



**Policy and Compliance
Administration**

August 6, 2015

Amy C. Mauro, Esq.
Chief of Staff
Fire and Emergency Medical Svcs. Dept.

Via e-mail amy.mauro@dc.gov

Subject: **Reinstatement of Uniformed FEMS Members – 6B DCMR § 816**
DPM Op. 2015-816

Dear Ms. Mauro:

The Department of Human Resources recently received an inquiry concerning the meaning and applicability of District Personnel Manual (DPM) § 816 as it relates to the reinstatement of uniformed members of the Fire and Emergency Medical Services Department (FEMS). In particular, you asked whether the typical three year time limit for reinstatement applies to FEMS members. In short, if a FEMS member who previously held a career service appointment may be reinstated non-competitively to the Career Service, at the same grade, without regard to the three year time limit.

In general, a former permanent employee in the Career Service has reinstatement eligibility for three years, provided they were not previously removed for cause. (See DPM § 816.1.) Section 816.4 further provides that, except for reinstatements to the same grade with the same promotional potential, all reinstatements to the Career Service must be processed competitively.

However, § 816.6 states that: “notwithstanding the provisions of §§ 816.1 through 816.4, a former uniformed member of the Fire Department ... shall have reinstatement eligibility provided he or she” previously held permanent Career Service status, was not separated for cause, and meets the general requirements for service as a FEMS member (as specified in § 807.1 (c) or (e).)

Section 816.6 explicitly authorizes such a reinstatement without regard to § 816.1, which limits reinstatement eligibility to three years, and without regard to § 816.4, which requires the processing of reinstatements by competition. Since § 816.1(a) and (b) are conditions that are included in § 816.6, the “notwithstanding” language must apply to the introductory rule, which specifies a three year time limit. If the intent of § 816.6 was to simply impose the additional requirements of § 807.1, then it would have said as much. Section 816.6 also specifies that, for FEMS members, the restriction of § 816.4 does not apply. This provision would require competitive reinstatement.



Reinstatement of Uniformed FEMS Members – 6B DCMR § 816

Rules have the force law, provided they are lawfully promulgated and when a law is plain on its face, the inquiry goes no further. Here, the plain meaning of the words used are to completely exempt FEMS members from the restrictions imposed under §§ 816.1 and 816.4. Accordingly, a qualified FEMS member may be reinstated non-competitively to the same grade, even if there has been a break in service that exceeds three years.

Additional Information

For additional information, please see:

- [6B DCMR § 816](#), *Career Service Employment by Reinstatement*

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Zimmerman", with a horizontal line extending to the right.

Justin Zimmerman
Associate Director