



County Technical Assistance Service

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Emergency Medical Service Employees

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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Emergency Medical Service Employees

Reference Number: CTAS-975

Emergency medical service employees often work in conjunction with law enforcement agencies and/or fire departments. Under regulations found at 29 C.F.R. § 553.210, paramedics, emergency medical technicians, rescue workers, and ambulance personnel may qualify for the § 7(k) exemption if they meet all of the requirements for an "employee in fire protection activities," which means that the employee: (1) is trained in fire suppression, (2) has the legal authority and responsibility to engage in fire suppression, (3) is employed by a fire department of a municipality, county, fire district, or state, and (4) is engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

Courts interpreting these requirements appear to focus on whether the employee has the responsibility to engage in fire suppression. The outcome turns on whether the employee has a real obligation or duty to fight fires. The court in *Cleveland v. City of Los Angeles*, 420 F.3d 981 (9th Cir. 2005), *cert. denied* 126 S. Ct. 1344 (2006), looked at six factors to determine whether dual function paramedics/firefighters had "some real obligation or duty" to engage in fire suppression. The Department of Labor also used these factors in making its determination in Wage and Hour Opinion Letter FLSA2006-20, dated June 1, 2006, noting, "If a fire occurs, it must be their job to deal with it." The six-factor test examines evidence of the following:

1. the paramedic carries firefighting gear and breathing apparatus,
2. dispatchers assume that at least one dual function firefighter/paramedic is in each ambulance dispatched to a call,
3. paramedic ambulances are regularly dispatched to fire scenes and not just when there is a need for advanced life support medical services,
4. dual function firefighter/paramedics are always expected to wear fire protective gear at a fire suppression scene,
5. they are expected to provide emergency medical services as their primary responsibility but they also routinely perform fire suppression duties when not needed for medical care, and
6. they are routinely ordered to perform fire suppression duties.

Based on the evidence presented, the court in *Cleveland v. City of Los Angeles* found that there was no real duty to perform fire suppression activities. Applying these factors to different facts and circumstances, the Department of Labor found in its 2006 opinion that the dual-function firefighter/paramedics did have a real obligation to engage in fire suppression. The Department of Labor also noted that those firefighter/paramedics, as part of their fire suppression duties, regularly attended fire suppression training and presented fire prevention awareness programs.

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