

Resolution No.: 16-1454
Introduced: July 27, 2010
Adopted: July 27, 2010

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of Executive Regulation 27-09AM, *General Applicability of Personnel Regulations to Employees of Local Fire and Rescue Departments*

Background

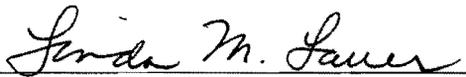
1. On March 23, 2010, the Council received proposed Regulation 27-09, *General Applicability of Personnel Regulations to Employees of Local Fire and Rescue Departments*, from the Executive.
2. The Council must review Regulation 27-09 under method (1) of Section 2A-15 of the County Code. Under Method (1), a regulation does not take effect until the Council approves it.
3. The Management and Fiscal Policy Committee was scheduled to review Regulation 27-09 on June 17, but withdrew it from the agenda at the request of the Office of Human Resources who wanted more time to consider recommendations made by Council staff.
4. The Executive considered the issues further and issued an amended regulation that was re-numbered Executive Regulation 27-09AM to indicate that it was amended after transmittal to the Council.
5. The Management and Fiscal Policy Committee reviewed Regulation 27-09AM on July 12, 2010, and recommends approval.

Action

The County Council for Montgomery County, Maryland, approves the following resolution:

Executive Regulation 27-09AM, *General Applicability of Personnel Regulations to Employees of Local Fire and Rescue Departments*, is approved.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject General Applicability of Personnel Regulations to Employees of Local Fire and Rescue Departments	Number 27-09AM
Originating Department Office of Human Resources	Effective Date July 27, 2010

General Applicability of Personnel Regulations to Employees of Local Fire and Rescue Departments

Executive Regulation No. 27-09AM

Issued by: County Executive

Supersedes: Executive Regulation No. 12-00AM II, in part, and
Executive Regulation 14-09, in part

Authority: Montgomery County Code, 2004, §33-7(b)
Council review: Method 1

Montgomery County Register Volume 27, Issue 2
Comment deadline: March 2, 2010

Effective date: July 27, 2010

Summary: This regulation amends Section 2-2(m) of the 2001 Montgomery County Personnel Regulations to clarify, in accordance with a recent decision by the Merit System Protection Board, that the Personnel Regulations are generally applicable to employees of Local Fire and Rescue Departments (LFRDs). At the Board's request, the regulation also modifies Section 35-8 of the Personnel Regulations to indicate who must provide a response to an appeal filed by an LFRD employee with the Board. The regulation also clarifies who must respond to an appeal filed by a volunteer firefighter or rescuer with the Board.

Address for comments Office of Human Resources, Executive Office Building, 7th Floor
101 Monroe Street, Rockville, Maryland 20850

Staff contact: Stuart Weisberg, 240-777-5051, or stuart.weisberg@montgomerycountymd.gov

Please use the key below when reading this regulation:

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing regulation by proposed regulation.</i>
[Single boldface brackets]	<i>Deleted from existing regulation by proposed regulation.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing or proposed regulation by amendment.</i>
* * *	<i>Existing language unchanged by executive regulation.</i>



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SECTION 2. GENERAL PROVISIONS

* * *

2-2. **Applicability of Personnel Regulations.** The Personnel Regulations apply to all merit system positions and all employees of the County government except:

* * *

- (m) employees of independent agencies or corporations (other than Local Fire and Rescue Departments) supported in whole or in part with Montgomery County general or special tax funds, unless authorized by statute to be members of the Montgomery County merit system. The Personnel Regulations apply to the employees of Local Fire and Rescue Departments except as expressly modified by Executive regulations adopted under the authority of Section 21-16 (a) of the County Code.

* * *

SECTION 35. MERIT SYSTEM PROTECTION BOARD APPEALS, HEARINGS, AND INVESTIGATIONS

35-1. **Definitions.**

* * *

- (b) *Appellant:* The County employee, applicant for employment, [[or]] volunteer firefighter or rescuer, or Local Fire and Rescue Department employee who files an appeal with the MSPB.

* * *

35-2. **Right of appeal to MSPB.**



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- (a) Except as provided in Section 29-7 of these Regulations, an employee with merit system status or a Local Fire and Rescue Department employee has the right of appeal and a de novo hearing before the MSPB from a demotion, suspension, termination, dismissal, or involuntary resignation and may file an appeal directly with the MSPB.
- (b) An employee with merit system status or a Local Fire and Rescue Department employee may file an appeal with the MSPB over other matters after receiving an adverse final decision on a grievance from the CAO. After the development of a written record, the MSPB must review the appeal. The MSPB may grant a hearing or refer the appeal to a hearing officer if the MSPB believes that the record is incomplete or inconsistent and requires oral testimony to clarify the issues. If the MSPB does not grant a hearing, the MSPB must render a decision on the appeal based on the written record.

* * *

35-8 Notification, response and submission of record in appeal.

- (a) The MSPB must promptly notify the CAO, County Attorney, OHR Director, and department director in writing that [[an]] a County merit system employee filed an appeal and provide the County Attorney and OHR Director with a copy of the appeal.
- (b) The MSPB must promptly notify the CAO, County Attorney, OHR Director, Fire Chief, and [l]Local [f]Fire and [r]Rescue [d]Department in writing that a volunteer firefighter or rescuer or one of the Local Fire and Rescue Department's employees filed an appeal and provide the County Attorney, [and] the OHR Director and the head of the Local Fire and Rescue Department with a copy of the appeal.



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[[c)] The MSPB must promptly notify the head of the Local Fire and Rescue Department in writing that one of its employees filed an appeal and provide the Local Fire and Rescue Department with a copy of the appeal.]]

(c)

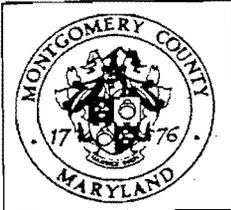
[[d)] An appellant must respond to an MSPB request for documentation in support of an appeal within 15 working days. The MSPB may grant an extension of time for reasons that the MSPB considers good cause.

(d)

[[e)] The OHR Director and County Attorney must respond to [the] an appeal filed by [[an]] a County merit system employee within 15 working days and forward a copy of the action or decision appealed and all relevant reports, papers, and documents to the MSPB. The MSPB may grant an extension of time for reasons that the MSPB considers good cause.

(e)

[[f)] The OHR Director and County Attorney must respond to an appeal filed by a volunteer firefighter or rescuer [[that relates specifically to]] challenging an action taken by the Fire Chief within 15 working days and forward a copy of the action or decision appealed and all relevant reports, papers, and documents to the MSPB. In all other appeals filed by a volunteer firefighter or rescuer, the Local Fire and Rescue Department must respond within 15 working days and forward a copy of the action or decision appealed and all relevant reports, papers, and documents to the MSPB. The MSPB may grant an extension of time for reasons that the MSPB considers good cause.



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[[(g) The Local Fire and Rescue Department must respond to an appeal filed by one of its employees within 15 working days and forward a copy of the action or decision appealed and all relevant reports, papers, and documents to the MSPB. The MSPB may grant an extension of time for reasons that the MSPB considers good cause.]]

(f) The OHR Director and County Attorney must respond to an appeal filed by a Local Fire and Rescue Department employee of an adverse final decision on a grievance from the CAO if the grievance:

- (1) disputed or challenged an action or decision of the OHR Director;
- (2) was based on an action taken or a failure to act by OHR within OHR's exclusive control; and
- (3) was not based on an action taken or a failure to act by the Local Fire and Rescue Department.

The OHR Director and County Attorney must respond within 15 working days and forward a copy of the action or decision appealed and all relevant reports, papers, and documents to the MSPB.

(g) In all other appeals filed by a Local Fire and Rescue Department employee of an adverse final decision on a grievance from the CAO or from a demotion, suspension, termination, dismissal, or involuntary resignation, the Local Fire and Rescue Department must respond within 15 working days and forward a copy of the action or decision appealed and all relevant reports, papers, and documents to the MSPB. The MSPB may grant an extension of time for reasons that the MSPB considers good cause.



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Approved:

Isiah Leggett
Isiah Leggett, County Executive

July 7, 2010
Date

Approved as to form and legality:

Bernadette Faura *7/7/2010*
Office of the County Attorney Date