§ 217. General requirements of a service award program. No volunteer fire department, volunteer fire company, fire district, fire protection district, village, town or city, shall be required under this article to provide service award benefits for its active volunteer firefighters. Any service awards provided to an active volunteer firefighter under this article shall be governed by the provisions of section two hundred eighteen in the case of defined contribution plans, section two hundred nineteen in the case of defined benefit plans and in either case by the provisions of sections two hundred fourteen, two hundred fifteen, two hundred sixteen and two hundred nineteen-a of this article. No service award program may be provided under this article unless the following requirements are met:

(a) An active volunteer firefighter must be eligible to participate in any service award program provided under this article if the active volunteer firefighter has reached the age of eighteen and has completed at least one year of firefighting service. The sponsor of the service award program may impose younger age or shorter length of service requirements for participation in the service award program.

(b) A participant shall have a nonforfeitable right to a percentage of a service award that is not less than the percentage determined under the following table:

Years of Firefighting Service	Nonforfeitable Percentage
Less than 5	0
5 or more	100

Notwithstanding the preceding table, a participant shall have a one hundred percent nonforfeitable right to his service award upon his attainment of the entitlement age under the program. Each sponsor may establish a percentage table that provides for a faster rate of becoming nonforfeitable. Any amounts attributable to forfeiture of a participant's service award shall be used to reduce contributions for other service award program participants and shall not in any case be used to increase benefits for other participants. The preceding shall not preclude amendment of a service award program to provide for an increase in benefits.

(c) A year of firefighting service shall be credited under a service award program for each calendar year after establishment of the program

in which an active volunteer firefighter accumulates at least fifty points. Points shall be granted in accordance with a system adopted by the program sponsor. Such system shall provide that points shall be granted for activities designated by the program sponsor, which activities shall be selected from the following:

(i) Training courses -- twenty-five points maximum.

(A) Courses under twenty hours duration -- one point per hour, with a maximum of five points.

(B) Courses of twenty to forty-five hours duration -- one point per hour for each hour over initial twenty hours, with a maximum of ten points.

(C) Courses over forty-five hours to one hundred hours duration -- fifteen points per course.

(D) Courses over one hundred hours duration -- twenty-five points per course.

(ii) Drills -- twenty points maximum. One point per drill (minimum two hour drill).

(iii) Sleep-in or stand-by -- twenty points maximum.

(A) Sleep-in -- one point each full night.

(B) Stand-by -- one point each. A stand-by is defined as line of duty activity of the volunteer fire company, lasting for four hours, not falling under one of the other categories.

(iv) Elected or appointed position (see definition) -- twenty-five points maximum.

(A) Completion of one year term in an elected or appointed position. If the term of office for a firefighter who has been elected or appointed to a position in a fire company or fire department commences during the month of May, the participant shall receive credit for the full year notwithstanding the fact that the participant has not completed one year in the elected or appointed position at the end of the calendar year in which he or she was elected or appointed.

(B) An active volunteer firefighter elected to serve as a delegate to a firefighters' convention shall also be eligible to receive one point per meeting.

(v) Attendance at meetings -- twenty points maximum.

Attendance at any official meetings of the volunteer fire company --

one point per meeting.

(vi) Participation in department responses -- twenty-five points for responding on the minimum number of calls, as outlined below:

(A) Total number of calls volunteer fire company responds to annually other than emergency rescue and first aid squad calls (ambulance calls)	0 to 500	500 to 1000	1000 to 1500	1500 and up
Minimum number of calls volunteer firefighter must run annually in order to receive twenty-five points credit	10%	7.5%	5%	2.5%
(B) Total number of calls emergency rescue and first aid squad (ambulance)	0 to 500	500 to 1000	1000 to 1500	1500 and up
Minimum number of calls volunteer firefighter must run annually in order to receive twenty-five points credit	10%	7.5%	5%	2.5%

(vii) Miscellaneous activities -- maximum fifteen points. Participation in inspections and other activities covered by the volunteer firefighters' benefit law and not otherwise listed -- one point per activity.

(viii) In the event that any active volunteer firefighter is either totally and temporarily disabled, or partially and permanently disabled, as certified by the workers' compensation board or other competent authority approved by the sponsor of the service award program, and the disability occurs during the course of service as a volunteer, while actively engaged in providing line of duty services, as defined in subdivision one of section five of the volunteer firefighters' benefit law, the firefighter shall receive five points for each full month of such disability.

(ix) Teaching fire prevention classes--five points maximum. An active volunteer firefighter who at the direction of his company, district or department, and for no remuneration, presents a public education class on fire prevention to a school, not-for-profit corporation, or civic

organization organized and existing under the laws of this state or authorized to conduct activities in this state--one point per class.

The program sponsor may designate less than all the activities specified in this subdivision as activities for which points may be earned.

(d) An active volunteer firefighter's service award program may provide for the crediting of years of active firefighting service for periods prior to the establishment of such program to a maximum of five years of active firefighting service per participant but only to the extent authorized pursuant to section two hundred sixteen of this article.

(e) In order to provide credit for service prior to the establishment of the service award program, each sponsor shall review its prior membership rosters to determine the number of years credit for each participant who is entitled to credit. In making the analysis, the standards for active service set forth in subdivision (c) of this section and adopted by the sponsor shall be used. Approval for such prior service shall require certification by the president, secretary and chief of the volunteer fire company. In the event an active volunteer firefighter requests credit for service in more than one volunteer fire company, each such company shall provide a certification for the appropriate number of years.

(g) An active volunteer firefighter whose name does not appear on the approved certified list or who is denied credit for service prior to the establishment of the service award program shall have the right to appeal within thirty days of posting of the list or within thirty days of denial of past service credit. The appeal shall be in writing and mailed to the clerk or secretary of the governing board of such political subdivision, which shall investigate the appeal. The decision of the authorities in control of each volunteer fire company shall be subject to appropriate judicial review.

(h) An active volunteer firefighter's service award program may designate that benefits thereunder may be paid in the form of a lump sum, a life annuity with or without survivor benefits, period certain annuities, or any other form provided under the program. All forms of benefit payments shall be actuarially equivalent to each other. The

sponsor may limit the forms of benefit payment under a service award program or impose conditions concerning the availability of such benefits. Nothing in this subdivision shall require a sponsor of a service award program to purchase annuity contracts from an insurance company.

(i) A participant whose volunteer fire service is interrupted by full-time extended obligatory military service or by a single voluntary enlistment not to exceed four years in the armed forces of the United States shall be considered on military leave. During such period of military leave, the participant shall receive active volunteer service credit of fifty points for each full year, prorated for service of less than a year.

(j) All program assets shall be held in trust for the exclusive purpose of providing benefits to participants and their beneficiaries or for the purpose of defraying the reasonable expenses of the operation and administration of the program. If the service award program and the related trust are not tax qualified within the meaning of sections 401 and 501 of the Internal Revenue Code of 1954 (68A Stat 3, 26 U.S.C. 401 and 501), the trust referred to in this subdivision may provide that the assets held thereunder may be subject to the claims of general creditors, if any, of the sponsor or may contain such other terms and provisions as are necessary to insure that the participation by an active volunteer firefighter in the service award program does not result in taxable income to such volunteer firefighter under any provision of the Internal Revenue Code of 1986, as amended.

(k) Every fiduciary of a service award program will be required to act solely in the interest of the program's participants and beneficiaries. Subject only to the provisions of the program document, a fiduciary may accept, hold, invest in and retain any investment if purchased or retained in the exercise of the degree of judgment and care, under the circumstances then prevailing, which persons of prudence and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to permanent disposition of their funds, considering the probable income to be derived therefrom as well as the probable safety of their capital.

(l) No service award provided under the program may be assigned or alienated except to provide for the legally obligated support of minor

children or spouse.

(m) A participant who is convicted of the crime of arson in any degree as defined in the penal law shall not be eligible to receive benefits from a service award program and shall forfeit any and all rights he or she may have had to past or future benefits pursuant to a service award program.

(n) An active volunteer firefighters' service award program may provide for the crediting of years of active firefighting service for periods after an active volunteer firefighter has reached the entitlement age and is receiving a service award.

(o) In the case of a state-administered service award program, the state comptroller may promulgate rules and regulations prescribing procedures and forms for the compilation and maintenance of records of the points accumulated by each volunteer firefighter. Each fire company participating in the state-administered program shall compile and maintain such records in the manner prescribed.

(q) The program sponsor may make adjustments to the participation in department responses point system category provided for in paragraph (vi) of subdivision (c) of this section in the event that such program sponsor adopts written emergency response protocols setting different emergency response requirements for the fire department, fire companies, squads and units thereof such that certain participants are not permitted to respond and are restricted from responding to all non-emergency rescue and first aid squad calls and/or all emergency rescue and first aid squad calls. Such restrictions on response may relate to determinations made by the district physician or department's physician as to the duties that may be assigned to certain personnel. In the event that the program sponsor adopts different response requirements for different groups, participants in those groups shall be required to respond to the minimum number of emergency calls assigned to their group by applying the percentage provided for in paragraph (vi) of subdivision (c) of this section. Notwithstanding the provisions of section two hundred sixteen of this article, a point system amendment to address written emergency response protocols may be adopted by the affirmative vote of at least sixty percent of such governing board, without referendum. Such amendment shall only take effect as of the first day of January next succeeding the completion of the proceedings

required for adoption of the amendment and shall only apply prospectively unless the new written emergency response protocol is adopted in order to address a state disaster emergency, as such term is defined in section twenty of the executive law, and applicable to the county or counties in which the fire department operates, in which case such amendment may be applied in the year adopted.