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## **Rescue Squads of fire departments may not be separately incorporated**

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Many fire departments have separated their rescue squads into incorporated entities that are separate from the fire department/company. The rescue squads are treated as completely separate legal entities, and in fact, separate companies. This is illegal and impractical.

### Power to create rescue squads

Rescue squads, whether they provide ambulance services or not, are only permitted in a fire department/company because General Municipal Law Section 209-b gives that permission.

GML 209-b provides that "The authorities having control of fire departments and fire companies may organize within such departments or companies emergency rescue and first aid squads composed of firemen who are members of such departments or companies." The statute requires that the squads be formed "within" a department or company, but not as a separate company. If a separate company was permitted for the rescue squad, then the "dual membership prohibition" [see, Not For Profit Law 1402(c)(3), Town Law 176-b and Village Law 10-1006(10)] would prohibit firefighters from working in rescue and/or EMS and as a structural firefighter.

Therefore, treating the rescue squad as a separate company by incorporating it separately is a violation of the law and effectively prohibits persons from serving in another company at the same time. Indeed, the Comptroller has give the same opinion (See, Opinions of the State Comptroller 1991-22 and 1990-34).

Even if the rescue squad were permitted to be separately incorporated, it would have its own federal and state tax exempt status, its own federal identification number, and may have to file federal tax returns.

Those rescue squads that are separately incorporated should strongly consider moving the rescue squad back into the fire company. The leadership of the squad should examine the ambulance operating authority and determine whether it is in the name of the incorporated squad or the fire department/company. The correct approach is to have the authority in the name of the fire department/company.

There is nothing wrong, however, with having a rescue squad as part of a fire company. The members simply also belong to a rescue squad. The squad can have its own rules and requirements. It does not have to permit everyone to be a member. Although it can have its own meetings, the meetings must be considered meetings of the company in which the squad lies, not a separate meeting of the squad. That way, and for reasons too complicated to explain in this article, the meetings will qualify for service award credit, insurance protection, and other benefits. Meetings or trainings of a squad separate from a fire company would not qualify for service award credit.

Rescue squads are permitted by law, but they must be operated in accordance with the law. Readers may review General Municipal Law 209-b on our website at [www.emsfirelaw.com](http://www.emsfirelaw.com) under the EMS/Fire laws section.

