



GOVERNMENT OF THE DISTRICT OF COLUMBIA
D.C. FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT
WASHINGTON, D.C. 20001



ADDRESS REPLY TO
"FIRE CHIEF"

August 25, 2009

The Honorable Phil Mendelson
Chairperson
Committee on Public Safety and the Judiciary
John A. Wilson Building
Suite 402
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Chairperson Mendelson:

Thank you for your inquiry dated July 21, 2009, referencing the transition of all EMS Management Supervisory Service personnel to firefighter positions. We appreciate your expression of support for our efforts to achieve Recommendation 1 of the Mayor's Task Force on Emergency Medical Services (Task Force). Answers to your questions follow:

1. Please explain under what authority FEMS is able to make EMS supervisors sworn firefighters.

As you know, Task Force Recommendation No. 1 requires the Fire and Emergency Medical Services Department (F&EMS) to transition to a fully integrated, all-hazards agency. To accomplish this goal, and to transition incumbent EMS supervisors into a more fully integrated personnel structure, I worked with the Department of Human Resources (DCHR) to create the new positions of Battalion EMS Supervisor (Captain) and Paramedic-Firefighter Supervisor (Lieutenant) within the fire service. In doing so, qualifications were established for these positions that reflect their duties and responsibilities, including their supervisory character and their focus on EMS rather than fire suppression activities. Pursuant to section 202 of the Fire and Emergency Medical Services Department Training Act of 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-441), the F&EMS Chief has the authority to design the requirements for entry-level and in-service education and training. Further, as delegates of the Mayor's personnel authority under sections 402 and 406 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-604.02 and 1-604.06), the F&EMS Chief and the DCHR Director have the authority to administer the personnel functions of the District government concerning the F&EMS. Toward that end, the DCHD Director, in consultation with the F&EMS Chief, may establish positions within the F&EMS to assist the Mayor in fulfilling his responsibility "for the proper execution of all laws relating to the District, and for the proper administration of the affairs of the District coming under his jurisdiction or control." Section 422

and 422(3) of the District of Columbia Home Rule Act (Home Rule Act), approved December 24, 1973 (87 Stat. 790; D.C. Official Code § 1-204.22 and -204.22(3) (2006 Repl.)); see Mayor's Order 2008-81, dated June 5, 2008. The power to execute the laws includes the power to determine the types of subordinates necessary to perform the associated executive functions, and the creation of the new positions, along with their qualifications, was therefore an appropriate exercise of executive authority under the Home Rule Act and the CMPA. The positions were classified and placed on the fire series pay schedule pursuant to section 1101 of the CMPA (D.C. Official Code § 1-611.01 (2006 Repl.)).

- 2. If the intent is to transfer EMS supervisors under D.C. Official Code § 5-409.01, please explain whether the affected individuals have met the statutory requirements for transfer under that section. As you are aware, the Council struck language in the FY 2010 Budget Support Act that would have allowed the Mayor to bypass these requirements, such as with regard to base salary, in authorizing the transfer of EMS personnel to uniformed firefighters.**

The EMS supervisors will be required to satisfy the appropriate requirements for their position descriptions, which include meeting established medical standards, achieving certain operational certifications, and **successfully completing a physical abilities test and training program**. All of the employees have already undergone a background check. Transfer to the fire series pay scale was to the **step and class with a rate of pay closest to, but not lower than, the rate of pay earned by the employee prior to the transfer.**

- 3. As D.C. Law 17-356, the Paramedic and Emergency Medical Technician Transition Amendment Act of 2008, authorizes pay and pension parity, please explain why FEMS is not simply pursuing this with these EMS supervisors.**

F&EMS did not transfer the supervisors into the All Hazards/Emergency Medical Services Specialist positions created pursuant to D.C. Law 17-356 because that approach did not sufficiently advance the Task Force's objective of creating a fully integrated all-hazards agency.

- 4. What is the cost of this transition: personal services and retirement?**

There is no unbudgeted fiscal impact associated with this transition. **The transition calculation for personal services migrates the existing actual standard earnings (adjusted base pay) for the transitioning personnel onto the fire series pay schedule** and has no negative fiscal impact. The District contribution to the Police Officers' and Fire Fighters' Retirement Program (Plan) to cover the entry of these 32 transitioning personnel is prospective, rather than retrospective, and will be calculated based upon the annual actuarial estimates performed by the D.C. Retirement Board (DCRB). Please see our response to Question No. 5 below.

- 5. Please explain what funding has been identified to pay for the enrollment of these EMS supervisors in the Police Officers' and Fire Fighters' Retirement Program. To my knowledge, no such funding has been identified.**

In December 2008, the DCRB and the Office of the Chief Financial Officer determined that any prospective inclusion of transitioning EMS employees in the Plan would not affect the District's normal pension contributions until FY 2011. Therefore there was no need for an FY 2009 or FY 2010 appropriation specific to funding the pension contribution cost for transitioning personnel.

The Mayor's budget for FY 2010 includes full funding for the District's contribution to pension plans as determined by DCRB. D.C. Official Code § 1-907.03(b) requires the Mayor and Council to appropriate full funding for the District's normal contribution to pension plans, based on DCRB's annual actuarial estimates.

It is our understanding that the District's FY 2010 through FY 2013 financial plan already includes additional funding beginning in FY 2011 that meets or exceeds the potential costs of the entry of these personnel into the retirement system.

We thank you again for your inquiry. Please contact me should you have any follow-up questions.

Sincerely yours,



Dennis L. Rubin
Chief, Fire and EMS Department