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Executive Regulation

MONTGOMERY COUNTY FIRE AND RESCUE SERVICE

CODE OF ETHICS AND ON-DUTY PERSONAL CONDUCT

Issued by: Montgomery County Executive
Executive Regulation **XX-06**

Authority: Code Section 21-19

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ADDRESS: Montgomery County *Register* comment: XXXXXXXX , 2006.
Submit comments pertaining to the proposed regulation to Beth Feldman, Montgomery County Fire and Rescue Service, 12th Floor, 101 Monroe Street, Rockville, MD, 20850. Comments may also be submitted by email to Beth.Feldman@montgomerycountymd.gov For additional information, you may call (240) 777-2423.

Sec. 1. **Purpose.** To adopt a Code of Ethics and On-Duty Personal Conduct Executive Regulation governing the activities and behavior of Montgomery County Fire and Rescue Service (MCFRS) personnel. This regulation establishes standards of conduct and expectations for MCFRS personnel. It also fulfills the federal requirement to notify personnel of EEOC standards and reporting procedures. An LFRD may adopt policies that may be applied to its own organization that are more stringent than this Regulation. However, LFRD regulations, policies or procedures cannot be less stringent, nor can they waive or supersede any provision contained in this Regulation. Nothing in this Regulation is intended to diminish the authority of the Fire Chief as set forth in Chapter 2 and Chapter 21 of the Montgomery County Code.

Sec. 2. **Applicability.** This regulation applies to all MCFRS personnel.

Sec. 3. **Definitions.**

- (a) **Career Employee.** Uniformed and non-uniformed employees of Montgomery County assigned to MCFRS.
- (b) **Discrimination.** Prejudicial action, treatment, or disparagement based on an individual's race, color, religion, creed, ancestry, national origin, age, sex, marital status, sexual orientation, disability, or protected genetic information.
- (c) **Fire Chief.** The Fire Chief is the uniformed head of the Montgomery County Fire and

Rescue Service, appointed by the County Executive under Section 21-3 of the County Code, who serves as the Director of MCFRS.

- (d) **Harassment.** Written, verbal, or physical conduct that has the purpose or effect of unreasonably interfering with any individual's work performance, or creating an intimidating, hostile, or offensive working environment.
- (e) **Internal Affairs Officer.** The individual appointed by the Fire Chief to assist the Fire Chief in monitoring compliance with County law, regulations, policies, and procedures.
- (f) **Local Fire and Rescue Department (LFRD).** An individual fire or rescue squad corporation authorized under Section 21-5 of the County Code to provide fire and rescue services.
- (g) **LFRD Personnel.** All operational, administrative, or support staff, including volunteers and paid employees of an LFRD. "LFRD personnel" also includes, but is not limited to, personnel participating or contributing to the LFRD in positions such as brigade or junior brigade, LFRD officers, board members, directors, auxiliary members, canteen members, or any participant in the LOSAP program.
- (h) **Montgomery County Fire and Rescue Service (MCFRS).** A department of County government consisting of a Division of Operations, a Division of Volunteer Services, including the local fire and rescue departments, and other divisions necessary for effective management and administration of the department.
- (i) **MCFRS Personnel. Career employees and LFRD personnel** as defined in subsections (a) and (g) herein. "MCFRS personnel" also includes individuals who participate in the high school cadet program, and MCFRS volunteers who are not otherwise affiliated with a LFRD.
- (j) **MCFRS Premises.** This term includes, but is not limited to, all MCFRS property, including all LFRD-owned property and vehicles.
- (k) **MCFRS Private Banquet Facility.** An officially designated area within a fire station or rescue squad used to conduct social functions authorized by the **LFRD and Fire Chief**. Non-operational areas may be authorized as a **MCFRS Private Banquet Facility** for more than one social function or event. However, each social function held in an operational area must be separately and individually authorized by the **LFRD and Fire Chief**. The designated area must not be used as an operational area at the same time as the social function. All designated areas may be used for the consumption of food and beverages, including alcoholic beverages, during an officially authorized function. Alcoholic beverages must not be removed from the designated area, and must not be consumed anywhere else on the premises.

(l) **On-Duty Personnel.**

(1) For purposes of this Regulation, MCFRS personnel are on-duty when they:

- (A) are engaged in any MCFRS assignment, service, business, activity, or work;
- (B) work during scheduled hours;
- (C) act or represent MCFRS in an official capacity;
- (D) provide direct emergency care or services to the public;
- (E) wear or display any portion of the uniform, patch, insignia, or emblem of MCFRS;
- (F) are engaged in any activity or behavior that has a nexus to MCFRS;
- (G) are present at, on, or in any MCFRS premises, including apparatus and vehicles; or
- (H) participate at a fire, rescue, or emergency medical incident.

(m) **Serious violation.** A serious violation includes, but is not limited to, any incident that: (1) creates a health or safety risk to the public or **MCFRS personnel**; (2) undermines the public trust and confidence in MCFRS; or (3) threatens the orderly or productive work environment at any MCFRS work site or premises. A serious violation includes, but is not limited to: a negligent act or omission; theft; felony; assault; battery; expressed or implied threats of violence, or other violation of law, policy; or failure to follow an order of the **Fire Chief**.

(n) **Sexual Harassment.** Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- (1) an individual's submission to that conduct is made either explicitly or implicitly a term or condition of that individual's employment, membership, or association with MCFRS or an LFRD; or
- (2) an individual's submission to or rejection of that conduct is used as a basis for decisions related to the employment, membership, or association with MCFRS or an LFRD affecting that individual; or that conduct has the purpose or effect of unreasonably interfering with that individual's performance, or creating an intimidating, hostile, or offensive environment.

Sexual harassment includes, but is not limited to: requests for sexual favors; using threats or force to obtain sexual favors; sexual propositions or innuendo; suggestive comments; sexually oriented teasing or joking; jokes about gender-specific traits; unwelcome or uninvited touching, patting, pinching, or unnecessary brushing against another's body; obscene spoken or written language; obscene gestures; and displaying offensive or obscene electronic, printed, audio, or visual depictions or material.

- (o) **Unbecoming Conduct.** Improper behavior, including any: criminal conduct; violence in the workplace as defined in this Regulation; violation of regulations or policies, material misrepresentation; misappropriation of funds or property; possession of illegal weapons; failure to obey safety practices; false allegation or misleading statement; dishonesty, discrimination, harassment (sexual or otherwise), or lewd act; or retaliation for any of the aforementioned behaviors and/or actions.
- (p) **Violence in the Workplace.** Assault or battery, or the threat (express or implied) of assault or battery that has a nexus to MCFRS, including the LFRDs.

Sec. 4. **Standards and Expectations.** **MCFRS personnel** must maintain an exemplary standard of personal integrity and ethical conduct. **On-duty MCFRS personnel** must conduct themselves in a professional manner that is beyond reproach, and must comply with this Regulation.

- (a) **On-duty MCFRS personnel** must comply with all federal, State, and local laws, regulations, policies and procedures, and the County Charter.
- (b) **On-duty MCFRS personnel** must obey a supervisor's lawful order or directive, unless it will require the individual to commit an illegal, unsafe, or unethical act. A supervisor or higher ranking officer must not issue any order that he or she knows, or reasonably should know, would require a subordinate to commit an illegal, unsafe, or unethical act, or an act that would violate an established regulation or policy.
 - (1) If a supervisor or higher ranking officer issues an order to an individual that conflicts with a previously issued order, policy, directive, or procedure, the individual must immediately call attention to the conflicting order. If the supervisor or higher ranking officer does not rescind the conflicting order, that order will stand.
 - (2) The responsibility for an order rests with the individual who issued the order.
 - (3) **On-duty MCFRS personnel** must not obey an order that they know will require them to commit an illegal, unsafe, or unethical act.

- (4) Each **LFRD** President and each **LFRD** Chief must ensure compliance with lawful orders issued by the **Fire Chief** concerning their respective **LFRD** or **LFRD personnel**.
- (c) **On-duty MCFRS personnel** must behave in a professional manner that reflects favorably on the MCFRS at all times. Personnel must not commit any act that constitutes conduct unbecoming a member of the fire and rescue service.
- (d) **On-duty MCFRS personnel** must be courteous and respectful toward the public, each other, and one another's **MCFRS** affiliation, and maintain proper decorum, behavior, and command of temper.
- (e) **On-duty MCFRS personnel** must not use violent, insolent, or obscene language, or engage in violent, insolent, or obscene behavior at any time.
- (f) **On-duty MCFRS personnel** must not refer to or speak to any other person or group in a way that may reasonably be construed as demeaning or threatening, or in a way that constitutes **discrimination, harassment** or retaliation.
- (g) **On-duty MCFRS personnel** must maintain an environment free of **discrimination, harassment**, and retaliation. The use of threats or other means to retaliate against another who resists **discrimination** or **harassment**, reports alleged **discrimination** or **harassment** to another, participates or cooperates in an investigation of a complaint of **discrimination** or **harassment**, or files a complaint about alleged **discrimination** or **harassment**, is prohibited. **Personnel** must immediately report acts or statements of **discrimination, harassment**, or retaliation to the **Fire Chief**, a supervisor, the **Internal Affairs Officer**, the EEO Officer in the County Office of Human Resources, or the County Attorney or any attorney in the County Attorney's Office.
- (h) **On-duty MCFRS personnel** must behave with professionalism regarding any physical contact. Unwelcome or offensive touching is prohibited. Sexual or romantic physical contact is prohibited.
- (i) **On-duty MCFRS personnel** must not possess or be under the influence of any alcoholic beverage. **MCFRS personnel** must not consume any alcoholic beverage within four (4) hours before going on-duty, or while on-duty. **MCFRS personnel** must not have the odor of alcohol on their breath while on-duty or while present at any **MCFRS premises**. This subsection does not apply to personnel participating in an officially sanctioned social event at an **MCFRS private banquet facility**.
- (j) **On-duty MCFRS personnel** must not operate an **LFRD** or County vehicle while under the influence of, or within four (4) hours after consuming any alcoholic beverage.

- (k) **MCFRS personnel** must not use, possess, or be under the influence of any narcotic or controlled dangerous substance at any time, unless prescribed for that person by a licensed health care provider.
- (l) **MCFRS personnel** must not unreasonably, improperly, or immoderately use prescription or non-prescription drugs at any time.
- (m) **On-duty MCFRS Personnel** who are taking any prescription or non-prescription medication that may at any time affect their MCFRS job performance must inform their supervisor of this fact. The supervisor must facilitate a telephone or personal consultation for the individual with the Fire/Rescue Occupational Medical Section (FROMS), a physician at a local hospital, or a physician at a County-designated health care provider, who must then inform the supervisor regarding the individual's fitness for duty. The individual must participate in, and be truthful, during the consultation. The condition for which the prescription or non-prescription medication is prescribed or used must remain confidential between the individual and the health care provider.
- (n) **On-duty MCFRS personnel** must not take, tamper with, maliciously damage, or borrow without permission, any County or **LFRD** equipment or property, or the personal property of another. Personnel must obtain permission from the **Fire Chief** before making personal use of **MCFRS** property. Personnel must obtain permission from the highest ranking **LFRD** official or designee before making personal use of **LFRD** property.
- (o) **On-duty MCFRS personnel** must refrain from any horseplay. Horseplay is defined as conduct that a reasonable person should know may: (1) cause personal injury; (2) be offensive; or (3) damage property.
- (p) **On-duty MCFRS personnel** are responsible for the conduct of their guests on County or **LFRD** property. Guests must not impair, disrupt, damage, delay, or otherwise negatively affect **MCFRS** operations, or violate any provision of this Regulation. If a guest fails to comply with any request to cease improper behavior, **on-duty MCFRS personnel** must notify the on-duty supervisor who must take immediate and appropriate action.
- (q) **On-duty MCFRS personnel** must treat County or **LFRD** property appropriately, and maintain the property in good, clean, and operating condition.
- (r) **On-duty MCFRS personnel** must not engage in any **unbecoming conduct**.
- (s) **On-duty MCFRS personnel** must not alter, materially misrepresent, or otherwise misuse any **MCFRS** document or financial report.
- (t) **MCFRS personnel** must not make any false or misleading statements

during the course of an investigation, or in order to initiate an investigation.

- (u) **On-duty MCFRS personnel** must submit all required reports in accordance with established policy and procedures. The reports must be accurate, truthful, complete, and timely.

Sec. 5. **Discrimination, Harassment (including Sexual Harassment), and Retaliation.**

- (a) **MCFRS** recognizes the right of individuals to work and volunteer in an environment free of **discrimination, harassment**, and retaliation. Decisions on **personnel** management must be based on merit and fitness, without consideration of race, color, religious creed, ancestry, national origin, age, sex, marital status, sexual orientation, or genetic status. **MCFRS** will not tolerate any form of **discrimination, harassment**, or retaliation. **MCFRS** recognizes and acknowledges its duty to take immediate and appropriate corrective action on receiving notice of actual or suspected **discrimination, harassment**, or retaliation.
- (b) **MCFRS personnel** who are subject to **discrimination, harassment**, or retaliation should immediately bring the matter to the attention of a supervisor. If the supervisor is a party to the **harassment**, or if the individual does not wish to discuss the matter with the supervisor, the individual must bring it to the attention of the **Fire Chief, Internal Affairs Officer**, Montgomery County EEO Officer in the Office of Human Resources, or the County Attorney or any attorney in the County Attorney's Office. A complaint may be oral or written, and may be brought by any person having knowledge or information related to the conduct. The person who receives the complaint must document information relevant to the complaint, including the date and substance of the complaint, and names of individuals involved, or who witnessed the incident(s). The recipient of the complaint must notify the **Fire Chief**.
- (c) Any supervisor, including LFRD supervisors, who suspects or encounters **discrimination, harassment**, or retaliation must promptly report the information to the **Fire Chief**. The **Fire Chief** may refer complaints to the **Internal Affairs Officer**, the EEO Officer in the Office of Human Resources, the Office of the County Attorney, or to a supervisor for investigation.
- (d) Every effort will be made to maintain the confidentiality of the information provided in connection with a **discrimination, harassment**, or retaliation complaint, and to protect the privacy of the individuals involved. Information about the investigation will be given only to those persons who have a genuine need for the information because of their role in the investigation, or those who are legally entitled to the information. However, anonymity or confidentiality cannot be guaranteed.

- (e) Appropriate remedial action may include referral to the Employee Assistance Program, mediation or counseling; transfer; disciplinary action, including dismissal or expulsion from **MCFRS**; or filing civil or criminal charges.
- (f) The **Fire Chief** will provide ongoing educational and training programs to inform **MCFRS personnel** about **discrimination, harassment**, and retaliation; how to prevent it; and how to identify and deal with complaints.

Sec. 6. **Violence in the workplace.** **MCFRS** is committed to the prevention and elimination of all forms of violence in the workplace, and will not tolerate violence at or in any **MCFRS premises**. Violence in the workplace is considered a serious violation.

Sec. 7. In accordance with the County Code, the **Fire Chief** may immediately order the removal of any individual from MCFRS premises and order that the individual be prohibited from participating in any MCFRS or LFRD activity, pending the investigation of charges that the individual violated law, regulation, or policy.

Sec. 8. **Severability.** If a court of final appeal holds that part of this regulation is invalid, the invalidity does not affect other parts of the regulation.

Attest:

 Thomas W. Carr Jr., Fire Chief
 Montgomery County Fire and Rescue Service

 Date

Approved:

 Isiah Leggett
 County Executive

 Date