

## Issues Regarding Junior Firefighters

by Bradley M. Pinsky

Determining those tasks persons under the age of eighteen can perform in a fire department can be a complicated decision. Confusing the problem is that the Boy Scout Explorer Program does not seem to fit clearly into the puzzle. If you are confused, consider these suggestions.

The law: Only 2 categories

Do not categorize youth (persons under 18 years of age) as Explorers. Instead, the law recognizes only two categories of young persons: Active Firefighters and Youth Program Participants (This is not the exact name, but it makes it easier to remember). Active Members, for the purposes of junior members, are sixteen or seventeen years of age. Youth Programs have members who are any age, but generally under eighteen.

Active Junior Firefighters

The distinction is significant. An active firefighter is entitled to VFBL coverage. At the present time, only persons who are at least sixteen years of age can be active firefighters. These persons may participate in hazardous activities. The Attorney General has opined that the labor law does not prevent a person sixteen or seventeen years of age from being an active firefighter.

Youth Programs

Youth programs exist under section 204-b of the General Municipal Law. Persons in this category may not participate in any emergency operation or any hazardous activity. They are not entitled to VFBL coverage.

Boy Scout Explorers

What do you do with Explorer Post members? Any Explorer who is at least sixteen years of age and permitted to engage in emergency operations or hazardous activities should be admitted as a member and categorized as an Active Junior Firefighter. The bylaws should reflect this category. A model bylaw provision appears below. Remember that all fire departments must submit the names of new members to the controlling town, village or fire district.

Explorers or other youth who are fifteen years of age or younger should be categorized as participants in a youth program. Again, they may not participate in an emergency operation or a hazardous activity. The department must determine what is such an operation or activity. No consent is required from any town, village or fire district, as they are not members.

### Model Bylaw Provision

Active Junior Firefighter. Active Junior Firefighters shall be those members who are sixteen or seventeen years of age. They shall be considered active members of the fire department. They shall be permitted to participate in all emergency operations, drills, trainings, parades, and educational programs. They shall be permitted to attend meetings and participate in committees. They shall be permitted to have a voice in all meetings and committees. Such members shall not be permitted to vote at meetings or committee meetings. They may not operate emergency vehicles. They shall not be permitted to serve as line officers, directors, executive officers, or committee chairpersons, except that a junior may participate in, vote at and chair the Junior Firefighter Committee. The Best Practice Guidelines shall be

permitted to dictate additional duties, prohibitions, obligations and privileges of Active Junior Firefighters.

Reckless Endangerment of a Minor

The Penal Law can penalize adults who knowingly permit a minor to participate in a hazardous activity with a substantial risk of harm if the hazardous activity causes injuries to the minor. For purposes of this law, only persons under the age of seventeen are protected. The crime is a class A misdemeanor. This law should be a factor in a decision to permit persons who are sixteen years of age to participate in a hazardous activity. Whether or not someone would actually be convicted of this crime if they made sincere efforts to protect sixteen year old firefighters from harm is unclear.

Conclusion

Junior firefighters and youth programs result in future adult firefighters. Remember that any person who participates in an emergency operation or hazardous activity must be at least sixteen years of age. Any person less than sixteen years of age may not participate in emergency operations or hazardous activities. What constitutes such activities is a determination the fire department must make on its own.