters

- (1) The Commission may revoke, modify, suspend or condition the educational incentive pay, to the ~~unit of government, 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 ~~salary pay supplement~~ educational incentive pay had not been met as per the Commission's Rules and Regulations.
 - (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.

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 Fire Fighting Commission and staff will vigorously seek criminal prosecution through the ~~State~~ 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 Fire Fighting 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.