



POLICY AND PROCEDURE

MONTGOMERY COUNTY FIRE AND RESCUE SERVICE

NO. 06-06

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Disciplinary Action Procedures for LFRD Probationary Members and Employees

MONTGOMERY COUNTY FIRE AND RESCUE SERVICE POLICY

DISCIPLINARY ACTION PROCEDURES FOR LFRD PROBATIONARY MEMBERS AND EMPLOYEES

Issued by: Fire Chief

Policy No. 06-06

Authority: Montgomery County Code Sections 21-2.(d)(4), 21-3.(g)

Effective Date: September 10, 2007

Section 1. Purpose: Section 21-3.(g) of the Montgomery County Code authorizes the Fire Chief to take disciplinary action against any Local Fire and Rescue Department (LFRD) employee or volunteer in the Montgomery County Fire and Rescue Service for violating any County law, regulation, policy, or procedure, or any lawful order of the Chief or the Chief's designee. This policy establishes procedures for use when the Fire Chief exercises his authority under Chapter 21-3.(g) of the County Code to discipline probationary volunteers or employees of the Local Fire and Rescue Departments. The Policy also establishes the procedures for use by LFRDs to notify the Fire Chief of certain disciplinary actions, and to ensure the proper documentation of certain disciplinary actions.

Section 2. Applicability. This Policy applies to the Local Fire and Rescue Departments, their employees, including administrative personnel; LFRD corporate officers, and probationary volunteers as defined herein.

Section 3. Definitions.

- a. **Probationary Volunteer.** A volunteer member of an LFRD who has not completed a probationary period of at least one calendar year.
- b. **Serious Violation.** A serious violation is one that involves a threat to the public or personnel safety, or undermines the public trust and confidence in the fire and rescue service. A serious violation includes an egregious: negligent act or omission; theft of property; felony; assault; battery; or other violation of law, County policy, MCFRS policy or any lawful order of the Fire Chief.



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Section 4. Notification; Records.

Notifying the Fire Chief of Alleged Misconduct. To enable the Fire Chief to review an LFRD's resolution of a disciplinary matter under Section 21-3.(g) of the County Code, and to assist the Fire Chief in determining if the matter has been satisfactorily resolved, the procedure in Section 4.a. through Section 4.d. of this Policy must be followed.

- a. **Notification.** Each LFRD President or designee must immediately notify the Fire Chief or designee of any alleged **serious violation**. Notwithstanding Section 4.b. below, the Fire Chief may proceed with disciplinary action directly against the individual(s) in question, consistent with Section 21-3.(g) of the County Code.
- b. **Written Record.** Each LFRD President or designee must take action on, and compile a written record of each disciplinary action taken against an LFRD employee or **probationary volunteer**. LFRDs must satisfactorily resolve any allegation of a **serious violation** by an employees or **probationary volunteer** within 60 days of receiving notification of its occurrence, unless the Fire Chief extends the time period for just cause.
- c. **Disciplinary Action for a Serious Violation.** When an LFRD has taken a disciplinary action involving a **serious violation**, the LFRD President must notify the Fire Chief or designee in writing within 48 hours of taking such action. The LFRD President or designee must forward a copy of such disciplinary action of a **serious violation** to the Fire Chief within seven County business days of the issuance of such an action.
- d. **Providing Information to the Fire Chief.** Each LFRD must provide the Fire Chief or designee with any information that is reasonably required to evaluate the propriety or timeliness of an LFRD's disciplinary action.

Section 5. Fire Chief's Discipline.

- a. The Fire Chief must apply discipline progressively. However, progressive discipline does not require the Fire Chief to apply discipline in a particular order, or to always begin with the least severe penalty. In some cases involving a **serious violation**, the Fire Chief may bypass progressive discipline and impose another more severe disciplinary action, up to and including dismissal.



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- b. Discipline must not be applied in an arbitrary or capricious manner.
- c. In cases where the Fire Chief has taken disciplinary action, the LFRD need not compile a written record of the disciplinary action. The Fire Chief must forward a copy of the disciplinary action to the LFRD President or designee within seven County business days from the issuance of the action.
- d. **Confidentiality.** There is a requirement of confidentiality involved in the disciplinary process. Information concerning disciplinary actions must not be inappropriately disseminated, but may be released only to authorized personnel on a need-to-know basis.

Section 6. Disciplinary Process.

a. Statement of Charges.

- 1. Before taking a disciplinary action, the Fire Chief must provide the individual with a written Statement of Charges that discloses:
 - A. the proposed disciplinary action;
 - B. the specific reasons for the proposed disciplinary action, including the dates, times, and places of events and names of others involved, if known, as appropriate;
 - C. that the individual may respond orally, in writing, or both;
 - D. to whom to direct any response;
 - E. the deadline for submitting a response (at least 15 County business days); and
 - F. that the individual may be represented by another when responding to the Statement of Charges.
- 2. A copy of the Statement of Charges must be forwarded to the LFRD President or designee.



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3. The Fire Chief will use reasonable means to ensure the individual receives the Statement of Charges.
4. The Fire Chief must allow the individual at least 15 County business days after receiving the Statement of Charges to respond. If the individual responds to the Statement of Charges, the Fire Chief must consider the response, and decide whether to:
 - A. proceed with the proposed disciplinary action;
 - B. not take any disciplinary action;
 - C. take a different disciplinary action; or
 - D. remand to the LFRD.
5. If additional information is obtained and developed during this process before a Notice of Disciplinary Action is issued, the Fire Chief may issue a new Statement of Charges if the Fire Chief determines that a more severe disciplinary action, other than that stated in the original Statement of Charges, is appropriate.
6. If the Fire Chief proposes a disciplinary action, and after a Statement of Charges is issued in accordance with the procedures listed above, but before the notice of disciplinary action is issued, the parties may voluntarily agree to a Pre-Disciplinary Settlement Conference. The Fire Chief or his/her designee and his/her representative, and the individual and his/her representative, must attend this conference. The parties shall discuss the individual's response to the Statement of Charges and the possibility of resolution. Settlement discussions are confidential. If the parties agree to a settlement, and discipline is included in that settlement, the Notice of Disciplinary Action will be issued, and no appeal may be filed.
 - b. **Notice of Disciplinary Action.**
 1. If the Fire Chief determines to proceed with discipline, and after following Section 6.a.1. – 6., the Chief must issue a Notice of Disciplinary Action. The Notice of Disciplinary Action must include:



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- A. the type of disciplinary action that will be taken;
 - B. the date on which the disciplinary action will take effect;
 - C. the specific reasons for the disciplinary action, including dates, times, places, and names of others involved, if known, as appropriate;
 - D. whether the individual responded to the Statement of Charges, and whether the response, if any, influenced the decision on the disciplinary action;
 - E. a statement of the employee's right to grieve or appeal the disciplinary action, other than an oral admonishment; and
 - F. the deadline for filing an appeal.
2. A copy of the Notice of Disciplinary Action must be forwarded to the LFRD President or designee.

Section 7. Immediate Removal of LFRD Employee or Probationary Volunteer. Under Section 21-3.(g) of the Montgomery County Code, the Fire Chief may immediately relieve an LFRD employee or volunteer from duty and prohibit their presence at any MCFRS premises or activity. The Chief must not take any action involving a **probationary volunteer** or employee of a local department, except when the Chief finds that immediate action is required to protect the safety of the public or any employee or volunteer, unless the Chief finds that the LFRD has not satisfactorily resolved the problem in a timely and effective manner. Where the Fire Chief exercises this authority, the Fire Chief or his/her designee must notify the LFRD President or designee in writing within 24 hours of taking this action, and must include a reason for the Chief's action.

Section 8. Resignation after Disciplinary Action is Initiated. If an individual resigns after disciplinary action has been initiated, the Fire Chief may keep a record of the individual's separation and its circumstances, and indicate on the individual's separation papers that:

- a. disciplinary action is pending, including the Fire Chief's determination of the appropriate disciplinary action, if any; and



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- b. the individual will be issued a notice of disciplinary action upon reinstatement to any position within MCFRS, without right of appeal.

Section 9. Enforcement. The Fire Chief is the implementation and enforcement authority for all policies and regulations of the Montgomery County Fire and Rescue Service.

Section 10. Effective Date. This policy is effective on September 10, 2007.

Approved:

A handwritten signature in black ink, appearing to read "Tom Carr, Jr.", written over a horizontal line.

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

September 9, 2007

Date