

CHAPTER 12

VOLUNTEER FIRE COMPANIES AND FIRST AID SQUADS

Authority

Unless otherwise expressly noted, all provisions of this Chapter were adopted pursuant to authority delegated at N.J.S.A. 10:5-8(d) and (g) and were filed and became effective June 25, 1974, as R.1974 d.163. See: 6 N.J.R. 79(a), 6 N.J.R. 269(b).

Chapter Expiration Date

Chapter 12, Volunteer Fire Companies and First Aid Squads, expires on July 1, 2006.

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13:12-1.1 Membership procedures of volunteer fire companies and first aid squads

(a) Membership in volunteer fire companies and first aid squads shall be open to all persons who are able to perform the duties of volunteer fireman or first aid squad member, respectively, without discrimination on the basis of an applicant's race, creed, color, sex, age, national origin, ancestry, marital status or physical handicap. In order to effectuate this requirement of nondiscrimination, volunteer fire companies and first aid squads (hereinafter called "companies") shall adhere to the following admissions procedures:

1. Each company shall establish objective qualifications for membership, which shall relate directly and solely to the physical and technical ability and character fitness of an applicant to perform the vocational duties of a volunteer fireman or first aid squad member, respectively.

2. Each company shall submit a notice to the clerk of each municipality in which it operates which shall include the company's name, address, the names of its officers and members and the dates of its regular organization meetings. Said notice shall be posted by the clerk forthwith.

3. Each company shall supply the clerk of each municipality it serves with application forms, and the clerk shall distribute them on written request or on personal request made during normal business hours. Said forms shall state that applications may be filed either by personal delivery or by sending them by mail to the secretary or

other designated officer of the company, whose mailing address shall either appear on the application form or be available from the municipal clerk.

4. The secretary or other officer designated to receive applications shall date each application with the time of receipt and shall number the application according to its order of receipt relative to other applications. He shall promptly send a letter or post card to each applicant stating the number of his application and the date and time it was received.

5. Each company shall establish a membership committee consisting of not more than 15 members which shall be solely responsible for evaluating and ruling upon application for membership. It shall, within 60 days of receipt of an application by the company, make a report to the company as to whether or not the applicant qualifies for membership. Its decision shall be binding on the company, and no vote of the membership shall be conducted on the issue of whether an applicant shall be admitted to membership.

6. Applicants reported by the investigating committee to be qualified for membership shall be admitted in the order in which their applications were received as set forth in paragraph 4 of this subsection as soon as vacancies exist. If at any time the number of applicants found to be qualified exceeds the number of current vacancies, a waiting list shall be established according to the order in which the applications were received, and appointments shall be made therefrom in that same order.

7. If the membership committee determines that an applicant does not meet the minimum requirements for membership, the company's secretary shall promptly advise the applicant in writing of the rejection and the qualifications, described with particularity, which he has not substantially met.

8. Any company may require newly accepted applicants to serve a probationary period of reasonable duration, not to exceed one year. During such period, and at the conclusion thereof, each probationary member shall be evaluated solely by the officers of the company who supervise him in the performance of his duties. They may cause the dismissal of any member during his probationary period only for failure to perform the established duties of a probationary member in a reasonably satisfactory manner or other good cause, and may do so by notifying the probationary member in writing of his rejection and the particular reasons therefor. At the end of the probationary period, the said supervising officers shall determine whether or not the applicant has satisfactorily performed the duties of probationary member. If he has, they shall promptly recommend to the membership that he be admitted to full membership, and their recommendations shall be binding on the company and he shall be so admitted forthwith. If he has not, they shall promptly

notify the probationary member in writing of his rejection and the particular reasons therefor. No vote of the membership shall be conducted on the issue of whether any probationary member shall continue as a probationary member or shall be admitted to full membership.

9. Nothing contained in this Subchapter shall be construed to prevent any company, in its discretion, from providing intra-company means for appealing rejections from applications for membership or dismissals from membership.

10. Any person who is rejected or dismissed from membership by any company shall have the right to challenge such action in accordance with the procedures set forth in the Law Against Discrimination, N.J.S.A. 10:5-1 *et seq.*

11. All nouns and pronouns in the masculine gender utilized in this Subchapter shall be construed to include the female gender.

Case Notes

Sovereign's obligation to pay expenses incurred by public officers in furtherance of governmental purposes extends to costs incurred in defending law suits against public officials executing duties of their office. *Palmentieri v. City of Atlantic City*, 231 N.J.Super. 422, 555 A.2d 752 (L.1988).

Municipal fire company was an employer within meaning of Law Against Discrimination and subject to its provisions: Law violated by failure to permit women to apply for membership in volunteer fire department; Director is without authority to apply new membership criteria retroactively. *Hebard v. Basking Ridge Fire Co.* No. 1, 164 N.J.Super. 77, 395 A.2d 870 (App.Div.1978) appeal dismissed 81 N.J. 294, 405 A.2d 838.

Ordinance providing age limit of 40 for volunteer firemen invalid as violative of State Law Against Discrimination and regulation; the legislature has prohibited establishment of maximum age as a bona fide occupational qualification. *Pineman v. Boro. of Paramus*, 4 N.J.A.R. 407 (1981), affirmed Docket.

Municipal ordinance banning those over 40 from joining volunteer fire company ordered amended to remove discriminatory provision in conflict with regulation. *Sgambati v. Boro. of Fairview*, 3 N.J.A.R. 412 (1980).