

Montgomery County Emergency Services

District # 9



Personnel Manual

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CHAPTER 1 – INTRODUCTION

The Montgomery County Emergency Services District # 9 Board of Commissioners hereby establishes the following Personnel Policies and Procedures. The Board of Commissioners shall hire a full-time Fire Chief and a full-time Assistant Fire Chief for the operations of the District. The Fire Chief shall abide by and enforce all policies and procedures, state and federal laws, hire employees, direct the volunteer fire department, make day to day decisions for maintenance and operations of the District / volunteer fire department, prepare all reports requested and attend all District meetings. The Assistant Chief shall also abide by these Personnel Policies and Procedures as the Fire Chief. He shall assist the Fire Chief in the operations of the Fire Department in this District.

Purpose: The purpose of this Personnel Manual is to promote a high degree of understanding, cooperation and efficiency among all employees and provide a good working relationship with a uniform personnel policy. The fundamental objectives of good personnel administration sought to be achieved by these policies are declared to be:

- (a) To inform employees as to their rights, duties, and obligations, in relation to their employer;
- (b) To inform Board of Commissioners and other Officers as to their obligations toward the employees under their direction and their rights to assign and instruct the employees;
- (c) To ensure that all Federal, State, and local laws in relation to employment and working conditions are fully complied with;
- (d) To promote high morale among employees by providing good working relationships and consideration for employee welfare;
- (e) To provide fair and equal opportunity to all qualified persons to enter Montgomery

County Emergency Services District #9 / Volunteer Fire Department employment based on fitness and merit as ascertained through practical and fair methods of selection.

This Personnel Manual is not intended to be all-inclusive and does not create any contractual relationship between the Department and any employee. This Personnel Manual may also be distributed to volunteer firefighters to provide them Department expectations regarding conduct and safety.

Authority of changes in the policies: These policies are issued as an Order of the Montgomery County Emergency Services District #9 Board of Commissioners and may be amended from time to time as the needs of the service require and in the Department's discretion. Suggestions for amendments are welcome at any time from any employee. They should be submitted in writing to the Board of Commissioners through the designated lines of authority. Copies of this Personnel Manual shall be issued to all employees and to each new employee after being appointed to a position. The Fire Chief will be responsible for inserting changes as they are issued and distributing updated copies to all employees.

Technical rules and procedures: These policies relate only to matters of personnel management and do not cover other departmental procedures, standard practices, standing orders or other technical matters. The Fire Chief has full authority to make departmental rules not in conflict with these policies and otherwise to direct the conduct of the work.

Personnel records: Personnel records of all current employees shall be available for inspection only to the employees concerned, their authorized representatives, Fire Chief and to the Board of Commissioners.

At-Will employment: The policies and procedures set forth in this manual are not a binding employment contract. There is no specific period of employment. The employee or the District is free to terminate employment at any time, for cause or no cause, and with or without advance notice to the other. An employee's at-will status cannot be changed except by a written agreement signed by an authorized member of the Department.

Equal opportunity employer: The Montgomery County Emergency Services District #9 is an equal opportunity employer and does not discriminate in its employment or personnel practices upon the basis of race, color, national origin, sex, sexual orientation, age, religion, disability, genetic information, or any other legally protected status. It is the policy of Montgomery County Emergency Services District #9 to comply with all applicable State and Federal laws governing the employment and personnel practices of the District.

Employee orientation: The Fire Chief and supervisors have a duty to orient all new employees and volunteers. Such orientation training includes the duties of the position, hours of work, relationship to the other employees and volunteers, safety precautions, the rights and obligations of an employee, and information about the units and department. The new employee or volunteer should be made welcome and be encouraged to ask questions, especially during the first weeks at work. Each employee shall also be given this Personnel Manual.

Employee acknowledgement: Each employee must sign an Acknowledgement of this Personnel Manual before commencing employment with the District and when receiving any updated copies.

CHAPTER 2 – EMPLOYMENT

Employment: Applicants for employment shall be considered for employment on the basis of their demonstrated ability to perform the essential job functions of the position sought. Each applicant may be required to describe or demonstrate how, with or without reasonable accommodation; the applicant will be able to perform job-related functions. Each applicant must be interviewed and approved by the Fire Chief or his/her designee prior to any offer of employment.

Reasonable Accommodation: The Montgomery County Emergency Services District #9 / Volunteer Fire Department will make reasonable accommodations for the known physical or mental limitations of any otherwise qualified individual unless undue hardship would result. After an individual informs the Department what accommodation he or she needs to perform the job, the Department will engage in an interactive process with the individual to identify the barriers that interfere with the individual's ability to perform his or her job and to identify possible accommodations, if any, that will help eliminate the barriers. The Fire Chief may decline particular accommodations where it determines that undue hardship will result, or where a direct threat to the safety of persons in the workplace may not be eliminated or satisfactorily reduced through reasonable accommodation.

Volunteers and Loaned Employees: Volunteer firefighters and any employees loaned at any time from another District will be expected to abide by the Department's conduct and safety related guidelines, including those set forth in this Personnel Manual.

Eligibility for Employment: Before being considered for employment or hired, each candidate for employment must provide an I-9 Employment Eligibility Verification and supporting documentation demonstrating the individual is authorized to work in the United States.

Physical examination: For individuals with firefighting or emergency responder job duties, each offer of employment or acceptance of a volunteer shall be conditioned upon the results of a post offer medical examination paid for by the Montgomery County Emergency Services District #9 / Volunteer Fire Department. The examination must occur prior to assuming any job duties. Certification by the physician of the person's ability to perform the essential job functions of the position, with or without reasonable accommodation, shall be a condition of the person's continued employment or acceptance as a volunteer. The District may require medical examination or inquiry at any time during the person's service, provided that the examination or inquiry is job related and consistent with business necessity. All employees and volunteers must pass a drug screening test as a condition of employment.

Nepotism: No person related in the second degree of affinity or third degree of consanguinity to the Board of Commissioners and Fire Chief / Assistant Fire Chief shall be appointed to any office, position, clerkship or other service of the District. This prohibition shall not apply, however, to any person who shall have been employed by the Montgomery County Emergency Services District #9 / Volunteer Fire Department six months prior to and at the time of the employment. Under no conditions will an applicant be employed in which applicant has a relative within the second degree of affinity or third degree of consanguinity in a supervisory position.

Texas driver's license: It is mandatory that each District / Volunteer Fire Department employee or volunteer driving a District vehicle to have and maintain a valid Texas Class B Exempt or higher Driver's License. At no time will District / Volunteer Fire employees or volunteers drive a District vehicle without a valid Texas Driver's License in their possession. Should an individual's driver's license be suspended for any reason, he or she must notify the Fire Chief at once.

Age requirements: Applicants for full-time regular appointment generally must be at least 18 years old.

Change of status: All employees and volunteers shall report changes of address, telephone number, and number of dependents, marital status, name, and the like to the office manager within seven (7) days of any change.

Care of District property: Employees will be held strictly accountable for the care and condition of all property and rented equipment under their control, and for the economical use of supplies.

Return of property: At the time of separation, employees and volunteers must return all tools, uniforms, identification card or any device issued by the Montgomery County Emergency Services District #9 / Volunteer Fire Department.

Voluntary termination: When an employee voluntarily leaves the employment of Montgomery County Emergency Services District #9 / Volunteer Fire Department, the employee's Fire Chief shall be notified of the termination at the earliest possible date. Two (2) weeks' notice is requested to facilitate final payroll matters and replacement assignments. An exit interview conducted by the Fire Chief shall be given with each employee leaving the District's employment. The last day of work shall include the return of identification cards, uniforms, equipment, keys, etc. Final pay or benefit checks due an employee separating from the District / Volunteer Fire Department will be issued as promptly as possible.

Involuntary termination: When an employee involuntarily leaves the employment of the Montgomery County Emergency Services District #9 / Volunteer Fire Department and wishes to appeal the termination, the employee may do so by following the employee grievance and appeal procedures set out in Chapter 5.

Notice of Arrest: Any employee or volunteer who has been arrested or charged with any unlawful act will notify the Fire Chief in writing of the charge within 24 hours of said arrest.

Employees shall:

- Act impartially and not give preferential treatment to any private or public organization or individual
- Protect and conserve public property and use it for only authorized activities
- Promptly disclose waste, fraud, abuse or corruption to appropriate authorities
- Adhere to all laws, regulations, and policies that provide equal opportunity for all persons regardless of race, color, religion, sex, national origin, age, disability, or any other legally protected class
- Avoid actions that they could create the appearance that they are violating the law or the ethical standards of the Texas Ethics Commission
- Whether on or off duty shall be governed by the ordinary and reasonable rules of good conduct and behavior of law-abiding citizens. They shall not commit any act tending to bring reproach or discredit upon themselves or the department.

CHAPTER 3 – PAY POLICIES

Reporting hours: Non-exempt (hourly) employees are responsible for verifying that all their time worked is reported truthfully and accurately. Exempt (salaried) employees are required to report only exceptions or time-off that occurs in whole day increments (including sick, personal, vacation,

or other time off). Falsification of time records, including under-reporting and over-reporting of hours worked, is a violation of Department policy and will result in discipline up to and including termination of employment. Employees instructed to record on their time sheet more hours or fewer hours than actually worked must immediately notify the Fire Chief or office manager.

Complaint procedure: The Department makes every effort to ensure that its employees are paid timely and accurately each payroll period. Occasionally, however, inadvertent mistakes can happen. When mistakes happen, the Department will promptly make any corrections. To assist the Department in its efforts, employees must review their pay statements each pay period to ensure that pay is accurate and immediately report any discrepancies or improper deductions to the office manager. Employees should contact the office manager with any questions regarding training time, travel time, or any other hours outside the standard work duties.

Anti-Retaliation: Retaliation against an employee who in good faith reports alleged violations of pay policy, or who cooperates in any investigation or proceeding related to these policies, is strictly prohibited and shall constitute a violation of Department policy.

Firefighter work period: For employees with fire protection job duties, the Department has implemented a 14-day work period pursuant to section 7(k) of the Fair Labor Standards Act. Non-exempt firefighters who work more than 106 hours over a 14-day work period are entitled to overtime pay at a rate of one and one half times their regular hourly rate.

Overtime: Non-exempt full-time employees are paid for actual hours worked, including overtime. Exempt employees do not receive overtime pay. All overtime must be approved in advance by the Fire Chief or his designee. Employees who work unauthorized overtime will be paid for the hours actually worked and may be subject to discipline up to and including termination of employment.

Training time: Firefighters will be periodically required to participate in mandatory training programs as prescribed by the Department. While such required training will generally be scheduled during the employee's regular scheduled shift(s), some training initiatives may occur during the employee's off time from their normal scheduled work period. Department mandatory training is compensable time. State required training to keep certification(s) is not compensable time.

CHAPTER 4 – CONDUCT

Attendance: Reporting on duty as scheduled is an essential function of each employee's job. All employees and volunteers should regard coming to work on time, working their shifts as scheduled, and leaving at scheduled times as an important part of their job description. Among other things good attendance habits include the following:

- Taking only the time normally allowed for breaks
- When calling in, an employee or volunteer should talk with a Chief Officer prior to the beginning of the shift. No text messages, emails, or other electronic communications will be permitted.
- Part-time firefighter employees will not be permitted to drop.
- Members will be required to be physically and psychologically fit for duty.
- Part-time firefighter employees will be required to work (4) 24 hour shifts per month.

Employee harmony: Employees of the Montgomery County Emergency Services District #9 / Volunteer Fire Department shall conduct themselves in a manner that will foster the greatest

harmony and cooperation with each other. Gossiping about another employee will not be tolerated. Employees shall not conspire in a derogatory manner toward any employee, Fire Chief or any member of the Board of Commissioners. Any degrading, offensive, or scandalous statements made by any employee to another, shall be construed and interpreted as evidence supporting insubordination.

Rewards: The Fire Chief and supervisors have a duty to identify, recognize and reward outstanding performance by employees, including productivity in quality or quantity of work, qualities of leadership, special courtesy and good service to the public, and the like. The rewards may include oral or written commendations, merit increases and promotion with the prior approval of the Board of Commissioners. Copies of commendations shall be sent to the Office of the Board of Commissioners / Fire Chief as a permanent record for inclusion in the file of the employee concerned.

Misconduct of employees and volunteers generally:

- (a) The District / Volunteer Fire Department provide employment and means of livelihood for many people, representing a substantial investment on the part of the citizens. To protect the safety and welfare of employees, preserve their means of livelihood and to provide for the protection of the District, rules against the possible sources of danger have been established and penalties for violation of the rules have been provided. The following acts jeopardize the safety and welfare of all citizens and employees, and are of such serious nature as to warrant immediate dismissal from employment:
 - 1. Being in a partially or completely intoxicated state or under the influence of narcotics, or introducing, possessing or using intoxicating liquor or narcotics while on assigned duty.
 - 2. Possessing deadly weapons while on duty, except for employees involved in law enforcement.
 - 3. Stealing or malicious mischief resulting in personal injury or loss of property to other employees of the District.
 - 4. Defrauding or attempting to defraud the District.
 - 5. Fighting or attempting bodily injury to another. Employees will not, however, be penalized for defending themselves when attacked.
 - 6. Sabotaging or deliberately damaging or removing the property of the District or committing any malicious acts which may hinder District services.
 - 7. No firefighter employee shall have a Class B Misdemeanor or higher on conviction on their criminal background.
 - 8. Possession of fire-works while on duty is prohibited.
- (b) The following irregularities also are considered serious and will result in dismissal, unless mitigating circumstances justify less drastic action:
 - 1. Participation in any form of gambling or lottery at any time on duty or participation in any form of gambling or non-gambling games at any time on District time when it interferes with the job.
 - 2. Insubordination, including any refusal or failure to perform work assigned.

3. Negligence endangering the life or health of a fellow employee or resulting in loss of property to the District.
 4. Falsification of or refusal to give statements when accidents or irregularities are being investigated, including but not limited to withholding information about damaged or lost property.
 5. Immoral, indecent or offensive conduct or undue familiarity with another employee or a member of the public.
 6. The use of abusive language or being inconsiderate toward other employees or members of the public.
 7. Leaving the job without proper relief or permission.
- (c) In case of acts of misconduct described below, for a first offense, the employee will receive a letter of reprimand; for a second offense, a letter of reprimand or a disciplinary layoff, depending on the circumstances of the case. Three (3) incidents on file within any twelve (12) month period against any one employee will result in dismissal of the employee. These steps are general guidelines only and do not limit the Department's discretion to take any appropriate disciplinary action up to and including termination of employment at any time.
1. Negligence or carelessness while on duty.
 2. Listing unverified information on District / Fire reports or making operation errors.
 3. Making solicitations without the District's approval.

Acts of misconduct not listed: In the event an employee commits an act not specifically listed in this chapter and in doing so, jeopardizes the safety and welfare of the citizens and employees, the Fire Chief may dismiss the employee if he/she deems it in the best interest of the District. Such dismissal is subject to the grievance and appeal procedures set out in Chapter 5.

Disciplinary actions: Disciplinary action shall be taken only by the Fire Chief or by supervisors with the approval of the Fire Chief. Disciplinary action includes but is not limited to the following actions:

- (a) Face-to-face oral admonishment and warning, made in such terms that the employee clearly understands it to be a warning.
- (b) A written letter of reprimand addressed to the employee warning employee of a violation
- (c) Leave without pay.
- (d) Dismissal.

Recording & reporting of disciplinary actions: The Fire Chief or his or her designated agent will make a written record of any disciplinary action and transmit a copy to the Board of Commissioners office.

Indefinite leave - (Suspension):

- (a) When the Fire Chief reasonably suspects that the physical or mental condition of an

employee constitutes a hazard to persons or property, the Chief may request the employee to submit to a medical examination by a physician of the District's choice for the sole purpose of determining the employee's ability to perform all job duties. Employees will be paid for the time required for any such medical examinations. If an employee is found medically unable to perform the assigned duties, the employee may be relieved of duties unless and until an appropriate reasonable accommodation is identified or the medical condition is resolved.

- (b) During an investigation, hearing, or trial of an employee on any civil cause or criminal charge, an employee may be suspended with or without pay in the sole discretion of the District.
- (c) The Fire Chief may recommend to the Board of Commissioners dismissal of an employee at any time. The dismissal recommendation may be appealed to the Board of Commissioners as described in Chapter 5. The decision of the Board of Commissioners shall be final.

Private business: Employees may not engage in private business activities during their working hours and may not use District property or facilities for such activities.

Statements to newspapers & other media: Statements or interviews to the newspapers and other public information media are the responsibility of the Fire Chief and or the Board of Commissioners. Employees and volunteers may not speak on behalf of the Department except when authorized to do so.

Personal phone calls: Personal phone calls during work hours should be limited to three (3) minutes. No personal long distance phone calls shall be charged to the District.

Use of District property: No employee may use District equipment, supplies or facilities for any purpose other than the conduct of official District business.

Special consideration to others: No employee shall grant any special consideration, treatment or advantage to any citizen, individual or group beyond that which is available to all citizens. Non fire personnel will not be allowed to remain in any ESD building after 9pm without an officer's permission.

Personal conduct: All employees and volunteers are expected to maintain a high level of personal conduct both on and off the job.

Appearance: All employees must dress in a professional manner while on duty. Shorts are not considered professional. Hair and grooming standards must be maintained consistent with safety equipment requirements as directed.

Use of bulletin boards: Bulletin boards are a convenient means of conveying information of interest to employees and volunteers. Employees and volunteers may post appropriate and non-offensive materials on bulletin boards.

Line of authority: Employees and volunteers are expected to follow the established line of authority when reporting any matters pertaining to District / Volunteer Fire business to supervisors.

Discipline generally:

- (a) Employees may be disciplined for dishonesty, drunkenness, immoral conduct,

insubordination, discourteous treatment to the public, violation of personnel rules and policies, failure to report a vehicle accident, fraudulent use of sick leave, conviction of a felony charge, any other failure of good behavior, or an accumulation of minor infractions.

- (b) Any employee who violates any of these personnel regulations will be subject to discipline up to and including termination of employment.

CHAPTER 5 – GRIEVANCE AND APPEAL PROCEDURES

Grievance defined: A *grievance* is any job-related complaint or concern.

Appeal defined: An *appeal* is a request for review of any disciplinary action up to and including termination.

The District encourages employees to take any job-related complaints, problems, concerns, or appeals to their supervisors. A complaint of a sensitive nature against a direct supervisor may be taken to the next level or directly to the Fire Chief. Employees are encouraged to use the organizational chain of command in these informal discussions. Following informal discussions, an employee remaining dissatisfied with a working condition, or some aspect of employment including appeals, may submit a written grievance or appeal as appropriate, to the Board of Commissioners within 10 calendar days after the cause of the grievance arises or becomes known to the employee.

- (a) A grievance or appeal must:
1. be presented to a supervisor within 10 calendar days of the incident;
 2. be submitted in writing; and
 3. Contain pertinent facts, details and desired outcome or resolution.

Anti-Retaliation Policy: Under no circumstances will an employee who in good faith reports alleged misconduct, or who cooperates in any investigation related to any such alleged incidents, be subjected to any form of reprisal or retaliation for the report or cooperation. Any employee who is involved in any form of retaliation against an employee who reports misconduct or cooperates in any investigation related to such incidents, will be subject to disciplinary action up to and including termination.

The following grievance and appeal steps are general guidelines only and do not limit the Department's discretion to take any appropriate disciplinary action up to and including termination of employment at any time.

Grievance and appeal process

- (a) Step 1 – Supervisor: The Fire Chief believes that employee concerns are best addressed through informal and open communication. Therefore, employees are directed first to discuss their work-related concerns with their immediate supervisor. The immediate supervisor has 10 calendar days to respond to the grievant. If the immediate supervisor is the one who took the action or the employee does not receive a satisfactory answer, the employee may direct his/her grievance to the next supervisor in the chain of command. This must be submitted in writing to the supervisor within 10 calendar days of receiving the response.

1. Duties of the Supervisor: The supervisor receiving a grievance or appeal has a duty to listen with care to the employee, to arrive at a full understanding of the employee's point of view, and to give the employee a clear and specific answer. The supervisor shall make an immediate record in writing of the facts and report all grievances and appeals to the District Fire Chief.
- (b) Step 2 – Fire Chief: If after the meeting(s) in Step 1, the employee wishes to have a grievance or appeal addressed at a higher level, the employee may do so by putting the grievance or appeal in writing to the Fire Chief within 10 calendar days of the previous meeting. The Fire Chief has 5 days to respond to the grievant unless the Fire Chief is unavailable or out of the office, in which case it will be decided within 5 days of the Fire Chief's return. If alternate time frame arrangements are necessary, they will be arranged between the grievant and the Fire Chief. It may not always be possible to resolve an employee's concern to his/her complete satisfaction, but if not, the person responsible for addressing the matter will attempt in each case to explain why. Probationary employee grievances and appeal decisions are final and binding with the decision of the Fire Chief.
- (c) Step 3 – Board of Commissioners: If Steps 1 & 2 fail to result in a satisfactory resolution, the grievant may submit a written copy of the grievance or appeal including a summary of the results of Steps 1 & 2 to the Board of Commissioners. The Board of Commissioners has 30 calendar days to respond to the grievant. The findings or the resolution of the Board of Commissioners is final and binding.

CHAPTER 6 – LEAVES OF ABSENCE

A leave of absence is a defined period of time during which an employee is on an excused absence from work. During a leave of absence, prior service with the Department remains intact and certain benefits may continue in effect as described in the relevant benefits plan. All employees on leave will be required to pay at least their portion of the cost of their benefits if the leave allows for continuation of such benefits.

Under certain leaves of absence, both the employee and the Department must comply with federal and/or state leave regulations. Any such leaves may, and likely will, run concurrently with the use of paid time off and in some instances, employees may have more than one such leave running concurrently.

Employees must provide thirty (30) days' advance notice (unless 30 days' notice is not practicable despite the employee's good faith efforts) for foreseeable leaves, such as childbirth, adoption or planned medical treatment. If the need for leave is not foreseeable, or if 30 days' notice is not practicable, for reasons such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable.

If an employee fails to return to work as scheduled from an approved personal leave of absence, employment will be terminated as of the date the employee was scheduled to return to work.

Unpaid Medical Leaves of absence may be granted to employees who are unable to work for an extended period of time due to a permanent or temporary physical or mental condition. Subject to the

Americans with Disabilities Act and other laws and regulations, such leaves are normally limited to six months in any 12 month period (all leaves combined).

Family and Medical Leave. The Department's FMLA policy is included in Appendix A to this Handbook.

Paid Time Off (PTO) After one full year of employment, members will accumulate up to five PTO days to be used for time off. Members will be allowed to accumulate up to three years (15 shift days) at which time they can sell back half of their time at the employee's hourly rate. Employees will submit in writing October 1st of each year their intent to sell back time.

Bereavement Leave- (up to 48 hours) immediate family

Jury Duty & Court Proceedings. The Department will provide unpaid leave for employees to attend court for prospective jury service, serve as a juror, or for responding to a summons to appear as a witness in a judicial or administrative proceeding. Employees may be required to provide documentation verifying the need for leave.

Military Leave. If an employee is required to attend temporary military training or is placed on active duty, he or she will be granted a military leave of absence in accordance with applicable federal and state law upon presentation of duty papers to the office manager. Employees must provide as much advance notice as is reasonably practicable.

Returning employees whose military service was ninety (90) days or less are entitled to return to the position in which they were employed or would have been employed if their employment had not been interrupted. Returning employees whose military service was more than ninety (90) days are entitled to return to the position in which they were employed, would have been employed, or a position of comparable status and pay, the duties of which the employee is qualified to perform after reasonable efforts by the Department to qualify the employee. The Department will make reasonable accommodations as provided by law for returning employees who are disabled during military service.

CHAPTER 7 – MISCELLANEOUS POLICIES

Alcohol and Illegal Drug Policy

- (a) No employee or volunteer of the District / Volunteer Fire Department may use, possess, sell, distribute or be under the influence of illegal drugs or alcohol while on duty or while on District property or in District vehicles or equipment.
- (b) No employee or volunteer may perform work or operate District vehicles or equipment while under the influence of legally obtained prescription or over-the-counter drugs which the individual knows or reasonably should know is likely to make him or her a significant threat to the safety of any person.
- (c) No employee may use, possess, sell or distribute illegal drugs at any time, either on or off duty.
- (d) No employee or volunteer may perform work within four hours following the consumption of alcohol, and therefore should routinely refrain from the consumption of alcohol within four hours of scheduled work. (Employees and volunteers must inform their supervisors of the consumption of alcohol within the prohibited time frame if they are unexpectedly summoned to duty.)

- (e) No employee, volunteer, or applicant may tamper with, switch or adulterate any test specimen or sample, or tamper with any report of test results.
- (f) The provisions of this section apply to independent contractors, common carriers, vendors and the employees of same when engaged in work on District property. Any such person who is reasonably suspected of violating this section will be removed from District property or work sites and denied future entry.

Drug or alcohol screening upon reasonable suspicion and random drug testing.

- (a) Any employee or volunteer of the District / Volunteer Fire Department will be required to submit to drug or alcohol screening if there is a reasonable suspicion that the individual has used or is under the influence of illegal drugs or alcohol while on duty.
- (b) An employee or volunteer will be required to submit to drug screening if there is a reasonable suspicion that the employee has engaged in off-duty illegal drug use.
- (c) "Under the influence" means the presence of illegal drugs in the blood system and is considered a violation of this policy.
- (d) "Reasonable suspicion" means an articulable belief, drawn from specific and particularized facts and reasonable inferences from those facts, that:
 - (1) An individual has used or is under the influence of illegal drugs or alcohol while on duty; or
 - (2) That an individual has engaged in the off-duty use of illegal drugs.
- (e) Reasonable suspicion must be based on specific, contemporaneous observations or behavior, including but not limited to:
 - (1) Observable phenomena, such as direct observation of the use or possession of drugs or alcohol, or of the physical symptoms of being under the influence of drugs or alcohol;
 - (2) A pattern of abnormal conduct or erratic behavior, including abnormal leave patterns;
 - (3) Arrest or conviction of a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking;
 - (4) Hearsay information provided either by reliable and credible sources or independently corroborated;
 - (5) Evidence that an individual has tampered with a previous drug or alcohol test; or
 - (6) Facts or circumstances that develop in the course of an authorized investigation of an accident or unsafe work practice.
- (f) For reasonable suspicion testing, the supervisor will consult with the Fire Chief (or designee) and affirm the basis of his/her suspicion. If the Fire Chief concurs, he/she may order the employee to undergo testing. A written report of the reasonable suspicion observations must be prepared by the supervisor(s) who made the observation within 24 hours of the observed behavior or before the results of test are released, whichever is earlier. This report must be promptly forwarded to the Board of Commissioners.

- (g) Supervisors shall take appropriate action to protect persons and property by immediately relieving from duty any employee who is reasonably suspected of being under the influence of alcohol or drugs. Employees who are reasonably suspected of being under the influence of alcohol or drugs shall not be permitted to drive any vehicle.
- (h) If an employee's conduct resulted in a work place accident, injury, or reasonable suspicions to believe the employee has violated the District's Drug and Alcohol Use Policy, the employee will be provided with transportation to the testing facility. A supervisor or other designated District representative may be required to stay with the employee during the testing process. The District / Volunteer Fire Department may, in its discretion, reassign the employee or put him/her on administrative leave until the test results are received.
- (i) For reasonable suspicion testing, the District will make arrangements to have the employee transported home after the testing.
- (j) Random testing will be applicable to all employees and volunteers working in safety sensitive positions. All such individuals will be in the random selection pool, every time a drawing is made, and will be selected by chance. No employee or volunteer will be excluded merely because he/she has previously been randomly selected and tested.
- (k) At any time during working hours all employees and volunteers will be subject to random drug testing without notice and at the ESD's expense. All drug testing will be conducted at a qualified laboratory and in accordance with state and federal law.

Policy not contractual: This policy is a unilateral expression of the District's general policies, procedures and guidelines concerning substance abuse. It is not intended to create any contractual rights of employment, whether express or implied, between the District and its employees. The District reserves the right to change the provisions of this policy at any time.

Provisions severable: The provisions of this policy are severable. If any provision or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the policy which can be given effect without the invalid provisions or application.

Social Media Policy.

Department policies that apply to offline conduct apply equally to online conduct. Department social media accounts should never be used in any way that violates the Department's confidentiality policies or standards of ethics and conduct. Department social media accounts and employees' and volunteers' personal accounts should never be used for purposes of discrimination, harassment, retaliation, or other unlawful purposes.

When employees identify themselves as Department employees or representatives, everything they do has the potential to reflect on the Department and its image. Accordingly, employees must act and conduct themselves professionally, appropriately, and consistent with our Code of Conduct at all times when using Department social media accounts. Anything posted on the Internet in the Department's name, or in a manner that could reasonably be attributed to the Department must be approved by the Fire Chief or Deputy Chief. Employees may not represent that any opinion or statement is the policy or view of the Department unless specifically authorized to do so.

Any requests for interviews, conversation, or information from the media in any form regarding Department-related issues should be referred to the Fire Chief or Deputy Chief. No employee may speak to the media on behalf of the Department unless he or she has received express permission in advance.

Failure to comply with the above guidelines constitutes a violation of Department policy and may subject employees to disciplinary action, up to and including termination of employment.

Recording Policy

Audio, video, and photographic recording technologies help the Department in evaluating current practices and procedures for efficiency and effectiveness, for determining if firefighters have mastered firefighting skills and evolution, for determining if fire personnel use all PPE as required, for training purposes, for fire investigation purposes, for documentation of events on fire and emergency scenes, for quality assurance/quality improvement review, and for other purposes.

To protect confidentiality and privacy interests of employees, the public, and the Department, as well as to promote open communication and best practices, the Department has adopted the following policy to balance the benefits and risks of audio and video technology. This policy applies to the use of any audio or video recording device, including but not limited to helmet-mounted cameras, pocket video cameras, pen video cameras, eyeglasses cameras, cell phone and smart phone cameras, and similar portable devices that record audio and/or video. This policy applies to all use of Department-owned recording devices and to employee-owned devices used during work hours or while conducting Department operations. Violations of this policy will subject members to discipline up to and including termination of employment.

Use of Recording Devices

Prior approval from the Fire Chief is required before a Department member may use any audio or video recording device in connection with the transaction of official business. If time permits, approved video recording devices may be used on responses including rescue incidents, except for EMS only calls and direct patient care. Under no circumstances shall the use of audio or video recording devices delay any fire suppression or rescue activities or otherwise jeopardize safety.

Audio and video recording devices may not be used to record private medical information or records, including but not limited to recording direct patient care. If a recording is made, inadvertently or otherwise, that records a patient care event, the Fire Chief will have the final authority in the use or handling of the video. Audio and video recording devices shall not be used for any illegal activities such as eavesdropping, listening to, or recording private conversations without consent.

Ownership and Retention of Audio and Video Recordings

All audio and video recordings created on scene of an incident, on the training ground, in and around the fire station, and in connection with the transaction of official business are and remain the property of the fire department and may not be distributed or shared in any manner without prior approval of the Fire Chief.

Employees are prohibited from electronically posting to any online site or forum or social media, or otherwise distributing to any other person or party, any recording covered by this policy so

long as such electronic posting or distribution does not constitute legally protected activity in its entirety.

Emergency Recall Policy

When responding to emergency situations, the Department may issue Off-Duty Recall Orders without notice. Immediate response to these Orders is critical.

To facilitate the Department's swift and successful response to emergency situations, all employees and volunteers must:

- maintain current contact information on file, including current addresses and phone numbers for outside employers, by submitting such information in writing to the office manager;
- Notify the office manager *in writing and in advance*, including approximate departure and return times, of any travel more than fifty (50) miles from the Department; and
- Notify the office manager *in writing and in advance* of any outside employment that may interfere with the ability to respond to an emergency Off-Duty Recall Order. This includes, but is not limited to, regularly scheduled or intermittent business travel and a description of any applicable job requirements. Employees may be required to submit copies of job descriptions and/or applicable leave policies from outside employers.

Any firefighter employee or volunteer who fails to follow these steps, or who fails to respond to an emergency Off Duty Recall Order except when doing so is not possible under the circumstances, will be subject to disciplinary action up to and including termination.

Any employee who fails to respond to an Off-Duty Recall Order and who has not been excused from doing so by the Department may be considered to have voluntarily resigned his or her position.

CHAPTER 8 – SAFETY

Purpose and objectives: The goal of every employee and volunteer is to be able to return home safely to his or her family at the end of the work day. To that end, each individual has a personal responsibility to his/her family, his/her fellow employees and volunteers, and the Department to focus on accident prevention. Therefore, each employee and volunteer is expected to observe safe practice rules. It is everyone's responsibility to work in a safe, sensible manner and not take unnecessary chances. Each supervisor will be held responsible for safety within the area of his/her supervision.

It is the policy of the Montgomery County Emergency Services District # 9 to conduct its operations with the utmost regard for the safety of its employees, its volunteers, its customers, and the public. Therefore, these instructions are for the protection of all employees and volunteers and are to be considered at all times by the various supervisors, lead personnel and all employees and volunteers.

It is the firm and continuing policy of this District that accidents will be reduced or eliminated by the use of every reasonable precaution and by the aggressive promotion of safe practices within the workplace. We will comply with all safety regulations and procedures to this end.

We strive to maintain an accident-free workplace and demonstrate leadership in the protection of the environment and the health and safety of our employees, volunteers, and contractors. By maintaining a safe work environment, we will be capable of serving the citizens of this District to the best of our abilities.

Many accidents are due to unsafe conditions and can be minimized with periodic inspections and preventive loss control.

The safety rules in this manual represent minimum requirements and are only intended to cover average conditions. Since it is not practical to cover all conditions and emergencies, it is the duty of management and employees alike, to assure that all assignments are clearly understood and that all safety rules are observed.

GENERAL CONDUCT AND PROCEDURES:

- (a) Supervisors must carry first aid kits in their vehicles and be trained in first aid. Employees and volunteers who drive District vehicles must ensure that an accident information card and proper insurance coverage documents are carried in each District vehicle.
- (b) Employees and volunteers must report all injuries and vehicle incidents, however slight, to their immediate supervisor as soon as possible. Any motor vehicle accident involving a District-owned vehicle must be reported immediately to the appropriate law enforcement agency.
- (c) Everyone must wear seat belts when driving or riding in District vehicles.
- (d) Everyone must dress safely for the performance of their assigned duties.
- (e) Personal protective equipment provided by the District must be utilized whenever it is necessitated by reasons of hazards of processes or environment. Reflective outer wear must be worn when working in or near vehicular traffic.
- (f) All employees and volunteers are to become familiar with the location of Material Safety Data Sheets (MSDS), fire extinguishers, eye washers, first aid stations, chemical showers, emergency telephone numbers and escape routes.
- (g) All employees must carry a District / Volunteer Fire Department identification card.
- (h) Horseplay and willful misconduct is prohibited.
- (i) Smoking is prohibited in all District vehicles, which shall be considered a "No Smoking Area."

PERSONAL PROTECTION

- (a) Eye, face and hearing protection:
Department-provided eye and face protection must be worn whenever injury may occur from flying objects, glare, liquid splashes, weed eaters, edger's, chemicals, grinding, and sand blasting.
- (b) Welding:
Goggles or transparent face shields must be worn during all welding procedures by the welder and all other personnel in the immediate area.
- (c) Respiratory Protection:

Proper respiratory protective gear must be worn in confined spaces, as determined by the Department supervisor (i.e., tanks, dangerous air contamination, liquid chlorine, gases, vapors, fumes, dust, and other areas as instructed).

(d) Hand, Arm and Body:

Protective gloves must be worn when handling toxic materials and potentially hazardous operations (i.e., acids, welding, sand blasting, sanitation operations and other work operations which may require aprons and hard hats where applicable).

(e) Footwear:

Employees and volunteers must wear suitable footwear protection at all times in the performance of their duties. Rubber boots must be worn when slippery, explosive or toxic solvents are present. Wearing of sandals, thongs, sneakers, loafers or other similar footwear will not be acceptable during work hours for anyone serving in suppression.

(f) High Visibility Gear:

Employees and volunteers must wear provided high visibility vests when:

1. Working early or late hours where there is not enough natural light to work by.
2. Exposed to vehicular traffic in streets and alleys.
3. Directing traffic as required.

(g) Lifelines:

Employees and volunteers must wear required lifeline and lanyards when working in overhead positions, trenches and sewer lines when safety is questionable. The job supervisor will make the determination if a lifeline is required.

HANDLING AND STORAGE

(a) Lifting and Carrying:

1. All employees must attend Protect Your Back training.
2. Know your lifting and carrying abilities and boundaries and stay within them.
3. Size up the item and only lift what you can handle easily. When possible, face in the direction you plan to go before lifting.
4. Get as close as possible, squat down keeping the back straight.
5. Use smooth motion, do not jerk, and with a firm grip, stand up.
6. Bring load close to the body, and proceed in normal steps.
7. Do not overextend yourself. Stop and rest if necessary.
8. Do not overload, get help and divide the load or obtain the proper equipment to move heavy materials.
9. Immediately report to your supervisor, any pain or other symptoms however slight.

(b) Stacking Material:

1. Keep piles neat, firm, straight and level.
2. Keep aisles, stairways and exits free and clear at all times.
3. Use proper protective gear when handling sharp or rough objects.
4. All plastic containers, cans or drums, which have a usable product in them, must be sealed and properly labeled with correct information required by law. Avoid the mixing and transferrable of products when possible.
5. Maintain good housekeeping and do not allow rubbish, oily rags or other combustible materials to accumulate.
6. Do not stack combustible or flammable materials next to heat generating machinery.

(c) Hazardous Materials:

1. Employees and volunteers assigned to working with hazardous materials must always:
 - a. Be up to date on all handling procedures.
 - b. Be constantly aware of all potential dangers.
 - c. Be licensed as required.
2. Each and every container, regardless of size or substance must be sealed and properly labeled at all times as required by law. Never mix or transfer toxic chemicals.
3. Whenever in doubt, never *assume*—it might be fatal.
4. All employees and volunteers are to become familiar with the location of Material Safety Data Sheets (MSDS), fire extinguishers, eye washers, first aid stations, chemical showers, emergency telephone numbers and escape routes.

PASSED AND APPROVED this _____ day of January 12, 2016.

MONTGOMERY COUNTY EMERGENCY SERVICES DISTRICT NO. 9

Michael Zepeda, Commissioner / Board President

ATTEST:

Paul Babb Sr., Commissioner / Board Secretary

Appendix A – FMLA Policy

Montgomery County Emergency Services District # 9 (“the Department”) complies with the Family and Medical Leave Act (“FMLA”). The purpose of this policy is to provide a general description of employees’ FMLA rights. In the event of any conflict between this policy and the applicable law, the Department will provide employees with all rights required by law.

Employees who have questions or concerns regarding this policy and/or the Department’s sick leave policy should contact Human Resources.

Eligibility

To qualify to take FMLA leave, the employee must meet all of the following conditions:

1. The employee must have worked for the Department for at least 12 months as of the date the leave is to start. The 12 months need not be consecutive.
2. The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence. Hours worked does not include time spent on paid or unpaid leave.
3. The employee must be employed at a worksite where at least 50 employees are employed by the Department within 75 miles of that worksite.

Types of Leave

A. Family or Medical Leave

Eligible employees may take up to twelve (12) weeks of unpaid, job-protected leave for the following reasons:

1. For incapacity due to pregnancy, prenatal medical care, childbirth, and to care for the newborn child. Both mothers and fathers may take FMLA leave for the birth of a child and to care for a healthy newborn child (i.e., bonding) during the 12-month period beginning on the date of birth.
2. For placement with the employee of a son or daughter for adoption or foster care, and to care for the newly-placed child. Leave for placement includes, for example, leave that is required for attendance at counseling sessions, court appearances, consultations with attorneys and doctors, travel to another country to complete an adoption, etc. Both mothers and fathers may take FMLA leave for placement of a child and to care for a healthy newly-placed child during the 12-month period beginning on the date of placement.
3. To care for the employee’s spouse (as defined by state law where the employee resides), child, or parent with a serious health condition.

4. For the employee's own serious health condition that makes the employee unable to perform the functions of the employee's position.

A serious health condition is an illness, injury, impairment, or physical or mental condition that requires an overnight stay in a hospital, hospice, or residential medical care facility (including any period of incapacity or subsequent treatment in connection with such inpatient care), or continuing treatment by a health care provider that either prevents the employee from performing the functions of the employee's job or prevents the qualified family member from participating in school or other daily activities.

This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three consecutive days of incapacity with the first visit to the health care provider within seven days of the onset of the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year. Other conditions, including any period of incapacity due to pregnancy, may meet the continuing treatment requirement.

If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the Department may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

B. Military Family Leave and Military Caregiver Leave

Eligible employees may take up to 12 weeks of Military Family Leave under this policy to address certain qualifying exigencies related to a covered service member's covered active duty. These terms are described below. Military Family Leave counts toward the 12-week maximum of FMLA leave in a 12-month period.

Eligible employee includes the spouse, son, daughter, or parent, or next of kin of a covered service member. Son or daughter means the covered service member's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered service member stood in loco parentis, and who is of any age. Parent means a covered service member's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. This term does not include parents "in law." Next of kin generally means the closest blood relative of the covered service member. The Department may require an employee to provide confirmation of covered family relationship to the covered service member.

"Qualifying exigencies" includes the following: (1) short-notice deployment, (2) military events and activities, (3) child care and school activities, (4) financial and legal arrangements, (5) counseling, (6) rest and recuperation, (7) post-deployment activities, or (8) additional activities that arise out of active duty. Up to 15 calendar days of leave may be used for spending time with the military member who is on leave during deployment. Other circumstances may qualify, provided that the employer and employee agree, including agreement on timing and duration of the leave.

A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, or a member of the Armed Forces, the National Guard or Reserves who is on the temporary disability retired list, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy; or otherwise in outpatient status; or otherwise on the temporary disability retired list. Eligible employees may not take leave under this provision to care for former members of the Armed Forces, former members of the National Guard and Reserves, and members on the permanent disability retired list.

“Covered active duty” means duty during the deployment of the member with the Armed Forces to a foreign country, or, for members of the Reserve components of the Armed Forces, duty during the deployment to a foreign country under a Federal call or order to active duty in support of a contingency operation as defined by applicable law. The leave may commence as soon as the covered service member receives the call-up notice.

Eligible employees may take up to 26 weeks of Military Caregiver Leave under this policy to care for a covered service member with a serious injury or illness. For purposes of Military Caregiver Leave, covered service member means:

1. a member of the Armed Forces (including the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness that (i) was incurred in the line of duty on active duty in the Armed Forces (or that existed before the beginning of the service-member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and (ii) may render the service member medically unfit to perform his or her military duties; or
2. a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness incurred in the line of duty on active duty and who was a member of the Armed Forces (including the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

Amount of Leave

An eligible employee may take up to 12 weeks of leave under this policy during any 12-month period. The Department will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any FMLA leave. Each time an employee takes leave, the Department will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

For Military Caregiver Leave, an eligible employee can take up to 26 weeks of leave during a single 12-month period. The Department will measure the 12-month period as a rolling 12-month period measured forward from the first day the eligible employee takes FMLA leave to care for a covered service member. FMLA leave taken for other FMLA circumstances will be deducted from the total of 26 weeks available.

If a husband and wife both work for the Department and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent “in-law”) with a serious health condition, the husband and wife may take a combined total of 12 weeks of leave. For Military Caregiver Leave, a husband and wife who both work for the Department may take a combined total of 26 weeks of leave.

Intermittent Leave or Reduced Work Schedule

Eligible employees may take FMLA leave in 12 consecutive weeks, may use the leave intermittently, or, under certain circumstances, may use FMLA leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (26 workweeks for Military Caregiver Leave) over a 12-month period.

FMLA leave taken after the birth, adoption, or foster-placement of a child to care for a healthy child must be continuous. Eligibility for such leave expires at the end of the 12-month period beginning on the date of birth or placement.

FMLA leave taken for an employee’s own serious health condition, the serious health condition of a family member, or to provide care for a covered service member with a serious injury or illness may be taken intermittently or on a reduced schedule when demonstrated to be medically necessary. FMLA leave due to a qualifying exigency also may be taken intermittently or on a reduced schedule basis.

If intermittent or reduced schedule FMLA is approved for planned medical treatment, the Department may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule. Employees must make a reasonable effort to schedule treatment in a manner that does not unduly disrupt the Department’s operations.

Notice of Need for Leave

All employees requesting FMLA leave must provide notice of the need for the leave to Human Resources. When the need for the leave is foreseeable, the employee must provide at least 30 days’ notice. If 30 days’ notice is not practical, such as because of a lack of knowledge, a change in circumstances, or an emergency, notice must be given as soon as possible under the circumstances (usually the same day or within one business day of learning the need for leave). Failure to provide sufficient notice of leave may result in the delay or denial of FMLA leave. Notice must include the reasons for the requested leave, the anticipated start and duration of the leave, and sufficient information for the Department to determine if the leave may qualify for FMLA protection based on the “Types of Leave” section above. Simply calling in “sick” is not sufficient notice of a need for FMLA leave.

Within five business days after the employee has provided sufficient notice, the Department will inform the employee whether leave will be designated as FMLA-protected and the amount of leave counted against the employee’s entitlement.

Pay and Benefits During Leave

FMLA leave is unpaid. Except where prohibited by applicable law, employees must substitute accrued paid time off prior to being eligible for unpaid leave. This means that an employee using FMLA leave must use all paid vacation and personal leave prior to being eligible for unpaid leave. Employees taking FMLA leave also must satisfy any requirements of the Department's applicable paid leave policies.

Leave covered by workers' compensation will run concurrently with FMLA leave when the reason for the leave is covered by the FMLA. The Department will allow the coordination of paid leave (PTO, sick) at the same time at the employee's discretion. The combined benefits (workers' compensation plus paid leave benefits) cannot exceed normal base weekly income.

Disability leave for the birth of the child and for an employee's serious health condition, including workers' compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA. For example, any maternity or paternity leave offered by the Department will also be designated as FMLA leave and counted toward the employee's 12-week entitlement.

During FMLA leave, the Department will continue to pay its portion of the group health benefits as if the employee had been continuously employed during the entire leave period, provided that the employee continues to pay his or her share of the premiums. If the employee fails to continue to pay his or her share of the premiums, notices of proposed insurance cancellation and the opportunity to pay the premium as required by the Act will be provided. If an employee fails to return to work after using all available FMLA leave, group health benefits will cease unless continued at employee's expense pursuant to COBRA. Other benefits, such as 401 (k), life insurance, and long-term disability will be governed in accordance with the terms of the applicable plans.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the Department will require the employee to reimburse the Department the amount it paid for the employee's health insurance premium during the leave period.

The FMLA does not require accrual of employment benefits, such as vacation pay, sick days, seniority, etc. Therefore, sick pay, vacation pay and personal days off do not continue to accrue during any portion of the leave that does not run concurrently with the use of banked sick time, salaried sick time, paid personal days off, or paid vacation.

Reinstatement

Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent pay, benefits, and other conditions of employment.

Employees returning from FMLA leave have no greater right to reinstatement or to other benefits or terms of employment than if they had been continuously employed. Reinstatement rights may be limited under the following circumstances:

1. A salaried “key employee” may not be reinstated at the end of an FMLA leave if reinstatement would result in substantial and grievous economic injury to the Department. An employee who qualifies as a “key employee” will receive notice at the time FMLA leave commences or is requested (whichever is earlier) that he or she qualifies as a key employee.
2. An employee who fails to provide a required fitness-for-duty certificate from his or her health care provider.
3. An employee who is unable to perform the essential functions of the job, with or without reasonable accommodation.
4. An employee who fraudulently obtains FMLA leave or engages in outside or supplemental employment while on FMLA leave.

When an employee gives unequivocal notice of his or her intent not to return to work, he or she must contact Human Resources. The employment relationship will be terminated, and the employee’s entitlement to continued leave, maintenance of health benefits, and return to employment will cease.

Certifications

As a general rule, requests for FMLA leave for employee’s own serious health condition; to care for a spouse, son, daughter, or parent with a serious health condition; to care for a covered service member with a serious injury or illness; or because of a qualifying exigency must be supported by a certification. The Department will provide the required form, which must be completed and returned to Human Resources within fifteen (15) calendar days. Failure to provide certification may result in a denial of continuation of leave.

If the certification is incomplete or insufficient, the employee will be given an opportunity to resolve any deficiencies. In certain circumstances, the Department may seek to contact the employee’s (or employee’s family member’s) health care provider for verification or clarification purposes using a health care professional, an HR professional, leave administrator or management official. In such instances and in compliance with HIPAA Medical Privacy Rules, the Department will obtain the employee’s (or employee’s family member’s) permission for clarification of individually identifiable health information.

The Department has the right to ask for a second opinion from a health care professional of its choice, at no cost to employee. If there is a difference between the two opinions, the Department may require a third opinion from a mutually agreeable healthcare provider, at no cost to employee, which will be final and binding. The Department may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion.

The Department may request recertification for the serious health condition of the employee or the employee’s family member every 30 days when circumstances have changed significantly, or if the Department receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave.

Otherwise, the Department may request recertification for the serious health condition of the employee or the employee's family member every six months in connection with an FMLA absence. The Department may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.

Anti-Discrimination and Anti-Retaliation

The Department will not interfere with, restrain, or deny the exercise of any right provided under the FMLA; or discharge or discriminate against any person for opposing any practice prohibited by the FMLA or for involvement in any proceeding under or relating to the FMLA.

No employee who attempts to exercise his or her rights under the FMLA will be subjected to retaliation of any kind for doing so. Any violations or suspected violations of this policy must be reported to Human Resources immediately.

Appendix B – Acknowledgment Form

Montgomery County Emergency Service District #9 (the “Department”) developed the Personnel Manual (“Manual”) to provide employees with certain policies, guidelines, and statements, and to assist with the uniform application of those policies and guidelines. The Manual is not intended to be all-inclusive.

As an employee, you are required to read the Manual and adhere to its policies, guidelines, and statements. The Manual does not change the at-will status of your employment.

By signing below, you certify that you have received the Manual and you have been given the opportunity to read the Manual. You further acknowledge that, as a condition of employment with the Department, you agree to be bound by the policies, guidelines, and statements contained in the Manual.

Please sign and date this page below. This acknowledgment will be retained in your personnel file.

Print Name

Employee Signature

Date