



LEGAL UPDATE FOR FIRE DISTRICTS

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I. VSSR Workers' Compensation Issues Relating to the Fire Service



A. Traditional Fault Claims

- Duty
- Negligence
- Proximate Causation
- Damages
- Workers' compensation is a non-fault based program aimed to protect the employer and employee.
- Workers' compensation is considered an exclusive remedy.
- The employee cannot sue the employer and the employer cannot deny a claim because of the negligence of the employee.

I. VSSR Workers' Compensation Issues Relating to the Fire Service



B. VSSR Claims

Under R.C. Chapter 4101, employers have a legal obligation to protect the safety of workers under their employ.

- R.C. §4101.11 provides for the duty of an employer to protect employees and frequenters:
- R.C. §4101.12 provides the duty of the employer to furnish a safe place of employment.

Ohio employers are required to provide a safe work place and to comply with the specific safety requirements set forth in the Ohio Administrative Code.

**I. VSSR Workers' Compensation
Issues Relating to the Fire Service**



C. Firefighter Safety Rules

4123:1-21-01 Scope and Definition

1. Scope

**I. VSSR Workers' Compensation
Issues Relating to the Fire Service**



4123:1-21-02 Personal Protective Clothing and Equipment for
Structural Firefighting

(P) Respiratory protection.

**I. VSSR Workers' Compensation
Issues Relating to the Fire Service**



4123:1-21-07 Fire department occupational safety and health

- (A) Incident management
- (B) Accountability

**I. VSSR Workers' Compensation
Issues Relating to the Fire Service**



4123:1-21-07 Fire department occupational safety and health

C) Operating at emergency incidents.

(1) The employer shall provide an adequate number of personnel to safely conduct emergency scene operations.

D) Operating at traffic incidents.

(1) The employer shall establish written standard operating procedures regarding emergency operations for traffic incidents.

(2) Fire apparatus shall be positioned in a blocking position, so if it is struck it will protect members and other persons at the incident scene.

**I. VSSR Workers' Compensation
Issues Relating to the Fire Service**



4123:1-21-07 Fire department occupational safety and health

(E) Risk management

**I. VSSR Workers' Compensation
Issues Relating to the Fire Service**



4123:1-21-07 Fire department occupational safety and health

(F) Employee fitness

4123:1-21-07 Fire department occupational safety and health

(G) Infection control



4123:1-21-07 Fire department occupational safety and health

(H) Hazardous materials



I. VSSR Workers' Compensation Issues Relating to the Fire Service

4123:1-21-07 Fire department occupational safety and health

(I) Technical rescue





II. Fiscal Officer's Role in Disciplinary Proceedings

505.38 Appointment of Firefighting Personnel



II. Fiscal Officer's Role in Disciplinary Proceedings

733.35 Mayor shall file charges against delinquent officers



II. Fiscal Officer's Role in Disciplinary Proceedings

733.36 Hearing of charges



II. Fiscal Officer's Role in Disciplinary Proceedings

733.38 Power of legislative authority as to process

- the legislative authority of a municipal corporation may issue subpoenas or compulsory process to compel the attendance of persons and the production of books and papers before it, and such legislative authority may provide by ordinance for exercising and enforcing this section.



II. Fiscal Officer's Role in Disciplinary Proceedings

507.06 Oaths

The township fiscal officer may administer oaths, and take and certify affidavits, that pertain to the business of the township or of the board of education of the fiscal officer's local school district, or are connected with the official business of either the township or the local school district, including the official oaths of township and school officers, and oaths required in the execution, verification, and renewal of security interests.



III. Budgeting for Fire Department Capital Needs

A. Steps in the Development of a Capital Budget



III. Budgeting for Fire Department Capital Needs

B. Types of Fire Department Capital Needs

- Buildings – new or repairs
- Fire apparatus
- SCBA
- Turnout gear
- Heart monitors/defibrillators
- Radio equipment and pagers
- Gas monitors



IV. Bidding Requirements for Fire Districts

A. 505.37 Fire protection service requirements

- A. When the estimated cost to purchase fire apparatus or equipment or services exceeds fifty thousand dollars, the contract shall be let by competitive bidding.



IV. Bidding Requirements for Fire Districts

B. Cooperative Purchasing

- There are two exceptions, however, to the competitive bidding requirements. Both are found in R.C. §125.04. R.C. §125.04(B)(3) permits a political subdivision who is part of the State of Ohio's Department of Administrative Services cooperating purchase contract program to make purchases directly pursuant to the State cooperating bid contracts.
- R.C. 125.04(B)(3)(c) permits a political subdivision to purchase equipment directly from a vendor if the political subdivision can purchase those supplies or services from the other party upon equivalent terms, conditions, and specifications, but at a lower price than it can through the state contracts.



IV. Bidding Requirements for Fire Districts

505.08 Emergency Contracts



V. EMS Contracts

505.44 Contracts for ambulance service.



V. EMS Contracts

505.84 Reasonable charges for use of ambulance or emergency medical services



VI. Bonding

507.03 Bonding of the Township Fiscal Officer

The township fiscal officer, before entering upon the discharge of official duties, shall give a bond, payable to the board of township trustees, with sureties approved by the board, in the sum determined by the board but not less than the sum provided in this section, and conditioned for the faithful performance of the duties of the office of township fiscal officer. This bond shall be recorded by the township fiscal officer, filed with the county treasurer, and carefully preserved.

The minimum sum of the township fiscal officer's bond is determined by township population, and ranges from \$10,000 to \$250,000.



VI. Bonding

505.372 Bond of clerk of the board of fire district trustees

Before entering upon the duties of his office, the clerk of the board of fire district trustees shall execute a bond, in the amount and with surety to be approved by the board of fire district trustees, payable to the state, conditioned for the faithful performance of all the official duties required of him. Such bond shall be deposited with the presiding officer of the board, and a copy thereof, certified by him, shall be filed with the county auditor.



VI. Bonding

505.02 Bond of township trustees



VI. Bonding

Bond of fire district board of trustees



VII. Criminal Records Check

505.381 Criminal records check

VIII. Acceptance and disposition of property



550.10 Acceptance and disposition of property

- (1) If the fair market value of property to be sold is, in the opinion of the board, in excess of two thousand five hundred dollars, the sale shall be by public auction or by sealed bid to the highest bidder.
- (2) If the fair market value of property to be sold is, in the opinion of the board, two thousand five hundred dollars or less, the board may do either of the following:
 - (a) Sell the property by private sale, without advertisement or public notification
 - (b) Donate the property to an eligible nonprofit organization

VIII. Acceptance and disposition of property



550.10 Acceptance and disposition of property

(3) If the board finds, by resolution, that the township has motor vehicles, road machinery, equipment, or tools that are not needed or are unfit for public use, and the board wishes to sell the motor vehicles, road machinery, equipment, or tools to the person or firm from which it proposes to purchase other motor vehicles, road machinery, equipment, or tools, the board may offer to sell the motor vehicles, road machinery, equipment, or tools to that person or firm, and to have the selling price credited to the person or firm against the purchase price of other motor vehicles, road machinery, equipment, or tools.

VIII. Acceptance and disposition of property



550.10 Acceptance and disposition of property

(D) Notwithstanding anything to the contrary in division (A) or (B) of this section and regardless of the property's value, the board may sell personal property, including motor vehicles, road machinery, equipment, tools, or supplies, that is not needed for public use, is obsolete, or is unfit for the use for which it was acquired, by internet auction.

IX. Required or recommended policies



A. General Township Policies

1. Credit Card Policy	8. Public Records Policy
2. Code of Ethics	9. Records Retention Schedule
3. Social Media Policy	10. Sexual Harassment Policy
4. Employee Speech Policy	11. Military Leave Policy
5. Travel Policy	12. Fraud Reporting Policy
6. Donation Policy	13. Petty Cash Policy
7. Communication Resource Policy	14. Bank/Investment Policy

IX. Required or recommended policies



B. Fire Department Policies and Procedures

1. General Employment Policies
2. Rules and Regulations for Administrative Information
3. Rules and Regulations Relating to Personal Conduct
4. Rules and Regulations Relating to Personal Hygiene
5. Rules and Regulations Relating to Departmental Business and Information, Advertising, Sales and Gratuities
6. Rules and Regulations Relating to Orders
7. Rules and Regulations Relating to Fire Department Property and Equipment
8. Rules and Regulations Relating to Fire Station Safety
9. Rules and Regulations Relating to Respiratory Protection
10. Rules and Regulations Relating to Personal Protective Clothing and Equipment

IX. Required or recommended policies



B. Fire Department Policies and Procedures

11. Rules and Regulations Relating to Hose, Couplings and Nozzles
12. Rules and Regulations Relating to Ground Ladders
13. Fire Department Occupational Safety and Health Policy
14. Fire Department Exposure Control Plan (use existing plan)
15. Policy for Training and Education
16. Fire Department Purchase Order Policy
17. Fire Department New Employee Criminal Records Check Policy
18. Cellular Phone Use Policy
19. Pregnancy and Breastfeeding Policy
20. Digital Imagery Policy
21. Residency Policy

IX. Required or recommended policies



B. Fire Department Policies and Procedures

22. Educational Reimbursement Policy
23. Drug and Alcohol Policy
24. Body Ormentationation Policy
25. Administrative Leave Policy
26. Respiratory Protection Program
27. Written Plan Covering Use, Limitations, Care, Inspection,...Incident Management System SOP
29. Accountability SOP
30. Two-In/Two-Out SOP
31. Motor Vehicle Accident Response SOP
32. Risk Management Plan
33. Health Related Fitness and Wellness Program Policy

IX. Required or recommended policies



B. Fire Department Policies and Procedures

- 34. Hazardous Material SOP, including plan for replacement of equipment
- 35. Technical Rescue SOP
- 36. Agreement for Reimbursement for Training
- 37. Mayday/Urgent Radio Communications
- 38. Rapid Intervention Team
- 39. Chain of Command

X. Volunteer Firefighters Dependents Fund



Ohio Revised Code Chapter 146

XI. Recent Ohio Attorney General Opinion



- OAG 2013-036: A township may not use tax revenue derived from a levy under R.C. 5705.19(I) to purchase a motor vehicle that is equipped and used to remove snow and ice from township roads.
- OAG 2015-010: Any tax levied by a joint fire district must be levied uniformly throughout the joint fire district.
- OAG 2015-021: Medical health plans and group health plans.
- OAG 2015-035: A countywide 9-1-1 system may operate more than the number of wireless public safety answering points and receive full disbursement of monies so long as the number of wireless public safety answering points for which a county uses those monies does not exceed the number specified in the Ohio Revised Code.



XI. Recent Ohio Attorney General Opinion

- OAG 2016-014: A township fire department established by a board of township trustees under R.C. 505.37 for the purpose of providing fire protections services within the township or a township fire department has no authority to purchase a portion of building to house fire-fighting equipment.
- OAG 2016-023: Community para-medicine and contracts with private hospital systems.
- OAG 2016-023: An EMT or paramedic may not provide medical services on a routine, day-to-day basis outside of the boundaries of the township when revenue from a township's tax levy pays the emergency medical technician's compensation, unless the township has entered into a contract with another political subdivision pursuant to R.C. 9.60 or R.C. 505.44 or the township provides medical services to the territory of another township or municipal corporation as a member of a joint fire district pursuant to R.C. 505.371.



XI. Recent Ohio Attorney General Opinion

- OAG 2017-006: The exchange of information between a county emergency medical service organization and a law enforcement agency relating to the administration of Naloxone.

XII. Case Law Update



Lee v. City of Moraine Fire Dept., 2015 WL 914440 (S.D. Ohio, March 3, 2015)

XII. Case Law Update



- *In re M.A.*, 61 N.E. 3d 630 (11th Dist., Mar. 21, 2016)
- *Stinebaugh v. City of Wapakoneta*, 630 Fed. App'x 522 (6th Cir., Nov. 10, 2015)
- *Way v. Shawnee Twp.*, 192 F. Supp. 3d 867 (N.D. Ohio, June 20, 2016)
- *Holbrook v. Dumas*, 658 Fed. App'x 280 (6th Cir., Aug. 17, 2017)
- *Bagi v. City of Parma*, 2016 WL 4418094 (N.D. Ohio, Aug. 19, 2016)
- *Naghtin v. Montague Fire District Board*, 2016 WL 7494866 (6th Cir., 2016)
- *Valley v. Genoa Twp.*, 2017 WL 495504 (S.D. Ohio, Feb. 7, 2017)



XIII. Embezzlement Issues
