

THE LENGTH OF SERVICE AWARD PROGRAM (LOSAP)

GENERAL PROGRAM INFORMATION

ABOUT LOSAP

On January 18, 1998, the “Emergency Services Volunteer Length of Service Award Program was signed into law. This program is more commonly known by the acronym “LOSAP.” The statute defines a LOSAP as “a system established to provide tax-deferred income benefits to active volunteer members of an emergency service organization.” An emergency service organization generally includes all forms of volunteer fire and first aid organizations. For the purposes of administering the law, this definition includes those volunteer first aid organizations that charge for their services.

The tax-deferred income benefits for emergency services volunteers come from contributions made solely by the governing body of the municipality or fire district, on behalf of those volunteers who meet the criteria of a plan created by that governing body. The contributions are deposited into a plan similar to the deferred compensation plans permitted for county and municipal employees (N.J.S.A. 43:15B-1 et seq.). These plans permit the governing body or the volunteer to direct the investment of funds in the different investment vehicles that may be permitted under the plan adopted by the governing body. The investment options may include different types of mutual funds or annuities.

CREATION OF LOSAPs

LOSAPs are not required; they are strictly voluntary. The programs are established by a *sponsoring agency*, which is the governing body of a municipality or fire district. While the law permits a county government to create them, virtually all emergency service organizations are municipally based entities. The law applies equally to fire districts where they exist. It is important to note that LOSAPs, other than those permitted and created pursuant to this law, are not permitted.

Who creates LOSAPS?

The law provides that LOSAPs are created for emergency service organizations by the jurisdiction under which they operate. The jurisdiction for volunteer fire organizations’ LOSAPs is as follows:

1. By municipal ordinance for volunteer fire organization(s) in a municipality which is not served by fire districts; or,

2. By resolution of a Fire District Board of Fire Commissioners in a municipality where they operate.
3. Where there is more than one fire district within a municipality, each district may have its own LOSAP for its fire companies. If a fire company serves more than one district, the provisions of Section G of Local Finance Notice MC-98-6 apply.
4. The municipality or fire district may only have one LOSAP for each emergency service, regardless of how many fire companies or first aid organizations operate within their jurisdiction.

Volunteer first aid, emergency or volunteer ambulance or rescue squad associations (squad), require additional explanation, as the concept of “operating under the jurisdiction” may not relate in all cases, as squads often work independently of, or concurrently with municipalities and fire districts. Where a squad has unique operating relationships, the Division of Local Government Services should be contacted for a determination on whether a fire district or municipality would be considered a sponsoring agency.

How are LOSAPs Created?

The first step in creating a LOSAP is the adoption of the **enabling** ordinance or resolution. However, the ordinance or resolution does not take effect until the voters approve it as a public question at the next general election (for a municipality), or the fire district’s next annual election. Ordinances and resolutions creating a LOSAP must include the following items:

- A general description of the program, including the point system to be utilized in determining eligibility for benefits;
- A statement of the proposed estimated total amount to be budgeted for the program;
- A statement of the proposed maximum annual contribution for an active volunteer member; and,
- If the proposed LOSAP authorizes credit for prior years service, a statement of the number of prior years of active emergency service that may be credited for each active volunteer member.

A majority vote of the sponsoring agency’s governing body is required to approve the ordinance or resolution. Consent of the Director of Division of Local Government Services is not necessary for ordinances, resolutions, or ballot questions regarding a LOSAP. However, at the request of the sponsoring agency, DCA will review individual ordinances/resolutions, ballot questions and explanatory statements.

Copies of all approved LOSAP ordinances and resolutions must be filed with the Division within 30 days of the date of the referendum. Also, all election results must be certified by either the County Board of Elections or the fire district and a copy filed with the Division with 30 days of the date of certification.

Once approved by the voters, appropriations for a LOSAP are included in the budget of the sponsoring agency as a separate line item. Municipal budget appropriations for LOSAPs may be treated as exceptions to the budget cap and require no other special treatment.

Several other important matters related to the program are:

- For municipalities, the calendar year following the referendum date is the first year of the LOSAP; for fire districts, it is the same calendar year as the referendum vote.
- No municipality or fire district can have more than one program that provides cash payments for volunteers based on length of service. However, the LOSAP law does not affect other properly authorized current-year based programs, such as stipends for serving in official capacities or uniform allowances.

Abolishing or amending a LOSAP requires the same ordinance or resolution and ratifying referendum. However, the ordinance or resolution abolishing or amending the LOSAP must be passed by a two-thirds majority of the full membership of the sponsoring agency. If the LOSAP is dissolved, all accumulated funds shall remain in trust for subsequent distribution to the individual contributors.

The rules also provide that minor, clarifying, or administrative amendments that do not materially affect the elements of the plan approved by the voters may be amended by a majority vote of the governing body.

LOSAP BENEFITS

There are two important definitions to consider when dealing with LOSAP benefits:

“Active volunteer member” means a person who has been so designated by the governing board of a duly created emergency service organization and who is faithfully and actually performing volunteer service in that organization.

“Year of emergency service” means a 12-month period during which an active volunteer member participates in the fire or first aid service and satisfies the minimum requirements of participation established by the sponsoring agency on a consistent and uniform basis.

- **Monetary Benefits**

If an active volunteer member meets the year of active service requirement, a LOSAP must provide a benefit between the minimum contribution of \$100 and maximum contribution of \$1,150 per year. While the maximum amount is set by statute, once a LOSAP is adopted, if authorized by the enabling referendum it is subject to periodic increases that are tied to the consumer price index (N.J.S.A. 40A:14-185f). The Division annually certifies the permitted maximum amount.

A volunteer in an emergency service organization is eligible to participate in a LOSAP immediately upon becoming an active volunteer member of the emergency service organization [section 6(a) of the law, N.J.S.A. 40A:14-1889(a)], or be eligible to receive the benefit. It also permits a volunteer to “vest” after five years.

- **Recruitment and Retention of Volunteers**

One of the most practical benefits of LOSAP programs is that they can be used as a tool to ensure retention of existing volunteer members and to provide incentives for recruiting new volunteer firefighters and rescue squad members.

HOW IS ELIGIBILITY FOR A LOSAP AWARD DETERMINED?

Each sponsoring agency is required to establish, in its enabling ordinance or resolution, a point system that reflects the range of volunteer services that may be provided to the emergency service organization. The law does not prohibit the sponsoring agency from adopting a sliding scale of benefits that combines the use of points and years of service. One year of active emergency service is awarded for each calendar year in which an active volunteer accumulates the minimum number of points that are required by the sponsoring agency. The law permits a paid employee of a local government to receive LOSAP credits for volunteer activities during the volunteer's regularly scheduled work periods.

LOSAP PENALTIES

In addition to a penalty of no less than \$100 and no more than \$1150, any person who knowingly violates the LOSAP law can be subject to a forfeiture of benefits and prohibition from serving in any emergency service organization in the state. Further, any person who knowingly misrepresents the credit earned by a volunteer or knowingly includes an individual on an annual certification list, who is not a qualified member of an emergency service organization shall be subject to a fine of no less than \$100 and no more than \$1150 for each individual whose credit or status was misrepresented.

ADDITIONAL INFORMATION

The LOSAP Section of the Division of Local Government Services homepage

(<http://www.state.nj.us/dca/lgs/>) contains:

- LOSAP Program Rules
- LOSAP Law
- Approved Providers Listing
- Information regarding Maximum Contribution Amount
- LOSAP Frequently Asked Questions
- LOSAP Local Finance Notices

CONTACT INFORMATION

General program information as well as inquiries and questions regarding enabling ordinances/resolutions, ballot questions, etc. should be directed to (609) 292-7842 or by email at losap@dca.state.nj.us