



# CATTARAUGUS COUNTY OFFICE OF EMERGENCY SERVICES

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January 22, 2015

Dear Fire Chiefs,

In 2014, New York Governor Andrew Cuomo signed into law an act which requires all fire companies to screen new applicants and transfer firefighters for previous sex offenses before accepting the applicant or transfer as a member. This is an addition to the State law requiring applicants and transfers to be screened for arson criminal history. This law took effect at the end of 2014.

It is very important to note that this law does not prohibit fire companies from accepting applicants or transfers with a sex offense background; the law simply requires the background screening to be completed and careful decision be made on the applicant's acceptance. It is important that organizations consider that firefighters are respected and trusted members of their community and they should be very careful and selective about whom they admit into the fire company. Remember that persons with *arson convictions* are *completely prohibited from membership* with fire companies in New York.

The state has created specific factors to be fulfilled when considering an applicant or transfer firefighter with a sex offense conviction. The following factors must be considered and documented before deciding whether or not to admit an applicant who committed a sex offense. Please note that these factors have been created by New York.

- New York's public policy of the state to "encourage employment of persons with criminal records" as expressed in Corrections Law Sections 752 and 753;
- The specific duties of the applicant and the impact the criminal offense may have on his or her abilities to perform those duties;
- How long ago the offense occurred and how old the applicant was when the offense occurred; and
- The fire company's legitimate interest in protecting the safety and welfare of specific individuals or the general public.

After this careful consideration, the decision making process should be well documented. Courts are generally deferential and will not second guess a decision as long as this prescribed process is followed and adequately documented.

If the fire company determines that it is in the community's best interests to deny admission to the applicant, the fire company must inform the applicant in writing about the decision including rationale for the decision. The notice must include information advising the applicant of their right to challenge the decision in court. The fire company must also





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provide a copy of Corrections Law Sections 752 and 753 (attached), which set forth the criteria used to make the decision. Lastly, if the applicant requests, the fire company must provide a written explanation describing the reasons the applicant was denied admission. When providing this information, the fire company should refer to the criteria set forth in the Corrections Law (and described above); it is not enough simply to refer to the applicant's prior sex offense.

To aid in your following of the factors for consideration, notification of applicants denied membership, and documentation of the process, Emergency Services has created a checklist and form letter that your department is welcome to use at their discretion.

Additionally, we would like to take this opportunity to share with you the procedures for completing these screenings/ background checks, the updated forms, and welcome any questions you might have regarding the screening laws. In Cattaraugus County, applicant or transfer screenings are done by completing the appropriate (attached) form and sending it to the Office of Emergency Services in Little Valley. Forms maybe be mailed or dropped off but they must include an original, ink signature of the Fire Chief. We then complete the screening, working with the Sheriff's Office, and return the form to the Fire Chief or his previously identified designee (ex: Investigation Committee Chairman) as soon as possible.

Questions can be directed to our office by calling (716) 938-2213 or by emailing Cathi at [CLPeters@cattco.org](mailto:CLPeters@cattco.org).

Thank you,

Chris Baker  
Director of Emergency Services

Cathi Peters  
Assistant to the Director of Emergency Services

