
Fire District Handbook

Arizona Fire District
Association

2013

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ARIZONA FIRE DISTRICT ASSOCIATION, INC.

FIRE DISTRICT HANDBOOK & HISTORY

NOTE: *This book has been prepared and edited by both lay persons and attorneys. The contents of this book are not intended to be relied upon as legal advice. While every attempt is made to update this book on a regular basis, there are always some sections that need additional work. In addition, the sample forms, while instructive, should not be copied for use, but instead should be modified to meet your district's particular needs. Be sure to update the law any time you use one of the sample forms in this manual or make use of this reference material. Please be sure to consult with your attorney on any specific questions of law or forms.*

PREFACE AND DEDICATION

The materials and forms in this handbook are published by the Arizona Fire District Association exclusively for use by fire district administrators. Neither the Arizona Fire District Association nor the contributors to this handbook make express or implied warranties regarding the use of materials or forms contained herein. The views and conclusions expressed in these materials are those of the authors and editors and are not necessarily those of the Arizona Fire District Association.

The Arizona Fire District Association Board of Directors is aware that this manual does not cover every detail regarding the operation of your fire district. However, enough basic information is addressed to provide answers to the majority of questions that have been raised in the past. Any questions not answered in this manual should be directed to your legal counsel or to one of the Arizona Fire District Association Area Directors located throughout the state. Additional information can be gathered at the many classes offered during the AFDA conferences held throughout the year.

This handbook will be subject to additions, corrections, amendments, deletions or other revisions as circumstances change, the Arizona Revised Statutes are changed, or as other needs may dictate. Revisions or updates, when published, will be available to all members of the Arizona Fire District Association.

Prior to 1984, there was no single place for fire board members to gather the information they needed to properly manage their fire districts and departments. This was one of the principal reasons the Arizona Fire District Association was formed and also the driving force behind the creation of the first statewide fire district handbook, which was published in May of that year. Its purpose was to provide district leaders with a comprehensive understanding of fire district operation that would, in turn, enable them to more effectively manage their districts. The "Founding Fathers" responsible for creating the first edition of the handbook include John Higley, formerly the Assistant Fire Chief of Central Yavapai Fire District; Chief McReynolds (Doney Park Fire District); and Chief Darrel McCarty (Buckeye Fire District).

Since its inception, the handbook has periodically been revised and published in consecutive annual editions. Many individuals have made outstanding contributions to the handbook over the years, providing us with the most complete fire district reference book available in the state.

AFDA has enjoyed its success as a result of the work, dedication and expertise of many people over the years. Because of the efforts of these individuals, the handbook has not only survived, it continues to improve and has become a state-recognized source of information pertaining to fire district laws and operation. We encourage you to take the time needed to review the information contained in this manual. By learning this information and putting that knowledge to work, you and your fire district can operate within the law with greater efficiency and confidence.

HISTORY OF THE ARIZONA FIRE DISTRICT ASSOCIATION

In the past, many legislators and special interest groups have shown that they do not understand the purpose or even the existence of fire districts. In 1982, a group of men and women met in Tucson to address this concern, and to discuss the need for a statewide organization of fire districts. This group of people created the State of Arizona Fire District Association, an organization formed to create a common voice for all Arizona fire districts and to keep a watchful eye out for legislation that could be potentially adverse to fire districts. Educating fire board members was also recognized as an essential element in maintaining an efficient fire district.

As membership and interest grew, the name of the organization was changed to the Arizona Fire District Association (AFDA). By 1986, AFDA began offering seminars to its members and a wide range of other individuals including persons from the private sector, members of state and local governments, and private citizens. Attendance at these seminars grew by leaps and bounds resulting in the education of thousands of people throughout the state. AFDA's advancements in education have contributed to its stability and, over the years, have earned it statewide respect and recognition.

It is in large part to the contributions of many throughout the years that AFDA enjoys its success of today. The individuals listed below have devoted a significant amount of time and effort to making AFDA the exemplary organization that it is today.

AFDA OFFICERS and BOARD OF DIRECTORS - HISTORY

1982

President	Chesley Lain	Central Yavapai
Vice President	Jim Geil	Apache Junction
Secretary	Louann Cruze	Flowing Wells
Treasurer	Louann Cruze	Flowing Wells
Director ⁱ	Sam Standerfer	Ganado
Director	Walt McKenley	Green Valley
Director	Victor Simpson	Sun City West

1983

President	Chesley Lain	Central Yavapai
Vice President	Jim Geil	Apache Junction
Secretary	Dee Lowe	Sun City West
Treasurer	Bob Murray	Golder Ranch
Director	Sam Standerfer	Ganado
Director	Les Babnew	Rio Rico
Director	Kent McReynolds	Doney Park

1984

President	Chesley Lain	Central Yavapai
Vice President	Jim Geil	Apache Junction
Secretary	Dee Lowe	Sun City West
Treasurer	Bob Murray	Golder Ranch
Director	Sam Standerfer	Ganado
Director	Les Babnew	Rio Rico
Director	Darrell McCarty	Buckeye Valley Rural

1985

President	Jim Geil	Apache Junction
Vice President	Bob Lane	Sun City
Secretary	Dee Lowe	Sun City West
Treasurer	Bob Murray	Golder Ranch
Director	Sam Standerfer	Ganado
Director	Les Babnew	Rio Rico
Director	Darrell McCarty	Buckeye Valley Rural

1986

President	Jim Geil	Apache Junction
Vice President	Bob Lane	Sun City
Secretary	Dee Lowe	Sun City West
Treasurer	Bob Murray	Golder Ranch
Director	Sam Standerfer	Ganado
Director	Les Babnew	Rio Rico
Director	Darrell McCarty	Buckeye Valley Rural

1987

President	Jim Geil	Apache Junction
Vice President	Bob Lane	Sun City
Secretary	Clyde Morgan	Sedona/Oak Creek
Treasurer	Bob Murray	Golder Ranch
Director	Pete Ashcraft	Nogales Suburban
Director	John Olsen	Sedona
Director	Jim Wheeler	Central Yavapai

1988

President	Jim Geil	Apache Junction
Vice President	Jim Wheeler	Central Yavapai
Secretary	Leon Dame	Tucson Estates
Treasurer	Brayton P. Willis, Sr.	Sun City
Director	Bob Murray	Golder Ranch
Director	John Olsen	Sedona
Director	Jim Pond	Kachina Village
Director	Ed King	Forest Lakes
Director	Walt Staub	Ganado

1989

President	Jim Geil	Apache Junction
Vice President	Jim Wheeler	Central Yavapai
Secretary	Jan Hauk	Buckeye Valley Rural
Treasurer	Brayton P. Willis, Sr.	Sun City
Director	Bob Murray	Golder Ranch
Director	John Olsen	Sedona
Director	Bill Wagner	Bullhead City
Director	Ed King	Ganado
Director	Jake Barlow	Colorado City

1990

President	Jim Geil	Apache Junction
Vice President	Roy Lingo	Sierra Vista/Fry
Secretary	Jan Hauk	Buckeye Valley Rural
Treasurer	Brayton P. Willis, Sr.	Sun City
Director – Area 1	Bill Wagner	Bullhead City
Director – Area 2	Jim Kisner	Flowing Wells
Director – Area 3	Jim Pond	Kachina Village
Director – Area 4	Ed King	Ganado
Director – Area 5	Jake Barlow	Colorado City

1991

President	Bill Wagner	Bullhead City
Vice President	Roy Lingo	Sierra Vista/Fry
Secretary	Jan Hauk	Buckeye Valley Rural
Treasurer	Brayton P. Willis, Sr.	Sun City
Director – Area 1	Marilyn Price	Linden
Director – Area 2	Jim Kisner	Flowing Wells
Director – Area 3	Jim Pond	Kachina Village
Director – Area 4	Fred Peres	Drexel Heights
Director – Area 5	Jake Barlow	Colorado City

1992

President	Bill Wagner	Bullhead City
Vice President	Jim Kisner	Flowing Wells
Secretary	Jan Hauk	Buckeye Valley Rural
Treasurer	Brayton P. Willis, Sr.	Sun City
Director – Area 1	Marilyn Price	Linden
Director – Area 2	Dawn Dipple	Sierra Vista/Fry
Director – Area 2	Alex Denham	Sierra Vista/Fry
Director – Area 3	Jim Pond	Kachina Village
Director – Area 4	Fred Peres	Drexel Heights
Director – Area 5	Jake Barlow	Colorado City

1993

President	Bill Wagner	Bullhead City
Vice President	Jan Kisner	Flowing Wells
Secretary	Jan Hauk	Buckeye Valley Rural
Treasurer	Brayton P. Willis, Sr.	Sun City
Director – Area 1	Marilyn Price	Linden
Director – Area 2	Alex Denham	Sierra Vista/Fry
Director – Area 3	Jim Pond	Kachina Village
Director – Area 4	Ben Owens	Laveen
Director – Area 5	Jake Barlow	Colorado City
Director – Area 6	Bob Murray	Golder Ranch
Director – Area 7	Jim King	Verde Rural

1994

President	Jim Kisner	Flowing Wells
Vice President	Bill Wagner	Bullhead City
Secretary	Jan Hauk	Buckeye Valley Rural
Treasurer	Brayton P. Willis, Sr.	Sun City
Director – Area 1	Marilyn Price	Linden
Director – Area 2	Carl Seitz	Tubac
Director – Area 3	Jim Pond	Kachina
Director – Area 4	Ben Owens	Laveen
Director – Area 5	Jake Barlow	Colorado City
Director – Area 6	Bob Murray [10/2/94]	Golder Ranch
Director – Area 6	John Flynn	Apache Junction
Director – Area 7	Jim King	Verde Rural

1995

President	Jim Kisner	Flowing Wells
Past President ⁱⁱ	Bill Wagner	Bullhead City
Vice President	Bill Wagner [8/26/95]	Bullhead City
Vice President	Jake Barlow	Colorado City
Secretary	Jan Hauk	Buckeye Valley Rural
Treasurer	Brayton P. Willis, Sr.	Sun City
Director – Area 1	Marilyn Price	Linden
Director – Area 2	Carl Seitz	Tubac
Director – Area 3	Jim Pond	Kachina Village
Director – Area 4	Ben Owens	Laveen
Director – Area 5	Mike Flummer	Bullhead City
Director – Area 6	John Flynn	Apache Junction
Director – Area 7	Jim King [8/26/95]	Verde Rural
Director – Area 7	Kent Courtney	Montezuma Rimrock

1996

President	Jim Kisner	Flowing Well
Past President	Bill Wagner	Bullhead City

Vice President	Jake Barlow	Colorado City
Secretary	Jan Hauk	Buckeye Valley Rural
Treasurer	Brayton P. Willis, Sr.	Sun City
Director – Area 1	Marilyn Price	Linden
Director – Area 2	Roger Silk	Fry
Director – Area 3	Jim Pond	Kachina Village
Director – Area 4	John Rowlinson	Sun City West
Director – Area 4	Al Hill [8/1996]	Sun Lakes
Director – Area 5	Mike Flummer	Bullhead City
Director – Area 6	John Flynn	Apache Junction
Director – Area 7	Kent Courtney	Montezuma Rimrock

1997

President	Al Hill	Sun Lakes
Past President	Jim Kisner	Flowing Well
Vice President	Jake Barlow	Colorado City
Secretary	Jan Hauk	Buckeye Valley Rural
Treasurer	Brayton P. Willis, Sr.	Sun City
Director – Area 1	Marilyn Price	Linden
Director – Area 2	Roger Silk	Fry
Director – Area 3	Jim Pond	Kachina Village
Director – Area 4	Tim Yoder	Fountain Hills
Director – Area 5	Mike Flummer	Bullhead City
Director – Area 6	John Flynn	Apache Junction
Director – Area 7	Dave Curtis	Central Yavapai

1998

President	Al Hill	Sun Lakes
Past President	Jim Kisner	Flowing Wells/Northwest
Vice President	Jim Pond	Kachina Village/Highlands
Secretary	Jan Hauk	Buckeye Valley
Treasurer	Jim Sebert	Sun City
Director – Area 1	Marilyn Price	Linden
Director – Area 2	Roger Silk	Fry
Director – Area 3	Jan Toth	Pinewood
Director – Area 4	Tim Yoder	Fountain Hills
Director – Area 5	Mike Flummer	Bullhead City
Director – Area 6	John Flynn	Apache Junction
Director – Area 7	Dave Curtis	Central Yavapai

1999

President	Jan Hauk	Buckeye Valley
Past President	Al Hill	Sun Lakes
Vice President	Jim Pond	Highlands
Secretary	John Flynn	Apache Junction
Treasurer	Jim Sebert	Sun City

Director – Area 1	Marilyn Price	Linden
Director – Area 2	Roger Silk	Fry
Director – Area 3	Jan Toth	Pinewood
Director – Area 4	Tim Yoder	Fountain Hills
Director – Area 5	Mike Flummer	Bullhead City
Director – Area 6	John Fink	Golder Ranch
Director – Area 7	Dave Curtis	Central Yavapai

2000

President	Jan Hauk	Buckeye Valley
Past President	Al Hill	Sun Lakes
Vice President	Jim Pond	Highlands
Secretary	John Flynn	Apache Junction
Treasurer	Jim Sebert	Sun City
Director – Area 1	Marilyn Price	Linden
Director – Area 2	Kerry Clawson	Fry
Director – Area 3	Jan Toth	Pinewood
Director – Area 4	Lee Paul	Sun City West
Director – Area 5	Mike Flummer	Bullhead City
Director – Area 6	Jeff Piechura	Northwest
Director – Area 7	Dave Curtis	Central Yavapai

2001

President	Jan Hauk	Buckeye Valley
Past President	Al Hill	Sun Lakes
Vice President	Jim Pond	Highlands
Secretary	John Flynn	Apache Junction
Treasurer	Jim Sebert	Sun City
Director – Area 1	Marilyn Price	Linden
Director – Area 2	Kerry Clawson	Fry
Director – Area 3	Jan Toth	Pinewood
Director – Area 4	Lee Paul	Sun City West
Director – Area 5	Mike Flummer	Bullhead City
Director – Area 6	Jeff Piechura	Northwest
Director – Area 7	Dave Curtis	Central Yavapai

2002

President	Jan Hauk	Buckeye Valley
Past President	Al Hill	Sun Lakes
Vice President	Jim Pond	Highlands
Secretary	John Flynn	Apache Junction
Treasurer	Jim Sebert	Sun City
Director – Area 1	Marilyn Price	Linden
Director – Area 2	Bob Howard	Sunsites/Pearce
Director – Area 3	Jan Toth	Pinewood
Director – Area 4	Lee Paul	Sun City West

Director – Area 5	Mike Flummer	Bullhead City
Director – Area 6	John Fink	Golder Ranch
Director – Area 7	Dave Curtis	Central Yavapai

2003

President	Jan Hauk	Buckeye Valley
Past President	Al Hill	Sun Lakes
Vice President	John Fink	Golder Ranch
Secretary	John Flynn	Apache Junction
Treasurer	Jim Sebert	Sun City
Director – Area 1	Marilyn Price	Linden
Director – Area 2	Bill Miller	Fry
Director – Area 3	Jim Pond	Highlands
Director – Area 4	Lee Paul	Sun City West
Director – Area 5	Rick Southey	Bullhead City
Director – Area 6	Simon Davis	Green Valley
Director – Area 7	Dave Curtis	Central Yavapai

2004

President	Jan Hauk	Buckeye Valley
Past President	Al Hill	Sun Lakes
Vice President	Tom Healy	Daisy Mountain
Secretary	Rick Southey	Bullhead City
Treasurer	Marilyn Price	Linden
Director – Area 1	Herschel Sowers	Heber-Overgaard
Director – Area 2	Bill Miller	Fry
Director – Area 3	Jim Pond	Highlands
Director – Area 4	F. Lee Paul	Sun City West
Director – Area 5	Mel Sorensen	Mohave Valley
Director – Area 6	Simon Davis	Green Valley
Director – Area 7	Mike Flummer	Verde Valley

2005

President	Jan Hauk	Buckeye Valley
Past President	Al Hill	Sun Lakes
Vice President	Tom Healy	Daisy Mountain
Secretary	Rick Southey	Bullhead City
Treasurer	Marilyn Price	Linden
Director – Area 1	Ben Owens	Show Low
Director – Area 2	Bill Miller	Fry
Director – Area 3	Starr Lanphere	Parks-Bellemont
Director – Area 4	Bill Hamel	Sun City West
Director – Area 5	Mel Sorensen	Mohave Valley
Director – Area 6	Simon Davis	Green Valley
Director – Area 7	Mike Van Dyke	Montezuma/Rimrock

2006

President	Jan Hauk	Buckeye Valley
Past President	Al Hill	Sun Lakes
Vice President	Tom Healy	Daisy Mountain
Secretary	Rick Southey	Bullhead City
Treasurer	Marilyn Price	Linden
Director – Area 1	Jack Ingraham	Heber Overgaard
Director – Area 2	Bill Miller	Fry
Director – Area 3	Starr Lanphere	Parks-Bellemont
Director – Area 4	Bill Hamel	Sun City West
Director – Area 5	Mel Sorensen	Mohave Valley
Director – Area 6	Simon Davis	Green Valley
Director – Area 7	Mike Van Dyke	Montezuma/Rimrock

Section Directors

Urban	David Curtis	Central Yavapai
Suburban	Glenn Brown	Mayer
Rural	Frank DalMolin	Canyon
CON Holder	Rebecca Haro	Sun City West
Non-CON	Joseph DeWitt	Sonoita/Elgin

2007

President	Rick Southey	Bullhead City
Past President	Jan Hauk	
Vice President	Tom Healy	Daisy Mountain
Secretary	Mary Dalton	Central Yavapai
Treasurer	Marilyn Price	Linden
Director – Area 1	Tim VanScoter	Lakeside
Director – Area 2	Bill Miller	Fry
Director – Area 3	Vacant	
Director – Area 4	Bill Hamel	Sun City West
Director – Area 5	Mel Sorensen	Mohave Valley
Director – Area 6	Simon Davis	Green Valley
Director – Area 7	Mike Van Dyke	Montezuma/Rimrock

Section Directors

Urban	Doug Chappell	Drexel Heights
Suburban	Glenn Brown	Mayer
Rural	Frank DalMolin	Canyon
CON Holder	Rebecca Haro	Sun City West
Non-CON	Joseph DeWitt	Sonoita/Elgin

2008

President	Rick Southey	Bullhead City
Past President	Jan Hauk	
Vice President	Tom Healy	Daisy Mountain
Secretary	Mary Dalton	Central Yavapai
Treasurer	Simon Davis	Green Valley
Director – Area 1	Tim VanScoter	Lakeside Fire
Director – Area 2	Bill Miller	Fry
Director – Area 3	Jim Pond	Highlands
Director – Area 4	Bill Hamel	Sun City West
Director – Area 5	Mel Sorensen	Mohave Valley
Director – Area 6	John Williams	Three Points
Director – Area 7	Mike Van Dyke	Montezuma/Rimrock

Section Directors³

Urban	Doug Chappell	Drexel Heights
Suburban	Glenn Brown	Mayer
Rural	Joseph DeWolf	Sonoita Elgin
CON Holder	Rebecca Haro	Sun City West
Non-CON	Vacant	
Administrative	Katie Sayre	Green Valley

2009

President	Rick Southey	Bullhead City
Past President	Jan Hauk	Harquahala Fire
Vice President	Tom Healy	Daisy Mountain
Secretary	Mary Dalton	Central Yavapai
Treasurer	Simon Davis	Green Valley
Director – Area 1	Tim Van Scoter	Lakeside
Director – Area 2	Bill Miller	Fry
Director – Area 3	Jim Pond	Highlands
Director – Area 4	Bill Hamel	Sun City West
Director – Area 5	Mel Sorensen	Mohave Valley
Director – Area 6	John Williams	Three Points
Director – Area 7	Mike VanDyke	Montezuma Rimrock

Section Directors

Volunteer	Joseph DeWolf	Sonoita-Elgin
Combination	Glenn Brown	Mayer
Career	Doug Chappell	Drexel Heights
EMS Rep	Rebecca Haro	Sun City West
Administrative	Katie Sayre	Green Valley

2010

President	Rick Southey	Bullhead City
Past President	Jan Hauk	Harquahala Fire
Vice President	Mike Van Dyke	Montezuma Rimrock
Secretary	Mary Dalton	Central Yavapai
Treasurer	Simon Davis	Green Valley
Director – Area 1	Ben Owens	Show Low
Director – Area 2	Bill Miller	Fry
Director – Area 3	Chuck Buddle	Blue Ridge
Director – Area 4	Bill Hamel	Sun City West
Director – Area 5	Mel Sorensen	Mohave Valley
Director – Area 6	Katie Sayre	Green Valley
Director – Area 7	Jerry Doerksen	Verde Valley

Section Directors

Volunteer	Joseph DeWolf	Sonoita-Elgin
Combination	Glenn Brown	Mayer
Career	Doug Chappell	Drexel Heights
EMS Rep	Rebecca Haro	Sun City West
Administrative	Candice Tatum	Daisy Mountain

2011

President	Simon Davis	Green Valley Fire District
Past President	Rick Southey	Bullhead City
Vice President	Mike Van Dyke	Montezuma/Rimrock Fire District
Treasurer	Rob Biscoe	Sun City West Fire District
Secretary	Mary Dalton	Central Yavapai Fire District
Director - Area 1	Ben Owens	Show Low Fire District
Director - Area 2	Bill Miller	Fry Fire District
Director - Area 3	Chuck Buddle	Blue Ridge Fire District
Director - Area 4	Bill Hamel	Sun City West Fire District
Director - Area 5	Mel Sorensen	Mohave Valley Fire District
Director - Area 6	Katie Sayre	Green Valley Fire District
Director - Area 7	Jerry Doerksen	Verde Valley Fire District

Section Directors

Volunteer	Joseph DeWolf	Sonoita-Elgin
Combination	Glenn Brown	Mayer
Career	Doug Chappell	Drexel Heights
EMS Rep	Rebecca Haro	Sun City West
Administrative	Danielle Cantrell	Avra Valley

2012

President	Simon Davis	Green Valley Fire District
Past President	Rick Southey	Bullhead City Fire District
Vice President	Mary Dalton	Sun City West Fire District
Treasurer	Rob Biscoe	Sun City West Fire District
Secretary	Mike Van Dyke	Retired
Director - Area 1	Ben Owens	Retired
Director - Area 2	Bill Miller	Fry Fire District
Director - Area 3	Chuck Buddle	Blue Ridge Fire District
Director - Area 4	Chad Dragos	Daisy Mountain Fire District
Director - Area 5	Mel Sorensen	Retired
Director - Area 6	Katie Sayre	Green Valley Fire District
Director - Area 7	Jerry Doerksen	Verde Valley Fire District

Section Directors

Volunteer	Joseph DeWolf	Sonoita-Elgin
Combination	Glenn Brown	Mayer
Career	Doug Chappell	Drexel Heights
EMS Rep	Rebecca Haro	Sun City West
Administrative	Danielle Cantrell	Avra Valley

Other Significant Contributors to AFDA

Norm Miller, Lee Miller, John Flynn - Lobbyists
Bill Whittington & Donna Aversa - Legal
Brenda Tranchina – Human Resources
Robin Hirth -

Note:

Between 1982 and 1987, Arizona was served by three area directors who represented the state “at large.” By 1988, five positions were created for area directors in order to represent the Northern, Central, Southern, Eastern and Western regions of the state. The directorships were subsequently expanded in number to more adequately cover all portions of Arizona. The current areas covered, by number, are: Area 1 (Apache, Gila & Navajo Counties); Area 2 (Cochise, Graham, Greenlee & Santa Cruz Counties); Area 3 (Coconino County); Area 4 (La Paz, Maricopa and Yuma Counties); Area 5 (Mohave County); Area 6 (Pima & Pinal Counties); and Area 7 (Yavapai County).

The position of past president was created in a 1995 bylaw change.

The positions of section directors were created by a 2006 bylaw change.

<p style="text-align: center;">CHAPTER 2 ELECTED OFFICIALS RESPONSIBILITIES</p>
<p style="text-align: center;">READ and COMPLY with the Arizona Revised Statutes for the good of your District and Yourself <i>See Chapter 4 for more Arizona Revised Statutes pertaining to Fire Districts.</i></p>

The life of a public official is not an easy one. The multitude of state laws substantially affects the manner in which a fire district must conduct its business. Good intentions are not enough. Public officials must be familiar with the laws governing their conduct and operations. A general summary of what a fire district **SHALL DO** and what a fire district **MAY DO** is itemized below.

The fire board administers the affairs of a fire district.

PLEASE NOTE: Effective July 2010, no new fire districts may be formed under the elected chief and secretary-treasurer governance type. Current elected chief and secretary-treasurer fire districts are required to transition to a three or five member governing board at either the November 2, 2010 or the November 6, 2012 general election, dependent upon its respective election cycle dates. As of December 2012, the elected chief and secretary-treasurer form of governance for fire districts will cease to exist.

The FIRE DISTRICT SHALL:

(A.R.S. §§ [48-803](#), [48-804](#) and [48-805](#))

1. Hold public meetings at least once each calendar month.
2. Prepare, Post (three places plus website if district maintains one) an annual budget containing detailed estimated expenditures for each fiscal year.
3. Determine the compensation payable to district personnel.
4. Require probationary firefighters for a paid sworn firefighter position or a reserve firefighter volunteer position to submit a full set of fingerprints to the fire district for the purpose of obtaining a state and federal criminal records check.
5. Appoint or hire a fire chief (§ [48-803](#))
6. Elect a chairman and a clerk (§ [48-803](#))
7. Fill vacancies on the board (§ [48-803](#)).
8. Publish a financial report. ([A.R.S. § 48-251](#))

The FIRE DISTRICT MAY:

(A.R.S. § 48-805)

1. Employ any personnel deemed necessary for fire protection/medical and rescue services.
2. Construct, purchase, lease, lease-purchase or otherwise acquire the following or any interest therein; and in connection with such construction or any other acquisition, purchase, lease, lease-purchase or grant a lien on any or all of its present or future property including:

Apparatus, water and rescue equipment, including ambulances and equipment related to any of the foregoing.
Land and buildings with equipment and furnishings to house equipment and personnel necessary for fire protection and preservation of life.
3. Issue bonds to finance the acquisition of property as provided in A.R.S. § 48-806. Bonds may not be issued without consent of the voters at an election held for that purpose.
4. Assist the State Fire Marshal in the enforcement of nationally recognized fire protection standards.
5. Adopt, with approval of voters, their own fire code.
6. Amend an existing fire code.
7. Enter into an agreement procuring the services of an organized private fire protection company or a fire district of a neighboring city, town or district.
8. Contract with a city or town for fire protection services for all or part of the city or town.
9. Retain a certified public accountant to perform an annual audit of district books.
10. Retain private legal counsel.
10. Accept gifts, contributions, bequests, and grants and comply with any special requests attached to such.
11. Pay membership dues to the Arizona Fire District Association.
12. Adopt fee schedules within and outside the jurisdictional boundaries for fire protection services and preservation of life.
13. Adopt schedules for financial reimbursement to taxpayers for installment of certain fire protection systems.
14. Change the district's name.
15. Require all employees to submit fingerprints.

16. Enter into intergovernmental agreements with other political subdivisions or contracts with individuals.
17. Be reimbursed for expenses incurred in performing duties.

The district SHALL NOT incur any debt or liability in excess of taxes levied and to be collected and the money actually available and unencumbered at the time in the fund, except as provided in [A.R.S. § 48-805.D](#).

Separate legal entities; joint exercise of powers (48-805.01).

Cities, towns, counties and fire districts established pursuant to this title may form a separate legal entity pursuant to section 11-952, for the purposes of jointly exercising powers held in common by the contracting parties. Common powers of the contracting parties when otherwise authorized pursuant to state law may include fire protection, the preservation of life, providing emergency medical services, and carrying out its other powers and duties, including providing ambulance transportation services when authorized to do so pursuant to title 36, chapter 21.1, article 2. Any separate legal entity formed pursuant to this section shall include a fire district. The intergovernmental agreement must state the intent to form a separate legal entity pursuant to this subsection. The governing body of a separate legal entity formed pursuant to this subsection shall be composed of officials elected to one or more of the governing bodies of the political subdivisions that are parties to the agreement, or their designees. A separate legal entity identified pursuant to this subsection:

Election to Reorganize District (48-816)

A district may ask the board of supervisors to call for an election to reorganize the district. Doing so requires a petition containing signatures of 25% of the qualified electors residing within the district.

Mergers (48-820); Consolidations (48-822)

Two or more districts may merge or consolidate. The board of supervisors will order an election to merge or consolidate when a resolution for merger is submitted to the board of supervisors.

<p style="text-align: center;">A.R.S. §§ 48-803, 48-804 & 48-805 KEY POINTS AND DIRECTION</p>

48-803 District administered by a district board

1. Districts with a population of fewer than four thousand inhabitants, **the district board may consist of three or five members (48-803 A).**
2. Districts with the estimated population of four thousand or more inhabitants, **the district board shall consist of five members**, and for a noncontiguous county island fire district formed pursuant to section [48-851](#), **the board shall consist of five members (48-803 A).**
3. **A district board that consists of five members and exceeds fifty thousand inhabitants the district may expand to seven members.** Any expansion to seven members shall occur by majority vote of the

district board. The increase is effective for the election of two additional members at the next regular election of members of the district board. ([48-803 A](#))

4. Vacancies that occur must be filled by appointment of an interim member. If an entire board resigns, the board of supervisors shall appoint an administrator to the district. If the board of supervisors fails, a special election shall be held ([48-803 B](#)).

5. The board may also elect a vice chairperson and/or treasurer if they include a statement to that effect in the district bylaws ([48-803 E](#))

6. Two or four year terms. Districts will consist of 3, 5, 7 members. See A.R.S. § [48-803 F](#) for more detailed information).

[48-804](#) District administered by elected chief and secretary-treasurer

The 49th Arizona Legislature, 2nd Regular Session enacted a law which substantively changed the way fire districts are governed. Representative David Stevens (R-26) sponsored H2666: SMALL FIRE DISTRICTS; BOARD MEMBERS, which eliminated the elected chief and secretary –treasurer form of governance. This bill was sponsored at the request of a constituent whose fire district was governed by an elected chief and secretary-treasurer, in which there was ongoing conflict between the elected officials. H2666 was signed by Governor Brewer on April 14, 2010.

Approximately half of all elected chief and secretary-treasurer fire districts transitioned to an elected board at the November 2, 2010 general election. The remaining elected chief and secretary-treasurer fire districts will be transitioned after the November 6, 2012 general election.

[48-805](#) Fire district; powers and duties *(See outline at the beginning of this Section for important facts regarding what Fire Districts Shall or May do). Additional key points are listed below.*

1. See [Chapter 3 - “The Open Meeting Law”](#) of this manual for additional information on how to conduct public meetings.
2. Preparation and adoption of an annual budget see ([48-805 A 2](#)). Review [Chapter 6 - “Fire District Financing”](#) of this manual for more information on annual budgets.
3. Determination of compensation payable to district personnel see ([48-805 A 3](#)).
4. Fingerprinting see ([48-805 A.4](#)) and ([48-805 B.16](#)).
5. Employ personnel and provide fire protection and ambulance transportation services (Board Members prohibited from being employees) see ([48-805 B 1](#)).
6. The merger of two or more fire districts pursuant to section [48-820](#) or the consolidation with one or more fire districts pursuant to section [48-822](#) shall not expand the boundaries of an existing certificate of necessity unless authorized pursuant to [Title 36, Chapter 21.1, Article 2](#). ([48-805 \(B\) 1](#))

7. Construct, lease, purchase, lease-purchase or acquire water, equipment, land, furnishings, etc. see ([48-805 B.2](#)).
8. Financing the acquisition of property ([48-805 B.3](#)), All persons who are eligible to vote in fire district bond elections see [A.R.S. § 48-806](#). See **Chapter 6** - “Fire District Financing” of this manual for additional information on district finance.
9. Fire Code approval and enforcement see ([48-805 B.4 and 48-805 B.5](#)).
10. Amend or revise the adopted fire code see ([48-805 B. 6](#)).
11. Enter into an agreement and/or contract for service – in and out of district see ([48-805 B.6, 48-805 B7 48-805 B.17](#)).
12. Annual audit {See *Chapter 6 - “Fire District Financing” of this manual for information on Audits*}.
13. Accept gifts, contributions, bequests and grants see ([48-805 B.11](#)).
14. Appropriate annual expenditures – paying dues see ([48-805 B.12](#)).
15. Adopt resolutions establishing fee schedules both within and outside of the jurisdictional boundaries see ([48-805 B.](#)).
16. Change the Fire District's name see ([48-805 B.15](#)).
17. District warrants see ([48-805 C](#)).
18. District’s debts or liabilities see ([48-805 D](#)).
18. Retain legal counsel see ([48-805 F](#)).

[A.R.S. 48-251](#) - **Annual Report** See **Chapter 6** - “Fire District Financing” for more information needed.

FIRE DISTRICT ELECTED OFFICIALS MANAGEMENT PHILOSOPHY
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INTRODUCTION: The success of any fire district is the result of the combined efforts of each individual on the organizational team working toward common objectives. These objectives must be clearly known and fully understood by everyone in the organization, and should reflect the fire district's basic character, values and personality.

If a district is to fulfill its obligations and meet its objectives, certain fundamental requirements must be met.

FIRST, a district must have highly capable, creative and innovative people at all levels of the organization. These people should have the opportunity – through continuing programs of training and education – to upgrade their skills and capabilities. This is especially important in technical areas where the rate of change is rapid. Techniques that are good today will be outdated in the future, and people should always be looking for new and better ways to perform job functions.

SECOND, the organization must have objectives and leadership that generate enthusiasm and high morale at all levels. People in management and supervisory positions should not only be enthusiastic themselves, they should be selected for their ability to inspire enthusiasm among their peers and subordinates. There can be no place for half-hearted interest or a half-hearted effort.

THIRD, the district must conduct its affairs with uncompromising honesty and integrity. People at every level should be expected to adhere to the highest standards of business ethics. Anything less is unacceptable. As a practical matter, ethical conduct cannot be assured by statutes, written policies, or rules and regulations. It must be an integral part of the organization; a deeply ingrained tradition that is passed from one generation of elected official or employee to another.

FOURTH, even though a district is made up of people meeting the first three requirements, everyone must work toward common objectives recognizing that only through an effective, cooperative effort that the ultimate in efficiency, productivity, and achievement can be obtained.

On the following pages you will find six examples of "Strategic Goals," which, as elected officials, you may wish to consider for your own fire district.

STRATEGIC GOALS

SERVICE GOAL: To provide services of the greatest possible value for the citizens of the fire district and to gain and hold their respect and loyalty.

The success and prosperity of our district will be assured only if we offer our citizens superior services that fill real needs and provide lasting value.

Our responsibility to the citizen begins with program development. Programs must be designed to be delivered at a reasonable cost and with superior workmanship.

A prime objective of our supervisory staff is to see that services are performed promptly and efficiently. Moreover, good communication should be maintained between the citizen and the district organization. Our citizens must feel that we are genuinely interested in arriving at proper and responsive solutions to their problems.

FINANCIAL GOAL: To achieve a favorable balance of funds to finance our district's growth and to provide the resources needed to achieve district objectives.

In our economic system, the funds that a district needs to survive and grow are derived from the tax burden imposed upon our citizens. Maintaining the balance of this burden and insuring its

reasonableness, competitiveness and adequacy is an essential measure of our performance over the long term.

Revenues and expenditures vary from year to year reflecting changing economic conditions and demands. Meeting districts financial objective requires that it design and develop each program so that it is considered a good value by districts citizens. Maintaining this competitiveness in the market place requires that we perform our program delivery and administrative functions as economically as possible. The day-to-day performance of each individual adds to, or subtracts from, our financial stability.

To insure the cost effectiveness of programs, innovation and analysis are necessary. Measuring devices and performance indices are critical and must be employed throughout our organization.

PROGRAM DIVERSIFICATION GOAL: To enter new fields only when it has been clearly established that ideas are linked together with our technical capabilities and program resources to assure that the district can make needed and desired contributions to our citizens.

The key to our prospective involvement in new fields is citizen involvement and member contribution. This means providing our citizens and community with something needed, not just "another brand of something they can already buy." It is essential that before a final decision is made to enter a new field, full consideration is given to the associated problems to produce and deliver these services.

GROWTH GOAL: To balance organizational growth with revenue capabilities and capacity to develop and deliver services that satisfy real citizen needs.

Some people feel that once an organization has reached a certain size, there is no point in letting it grow further; others feel that size is an objective in itself. For at least two basic reasons, continuous growth is essential for a district to achieve its objectives.

First, a district serves a large segment of our society. To remain static would be to lose ground. A district cannot maintain a position of strength and leadership without growth.

Second, growth is important to attract and hold high caliber employees. These individuals will align their future only with an organization that offers them considerable opportunity for personal progress. Opportunities are greater and more challenging in a growing organization.

NOTE: This goal, although entitled "GROWTH", specifically addresses the question of internal expansion within the organization in terms of the number of personnel, stations, apparatus, etc.

The geographical size of a district is localized and therefore not addressed here. However, an organization may wish to incorporate a local position on that specific topic under a separate goal.

PERSONNEL GOAL: To help district employees share in the organization's success; to provide job security based on performance; to recognize individual achievements; and to help them gain a sense of satisfaction and accomplishment from their work.

Districts are proud of the employees within its organization because of their performance, their attitude toward their jobs, and dedication to the community and citizens they serve. A fire district is built around the individual, their personal dignity, and the recognition of personal achievements.

Relationships within the organization depend upon communication, a spirit of cooperation among individuals and groups, and an attitude of trust and understanding. These relationships will be good only if employees have faith in the motives and integrity of their peers, supervisors and the district.

Occasionally, situations will arise where people have personal problems which temporarily affect their performance or attitude. It is important that people, within reason, be treated with empathy and understanding while the problems are being resolved. Of course, satisfactory job performance is always required.

Managers at all levels within the organization should be concerned with the proper development of their employees and be committed to providing advancement opportunities to everyone, regardless of race, color, creed, sex, age or national origin. Since the district tries to promote from within whenever possible, the district's employees should be given the opportunity to broaden their capabilities and prepare themselves for more responsible jobs. This is done through continuing programs of training and education.

It is important for everyone to realize that some policies must be established and strictly maintained on a district-wide basis. Recommendations for changes to these policies should be welcome from all levels, but adherence to them should be expected at all times.

The employees should enjoy their work and be proud of their accomplishments. Accordingly, each employee should receive the recognition that is deserved. In the final analysis, our employees determine the character and strength of a fire district.

CITIZENSHIP GOAL: To honor our obligations to society by being an economic, intellectual and social asset to the community we serve.

Everyone should strive to improve the environment in which we live. This means to identify our interests with those of the community; apply the highest standards of honesty and integrity to all our relationships with individuals and groups; enhance and protect the physical environment; build attractive facilities of which the community can be proud; and, it means to contribute talent, time and financial support to worthwhile community projects.

Each fire district in the State of Arizona has its particular set of social problems. We must help to solve these problems as they relate to our fire district. As a major step in this direction, we must strive to provide worthwhile employment opportunities for people of widely different backgrounds. Among other activities, this requires positive action to seek out and employ members of disadvantaged groups and to encourage and guide their progress toward full participation within our organization.

As citizens of the community, employees should do what they can to improve it. This can be accomplished by working as individuals or through such groups as churches, schools, and civic or charitable organizations. The "community" also includes a number of technical and professional

organizations whose interests are closely identified with those of the district and are also deserving of our support and participation. Supervisors should encourage our employees to fulfill their goals, objectives, and personal aspirations in the local community.

The betterment of society is a responsibility to be shared by all.

SAMPLE POLICY STATEMENT

GENERAL

1. The _____ Fire District (“District”) is a political subdivision of the State of Arizona subject to the Arizona Revised Statutes.

2. The Fire Board of the _____ Fire District (“Board”) has the ultimate responsibility for the protection of life and property within the district boundaries and that of its contracts for fire protection.

3. Arizona Revised Statute § 48-805 defines the powers and duties of the elected Board as pertains to the creation and operation of a fire district in the district.

4. There are numerous other statutes that pertain to fire districts and all Board members should be familiar with these laws and with the constant changes introduced in the legislature. This can best be done through our membership in the Arizona Fire District Association which serves as a watchdog for all fire districts in Arizona.

5. The District, through its officers, Board members, committees, bylaws and a policy statement, shall oversee the organization of the District and its operations to assure compliance with the Arizona Revised Statutes and make such recommendations as are necessary for the efficient operation of the District.

6. Rules of Journal: The Board shall determine its own rules and order of business subject to state law. It shall keep a journal of its proceedings and the journal shall be open to public inspection during regular office hours.

7. Written Rules of Procedure: The rules of procedure of the Board shall be in writing and shall be available to all interested citizens.

8. Rules of Parliamentary Practice: The rules of parliamentary practice, as determined by the chairman, shall govern the Board, provided they are not in conflict with these rules, the bylaws of the District or with the State of Arizona laws governing fire districts.

9. The Board should enact a set of bylaws to help keep the District on an orderly plan of operation. Bylaws cannot be changed or amended unless all Board members are present.

CODE OF ETHICS

Board members occupy positions of public trust. Board members shall strictly adhere to both the spirit and the letter of laws of the State of Arizona pertaining to conflicts of interest.

In addition to matters of pecuniary interest, Board members shall refrain from making use of special knowledge or information before it is made available to the general public; shall refrain from violation of Board rules; shall refrain from influencing the employment of District employees; and shall refrain from using their influence as members of the governing body in attempts to secure contracts or other favorable action for friends, immediate family members or business associates.

Sample Bylaw Language Governing Budget & Finance Committee

Article V, Section 1 (a) of the Bylaws of the _____ Fire District (“District”) states the duties of the Budget and Finance Committee (“Committee”) as follows:

The Committee shall consist of two members. It shall, not later than April 1 of each year, consolidate all budget requests from itself and all other standing committees and the fire chief and present an annual budget for the following fiscal year to the entire board covering all operations of the District. When, after public hearings, the budget is adopted by the board, it shall be final and shall serve as a guide to the District's financial activities and to limit the District's expenditures. The District may not operate at a deficit or incur indebtedness (A.R.S. § 48-817) unless the voters approve the issuance and sale of bonds by the county (A.R.S. § 48-806) or unless there is insufficient cash in the county fund to operate the District and the chairperson authorizes, on or after August 1, the borrowing of funds against the District's receipt of taxes in accordance with the procedure set forth in A.R.S. § 48-807.

The Committee shall, through conventionally recognized accounting and control procedures, provide for the approval and payment of all District capital and operating expenses by issuing warrants on the county treasurer signed by two members of the board. It shall recommend to the board a certified public accountant (“CPA”) to perform an annual financial statement and an audit of the District's books.

All capital purchases or capital improvements in an amount of more than \$2,500 shall be subject to review and approval by the board before a commitment is made.

At present the treasurer, clerk, board secretary, administrative secretary and the chief or his designate combine their efforts concerning the payment of warrants against the purchases or payments of the District.

The administrative secretary or the board secretary should screen warrants and attach a suitable authorization sheet to said warrants. This sheet requires three signatures prior to payment.

The District's CPA is responsible for the preparation of the annual financial report (A.R.S. § 48-251) and audit (A.R.S. § 48-253).

The Committee shall be familiar with all Arizona Revised Statutes concerning the financial affairs of the District and assure that all required reports are submitted on time and to the proper agencies.

The following are the deadlines for submission of mandatory reports:

1. Budget: not later than August 1 to the county treasurer
2. Annual Financial Report: not later than 180 days after the close of the fiscal year to the state treasurer and the _____ county supervisor
3. Audit: not later than 180 days after the close of the fiscal year to the county treasurer and the _____ county supervisor

Members of the Committee are to be selected and approved every two years, at or directly after the organizational meeting.

It is recommended that the treasurer and the clerk comprise this Committee.

Respectfully submitted,

SS _____

SAMPLE BYLAWS

BY-LAWS

of the

_____ Fire District

The Fire Board ("Board") of the _____ Fire District ("District"), considering the provisions of Title 48, Chapter 5 of the Arizona Revised Statutes, hereby adopts the following Bylaws for the regulation and governing of the District. These Bylaws shall not supersede the Arizona Revised Statutes governing fire districts.

ARTICLE I - NAME

The name of the District shall be _____ Fire District, located in and adjacent to the community of _____, Arizona.

ARTICLE II - PURPOSE

The purpose of the District shall be to provide fire protection, rescue and medical services for the protection of persons and property within the defined boundaries of the District as approved by the Board of Supervisors of _____ County.

ARTICLE III - BOARD OF THE DISTRICT

Section 1. Members

Members of the Board shall be those individuals elected or appointed pursuant to A.R.S. §§ 48-802, 48-803 and 48-805. The number of such members shall be five who shall serve terms as designated in § 48-803. If a vacancy occurs on the Board, other than from the expiration of a term, the members of the Board remaining shall fill the vacancy by the appointment of an interim member to serve out the vacancy. (A.R.S. § 48-803.B)

Employees of the District shall not be members of the Board and conversely, a member of the Board shall not be an employee of the District. (A.R.S. § 48-805.B.1)

Section 2. Meetings

The new Board shall hold an organizational meeting within five days following the date that the results of balloting are canvassed by the county board of supervisors for the purpose of electing a chairperson, a clerk, and a treasurer. Regular public meetings shall be held monthly on such day and such time as the Board may from time to time determine. Special meetings, executive sessions and workshop meetings shall be held at the call of the chairperson or upon the request of two members of the Board. The clerk shall give at least two days' notice of all meetings to all members of the Board. Should either the chairperson or the clerk not be available for any meeting of the Board, a quorum of the Board shall elect, by majority vote, a temporary chairperson. Action by the Board shall be by majority vote of those members present. For this purpose, the chairperson shall be a voting member of the Board.

Notices of ALL meetings listing agenda items shall be posted in three public places at least twenty-four hours in advance of the time scheduled for said meeting.

Robert's Rules of Order (newly revised) shall be used as a guide to the conduct of Board meetings.

Section 3. Quorum

The presence of at least three members of the Board shall constitute a quorum for the transaction of any business at any meeting of the Board; the act of a majority of such quorum shall be deemed an act of the Board. At any meeting where less than a quorum is present, the Board members present may adjourn or recess such meeting of the Board from time to time until a quorum is present.

Section 4. Powers

The public business, property and affairs of the District shall be managed by the Board which shall have and may exercise all the powers of the District as provided by Arizona law to do all such lawful acts and things as are not by law or by these Bylaws directed or required to be done by the electorate.

Section 5. Remuneration

Members of the Board shall not receive any salary or other compensation for such services as members of the Board. Members may be reimbursed for their actual expenses incurred in the performance of duties required by law. (A.R.S § 48-803.C).

ARTICLE IV - OFFICERS OF THE BOARD

Section 1. Officers

The officers of the Board shall be the chairperson, who shall be **chief executive officer**; the clerk, who shall keep the minutes of the Board, all correspondence and records of the District, and who shall be the executive officer in the absence of the chairperson; and the treasurer, who shall keep all financial records of the District. All such officers shall have general authority to perform within the policies set by the Board and all acts necessary or advisable in connection with the activity and responsibilities of the Board for the operations of the District.

Section 2. Fire Chief

The Board shall appoint a fire chief who shall be the **chief administrative and operations officer** and who shall be responsible for all fire fighting, rescue and medical activity. The fire chief shall hold his position at the pleasure of the Board and may be removed *{with cause}/{with 30 days notice without cause}*.

Section 3. Duties of the Board and Fire Chief

The Board and the appointed fire chief shall perform the duties and exercise the powers usually incident to positions held by them and/or such other duties and powers as may be assigned to them from time to time by the Board or as contained in the District policy statement for the Board and the fire chief.

Section 4. Election and Terms of Office

The Board officers shall be elected at the organizational meeting of the Board as provided in Section 2 of Article III, and shall assume office on the December 1 immediately following the November election and serve for a term of one year and may be re-elected. Election of Board officers the following year will be held on the regular November meeting and will assume office on December 1.

An officer of the Board may be removed in the following manner. At least two (2) Board members must propose the removal of any one officer. In order for an officer to be successfully removed from office, at least three members of the Board must vote for such removal.

An officer may resign at any time by giving the Board written notice of his/her resignation. Upon the death of an officer the office shall be deemed to be vacant as of the date of death.

When a vacancy occurs there shall be an election of ALL the officers of the Board.

ARTICLE V – COMMITTEES OF THE BOARD

Section 1. Standing Committees

The Chairperson shall appoint, each year, subject to ratification and approval by the Board two members of the Board to the following standing committees:

- (a) Finance and Budget Committee
- (b) Grounds and Equipment Committee

- (c) Legal and Insurance Committee
- (d) Fire District Operations Committee
- (e) Special Functions Committee

Each committee chairperson shall appoint additional committee members from the fire district work force and/or the community.

(a) The Finance and Budget Committee shall consist of two members. It shall, not later than April 1 of each year, consolidate all budget requests from itself and all other standing committees and the fire chief and present an annual budget for the following fiscal year to the entire Board covering all operations of the District. When, after public hearings, the budget is adopted by the Board, it shall be final and shall serve as a guide to the District's financial activities and to limit the District's expenditures. The District may not operate at a deficit or incur indebtedness (A.R.S. § 48-805.D) unless the voters approve the issuance and sale of bonds by the county (A.R.S. § 48-806) or unless there is insufficient cash in the county fund to operate the District, and the chairperson authorizes, on or after August 1, the borrowing of funds against the District's receipt of taxes in accordance with the procedure set forth in A.R.S. § 48-807.

The committee shall, through conventionally recognized accounting and control procedures, provide for the approval and payment of all District capital and operating expenses by issuing warrants on the county treasurer signed by two members of the Board. It shall recommend to the Board a certified public accountant to perform an annual financial statement and an audit of the District's books.

All capital purchases or capital improvements in an amount of more than \$2,500 shall be subject to review and approval by the Board before a commitment is made.

(b) The Grounds and Equipment Committee shall provide for the maintenance, operation and upkeep of the District's fire stations, real property, apparatus and equipment.

The committee shall also be responsible for the taking of an annual inventory of the personal property owned by the District.

(c) The Legal and Insurance Committee shall advise the Board on all legislative, legal and insurance matters and may recommend to the Board the retention of private legal counsel in cases where the county attorney cannot represent the District because of a conflict of interest or refusal of said attorney to represent the District. Committee members should preferably have legal or insurance backgrounds.

(d) The Fire District Operations Committee shall preferably have experience in the field of fire district management and operations, and shall advise the Board concerning the following:

- (1) Fire Suppression
- (2) Personnel and Staffing
- (3) Reports and Records
- (4) Communications and Dispatch
- (5) Water Supplies
- (6) Ambulances and Medical
- (7) Automatic Aid
- (8) Mutual Aid
- (9) Training and Education

(e) The Special Functions Committee shall consist of two members of the Board and shall advise the Board concerning the following functions and oversee these facets of fire district operations:

- (1) Fire Prevention Bureau
- (2) Public Relations and Media
- (3) Special Events
- (4) Civil Defense
- (5) Grant Applications

Section 2 – Special Committees

The Chairperson may appoint, with the approval of the Board, such other committees as he or she may deem necessary or expedient for the proper conduct of the affairs of the District, and may invest such groups with such powers and duties as he or she deems advisable. The committee so appointed shall serve until the purpose for which it was created has been accomplished or until the next District election, whichever shall first occur.

Section 3 – The Chairperson

The Chairperson shall be an ex-officio member of all committees.

FIRE BOARD/CHIEF RELATIONSHIP

The Perfect Fire District Board Member

A group of fire chiefs attending a Fire District Association of California workshop designed the "Perfect Fire District Board Member" as follows:

- * Understands business principles
- * Has integrity
- * Has credibility
- * Does not allow "end runs"
- * Observes board policies
- * Has good role identification
- * Understands the role of the administrator
- * Has a sense of humor
- * Has a broad scope of vision
- * Is a good listener
- * Is gutsy
- * Has community awareness
- * Is politically aware
- * Maintains a positive attitude
- * Can be flexible on issues
- * Is open minded, without hidden agendas
- * Is consistent
- * Shares mutual respect with the fire chief

The Ideal Fire Chief

A group of fire district board members attending a Fire District Association of California workshop created the "Ideal Fire Chief". The following describes the chief, qualities the chief should have, and functions the chief should perform:

- * Decision making ability with guts
- * Community leader
- * Good fiscal administrator
- * Long-range planning with the board
- * Open communications with the board
- * Public relations
- * Understands fire fighting
- * Delegates and has good relations with staff
- * Honesty
- * Resourcefulness
- * Compassion
- * Integrity
- * Flexible and able to accept new ideas
- * Ability to carry out board policy
- * Mutual respect with board members

It is absolutely imperative that the fire district board and fire chief understand each other's role in the operation of the fire district.

Each has a significant role in the successful operation of the organization and the best way to start is by sitting down together to discuss the present state of affairs in the district and how best to assure that each is working toward the ultimate goal: protection of life and property within their district.

[A.R.S. § 48-805](#) clearly defines the responsibilities of a fire district board. If things go wrong, the **ULTIMATE RESPONSIBILITY** falls squarely on the shoulders of the fire district board. However, the fire board can delegate authority to the chief to perform certain duties.

Since elections are held every two years, changes may frequently occur in Board officials. All board members come from the civilian population and they may or may not have knowledge or expertise in the fire protection field and will find that they have much to learn about their task.

New members should rely on the experience of other board members and the expertise of the fire chief until confident in the position.

Some of the problems that may occur during the initial phase are:

1. Previous boards have shown little or no interest in district operations and have given the fire chief carte blanche to do more or less as he pleases.
2. Little or no communication between the board and the fire chief.
3. Failure to set policy defining the duties and/or limitations of both the board and fire chief.
4. Autocratic attitude by either party concerned.
5. Assisting on change for the sake of change without first studying the necessity of change.
6. Failure to understand each other's role in district operations.

Many answers or solutions to problems can be found in the use of **GOOD COMMON SENSE, COMMUNICATION and UNDERSTANDING** of the role that each entity plays in the operation of a fire district.

AFDA GUIDELINES FOR HIRING A FIRE CHIEF

The fire district board should:

1. When necessary, call AFDA at: 1-888-511-AFDA (2332). AFDA has people willing to help you with understanding your board responsibilities.
2. Agree on qualifications and put them in writing.
3. Agree on duties and put them in writing.
4. Agree on pay and benefits and put them in writing.
5. Advertise:
 - a. AFDA Newsletter
 - b. Newspaper
 - c. Ask other fire districts
6. Send out questionnaires and job applications with a list of qualifications, duties, pay and benefits.
7. Set up a review board made up of a combination of local and out of district people. Call AFDA for help reviewing the information you get back.
8. Complete a background check on potential candidate (See Chapter 7, Section 1).

SAMPLE FIRE CHIEF QUALIFICATIONS

KNOWLEDGE AND ABILITIES

Extensive knowledge of good management techniques and the ability to apply these techniques.

Ability to plan, initiate and carry out long term programs in fire district administration, employee training, fire prevention, fire control, emergency medical care and major disaster control.

Extensive knowledge of the Arizona Revised Statutes, rules and regulations relating to fire district operations.

MINIMUM QUALIFICATIONS

Education/Experience:

Graduation from an accredited college or university with a Bachelor's Degree or better in public administration, political science, fire sciences or other related field.

In addition, ten years of experience in the fire protection field including a minimum of five years of administrative, management and supervisory experience.

Any equivalent combination of experience and training which provides the required knowledge, skills and abilities.

<p style="text-align: center;">SAMPLE</p> <p style="text-align: center;">FIRE CHIEF DUTIES AND RESPONSIBILITIES</p>

I. GENERAL

The fire chief of the district and his designates shall be thoroughly familiar with the Arizona Revised Statutes, rules and regulations pertaining to fire districts, district bylaws, and other directions from the fire board.

Certain duties and responsibilities are delegated hereafter to the fire chief and it shall be his duty through appropriate records and reports to keep the board and its committees informed as to the status of the operation of the fire district at all times.

At no time shall the fire chief cause expenditures to be made that will exceed the budgetary limitations set forth in each fiscal budget, nor will he cause an increase in personnel or the wages and benefits of said personnel except as provided in the preparation of the fiscal budget.

The fire chief shall keep all standing committees informed of necessary and needed actions.

The fire chief may authorize emergency repairs to apparatus, buildings and equipment in order to preclude further damage or interruption of emergency operations. Every attempt should be made to contact appropriate committee members prior to such actions.

The fire chief and/or his designates shall meet with the board and its committees as necessary to give advice on matters pertaining to the operation of the fire district.

The fire chief or his designate shall notify members of the board as specified of all major fires or emergencies as soon as possible after occurrence.

Prepares detailed and technical reports regarding fire protection requirements and recommendations for improvement.

Addresses civic and other groups regarding the activities and programs of the fire district to explain and promote public understanding of its work.

II. SPECIFIC DUTIES AND RESPONSIBILITIES

A. Personnel

1. Qualifications for employment
2. Rules and regulations
3. Disciplinary measures and/or dismissal
4. Promotional practices
5. Qualification for merit increases
6. Assignments and transfers

B. Staffing procedures and practices

C. Management of records and reports

- D. Budget and fiscal management
- E. Procurement of equipment and supplies
- F. Fire ground and other emergency operations
- G. Resources allocation and utilization
- H. Fire prevention and related activities
- I. Intergovernmental relations
- J. Public relations and information
- K. Communications
- L. Repairs and maintenance
- M. Evaluation, productivity, research and planning

The fire chief and his staff should commence the preparation of or regularly review the fire district SOP (standard operating procedure) manual that covers, in detail, all of the categories outlined in Section II, “Specific Duties and Responsibilities.”

Once completed, the document will serve to provide guidance to all members of the department in matters of importance to the operation of a fire district.

FIRE DISTRICT-FIRE CHIEF CONTRACT

A sample employment contract between a fire chief and a fire district follows. In addition, alternate paragraphs are included which could be substituted for the contract paragraphs to meet various situations. These provisions are supplied as suggested forms only, and must be modified to meet the actual conditions, operations, and needs of the district and reviewed by legal counsel as necessary.

The following comments are references to specific contract clauses:

In Paragraph No. 1 regarding duties of the chief, the language should be modified to delegate to the chief only those duties and authorities that the fire board intends to delegate. In the event the district has entered into a contract with a union representing its paid firefighters, care should be taken to insure that the disciplinary authority given to the chief does not violate the contract provisions.

Paragraph No. 2 regarding compensation must also be modified to cover whatever fringe benefits the district provides for the chief. If the chief is not fully paid or serves strictly as a volunteer, then one of the appropriate alternate paragraphs should be used. Care should be taken in this regard to determine the income tax and employment tax status of sums paid to the chief.

Paragraph No. 5 in the agreement provides for the termination of the chief for cause only. If the fire board wishes to retain the authority to terminate the chief without cause and at its discretion, then an alternate paragraph should be used.

SAMPLE FIRE CHIEF EMPLOYMENT CONTRACT

This agreement is entered into between the _____ FIRE DISTRICT, hereinafter referred to as "**District**", and _____, hereafter referred to as "**Chief**".

The District hereby employs _____ as the Chief of the District and _____ hereby accepts the employment on the terms and conditions set forth below.

1. Duties. The Chief shall be the Chief Administrative and Operations Officer of the District and as such shall perform the following duties:

- 1.1 Perform such services for the District as directed from time to time by the Fire Board in the manner and to the extent permitted by the laws of the State of Arizona and in accordance with the policies of the District as established by the Fire Board.
- 1.2 Supervise all paid and volunteer personnel. The authority to discipline all personnel shall include the authority to suspend or reprimand both paid and volunteer personnel. The Chief shall also have the authority to recommend to the Fire Board the termination of employment of any paid and volunteer personnel.
- 1.3 Determine who shall become volunteer firefighters for the District and appoint and promote all officers of the District.
- 1.4 Direct and supervise the training of all personnel of the District, establish and enforce a manual of operating procedures for the District, maintain custody of all equipment of the District and provide for the maintenance of all equipment and facilities and the fire station.
- 1.5 Assist in the preparation of the annual budget; authorize the purchase of all equipment, supplies and services necessary for the proper operation and maintenance of the facilities of the District; provided however, that all purchases in excess of \$_____ must be authorized by the Fire Board.
- 1.6 Prepare and maintain all appropriate records that may be required by law or by direction of the Fire Board.
- 1.7 Assign duties to all personnel of the District and supervise the performance of the duties, provided that the duties so assigned shall conform to the resolutions of the Fire Board in all events where a resolution has created a specific office and provided for duties for that office.

2. Compensation. For all services rendered by the Chief under this agreement, the District shall provide the following compensation:

- 2.1 An annual salary of \$_____, payable in equal monthly installments to be paid on or before the ____ day of each month, however, that such salary shall be reviewed annually by the District.
- 2.2 The District shall pay the employer's portion of the P.S.P.R. monthly premium and shall provide coverage for the Chief under the medical and dental plans carried by the District.
- 2.3 The District shall pay to the Chief an annual clothing allowance of \$_____ for the purchase and maintenance of appropriate uniforms.

3. Vacations. The Chief shall be entitled to a vacation with pay each year according to the following schedule:

- 3.1 After the completion of 1 year of employment, ____ working days;
- 3.2 After the completion of 5 years of employment, ____ working days;
- 3.3 After the completion of 10 years of employment, ____ working days.

Sample Fire Chief Employment Contract (Cont.)

4. Working Facilities. **The Chief shall be furnished with such facilities, equipment and personnel as are required for the adequate performance of the duties and within the budget limitations of the District.**
5. Termination for Cause. **The Chief's employment may be terminated by the Fire Board for any of the following reasons:**
- 5.1 Incompetence or inattention to or dereliction of duty.
 - 5.2 Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of the Chief to proper conduct.
 - 5.3 Mental or physical unfitness for the position that the Chief holds.
 - 5.4 Dishonest, disgraceful, immoral or prejudicial conduct.
 - 5.5 Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the Chief, or which precludes the Chief from properly performing the functions and duties of the position of the Chief.
 - 5.6 Conviction of a felony, or a misdemeanor, involving moral turpitude.
 - 5.7 Any other act or failure to act which in the judgment of the Fire Board is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public services.
6. Term. **This agreement shall be effective on the date executed by the parties and shall continue in force until _____, unless earlier terminated as provided by this agreement.**

DATED this ____ day of _____, 20____

_____, **FIRE DISTRICT**

By: _____
Chairperson

By: _____
Board Clerk

_____, **Chief**

SAMPLE ALTERNATE PARAGRAPHS:

2. **Compensation.** The District agrees to pay to the Chief the sum of \$_____ per month, such sum payable on the ____ day of the month following the month during which the services were performed.
2. **Compensation.** The Chief is acting as a volunteer and will only receive nominal compensation per unit of voluntary service rendered to the District as provided in District Resolution No. ____.
- 2.3 **Clothing.** The District shall furnish all required protective clothing for use by the chief. In addition to the protective clothing, the District shall furnish the Chief uniforms and additional clothing provided that the cost of such clothing shall not exceed \$_____ per calendar year.

- 5. Termination without Cause.** The Fire Chief shall hold his position at the pleasure of the Board and may be removed with thirty (30) days' notice without cause.
- 6. Term.** This agreement shall be effective on the date executed by the parties and shall continue until terminated by either party giving to the other party thirty (30) days written notice of termination.
- 7. Sick Leave.** The Chief shall be entitled to one day of paid sick leave per month of employment. Such sick leave shall be cumulative from month to month and year to year to a maximum of _____ days, provided however, that any unused sick leave that may remain upon termination of this agreement shall be waived.

CHAPTER 3 THE OPEN MEETING LAW

INTRODUCTION

THIS CHAPTER IS ONLY A STARTING POINT FOR DISCUSSION OF YOUR PARTICULAR CONCERNS, AND IT SHOULD NOT BE VIEWED AS A SUBSTITUTE FOR LEGAL ADVICE FROM YOUR ATTORNEY.

Public officials must be familiar with the laws governing their conduct in public office. Violations of the Open Meeting Law carry stiff penalties.

The state's open meeting law requires all persons elected or appointed to a public body (fire district governing board) to review the open meeting law materials at least one day before that person takes office ([A.R.S. 38-431.01G](#))

GENERAL PROVISIONS

The Fire District elected officials must comply with all the requirements of [A.R.S. 38-431 thru 38-431.09](#) commonly known as “**The Open Meeting Law**”. The following plain English synopsis was originally prepared by the Arizona Attorney General's Office, and thereafter modified during the edit process.

General Provisions of the Open Meeting Law ([A.R.S. 38-431 thru 38-431.09](#))

The operation of government and specifically, the activities of government officials have become popular topics of interest for the general public. Although there are many reasons for this movement toward public awareness, there seems to be one distinct message delivered by the public. For additional information or training you may contact the Arizona Ombudsman at (602)-277-7292.

THE PUBLIC'S BUSINESS MUST BE CONDUCTED IN PUBLIC!

The law provides very simply that, with a few limited exceptions, all meetings of a public body shall be open to all persons desiring to attend. The law defines a “meeting” as “the gathering of a quorum of members of a public body to propose or take legal action, including any deliberations with respect to such action.”

This means that all regularly scheduled and special meetings, all work or study sessions and all other meetings or gatherings at which a quorum of the public body is present to discuss or decide the public body's business must comply with the notice, agenda and minute requirements specified in the law and, except where an executive session is expressly authorized, be open to the public. If the public body or its presiding officer appoints a committee or subcommittee to study a particular issue, the meetings of the committee or subcommittee are also governed by the law. This is true regardless of the composition of the committee or subcommittee.

The law applies to more than just the meetings of the legislature, the board of supervisors and city council. It applies to any “public body”. This means that planning and zoning commissions, board of adjustment, state

licensing boards, library boards, school boards, special district boards, and their respective standing, special and advisory committees and subcommittees must all comply with the provisions of the law.

Public Notice of Meetings **(A.R.S. 38-431.02)**

The law requires public notice to be given for all public meetings and executive sessions. In giving notice, the first step is to file with the appropriate official a statement identifying where public notices of the meetings of the public body will be posted. Public bodies of the state must file with the Secretary of State. Public bodies of counties, school districts and other special districts must file this statement with the Clerk of the Board of Supervisors. [38-431.02.A.1-3.](#)

Once this statement has been filed, the law requires that the public body post notice of each of its meetings in accordance with this statement and “give such additional public notice as is reasonable and practicable.” [38-431.02.A.1-3.](#) Any public body that intends to meet for a specified calendar period on a regular day or date and at a regular place and time may post public notice of these meetings at the beginning of this period of time. For example, a notice of regularly scheduled meetings of a fire district governing board may be posted once at the proper location to cover all regular meetings taking place during a specified period of time. The notice must indicate the period of time for which the notice will be valid. [38-431.02.F.](#)

Except when an actual emergency is found to exist, no public meeting or executive session may be held within less than twenty-four hours notice to the members of the public body and the general public. [38-431.02.C-D.](#) This twenty-four hour notice includes Saturdays if the public has access to the location where the notice is posted (in addition to any website posting); however, it excludes Sundays and holidays. However, a meeting may be recessed and resumed with less than twenty-four hours notice if public notice of the initial session of the meeting was properly given; and if, prior to recessing, notice is publicly given as to the time and place of the resumption of the meeting, or the method by which public notice for the resumption of the meeting is to be given. [38-431.02.E.](#)

The 49th Arizona Legislature, 2nd Regular Session enacted several substantive changes to the open meeting law pertaining to posting public meetings on web sites. For fire districts (for the time being) the changes are permissive rather than mandatory. Fire districts may choose to comply with these requirements *if* they maintain a web site. AFDA recommends that fire districts who maintain web sites strongly consider compliance with the web site posting and notice requirements of ARS 38-431 as set forth below.

[ARS 38-431.02.3](#) states the following:

Special districts that are formed pursuant to [Title 48:](#)

(a) May conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

(b) May post all public meeting notices on their website and shall give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

(c) If a statement or notice is not posted pursuant to subdivision (a) or (b) of this paragraph, shall file a statement with the clerk of the board of supervisors stating where all public notices of their meetings will be posted and shall give additional public notice as is reasonable and practicable as to all meetings.

A sample of the web site posting notice for compliance is shown below.

In accordance with state law, notice for all special district public meetings, along with agendas must be posted at least 24-hours in advance of the meeting. Public notices for the _____ Fire District are posted at the _____, located at _____, _____, Arizona.

Public meeting notices are also posted on the _____ Fire District website. Please be advised that only the (physical location listed above) may be relied on for official postings under the Arizona Open Meeting Law. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted, if the public body complies with all other public notice requirements.

Notice must also be given for any executive session of the public body. The notice must cite the specific provision of law authorizing an executive session. [A.R.S. 38-431.02.B](#). When an executive session is held, at least twenty-four hours notice must be given to the members of the governing body and the general public. Executive sessions are discussed at greater length later in this chapter.

The only exception to these provisions for public notice is in the case of an emergency when a meeting can be called with notice appropriate under the circumstances. [38-431.02.D](#).

Agendas [\(A.R.S. 38-431.02\)](#)

In addition to notice of the time, date and place of the meeting, the law requires that the public body provide an agenda of the matters to be discussed, considered or decided at the meeting. The agenda may be made part of the public notice or, if the notice advises the public as to how they can obtain an agenda, it can be distributed separate from the notice. In either case, the agenda must be made available at least 24 hours before the meeting (as set forth above), unless an actual emergency is found to exist. For a public meeting, the agenda must list the “specific matters to be discussed, considered or decided.” [38-431.02.H](#). This does not permit the use of agenda items such as “new business” or “old business”, unless the specific items of new and old business are listed.

A useful guide in determining how much specificity must be included in the agenda can be found in the legislative declaration of policy which states in part that agendas should “contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided.” Accordingly, public bodies may include in their agenda items such as “call to the public” to designate that part of the meeting at which members of the public may address the public body, since the public body will generally not know what “specific” matters will be raised. The more difficult question involves whether the public body, in addition to “considering” the public comment, may take action on the matters raised. The law provides that the public body may discuss, consider or decide only “matters listed on the agenda and other matters related thereto.” Although this language may be read technically to permit the public body to act on a matter raised and “call to the public”, the better and safer approach to take is to reschedule the decision for a later meeting and list it specifically on the agenda. If it is essential that the body act immediately, it should declare an emergency and take action in accordance with the emergency procedure prescribed in [A.R.S. 38-431.02](#).

The law further allows a chief administrator, presiding officer or member of the public body to present a brief summary of current events during a meeting, without listing in the agenda the specific matters to be summarized. For this to occur, the summary must first be listed on the agenda. In such event, the public body must not propose, discuss, deliberate or take legal action during the meeting on any matters summarized unless they have been properly noticed for legal action. [38-431.02.K.](#)

Agendas for executive sessions must contain a “general description of the matters to be considered” but should not contain information that would “defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee, or compromise the attorney-client privilege.” [38-431.02.I.](#)

Executive Sessions **[\(A.R.S. 38-431.03\)](#)**

The law permits an executive session (closed meeting) of a public body to be held for discussion and consideration of seven specified subjects. [38-431.03.A.](#) The public may properly be excluded from an executive session. Before an executive session may be held, twenty-four hours notice of the executive session must be given and a majority of the public body must vote in public to hold the executive session. [38-431.02.B-C;](#) [38-431.03.A.](#) For example, if the need for an executive session arises during the course of a regular meeting, the public body may vote to hold the session but the executive session cannot be held at the time, unless prior notice (at least 24 hours in advance) of the executive session had been given.

Executive sessions may be held during a public meeting if the proper notice of the executive session is posted as part of the public meeting notice or as a separate notice. If the need for an executive session arises at a time other than during a meeting, a notice calling a special meeting and an executive session must be posted. The special meeting must be convened to vote on holding an executive session, and then upon a majority vote in a public meeting, the public body may adjourn into executive session.

NO EXECUTIVE SESSION MAY BE HELD FOR THE PURPOSE OF TAKING ANY LEGAL ACTION INVOLVING A FINAL VOTE OR DECISION.

[A.R.S. 38-431.03.D.](#)

The law specifies the purposes for which an executive session may be called and are narrowly defined in the law as follows: [\(A.R.S. 38-431.03.A\)](#)

1. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee, or employee of any public body, except that with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting. The public body shall provide the officer, appointee or employee with written notice of the executive session as is appropriate but not less than twenty-four hours, for the officer, appointee or employee to determine whether the discussion or consideration should occur at a public meeting.
2. Discussion or consideration of records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law.
3. Discussion or consultation for legal advice with the county attorney or attorneys of the public body.
4. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body’s position regarding contracts that are the subject of negotiations, in

pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.

5. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body.
6. Discussion, consultation or consideration for international and interstate negotiations or for negotiations by a city or town, or its designated representatives, with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town.
7. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.

You should establish, with the assistance of your attorney, a clear procedure to use when holding an executive session. Improper use of the executive session provision is the most common type of open meeting violation. Remember the law **only permits** an executive session in these instances; it **does not require** an executive session.

Minutes **(A.R.S. 38-431.01)**

All public bodies, including subcommittees and advisory committees, must provide written minutes or a recording of all meetings. The minutes or recording of all public meetings must include, at a minimum, the following:

1. The date, time and place of the meeting.
2. The members of the public body recorded as either present or absent.
3. A general description of the matters discussed or considered.
4. An accurate description of all legal actions proposed, discussed or taken and the names of members who proposed each motion.
5. The names of persons, as given, making statements or presenting material to the public body and a reference to the specific legal action addressed by the person.
6. If the discussion in the public session does not adequately disclose the subject matter and specifics of the action taken, the minutes of the public meeting at which such action was taken should contain sufficient information so that the public may investigate further the background or specific facts of the decision.
7. In the event that matters not on the agenda were discussed or decided at a meeting because of an actual emergency, the minutes must contain a statement setting forth the reasons necessitating the discussion, consideration or decision without the matter being placed on the agenda. [38-431.02.J](#).
8. Finally, if a prior action is ratified, the minutes must contain a copy of the disclosure statement required for ratification.

The minutes of executive sessions must contain the information described in paragraphs 1, 2, 3 and 7 above.

The **minutes or a recording** of any meeting, except for the minutes of executive sessions, must be open to public inspection no later than **three working days** after the meeting. [38-431.01.D](#). Minutes must be taken in executive sessions and must be kept confidential except from the members of the public body which met in executive session or officers, appointees or employees who are the subject of discussions. If the public body wishes to exclude all staff from attending the executive session, then the minutes should be recorded by a member of the public body.

In addition to written or recorded minutes of the meeting, the law provides that any part of a public meeting can be recorded by any person in attendance by means of a tape recorder, camera or other means of sonic reproduction as long as there is no significant interference with the conduct of the meeting. [38-438.01.F](#).

Sanctions

([A.R.S. 38-431.05](#), [38-431.06](#), and [38-431.07](#))

If any business of a public body is conducted in violation of the provisions of the law, the actions taken at such a meeting are null and void. [38-431.05.A](#).

In addition, any person affected, the attorney general, or the county attorney for the county in which an alleged violation occurred may file an action and obtain civil penalties, attorneys' fees and court injunctions against the public body or public official. If the court finds that a public officer intentionally violated the law, the court may remove him from office and assess him personally with the attorneys' fee award. [38-431.07.A](#).

Ratification

([A.R.S. 38-431.05](#))

A public body may ratify legal action previously taken in violation of the law. Ratification is appropriate when the public body needs to retroactively validate a prior act in order to preserve the earlier effective date of the action. For example, some public bodies are required by law to approve their budgets by a certain date. If the public body then discovered after the statutory deadline that its earlier approval was void due to a violation of the law, it could face serious legal problems. In this situation, it would be appropriate for the public body to meet and ratify its prior action in order to preserve the initial effective date of the action.

Ratification merely validates the prior action; it does not eliminate liability of the public body or others for violations of the law, such as injunctive relief, penalties and fees. The procedure for ratification is prescribed in [A.R.S. 38-431.05.B](#).

The law requires a fire district to give notice of all public meetings and executive sessions to members of the public and to members of the fire district governing board. The following must be filed with your county board of supervisors and need not be changed unless your date, time, location or other pertinent data changes.

Sample Public Notice of Meeting forms can be seen in Arizona Agency Handbook on the Attorney General's office website: www.azag.gov/Agency_Handbook

PUBLIC MEETING

Once the public notice of meetings has been filed, the law requires that the fire district board post notice of each of its meetings in accordance with the public notice of meeting and “give such additional public notice as is reasonable and practicable.” [A.R.S. § 38-431.02.A.1.](#)

Notice of individual meetings is not necessary if the fire district board chooses to post one notice of all of its meetings during a specified time period. [A.R.S. § 38-431.02.F.](#)

As a general rule, no public meeting or executive session may be held with less than 24 hours’ notice, including Saturdays if public has access to the location of the posting (in addition to any website posting); but excluding Sundays and holidays. The notice must include the date, time and place of the meeting. If an executive session will be held, the notice must cite the specific provision of law authorizing the executive session.

[A.R.S. § 38-431.02.](#)

There are two exceptions to the notice requirements outlined above. First, a meeting for which notice has been properly posted may be recessed and resumed with less than 24 hours’ notice. The date, time and place of the resumed meeting, or the method by which notice of the resumption of the meeting will be given, must be provided prior to recessing the originally posted meeting. [A.R.S. § 38-431.02.E.](#)

Second, an emergency meeting may be held with less than 24 hours’ notice. The meeting must be necessary because of an actual emergency. Such an emergency exists when, due to unforeseen circumstances, immediate action is necessary to avoid some serious consequences that would result from waiting until the required notice could be given. Prior to the emergency discussion or action, the members of the public body must announce the nature of the emergency, and those reasons must be included in the minutes of the emergency meeting. If an emergency measure or session is considered during a previously scheduled meeting, the public body must post a public notice within twenty-four hours of the meeting which states that the emergency session was held and provides a description of the matters discussed, considered or decided. The description need not contain any information that would “defeat the purpose of” any emergency measures addressed in an executive session.

[A.R.S. § 38-431.02.D.](#)

AGENDAS

In addition to notice of the time, date and place of the meeting, the law requires that the notice include either an agenda of the matters to be discussed, considered or decided at the meeting, or information on how the public may obtain a copy of the agenda. The agenda for a public meeting must list the “specific matters to be discussed, considered or decided” and should contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided. [A.R.S. § 38-431.02.H.](#) Such items as “new business” or “old business” alone are insufficient unless the specific items of new or old business are included.

The agenda may be made part of the public notice or, if the notice advises the public as to how they can obtain an agenda, it can be distributed separate from the notice. In either case, the agenda must be made available at least 24 hours before the meeting, unless an actual emergency is found to exist. Supporting documentation which is referred to in or made part of the agenda must be made available to the public in the same time frame. It may be appended to the actual agenda itself, or the agenda may advise the public where such supporting documentation can be obtained.

The agenda sets the parameters of the public meetings. Only those items specifically listed on the agenda or other matters related thereto may be discussed, considered or decided.

EXECUTIVE SESSIONS

Agendas for executive sessions must contain a “general description of the matters to be considered” but should not contain information that “would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee, or compromise the attorney-client privilege.” [A.R.S. § 38-431.02.I.](#)

The agenda sets the parameters of the executive session. Only those items specifically listed on the agenda or other matters related thereto may be discussed or considered. **NO ACTION MAY BE TAKEN.**

See [A.R.S. §38-431.03](#) for matters that may be considered in an executive session.

The agenda for an executive session must contain a “general description of the matters to be considered,” but should not contain any information that “would defeat the purpose of the executive sessions, compromise the legitimate privacy interests of a public officer, appointee or employee, or compromise the attorney-client privilege.”} [A.R.S. § 38-431.02.I.](#)

In preparing executive session agenda items, the fire district board must weigh the legislative policy favoring public disclosure and the legitimate confidentiality concerns underlying the executive session provision. For example, if a board desires to consider the possible dismissal of its fire chief, the board may list on the agenda “Personnel matter—consideration of continued employment of the District’s fire chief.” However, when public disclosure of the board’s consideration of charges against an employee might needlessly harm the employee’s reputation, the board may eliminate from the agenda a description of the identity of the employee being considered. If it is already publicly known that the board is considering charges against the employee, disclosure of the employee’s identity in the agenda would not defeat the purpose of the executive session.}

Improper use of the executive session provision is the most common type of Open Meeting Law violation. A clear procedure to use when holding an executive session should be established by a fire district board with the assistance of its attorney.

The law permits an executive session or closed meeting to be held for discussion and consideration of any of seven particular subjects. In addition to the notice requirements set forth earlier, a majority of the members of the public body must vote to convene an executive session during a public meeting held prior to the executive session. The general public is properly excluded from such a session. Only those individuals necessary to the conduct of such a meeting may be present. **All matters discussed in an executive session must be kept confidential by those attending. Finally, no vote may be taken during an executive session. Any final action on an item discussed in an executive session must be taken during a public meeting.**

[A.R.S. § 38-431.03](#)

The purposes for which an executive session discussion may be held are the following:

1. Personnel matters involving a specific individual.
2. Confidential records.
3. Legal advice provided by the public body’s attorney.
4. Discussion of pending or contemplated litigation with the public body’s attorney, and to instruct its attorneys regarding the public body’s position relating to contracts, litigation, or settlement.

5. Instruction of designated representatives concerning negotiations with employee organizations.
6. International and interstate negotiations and negotiations by a city or town with a tribal council.
7. Instruction of designated representatives concerning negotiations for the purchase, sale or lease of real property.

*You **CANNOT** take any legal action involving a final vote or decision in an executive session.*

MINUTES

All committees, quasi-judicial bodies, standing or special advisory committees or subcommittees of or appointed by a public body must follow all of the requirements of the open meeting laws including notification of the meeting, creation of an agenda and providing written minutes or a recording of the minutes of their meetings.

The minutes or recording of all public meetings must include, at a minimum, the following:

1. The date, time and place of the meeting.
2. The members of the public body recorded as either present or absent.
3. A general description of the matters discussed or considered.
4. An accurate description of all legal actions proposed, discussed or taken and the names of members who propose each motion.
5. The names of persons making statements or presenting material to the public body and a reference to the specific legal action addressed by the person.
6. Sufficient information to permit further investigation of the background or specific facts of a decision if the discussion in the public session does not adequately disclose the subject matter and specifics of the action taken.
7. *A statement setting forth the reasons necessitating discussion, consideration or decision without the matter being placed on the agenda in case of an actual emergency.*
8. A copy of the disclosure statement required in case of ratification.

The minutes or a recording of a meeting, except an executive session, shall be available for public inspection three working days after the meeting except as otherwise specifically provided by this article. [A.R.S. § 38-431.01.D.](#)

In addition to written or recorded minutes of the meeting, the law provides that any part of a public meeting can be recorded by any person in attendance by means of a tape recorder, camera or other means of sonic reproduction as long as there is no significant interference with the conduct of the meeting. [A.R.S. § 38-431.01.F.](#)

The minutes of the executive sessions must include, at a minimum, the following:

1. The date, time and place of the meeting.
2. The members of the public body recorded as either present or absent.
3. A general description of the matters discussed or considered.
4. A statement setting forth the reasons necessitating discussion, consideration or decision without the matter being placed on the agenda in case of an actual emergency.

Minutes must be taken in executive sessions and must be kept confidential except from the members of the public

body which met in executive session; the officers, appointees or employees who are the subject of discussion; or the County Attorney, the Attorney General or the Auditor General. If the public body wishes to exclude all staff from attending the executive session, then the minutes should be kept or recorded by a member of the public body.

RATIFICATION

A public body may ratify legal action previously taken in violation of the law. Ratification is appropriate when the public body needs to validate retroactively a prior act in order to preserve the earlier effective date of the action. Ratification merely validates the prior action. It does not eliminate liability of the public body or others for violation of the law.

The procedure for ratification is prescribed in [A.R.S. § 38-431.05\(B\)](#). It is a detailed and complicated procedure, which must be followed carefully and with advice of the public body's attorney.

SANCTIONS

If any business of a public body is conducted in violation of the law, the actions taken at such a meeting are null and void (or voidable). Any person affected, the attorney general, or the county attorney for the county in which an alleged violation occurred, may file an action and obtain civil penalties, attorney's fees and court injunctions against the offending public body or public official. If the court finds that a public officer intentionally violated the law, the court may remove him from office and assess him personally with the attorney's fee award. [A.R.S. § 38-431.07.](#)

SAMPLE RULES OF PROCEDURE FOR BOARD MEETINGS

Rule 1 - GENERAL RULES

In order for a successful meeting to be held, the general rules of parliamentary practice and conduct should be established. The creation of these rules should be accomplished and agreed upon by all of the board members with the provision that they are not in conflict with applicable state law governing fire districts. The rules should be placed in writing and made personally available to all members of the board and to the public upon request.

Rule 2 - BOARD CODE OF ETHICS

Fire board members and officials occupy positions of public trust. Board members and all district officials must strictly adhere to both the spirit and the letter of Arizona law pertaining to conflicts of interest.

In addition to matters of pecuniary interest, board members must: refrain from making use of special knowledge or information before it is made available to the general public; refrain from violating board rules; refrain from influencing the employment of district employees; and refrain from using their influence as members of the governing body in attempts to secure contracts or other favorable action for friends, immediate family members or business associates.

Rule 3 - BOARD MEETINGS

A. Regular and Special Meetings: The fire board must hold regular and special meetings according to state law. Board meetings must be conducted in accordance with the procedures set forth in these rules unless a motion to suspend the rules (as hereinafter provided) is first passed by the board.

B. Executive Sessions: The board may meet in executive session in accordance with the procedures and purposes set forth in state law and not otherwise.

Rule 4 - PRESIDING OFFICER

The chairperson or, in his or her absence, the clerk, shall take the chair at the hour appointed for the board to meet and shall immediately call the members to order. In case both the chairperson and the clerk are absent, the senior member shall call the Board to order. If a quorum is found to be present, the board shall proceed to elect, by a majority vote of those present, a chairperson of the meeting.

Rule 5 - CONDUCT OF MEETINGS

The presiding officer shall serve as board parliamentarian. He or she shall preserve decorum and decide all questions of order, subject to appeal of the board.

A. During board meetings, board members: must preserve order and decorum; must not delay or interrupt the proceedings; must not refuse to obey the orders of the presiding officer; and must not refuse to obey the rules of the board. Every board member desiring to speak shall address the chair and, upon recognition by the presiding officer, shall confine himself to the question under debate and avoid all offensive or indecorous language. A board member once recognized shall not be interrupted while speaking unless called to order by the presiding officer or unless a point of order or other privileged motion is raised by another board member. If a board member is called to order while he or she is speaking, he shall cease speaking immediately until the question of order is determined. If ruled to be in order, he shall be permitted to proceed. If ruled not to be in order, he shall remain silent or shall alter his or her remarks so as to comply with the rules of the board. A

board member, with permission of the presiding officer, may address questions to the fire chief or staff or members of the audience but he or she shall confine his or her questions to the particular issues before the board that is on the agenda. If a point of order is raised and the presiding officer fails to act, any member of the board may move to require him to enforce the rules and the affirmative vote of the majority of the board shall require the presiding officer to act.

B. The presiding officer shall have the authority to preserve decorum in meetings as far as the audience, staff members and employees are concerned. The fire chief shall also be responsible for the orderly conduct and decorum of all district employees under his or her direction and control. Any remarks shall be addressed to the chair and to any or all members of the board. No member of the staff or audience shall enter into any discussion, either directly or indirectly, without having first obtained the floor by permission of the presiding officer.

C. Citizens of the district participate in district meetings principally by observing and listening to the discussion held by the board. When it is anticipated that non-members of the board will address the board, that individual's identity should be noted on the meeting agenda, e.g., "Presentation by S. Holmes on health insurance issues." If the board wishes to take public comment on a particular agenda item, that fact should likewise be noted on the agenda, e.g., "1. Discussion of District 10-year Plan, a) public comment." The district may, but is not required, to have an open opportunity for the public to speak to any issue. Such an agenda item would be described as a "Call for Public Comment." There is no statutory obligation for the district board to take public comment, either generally or on any particular issue. It is, however, good policy to afford the public the maximum opportunity for input possible.

Citizens of the district and any other members of the public attending Board meetings shall also observe the same rules of propriety, decorum and good conduct applicable to members of the board. Any person making personal, impertinent and slanderous remarks or who becomes boisterous while addressing the board or while attending the board meeting, shall be removed from the room by the presiding officer, and such person shall be barred from further attendance at the particular board meeting. Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the presiding officer. Should the presiding officer fail to act, any member of the board may move to require him to enforce the rules and the affirmative vote of the majority of the board shall require the presiding officer to act. Any member of the public desiring to address the board must first be recognized by the chair and shall limit his or her remarks to the questions under discussion. Any remarks shall be addressed to the chair and to any or all members of the board.

Rule 6 - RIGHT OF APPEAL

Any board member may appeal to the board from a ruling of the presiding officer. If the appeal is seconded, the member making the appeal may briefly state his or her reason for the same, and the presiding officer may briefly explain his or her ruling, but there shall be no debate on the appeal, and no other member shall participate in the discussion. The presiding officer shall then put the question, "Shall the decision of the Chair be sustained?" If a majority of the members present vote "aye", the ruling of the chair is sustained; otherwise it is overruled.

Rule 7 - LIMITATION OF DEBATE

No member of the board or public shall be allowed to speak more than once upon any one subject until all board members have had an opportunity to speak. No member of the board or of the public shall be allowed to speak for a period longer than five minutes without the leave of the presiding officer. Citizen groups shall identify themselves and shall be represented in presentation to the board by one of the members of the group

and cumulative or redundant speeches to the board on the same issue shall be terminated at the discretion of the presiding officer.

Rule 8 - VOTING

The vote on any question shall be taken by “ayes” and “nays” and shall be taken simultaneously. If the presiding officer is unable to accurately determine the result of a simultaneous voice vote, he may, or at the request of any board member shall, call for a roll call vote taken by lot. It shall be out of order for members to explain their vote during the roll call. There shall be no additional debate or speaking on the subject after the vote is taken.

Rule 9 - MOTIONS TO BE STATED BY CHAIR

When a motion is made and seconded, it shall so be stated by the chair or, at his or her direction, by the clerk, before debate commences.

Rule 10 - SUGGESTED FIRE BOARD AGENDA FORMAT

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF MINUTES
4. SCHEDULED PUBLIC APPEARANCES
5. UNSCHEDULED PUBLIC APPEARANCES
 - A. CALL TO THE PUBLIC
6. REPORTS AND CORRESPONDENCE
7. DISCUSSION AND POSSIBLE ACTION CALENDAR
8. BOARD MEMBER COMMENTS
 - A. {New business to be considered on future agenda}
 - B. {Set special meeting or study group meetings, etc.}
9. ADJOURNMENT

{NOTE: On all items of public interest, the presiding officer shall, after a motion is made and seconded, and prior to a vote by the board, allow the public to speak to the item under consideration, subject to Rule 7.}

Rule 11 - MOTION TO ADJOURN - WHEN NOT IN ORDER

A motion to adjourn shall be in order at any time, except as follows:

- (A) When repeated without intervening business or discussion;

- (B) When made as an interruption of a member while speaking;
- (C) When the previous question had been ordered; and
- (D) While a vote is being taken.

A motion to adjourn is debatable only as to the time to which the meeting is adjourned.

Rule 12 - PERMANENT CHANGES

There shall be no action taken to make any permanent changes, additions, deletions, amendments or similar editing of these rules of procedure at a board meeting when less than the entire board is present.

Chairperson	
	Clerk
	Member
	Member
	Member

CLEAN LIVING UNDER THE ARIZONA
OPEN MEETING LAW
Information provided by Donna M. Aversa—Attorney

Why Is The Stuff So Important?

Personal Liability. If you are accused of violating the open meeting laws, you are on your own. Board members have personal liability for violations of the open meeting laws. Courts can impose a civil penalty of \$500 plus any other relief the Court considers appropriate, including paying the other side's attorneys' fees. In addition, action taken in violation of the open meeting laws is null and void.

Who Enforces Open Meeting Requirements?

The Board. Open meeting requirements may be enforced by **any person** affected by the violation or the County Attorney. It is the Board's obligation and responsibility to make sure the open meeting requirements are satisfied.

How Are Open Meeting Requirements Enforced?

Enforcement by the Courts. If someone suspects a violation of the open meeting laws, he or she files a lawsuit alleging the violation and showing that he has a reasonable basis for a factual belief that the statute was violated. The Defendant (You) then has the burden of showing the Court that there is no violation. Before ordering disclosure of minutes of an executive session or otherwise making them public, the Court will generally review the minutes *in camera* - privately in chambers.

5 Tips for Clean Living under Arizona Open Meeting Laws:

1. Check your AFDA Handbook.
2. Identify your agenda items.
3. Stick to your agenda items.
4. Executive session *{only}* when you must.
5. Personnel matters - 24 hour notice to employee.

When Can You Use An Executive Session?

1. Personnel matters.
2. Exempt from public records - truly confidential matters.
3. Legal advice from counsel.
4. Consultation with counsel regarding litigation.
5. Discussions regarding salaries and benefits.
6. Interstate negotiations/tribal negotiations.
7. Negotiation for purchase of real estate.

CHAPTER 4

ARIZONA STATUTES AFFECTING FIRE DISTRICTS

PREFACE

Chapter 5 (Fire Districts) of Title 48 of the Arizona Revised Statutes (Special Taxing Districts) sets the legal framework for a fire district, such as district creation, boundaries, election procedures, powers and duties of administration, and financial procedures. In order to save the substantial cost incurred in copying each individual statute, the Editorial Board has elected to provide a table of contents for the applicable statutes effecting the Fire Districts together with the website that you can go to view the statute of interest.

Copies of all Arizona Revised Statutes are available online at:

<http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp>

BASIC FIRE DISTRICT STATUTES

Title 48. Special Taxing Districts

Chapter 1. General Provisions

Article 5. District Contracts with Federal Government

48-187. Governing body; civil immunity; definition⁷

Article 9. Reports by Districts

48-251. Annual report (*see notes page 7*)

48-252. District budgets

48-253. District audits and financial reviews

Article 10. District Creation and Boundary Changes

48-261. District creation; procedures; notice; hearing; determinations; petitions

48-262. District boundary changes; procedures; notice; hearing; determinations; petitions

48-263. Special taxing district impact statement; district creation; district boundary change; bond requirement

48-264. Dissolution of inactive special taxing districts; board of supervisors action; exceptions

48-266. Petitions; form; verification of signatures

48-266. Petitions of property owners; form; verification

Article 11. Approval of Formation of Special Districts

48-271. Board of supervisors authority to approve or deny formation of special district

Title 42. Taxation

Chapter 17. Levy

Article 6. Assessment, Levy and Collection of Local Taxes

42-17257 Notice of establishment or change in city, town or taxing district boundaries(*see notes page 8*)

Title 48. Special Taxing Districts

Chapter 5. Fire Districts

Article 1. General Provisions

48-802. Election procedures (*see notes page 7*)

48-803. District administered by a district board

48-804. District administered by elected chief and secretary treasurer

48-805. Fire district; powers and duties

48-805.01 Separate legal entities; joint exercise of powers

- [48-806.](#) Bond election; issuance and sale of bonds (*see notes page 7*)
- [48-807.](#) County fire district assistance tax; annual budget
- [48-812.](#) Disposition of fire district; assets and relief and pension fund assets upon annexation by or inclusion within a city or town
- [48-813.](#) Deletion of annexed area from district territory; provision for continued protection
- [48-814.](#) Property located outside of fire district territory; reimbursement to fire district for cost of fire protection services
- [48-815.01.](#) District dissolution; procedures; notice; hearing; determinations; petitions
- [48-815.02.](#) Dissolution; petitions of property owners; form; verification
- [48-816.](#) Election to reorganize district
- [48-817.](#) District over twenty-five thousand population
- [48-818.](#) Emergency medical aid or assistance to other public bodies; limitation on liability
- [48-819.](#) Reimbursement for county services
- [48-820.](#) Hearing and election to merge fire districts
- [48-821.](#) Disposition of assets on merger of fire districts
- [48-822.](#) Election to consolidate fire districts; resolution; impact statement; hearing

Article 2. Military Exemptions

- [48-831.](#) Exemption of volunteer fire fighters from military duty
- [48-832.](#) Procedure to obtain exemption
- [48-833.](#) Exemption based on length of service
- [48-834.](#) Annual filing of exemption list; issuance of illegal certificate; classification

Article 3. Noncontiguous County Island Fire District (*see notes page 10*)

- [48-851.](#) Noncontiguous county island fire district; formation; definition
- [48-852.](#) District board governance; elections
- [48-853.](#) District board; powers and duties; intergovernmental agreements; contract; administration; definition

[Title 11.](#) Counties

Chapter 2. Board of Supervisors

Article 4. Powers and Duties

- [11-251.](#) Powers of board
- [11-251.06.](#) Reimbursement for county services to special districts
- [11-251.07.](#) Report of special taxing district in the county
- [11-251.12.](#) County islands; fire and emergency services protection; intergovernmental agreement with adjoining municipalities or private providers; definition

Chapter 6. County Planning and Zoning

Article 3. Building Codes

- [11-861.](#) Adoption of codes by reference; limitations; method of adoption

Chapter 7. Intergovernmental Operations

Article 3. Joint Exercise of Powers

- [11-952.](#) Intergovernmental agreements and contracts
- [11-952.01.](#) Public agency pooling of property, fidelity, liability, workers' compensation, life, health, accident and disability coverage; exemptions; board of trustees; contract; termination; audit; insolvency; definition
- [11-952.02.](#) Separate legal entities; joint exercise of powers

Article 5. City, Town or County Employee Benefits, Property Loss and Liability Claim Coverage

- [11-981.](#) Payment of benefits, losses and claims; establishment of trust funds

Title 13. Criminal Code

Chapter 17. Arson

13-1701.	Definitions
13-1702.	Reckless burning; classification
13-1703.	Arson of a structure or property; classification
13-1704.	Arson of an occupied structure; classification
13-1705.	Arson of an occupied jail or prison facility; classification
13-1706.	Burning of wildlands; exceptions; classification
13-1707.	Unlawful cross burning; classification
13-1708.	Unlawful burning; classification
13-1709.	Emergency response and investigation costs; civil liability definitions

Chapter 24. Obstruction of Public Administration

13-2401.	Personal information on the world wide web; exception; classification; definitions
13-2402.	Obstructing governmental operations; classification
13-2404.	Refusing to assist in fire control; classification
13-2405.	Compounding; classification
13-2406.	Impersonating a public servant; classification
13-2407.	Tampering with a public record; classification

Chapter 29. Offenses Against Public Order

13-2901.	Definitions
13-2904.	Disorderly conduct; classification
13-2906.	Obstructing a highway or other public thoroughfare; classification
13-2907.	False reporting; classification
13-2907.01.	False reporting to law enforcement agencies; classification
13-2915.	Preventing use of telephone in emergency; false representation of emergency; classification
13-2922.	Interference with transmissions on public safety land mobile radio frequencies; classification; definitions
13-2924.	Unlawful solicitation of tort victims; classification; definitions

Title 20. Insurance

Chapter 9. Automobile Theft, Fire and Arson Reporting Immunity

Article 1. General Provisions

20-1901.	Definitions
20-1902.	Disclosure of information
20-1903.	Immunity from liability for disclosure of information
20-1904.	Confidentiality of information
20-1905.	Authorized agency as witness
20-1906.	Violation; classification
20-1907.	Application of chapter

Title 23. Labor

Chapter 2. Employment Practices and Working Conditions

Article 9. Wages and Hours of Public Employees

23-391.	Overtime pay; work week
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Chapter 8. Labor Relations

Article 4. Blacklisting1

23-1361.	Blacklist; definition; exceptions; privileged communications; immunity
23-1362.	Blacklisting; classification

Chapter 9. Employment Protection Act

Article 1. General Provisions

- [23-1501.](#) ... Severability of employment relationships; protection from retaliatory discharges; exclusivity of statutory remedies in employment
- [23-1502.](#) Constructive discharge

MISCELLANEOUS STATUTES

Title 12. Courts and Civil Proceedings

Chapter 7. Special Actions and Proceedings in Which the State is a Party

Article 2. Actions Against Public Entities or Public Employees

- [12-821.](#) General limitation; public employee
- [12-821.01.](#) Authorization of claim against public entity or public employee

Article 10. Liability for emergency services

- [12-971.](#) Definitions
- [12-972.](#) Liability for emergency services

Title 15. Education

Chapter 14. Provisions Relating to both Community Colleges and Universities

Article 1. Classification of Students for Tuition Purposes

- [15-1808.](#) Tuition waiver of child or spouse of peace officer, correctional officer, firefighter, emergency paramedic or National Guard member killed in the line of duty; disabled National Guard member; definitions

Title 28. Transportation

Chapter 1. Definitions, Penalties and General Provisions

Article 1. Definitions

- [28-101.](#) Definitions

Chapter 3. Traffic and Vehicle Regulation

Article 2. Obedience to and Effect of Traffic Laws

- [28-624.](#) Authorized emergency vehicles

Article 9. Right-of-Way

- [28-775.](#) Authorized emergency vehicles, approaching; following fire apparatus; defensive driving schools; driver license examinations

Article 13. Stopping, Standing or Parking

- [28-873.](#) Stopping, standing or parking prohibitions

Article 15. Miscellaneous Rules

- [28-897.](#) Crossing fire hose
- [28-910.](#) Liability for emergency responses in flood areas; definitions

Chapter 4. Driving Under the Influence

Article 3. Driving Under the Influence

- [28-1386.](#) Operating a motor vehicle, aircraft, watercraft or water skis under the influence; emergency response costs; definitions

Chapter 7. Certificate of Title and Registration

Article 15. Distinctive Vehicles

- [28-2511.](#) Official vehicles; registration exemption; definitions

Title 34. Public Buildings and Improvements

Chapter 4. Structure of Buildings

Article 4. Building Codes

- [34-461.](#) Applicability of local codes; exceptions; definition

Title 36. Public Health and Safety

Chapter 13. Safety

Article 1. Fireworks(see notes page 11)

<u>36-1601.</u>	Definitions
<u>36-1602.</u>	Fireworks prohibited
<u>36-1603.</u>	Permit for public display
<u>36-1604.</u>	Bond of permittee
<u>36-1605.</u>	Permitted uses
<u>36-1606.</u>	Consumer fireworks regulation; state preemption; further regulation of Fireworks by local jurisdictions
<u>36-1607.</u>	Seizure
<u>36-1608.</u>	Violation; classification
<u>36-1609.</u>	State fire marshal; adoption of code; sale of permissible consumer fireworks
<u>36-1610.</u>	Prohibited use of fireworks on state land; civil penalty

Title 37. Public Lands

Chapter 2.1 Forests.....

Article 1. State Forester

<u>37-623.02</u>	Emergencies; prohibiting fireworks; liability and Expenses; fire suppression revolving fund
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Title 38. Public Officers and Employees

Chapter 2. Qualification and Tenure

Article 4. Oath of Office

<u>38-231.</u>	Officer and employees required to take loyalty oath; form; classification; definition
<u>38-232.</u>	Time of oath
<u>38-233.</u>	Filing oaths of record
<u>38-234.</u>	Usurpation of office; classification

Sample Oath of Office

Article 6. Vacancy in Office

<u>38-291.</u>	Vacancy defined
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Chapter 3. Conduct of Office

Article 3.1 Public Meetings and Proceedings

<u>38-431.</u>	Definitions
<u>38-431.01.</u>	Meetings shall be open to the public
<u>38-431.02.</u>	Notice of meetings
<u>38-431.03.</u>	Executive sessions
<u>38-431.04.</u>	Writ of mandamus
<u>38-431.05.</u>	Meeting held in violation of article; business transacted null and void; ratification
<u>38-431.06.</u>	Investigations; written investigative demands
<u>38-431.07.</u>	Violations; enforcement; removal from office; in camera review
<u>38-431.08.</u>	Exceptions; limitation
<u>38-431.09.</u>	Declaration of public policy

Article 6. Employment of Relatives

<u>38-481.</u>	Employment of relatives; violation; classification; definition
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Chapter 4. Compensation and Insurance

Article 1. Salaries

<u>38-610.</u>	Leave of absence for military training; definition
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Article 3. Fire Fighter and Peace Officer Cancer Insurance

<u>38-641.</u>	Definitions
<u>38-642.</u>	Fire fighter and peace officer cancer insurance policy program

- [38-643.](#) Fire fighter and peace officer cancer insurance policy program account
- [38-644.](#) Eligibility
- [38-645.](#) Coverage

[Title 41.](#) State Government

Chapter 16. Department of Building and Fire Safety

[Article 1. General Provisions](#)

- [41-2148.](#)State fire safety committee; definition

**COMMENTS PERTAINING TO
RELATED STATUTES**

ANNUAL FINANCIAL REPORT (§ [48-251](#))

Beginning with the 2003-04 fiscal year, the county board of supervisors will no longer mail annual report forms.

Instead, forms may be downloaded from the state

Auditor General's website,

<http://www.auditorgen.state.az.us>. Additional information concerning the annual report forms and instructions may be found in Chapter 6 of this Handbook, entitled, "Fire District Financing."

DISTRICT AUDIT (§ [48-253](#))

Your copies of the completed audit or financial review should be sent to the following offices not later than **240** days after the close of the fiscal year:

Clerk of the Board of Supervisors

your County

and

The Office of your County Treasurer

All the documents above should be sent by certified mail, return receipt requested.

ELECTION LAWS

After reading § [48-802](#) concerning election procedures, you should turn to Chapter 5 because there are additional election laws and especially a time table as to the procedures that must be followed for elections.

BUDGETS (§ [48-807](#))

Budgets must be submitted no later than August 1 of each year to the county treasurer and the clerk of the board of supervisors of your county. To ensure county officials properly and timely process your district's budget and tax levy information, your district budget should be given to the county as soon as the district board has finalized and approved it.

§ 48-807 G. Beginning in fiscal year 2013-2014, a complete copy of the adopted budget shall be posted in a prominent location on the district's official website, or on a website of an association of fire districts for districts that do not have official websites, within seven business days after final adoption and shall be retained on the website for at least sixty months.

A.R.S. [42-17257](#) - This can make a difference as to when you will start receiving Tax Money.

"Department" referred to in A.R.S. 42-17257 is
Arizona Department of Revenue
GIS Section
Attention: Flo Villaverde
1600 West Monroe - 8th Floor
Phoenix, AZ 85007

{See Guidelines, below, for filing notice.}

GUIDELINES FOR A.R.S. § [42-17257](#)

Official guidelines for filing notice and requesting approval of boundary creation and/or change for taxing districts in compliance with statutory information requirements of Arizona Revised Statutes § 42-17257.

Please submit correspondence regarding tax district formation and boundary changes to:

Arizona Department of Revenue
GIS Section
Attn: Flo Villaverde
1600 West Monroe - 8th Floor
Phoenix, AZ 85007

Guideline A

A.R.S. § [42-17257](#)

In order to secure authorization to levy property taxes pursuant to A.R.S. § 42-17257, the governing board of a new taxing district or an existing taxing district that proposes to change its boundaries, must file specific information with the Department of Revenue and the appropriate County Assessor. This information must be filed by November 1st of the year preceding the year in which a property tax is to be levied and must include the following:

1. An official resolution or ordinance dated and signed by the governing board which clearly denotes the legal formation of a new district or the legal change in boundary of an existing district.
2. A map which accurately and legibly delineates the boundary lines of the perimeter of the taxing district and clearly delineates and identifies all section lines adjacent to the boundary lines.
3. A specific and unique written legal description, defining the boundary lines of the perimeter of the taxing district with accurate geographical descriptions of points on or from, and distances along or from section lines and/or corners. *(Best to send a copy of the District Impact Statement.)*

NOTE: Any inaccurate or incomplete information provided will result in a delay in processing requests for authorization to levy property taxes. Approval to levy property taxes will be granted only if the information itemized above is filed in an accurate and timely manner.

Guideline B

A.R.S. § [42-17257](#)

The Department of Revenue may extend the November 1st filing deadline specified in Guideline A upon written request from the governing board of a district organized or changed on or before December 31st of the year preceding the year in which a property tax is to be levied. The Department may not extend the filing deadline beyond February 15th of the year in which assessments or taxes are to be levied.

In order to qualify for consideration for approval by the Department of Revenue pursuant to A.R.S. § [42-17257](#), Section B, a taxing district must meet the following three conditions:

1. The taxing district must have been authorized for creation or change by the County Board of Supervisors on or before December 31st of the year prior to a tax levy.
2. Written request for an extension of the November 1st filing deadline from the governing board of the district is forwarded to the Department of Revenue by December 31st of the year prior to the tax levy.
3. The specific filing information itemized in Guideline A is forwarded to the Department of Revenue and the appropriate county assessor no later than February 15th of the year in which assessments or taxes are to be levied.

Compliance with above guidelines is mandatory. Any tax district not in compliance will specifically be denied authorization for a tax assessment and application.

Compliance with Sections A and B of A.R.S. § [42-17257](#) is mandatory, and any tax district not in compliance is specifically denied, by A.R.S. § [42-17257](#), authorization for a tax levy assessment and application.

NOTE: Any inaccurate or incomplete information provided will result in a delay in processing requests for authorization to levy property taxes. Approval to levy property taxes will be granted only if the information itemized above is filed in an accurate and timely manner.

PLEASE NOTE: Effective July 2010, no new fire districts may be formed under the elected chief and secretary-treasurer governance type. Current elected chief and secretary-treasurer fire districts are required to transition to a three or five member governing board at either the November 2, 2010 or the November 6, 2012 general election, dependent upon its respective election cycle dates. As of December 2012, the elected chief and secretary-treasurer form of governance for fire districts will cease to exist.

COMMENT: The most beneficial legislation for fire districts that AFDA initiated and was able to pass during the 49th Arizona Legislature, 2nd Regular Session was S1253: SPECIAL DISTRICTS; PETITIONS; ELECTORS (short title change FIRE DISTRICTS; DISSOLUTION PROCESS). This was an AFDA initiated bill sponsored by Senator Amanda Aguirre (D-24) that essentially made the fire district dissolution process mirror the creation process. This bill was passed late in the final night of the session and signed into law by Governor Brewer on May 7, 2010. The law became effective in August 2010.

The passage of S1253 is essential in limiting threats by a limited number of voters in placing fire district dissolution measures on the ballot. Previously, the process allowed a small group of qualified electors to place the question of dissolving a community's fire and emergency medical services on the ballot. In rural areas of the State where most of Arizona's 162 fire districts are located, the number of electors required to place the issue on the ballot could be very small. This could and did in several cases imperil the respective community's emergency services. A fire district dissolution would leave homeowners and businesses without protection and or the ability to acquire affordable fire insurance.

In the previous dissolution process, commercial, industrial, business and agricultural land owners had no say in the fire district dissolution process. The fire district board was required to call for a dissolution election if a petition was submitted by only 10% of the qualified electors of the respective fire district. For small rural fire districts this was a relatively easy benchmark to be reached. AFDA member districts had experienced this specific type of attack by a few disgruntled citizens in the recent past. The resource necessary to combat these efforts was substantial.

SI253 addressed this issue by making the requirements for fire district dissolution mirror the requirements for formation, which provides that a majority of the property owners (taxpayers) of the fire district determine whether the dissolution of the district should take place.

Equally important, the enactment of SI253 also eliminated registered voters from the fire district creation law. Now both fire district creation and dissolution have the same requirements; 50% plus one of the property owners and 50% plus one of the property value holders must sign petitions authorized by the respective county board of supervisors to either create or dissolve a fire district.

The newly developed dissolution process affords fire districts and their property owners a fair and improved process. Chief Joseph DeWolf, AFDA Volunteer Representative was instrumental in assisting with moving this bill through the legislative process.

§ 48-851 Noncontiguous County Island Fire District: *The 48th Arizona Legislature – First Regular Session enacted HB2780: Noncontiguous County Island Fire Districts, which became effective on September 19, 2007. This law enacted by the legislature allows for county island property owners within a specific municipal planning area (MPA) in a county with a population exceeding 1,500,000 (population requirement currently limits the formation of CIFI to Maricopa County) to form a Noncontiguous County Island Fire District (CIFI). The CIFI law was enacted in response to county residents who found themselves without adequate fire services subsequent to the private fire service provider discontinuing services to their respective areas.*

A county island for the purposes of the CIFI law is defined as non-contiguous county islands in a geographic area that is contained in a MPA and within the boundaries of an automatic aid consortium where there is no private provider of fire protection service at the time of the district's formation.

A CIFI significantly differs from a traditional ARS Title 48 fire district in that:

Parcels within the CIFI are not required to be contiguous to other parcels within the district as is required for traditional fire districts.

A CIFI cannot employ personnel, acquire or maintain assets (including real property or equipment).

A CIFI cannot issue debt.

A CIFI is limited to only those parcels within a specific city or town's MPA and there can only be one CIFI per MPA.

There are currently four CIFI operating in Maricopa County (Chandler, Gilbert, Tempe and Scottsdale). Each of these four CIFI has an intergovernmental agreement (IGA) for the provision of fire services with the municipality in which the district is formed.

The intent of the legislature in crafting the CIFI law was to allow for the establishment of a taxing authority with a sole purpose of contracting for fire services for all property owners within the district. The

terms of the contract for fire services is delineated through an IGA negotiated between the municipality and the CIFD. It was also the intent of the legislature for the city or town whose MPA in which the CIFD was formed would be the preferred fire services contractor. To this end the city or town who's MPA in which a CIFD is formed is provided the right of first refusal to contract with the CIFD to provide fire services.

A CIFD is formed and operated pursuant to the requirements of Arizona Revised Statute [§48-851](#), [§48-852](#), [§48-853](#) and [§48-854](#). The formation of a CIFD while similar to the formation of a traditional fire district varies in some areas. Persons considering formation of a CIFD should thoroughly understand the CIFD formation statute before beginning the process.

CIFD formation entails the submission of a map detailing the area of the district and the names of the three persons who will serve on the organizing board of the district to the county board of supervisors (BOS). Upon receipt of the map and names of the organizing board members, the BOS will set a date for a public hearing on the matter. The clerk of the BOS notices all owners of taxable within the proposed district of the date of hearing for the BOS to act on the formation request. If at the hearing, the BOS determines that the public health, comfort, convenience, necessity or welfare will be promoted, it shall approve the persons proposing the district to circulate petitions. The petitions must be signed by more than one-half of the property owners in the area of the proposed district and be signed by persons owning collectively more than one-half of the assessed valuation of the property in the area of the proposed district for the district to be formed.

The BOS establishes the parcel and value thresholds when authorizing the circulation of petitions. There is a one-year limit on petition validity from the date the BOS authorizes circulation.

It should be noted that while ARS allows for less than all the county islands within a municipal planning area to be within the forming CIFD the Maricopa County Board of Supervisors maintains a policy of requiring all non-contiguous unincorporated land area within an MPA to be included within the map of the forming district.

§ [36-1601](#): “Permissible consumer fireworks” (as defined in the statute) may be sold in Arizona and used by the general public. The State Fire Marshal is authorized to adopt rules to regulate permissible consumer fireworks; and counties and municipalities are authorized to regulate permissible consumer fireworks if “reasonable risk” of wildfire exists.

§ [38-481](#) is Arizona's Anti-Nepotism Law
See Chapter 8 - Conflict of Interest of Officers & Employees for more information.

SAMPLE OATH OF OFFICE

OATH OF OFFICE

STATE OF ARIZONA)
)
COUNTY OF)

I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the State of Arizona; that I will bear true faith and allegiance to the same, and defend them against all enemies, foreign and domestic, and that I will faithfully and impartially discharge the duties of the office of _____ according to the best of my ability, so help me God (or so I do affirm).

Signature

Subscribed and sworn to before me this day of , 20

Notary Public

My commission expires:

A.R.S. § 38-231. Officers and employees required to take loyalty oath; form; classification; definition

A. In order to ensure the statewide application of this section on a uniform basis, each board, commission, agency and independent office of this state, and of any of its political subdivisions, and of any county, city, town, municipal corporation, school district and public educational institution, shall completely reproduce this section so that the form of written oath or affirmation required in this section contains all of the provisions of this section for use by all officers and employees of all boards, commissions, agencies and independent offices.

B. Any officer or employee who fails to take and subscribe to the oath or affirmation provided by this section within the time limits prescribed by this section is not entitled to any compensation until the officer or employee does so take and subscribe to the form of oath or affirmation prescribed by this section.

C. Any officer or employee having taken the form of oath or affirmation prescribed by this section, and knowingly at the time of subscribing to the oath or affirmation, or at any time thereafter during the officer's or employee's term of office or employment, does commit or aid in the commission of any act to overthrow by force, violence or terrorism as defined in section 13-2301 the government of this state or of any of its political subdivisions, or advocates the overthrow by force, violence or terrorism as defined in section 13-2301 of the government of this state or of any of its political subdivisions, is guilty of a class 4 felony and, on conviction under this section, the officer or employee is deemed discharged from the office or employment and is not entitled to any additional compensation or any other emoluments or benefits which may have been incident or appurtenant to the office or employment.

D. Any of the persons referred to in article XVIII, section 10, Constitution of Arizona, as amended, relating to the employment of aliens, are exempted from any compliance with this section.

E. In addition to any other form of oath or affirmation specifically provided by law for an officer or employee, before any officer or employee enters upon the duties of the office or employment, the officer or employee

shall take and subscribe the following oath or affirmation: State of Arizona, County of _____, I,
_____ do solemnly swear (or affirm) that I
(type or print name) will support the Constitution of the United States and the Constitution and laws of the
State of Arizona, that I will bear true faith and allegiance to the same and defend them against all enemies,
foreign and domestic, and that I will faithfully and impartially discharge the duties of the office of
_____ according to the best of my ability, so help me God (or so I do affirm).
(name of office)

(signature of officer or employee)

F. For the purposes of this section, "officer or employee" means any person elected, appointed or employed, either on a part-time or full-time basis, by this state or any of its political subdivisions or any county, city, town, municipal corporation, school district, public educational institution or any board, commission or agency of any county, city, town, municipal corporation, school district or public educational institution.

A.R.S. § 38-232. Time of oath

When a different time is not prescribed, the oath of office shall be taken and subscribed as follows:

1. If appointed, at or before commencement of the term of office.
2. If elected, at any time after receiving the officer's certificate of election, and at or before commencement of the term of office

A.R.S. § 38-233. Filing oaths of record

A. The official oaths of state elective officers shall be filed of record in the office of the secretary of state. The official oaths of all other state officers and employees shall be filed of record in the office of the employing state board, commission or agency.

B. The official oaths of elective county and elective precinct officers shall be filed of record in the office of the county recorder, except the oath of the recorder, which shall be filed with the clerk of the board of supervisors. The official oaths of notaries public shall be endorsed upon their bond and filed with the secretary of state. The official oaths of all other county and precinct officers and employees shall be filed of record in the office of the employing county or precinct board, commission or agency.

C. The official oaths of all city, town or municipal corporation officers or employees shall be filed of record in the respective office of the employing board, commission or agency of the cities, towns and municipal corporations.

D. The official oaths of all officers and employees of all school districts shall be filed of record in the school district office.

E. The official oaths of all officers and employees of each public educational institution except school districts shall be filed of record in the respective offices of the public educational institutions.

F. The official oath or affirmation required to be filed of record shall be maintained as an official record throughout the person's term, appointment or employment plus a period of time to be determined pursuant to sections [41-151.15](#) and [41-151.19](#).

CHAPTER 5

FIRE DISTRICT ELECTIONS

SECTION 1 - BOARD PROCEDURES

NOTE: The information in this section has been compiled through the efforts of a diverse group of individuals over the years, and is updated as time permits. It should be used as a research tool only, and should not be used as your fire district's exclusive source of materials. Some of the information may be out of date. Always take the time to independently research your questions. On specific questions of law, an attorney should always be consulted.

RECENT ELECTION PROCESS CHANGES Fire district board members and staff should be aware of several substantive election process changes.

The 49th Arizona Legislature, Second Regular Session enacted H2069: COUNTY ELECTION LAW AMENDMENTS, which was signed by the Governor on April 27, 2010. The enactment changed the process for board member elections when the number of persons filing nomination petitions is less than or equal to the number of positions to be filled. The county board of supervisors may cancel the election and appoint the persons who filed petitions to fill the positions. Previously, the cancellation and appointment of board members in this circumstance required the affected fire board to request the action by the board of supervisors. As many fire districts experienced in the November 2010 election cycle, their respective board of supervisors are canceling non-competitive elections without any action or request by the respective fire district. This saves the county and the respective fire district the full cost of holding an election.

Additionally, H2069 authorizes a board of supervisors to consolidate polling places and precinct boards if it finds the number of persons on the permanent early voting list is likely to "substantially reduce" the number of persons voting at the polls. The timing of the notice of an election that is required to be sent to all persons on the permanent early voting list is changed to 90 days before the election from 120 days.

Finally, for fire districts on an odd-year election cycle, the passage of H2069 will allow counties to conduct special district elections by all mail ballots when certain requirements are met. So fire district elections that occur outside the even-year general election cycle could be conducted through the mail if the county chose to do so. Fire districts should anticipate this will become common practice as counties continue to address the costs and logistical issues associated with odd-year and special elections.

ELECTION LAW COMPLIANCE IS THE FIRE BOARD'S RESPONSIBILITY; PREPARING FOR A NOVEMBER GENERAL ELECTION

The following discussion addresses the election process and required actions necessary for compliance when a fire board and district staff are preparing for a November general election of fire board members. Most fire districts are on the even-year November election cycle, while some may have odd-year November elections of board members for various reasons. The general process and timeline requirements remain the same for both.

2013 and 2014 Election Year Procedure Checklists follow the discussion later in Chapter 5 – Fire District Elections.

Fire districts holding elections for secondary property tax levy limit overrides pursuant to ARS § [48-807](#), general obligation bonds or other authorized ballot questions at the November general election should consult with an attorney for specific process and timeline requirements.

Fire districts holding special elections (on dates other than general election) for board members or general obligation bonds should consult with an attorney for specific process and timeline requirements.

Preparation for a November general election for fire district governing board members begins in July. All fire districts on the November general election cycle are required to notice their respective county elections department of their intention to hold an election by the 120 day notice deadline, which for most election cycles occurs in early July. Many counties require a formal resolution of the governing board notifying the respective board of supervisors and the officer in charge of elections of the fire district's intent to hold an election, while for other counties a simple written notice or electronic mail notice is sufficient. Most county election departments will advise their respective fire districts as to the form of notice required.

Fire districts should receive a notice from their respective county pursuant to [ARS §16-205](#) providing jurisdictional notice of the election date and the 120 day notice deadline (for districts placing a question on the ballot in November for a levy limit override or general obligation bond, there is also a 105 day ballot text deadline).

Once a fire district has given notice to the county of the intention to hold an election, there are several other specific requirements which must be met. Each of Arizona's 15 counties may differ in their approach to handling compliance with these requirements; however each fire district's governing body (board) is ultimately responsible. Therefore, checking with your respective county elections department to ensure compliance with election requirements is paramount.

There are three main statutory requirements each fire district holding an election will be required to meet prior to the November election. These are: Call for an Election ([ARS §16-227](#)); Notice of Election ([ARS §16-228](#)) and Affidavit of Compliance ([ARS §16-229](#)).

Both the Call for Election and the Notice of Election require publication of specific information within very specific timeframes preceding the general election date (the alternative to publishing is notice by US Mail to each qualified elector of the fire district, which typically is cost prohibitive except for the smallest of districts). In some counties the publication of both the Call and Notice of election is handled by the county elections department, with the cost billed back to the respective fire district. In other counties, the responsibility to publish both the Call and Notice of Election is the sole responsibility of each fire district's governing body. It's best to determine your counties requirements early in the process to ensure compliance.

If your fire district is responsible for publishing both the Call and Notice of Election, then it must comply as follows. The "Call of Election" must be published in a newspaper of general circulation within the fire district at least twice and not less than one week apart during the six calendar weeks preceding 90 days before the election. For the November general election the Call for Election would need to be published twice between mid-June 21 and late-July (each election cycle will vary slightly and the dates will be determined by counting back from the date of the election). The Call for Election published by the fire district must contain the purpose (election of governing board members), the date of the election (November __, 20__), the last date and place to file nominating petitions (the date and the place will be specific to your respective county and the November election date) and the name of the election district conducting the election (your fire district).

The "Notice of Election" has requirements similar to the Call. The Notice of Election must be also be published twice in a newspaper of general circulation within the fire district at least twice, and not less than one week apart during the six calendar weeks preceding 20 days before the election. For the November general election the Notice of Election would need to be published twice between late- August and early-October. The Notice of Election must contain the election date (November __, 20__), the location of all polling places to be used for your election (obtained from the county elections department), the hours the polls will be open

(obtained from the county elections department), the purpose of the election (election of governing board members) and the name of the election district conducting the election (your fire district).

Every fire district must provide their respective county with an Affidavit of Compliance which certifies compliance with all applicable federal and state election laws (such as the Call and Notice discussed herein). This must be provided to your respective county a minimum of five days prior to the election. For the November election the deadline for submission of the Affidavit of Compliance usually occurs in late-October. Each fire district should ensure they have met all US Department of Justice pre-clearance requirements for the election, and this includes pre-clearance for annexed property. Legal counsel should be consulted regarding the pre-clearance process.

After the November general election, each fire district board is required to meet and Canvass the Election (ARS §[16-642](#)). The Canvass of the election results must take place between six and twenty days post election. For the November election this will occur between mid-and-late November. A copy of the official canvass can be obtained from the county elections department and there are specific requirements concerning the Canvass and the information which must be entered into the official record of the fire district (this information is outlined later in this chapter of AFDA Fire District Handbook).

For those fire districts on the odd-year election cycle, the passage of H2069: COUNTY ELECTION LAW AMENDMENTS (signed by the Governor on 4/27/10) will allow counties to conduct special district elections by all mail ballots when certain requirements are met. Therefore, fire district elections that occur outside the even-year general election cycle could be conducted through the mail if the county chose to do so. For fire districts on this election cycle, all the previously discussed requirements will apply. There are specific requirements for mail ballot elections which can be referenced in this section of the AFDA Handbook.

The Outline of Fire District Election Laws which follows this discussion should be referenced for specific detail concerning a fire district's election responsibilities. Each county's election department can also provide guidance concerning various aspects of the process. Ultimately, adherence with the state's election laws rests with each fire district's governing body. Attention to detail and knowledge of the process will ensure a successful election cycle for your fire district.

GENERAL INFORMATION

The following applies to ALL counties in Arizona.

A.R.S. § [48-802](#) which should be read before proceeding with the information contained in this Chapter.

TITLE 48 SPECIAL TAXING DISTRICTS

CHAPTER 5 FIRE DISTRICTS

ARTICLE 1 GENERAL PROVISIONS

[48-802 ELECTION PROCEDURES](#)

OUTLINE OF FIRE DISTRICT ELECTION LAWS

Fire districts may contract with the county for election services. The form of the contract with a fire district's respective county is typically in the form of an intergovernmental agreement (IGA) for election services. Most of Arizona's 15 counties have a standard form IGA they use for a majority of the special taxing districts whose elections they conduct. **ENTERING INTO AN IGA FOR ELECTION SERVICES IS STRONGLY RECOMMENDED BY THE ARIZONA FIRE DISTRICT ASSOCIATION.** Any fire district seeking to

conduct and manage their own election processes are advised to consult with legal counsel well in advance of anticipated election dates.

Costs for conducting the election can be charged to the fire district by the county. [A.R.S. [§ 16-408.A and D](#)] Typically counties have an established fee schedule for election services that is defined within the IGA. While the costs vary from county to county, most election services fee schedules are based upon the number of registered voters within the district.

A. Arizona Revised Statutes

[A.R.S. §§ [16-100 through 16-1021](#)]

1. Includes fire districts in election law requirements and supersedes all other laws relating to elections.

B. Eligibility to Vote [A.R.S. §§ [16-121](#), [16-121.01](#) and [16-122](#)]

1. Must be a registered voter within district boundaries prior to 29 days before election. [A.R.S. § [16-121.01.B.2](#)]
2. Name must appear on both general county register and precinct register of the election (fire) district. [A.R.S. § [16-122](#)]

C. Election Dates [A.R.S. § [16-225.A](#), § [48-802.D.3](#)]

Elections, other than special elections to fill a vacancy or elections to merge or dissolve fire districts, shall be held on the:

First Tuesday after the first Monday in November of the first even numbered year following the year the district is declared organized by the board of supervisors and, every two years thereafter on the first Tuesday after the first Monday in November. [A.R.S. § [48-802.D.3](#)]

Special elections within a fire district to fill a vacancy or elections to merge or dissolve fire districts can be held on the following dates ONLY:

1. The second Tuesday in March. [A.R.S. § [16-225.A](#)]
2. The third Tuesday in May. [A.R.S. § [16-225.A](#)]
3. The eighth Tuesday before the first Tuesday after the first Monday in November. [A.R.S. § [16-225.A](#)]
4. The first Tuesday after the first Monday in November. [A.R.S. § [16-225.A](#)]

D. Call of Elections [A.R.S. §§ [16-225](#) to [16-227](#)]

A voluntary consolidation election date program is available to fire districts (and others). The county is responsible for notifying each eligible district and the deadline by which a district must advise the county that it does or does not want to participate.

1. The board of supervisors of a county in which the special district or the greater portion of the assessed valuation of the property in the district is located shall call the elections for the formation of special districts in accordance with section 16-225.A. [A.R.S. § [16-225.B](#)]
2. The governing body of a special district shall call all other elections for the district in accordance with section 16-225.A [by formal resolution] and notify the board of supervisors and the officer in charge of elections of the county in which the special district or greater portion of the assessed valuation of the property in the district is located of the purpose of the election. [A.R.S. § [16-225.C](#)]

3. Nonpartisan [fire district] elections shall be called at least 120 days before the election date. [A.R.S. § [16-226.A](#)]
4. Publication of election call. [A.R.S. §§ [16-227.A and B](#)]

The fire district must publish in a newspaper of general circulation a "Notice of Call of Election." The notice must be published at least once a week for two consecutive weeks during the six calendar weeks preceding 90 days before the election. [A.R.S. § [16-227.A](#)]

The "Notice of Call of Election" must contain the following information:

1. Purpose of election [A.R.S. § [16-227.A](#)]
2. Date of the election [A.R.S. § [16-227.A](#)]
3. Last date and place to file nomination petitions (if applicable) [A.R.S. § [16-227.A](#)]
4. Last date to register to vote [A.R.S. § [16-227.A](#)]
5. Name of the election [fire] district conducting the election [A.R.S. § [16-227.A](#)]
6. The proposed boundaries of the election district, if for establishment or annexation [A.R.S. § [16-227.A](#)]
7. The date mail ballots will be mailed to qualified electors if the election is a special district mail ballot election [A.R.S. § [16-227.A](#)]

In lieu of publishing the above information, the governing body may mail a call of election to each household in the district containing a qualified elector [registered voter] with the same information, a minimum 90 days before election.

[A.R.S. § [16-227.B](#)]

E. Notice of Election [A.R.S. [16-228.A and B](#)]

The governing body must publish a "Notice of Election"

1. Twice in a newspaper of general circulation within the district [A.R.S. [16-228.A](#)]
2. A minimum of one week apart [A.R.S. [16-228.A](#)]
3. During the six calendar weeks preceding 20 days before the election [A.R.S. [16-228.A](#)]

The "Notice of Election" must contain the following information:

1. The election date [A.R.S. [16-228.A](#)]
2. The location of all polling places to be used for your election [A.R.S. [16-228.A](#)]
3. The hours the polls will be open [A.R.S. [16-228.A](#)]
4. The purpose of the election [A.R.S. [16-228.A](#)]
5. The name of the election [fire] district conducting the election [A.R.S. § [16-228.A](#)]

In lieu of publishing in a newspaper, the fire district may mail a notice of election to each household containing a qualified elector (registered voter) with the same information described in subsection A, paragraphs 1, 4 and

5 and the polling place for that household's qualified electors and the times it is open. Mailings may be made over a period of days but shall be mailed in order to be delivered to households before the earliest date of mailing to registered voters of any requested early ballots for that election. [A.R.S. § [16-228.B](#)]

F. Mail Ballot Elections [A.R.S. § [16-228.C and D](#)]

The governing body must publish a Notice of Election:

1. Twice in a newspaper of general circulation within the district [A.R.S. § [16-228.C](#)]
2. One week apart [A.R.S. § [16-228.C](#)]
3. During the two calendar weeks immediately preceding the 30 days before the election [A.R.S. § [16-228.C](#)]

The Notice of Election must contain:

1. The date of the election [A.R.S. § [16-228.C](#)]
2. The date ballots will be mailed [A.R.S. § [16-228.C](#)]
3. The deadline and location for the return of the ballots [A.R.S. § [16-228.C](#)]
4. The method to replace a ballot that becomes destroyed, lost, spoiled or not received [A.R.S. § [16-228.C](#)]
5. The statement that no polling place will be provided [A.R.S. § [16-228.C](#)]
6. The name of the district conducting the election [A.R.S. § [16-228.C](#)]
7. The elector's qualifications [A.R.S. § [16-228.C](#)]

In lieu of publishing in a newspaper, the district may mail a notice of election to each household containing a qualified elector (registered voter) with the same information, a minimum of 45 days before the election. [A.R.S. § [16-228.D](#)]

G. Affidavit of Compliance [A.R.S. § [16-229](#)]

An affidavit of compliance must be sent to the board of supervisors as follows:

1. Certifying compliance with federal and state election laws
2. A minimum of 5 days before the election

H. Nomination Papers and Qualifications for Candidates [A.R.S. §§ [16-311](#) and [16-322](#)]

1. Candidates for office must be a qualified elector (registered voter) of the fire district. [A.R.S. § [16-311.B](#)]
2. Candidate must sign and file nomination papers with the county election officer, 90-120 days before the election showing:

(a) The actual residence address or description of place of residence and mailing address [A.R.S. § [16-311.B](#)]

(b) The office for which he or she intends to run [A.R.S. § [16-311.B](#)]

(c) The fire district in which he or she intends to run [A.R.S. § [16-311.B](#)]

(d) The exact manner for the name to be printed on the ballot, provided that no nickname, abbreviated name or initials of the name suggests a reference to a professional, fraternal, religious or military title

[A.R.S. §§ [16-311.B](#) and [G](#)]

(e) The date of the election [A.R.S. § [16-311.B](#)]

3. Candidate shall reside in the Fire District. [A.R.S. § [16-311.B](#)]

4. Nomination petitions must contain the signatures of a minimum of one-half of one per cent of the vote in the special district (no less than five - maximum of 250). [A.R.S. § [16-322.A.12](#)]

I. Establish Election Precincts [A.R.S. § [16-413](#)]

1. Fire district governing bodies shall establish election precincts to correspond to county election precincts. This must be done by formal resolution of the governing body. [A.R.S. § [16-413.A](#)]

2. The governing body shall provide the county recorder with a description of the fire district election precincts no later than 60 days before an election for which signature rosters are prepared (this can be as simple as a letter advising that the district resolved to correspond its precincts to the county's precincts). [A.R.S. § [16-413.B](#)]

3. If the election is to be done by mail ballot, the district need not designate polling places but must determine the number and location of sites where ballots are to be returned. [A.R.S. § [16-413.D](#)]

4. The county board of supervisors shall act as the governing body in instances where a special district is to be established by an election. [A.R.S. § [16-413.C](#)]

J. Canvass of Election [A.R.S. §§ [16-642](#) and [16-646](#)]

1. The fire district board shall meet and canvass the election results 6 to 20 days after the election. [A.R.S. § [16-642.A](#)]

{NOTE: The fire district board clerk should call the county elections department and request a copy of the official canvass after the election.

The fire district board is required to hold a special meeting for the purpose of making the election results official, even if the actual canvassing of the votes is performed by the county recorder as a service to the fire district. Therefore, it may also be a good time to hold your organizational meeting in conjunction with this special meeting.}

2. The fire district board must present to the board of supervisors a certified copy of the fire district's official canvass at the next meeting of the board of supervisors following the election. [A.R.S. § [16-642.B](#)]

3. Canvass results shall be entered in the official record of the fire district and filed with the clerk of the board of supervisors, showing:

- (a) The number of ballots cast in each precinct in the district
 - (b) The number of ballots rejected in each precinct in the district
 - (c) The titles of the officers voted for and the names of the persons voted for to fill the offices
 - (d) The number of votes received for each candidate by precinct
 - (e) The numbers and a brief title of each initiated or referred measure voted upon
 - (f) The number of votes for and against each proposed measure, by precinct [A.R.S. § [16-646.A. and D](#)]
4. A certified permanent copy of the official canvass for all offices, except offices and ballot measures in a city or town election and nonpartisan election returns, shall be promptly mailed to the secretary of state as a matter of public record. [A.R.S. § [16-646.B](#)]

THE FOLLOWING IS NOT RECOMMENDED BY THE ARIZONA FIRE DISTRICT ASSOCIATION.
 Items listed below are a summary of the items which must be completed. Consultation with legal counsel is essential.

K. If a fire district elects NOT to contract with the county for election services, it must do the following:

- 1. Prepare and provide ballots a minimum of 10 days before the election (with voter instruction cards). [A.R.S. § [16-503](#)]
- 2. Deliver sealed ballots to the election board inspector a minimum of 48 hours before the polls open. [A.R.S. § [16-509](#)]
- 3. Furnish all poll lists, tally lists, voter lists, ballots, oath and returns and return envelopes, etc. [A.R.S. § [16-511](#)]
- 4. Appoint a minimum of 3 election workers for each polling place at least 20 days before the election. [A.R.S. § [16-531.C](#)]
- 5. May appoint tally board at least 10 days before election. [A.R.S. § [16-531.F](#)]
- 6. Make provision for absentee balloting or early voting. [A.R.S. §§ [16-541](#) - [16-552](#)]

Sample Notification of Fire Board Vacancies (end of May)

May 31, 20__

Office of the Board of Supervisors

_____ County

123 Courthouse Ave.

County Seat, AZ 00000

Election Coordinator:

This is to notify you the _____ Fire District will hold an election on November __, 20__.
_____ positions on the Fire Board of this District are to be filled.

Present incumbents are: _____

According to the A.R.S. you will receive an affidavit of Compliance to all Federal, State and County Election Laws.

Sincerely,

Clerk of the Board

Sample Call of Election Resolution (at least 120 days before election day)

July __, 20__

TO WHOM IT MAY CONCERN

SUBJECT: ELECTION RESOLUTIONS

The following Resolution will be introduced to the _____ Fire District Board at the Special meeting on July __, 20__ as one of the requirements of the Arizona Revised Statutes pertaining to elections.

RESOLUTION

WHEREAS, A.R.S. 16-100 through 16-1021 prescribes election law requirements pertinent to the filling of vacancies on Fire Boards of Fire Districts and ;

WHEREAS, _____ vacancies on the Fire Board of the _____ Fire District will occur in 20__ and;

WHEREAS, it is the responsibility of said fire district to perform all acts and duties to comply with the aforementioned A.R.S.;

Be it resolved the Clerk of this Board is empowered to take such actions as are necessary to assure compliance with said A.R.S. as pertains to elections for fire districts.

Chairperson
Clerk of the Board

**Sample Notice of Call of Election (publish in a newspaper of general circulation
within the district at least once per week for two consecutive weeks within the
6-week period preceding 90 days before election day)**

July __, 20__

Local Newspaper

234 Printers St.

District, AZ 00000

Subject:

Election Notice

Please place the following information in your newspaper on July __, 20__ and August __, 20__:

NOTICE OF CALL OF ELECTION

THE _____ FIRE DISTRICT HEREBY NOTIFIES THE REGISTERED VOTERS OF ALL
PRECINCTS WITHIN THE _____ FIRE DISTRICT THAT _____ VACANCIES WILL OCCUR
ON THE _____ FIRE BOARD AT THE GENERAL ELECTION ON NOVEMBER __, 20__.

THE LAST DATE FOR CANDIDATES TO FILE PETITIONS FOR THESE POSITIONS IS SEPTEMBER
__, 20__ AT 5:00 P.M. AT THE _____ COUNTY ELECTIONS DEPARTMENT, {ADDRESS,
CITY, STATE, ZIP CODE}.

THIS ELECTION IS NON-PARTISAN. THE LAST DAY TO REGISTER TO VOTE IS OCTOBER __,
20__.

CONTACT THE COUNTY ELECTIONS DEPARTMENT FOR ANY PARTICULARS CONCERNING THIS
ELECTION.

FOR THE BOARD:

Clerk of the Board

**Sample Notice of Election (publish in a newspaper of general circulation
within the district at least once per week for two consecutive weeks within the
6-week period preceding 20 days before election day)**

September __, 20__

Local Newspaper

234 Printers St.

District, AZ 00000

Subject: Notice of Election.

The _____ Fire District will hold an election on November __, 20__ at the General Election to fill _____
vacancies on the _____ Fire District Board.

All precincts within the _____ Fire District boundaries will be involved in this election. The polls are open
from 6:00 A.M. to 7:00 P.M.

Please publish this notice on October __, 20__ and October __, 20__.

FOR THE BOARD:

Clerk of the Board

**Sample Affidavit of Compliance (provide to the county board
of supervisors no later than 5 days before election day)**

A F F I D A V I T

This is to certify that the _____ Fire District has complied with all applicable Federal and State Election Laws for the General Election to be held on November ____, 20__.

_____ FIRE DISTRICT

Clerk of the Board

Subscribed and sworn to before me the ____ day of _____, 20__.

No _____ tary Public
My commission expires: _____

Sample Informational Memo (provide to all board members after election)

TO: TO ALL BOARD MEMBERS
FROM: _____, BOARD CLERK
SUBJECT: INFORMATION
DATE: NOVEMBER __, 20__

The November __ election has come and gone.

The Arizona Revised Statutes require that we hold an organizational meeting soon after the election results are official to elect a Chairperson and a Clerk. Also, our Bylaws call for additional election of a Treasurer.

I will notify you as soon as I receive the official canvass of election and the Chairperson sets a date for the required organizational meeting.

The Arizona Revised Statutes also require that newly elected board members, regardless if they were prior board members, that an Oath of Office be given and that the proper notarized form be sent to the Board of Supervisors and a copy maintained in the _____ Fire Board Office files.

After the organizational meeting, the newly elected Board and its Officers do not officially take office until December 1, 20__.

Sample Results of Election (provide to the board of supervisors after election)

November __, 20__

Office of the Board of Supervisors

_____ County

123 Courthouse Ave.

County Seat, AZ 00000

TO WHOM IT MAY CONCERN:

At the November __, 20__ General Election the following named persons were elected to the _____ Fire District Board for terms of four years:

—

—

—

I have enclosed their Oath of Office and I believe according to the Arizona Revised Statutes, they are entitled to a Certificate of Election.

Please change your records accordingly,

FOR THE BOARD

Clerk of the Board

2013 ELECTION YEAR PROCEDURE CHECK LIST

ELECTION DATE: 11/5/13

1. **END of May: May 31, 2013 -- *Research Nomination Petition Requirements and Notify County Elections Department of Vacancies Needing to be Filled***
 - A. Ask the County Elections Department for a list of the number of signatures required on nomination petitions.
 - B. Notify County Elections Department of the vacancies needing to be filled.
 - C. Date of Election: **November 5, 2013**
2. **At least 120 days BEFORE the election date, or no later than July 8, 2013 -- *Call Election by Formal Resolution***
 - A. At least 120 days before the election date, the Fire District Board must call all elections by formal resolution. **[A.R.S. § 16-226.A]**

Board Meeting Date: (determine meeting date necessary to meet July 8, 2013 deadline) _____
 - B. Notify the Board of Supervisors that an election has been called.

Mail letter by: _____ Letter Mailed: _____
3. **Between 90 and 120 days BEFORE the election date, or between July 8, 2013 and August 9, 2013 -- *Candidates must File Nomination Papers***
 - A. Candidates must file nomination papers between 90 and 120 days prior to election. **[[A.R.S. § 16-311](#)]**
4. **Within the six-week period preceding 90 days BEFORE the election date, or between June 28, 2013 to August 9, 2013 - *Publish Notice of Call of Election***
 - A. Publish "Notice of Call of Election" in a newspaper of general circulation within the District at least once a week for two consecutive weeks within the 6-week period preceding 90 days before the election date. The Notice of Call of Election must contain the election's: purpose; date; last date and place to file nomination petitions; last date to register to vote; and the name of the fire district conducting election. **[A.R.S. § [16-227.A](#)]**

Dates published: _____ & _____
 - B. If a special district mail ballot election, the Notice of Call of Election must also provide the date mail ballots will be mailed to qualified electors: if the question of whether a new district shall be established or a boundary change made to any existing district will be presented, the notice of call should also set forth the intended boundaries. **[A.R.S. § 16-227.A]**
5. **Within the six-week period preceding 20 days BEFORE the election date, or between September 4, 2013 and October 16, 2013 [or between September 23, 2013 and October 7, 2013, if the**

election is to be conducted by mail ballot (see subparagraph B, below)] – *Publish Notice of Election*

- A. Publish "Notice of Election" in a newspaper of general circulation within the District at least once a week for two consecutive weeks within the 6-week period preceding 20 days before the election date. The Notice of Election must contain the election's date; the location of all polling places; the hours the polls are open; the purpose of the election; and the name of the district conducting the election. [A.R.S. § [16-228.A](#)]

Dates published: _____ & _____

- B. If the election is to be a special district mail ballot election, the Notice of Election should be published once a week for two consecutive weeks within the 2-week period preceding 30 days before the election date. [A.R.S. § [16-228.C](#)] The Notice of Election in this instance must contain: the date of the election; the date ballots will be mailed; the deadline and location for return of the ballots; the method by which a lost, destroyed, spoiled or unreceived mail ballot may be replaced; a statement that no polling place will be provided; the name of the district conducting the election and the qualifications of each elector. [A.R.S. § [16-228-C](#)]

Dates published: _____ & _____

6. No later than 5 days BEFORE the election date, or October 31, 2013 – *Send Affidavit of Compliance to the Board of Supervisors*

- A. Prior to 5 days before election date, send Affidavit of Compliance to Board of Supervisors certifying compliance with federal and state election laws. [A.R.S. § [16-229](#)]

Mail letter by: _____ Letter Mailed: _____

7. Within 6 to 20 days AFTER the election, or between November 11, 2013 and November 25, 2013 – *Canvass the Election Results*

- A. The Fire Board must meet and canvass the election results between 6 and 20 days following the election. [A.R.S. § [16-642.A](#)] (*Call your County Elections Department for this information.*)

Canvass date: _____

- B. A certified copy of the Fire District's official canvass must be presented to the Board of Supervisors at their next meeting following the election, entered in the official records of the district and then filed with the Clerk of the Board of Supervisors. (*See page 7, Paragraph J, subparagraph 4, for specific information the canvass should contain*). [A.R.S. § [16-642.B](#)].

Mail copy by: _____ Mailed: _____

8. BEFORE December 1:

- A. Obtain Certificates of Election for new Board Members from Clerk of the Board of Supervisors.
- B. Elected Board Members should receive the Certificate prior to executing the Oath of Office.

- C. The Oath of Office should be administered prior to December 1, the beginning of the term of office.
- D. Hold an organizational meeting to elect a Chairperson and a Board Clerk, also any other Board Officers the district Bylaws call for.

**dates may be adjusted to previous business day due to holidays*

2014 ELECTION YEAR PROCEDURE CHECK LIST

ELECTION DATE: 11/4/2014

1. **END of May: May 31, 2014 -- Research Nomination Petition Requirements and Notify County Elections Department of Vacancies Needing to be Filled**
 - A. Ask the County Elections Department for a list of the number of signatures required on nomination petitions.
 - B. Notify County Elections Department of the vacancies needing to be filled.
 - C. Date of Election: **November 4, 2014**
2. **At least 120 days BEFORE the election date, or no later than July 7, 2014 -- Call Election by Formal Resolution**
 - A. At least 120 days before the election date, the Fire District Board must call all elections by formal resolution. [A.R.S. § [16-226.A](#)]

Board Meeting Date: (determine meeting date necessary to meet July 7, 2014 deadline) _____
 - B. Notify the Board of Supervisors that an election has been called.

Mail letter by: _____ Letter Mailed: _____
3. **Between 90 and 120 days BEFORE the election date, or between July 7, 2013 and August 6, 2014 – Candidates must File Nomination Papers**
 - A. Candidates must file nomination papers between 90 and 120 days prior to election. [A.R.S. § [16-311](#)]
4. **Within the six-week period preceding 90 days BEFORE the election date, or between _____ - Publish Notice of Call of Election**
 - A. Publish "Notice of Call of Election" in a newspaper of general circulation within the District at least once a week for two consecutive weeks within the 6-week period preceding 90 days before the election date. The Notice of Call of Election must contain the election's: purpose; date; last date and place to file nomination petitions; last date to register to vote; and the name of the fire district conducting election. [A.R.S. § [16-227.A](#)]

Dates published: _____ & _____
 - B. If a special district mail ballot election, the Notice of Call of Election must also provide the date mail ballots will be mailed to qualified electors: if the question of whether a new district shall be established or a boundary change made to any existing district will be presented, the notice of call should also set forth the intended boundaries. [A.R.S. § [16-227.A](#)]

5. Within the six-week period preceding 20 days BEFORE the election date, or between September 3, 2014 and October 15, 2014 [or between September 22 and October 6, 2014, if the election is to be conducted by mail ballot (see subparagraph B, below)] – Publish Notice of Election

- A. Publish "Notice of Election" in a newspaper of general circulation within the District at least once a week for two consecutive weeks within the 6-week period preceding 20 days before the election date. The Notice of Election must contain the election's date; the location of all polling places; the hours the polls are open; the purpose of the election; and the name of the district conducting the election. [A.R.S. § [16-228.A](#)]

Dates published: _____ & _____

- B. If the election is to be a special district mail ballot election, the Notice of Election should be published once a week for two consecutive weeks within the 2-week period preceding 30 days before the election date. [A.R.S. § [16-228.C](#)] The Notice of Election in this instance must contain: the date of the election; the date ballots will be mailed; the deadline and location for return of the ballots; the method by which a lost, destroyed, spoiled or unreceived mail ballot may be replaced; a statement that no polling place will be provided; the name of the district conducting the election and the qualifications of each elector. [A.R.S. § [16-228.C](#)]

Dates published: _____ & _____

6. No later than 5 days BEFORE the election date, or October 31, 2014 – Send Affidavit of Compliance to the Board of Supervisors

- A. Prior to 5 days before election date, send Affidavit of Compliance to Board of Supervisors certifying compliance with federal and state election laws. [A.R.S. § [16-229](#)]

Mail letter by: _____ Letter Mailed: _____

7. Within 6 to 20 days AFTER the election, or between November 10, 2014 and November 24, 2014 – Canvass the Election Results

- A. The Fire Board must meet and canvass the election results between 6 and 20 days following the election. [A.R.S. § [16-642.A](#)] (*Call your County Elections Department for this information.*)

Canvass date: _____

- B. A certified copy of the Fire District's official canvass must be presented to the Board of Supervisors at their next meeting following the election, entered in the official records of the district and then filed with the Clerk of the Board of Supervisors. (*See page 7, Paragraph J, subparagraph 4, for specific information the canvass should contain.*) [A.R.S. § [16-642.B](#)].

Mail copy by: _____ Mailed: _____

8. BEFORE December 1:

- A. Obtain Certificates of Election for new Board Members from Clerk of the Board of Supervisors.

- B. Elected Board Members should receive the Certificate prior to executing the Oath of Office.
- C. The Oath of Office should be administered prior to December 1, the beginning of the term of office.
- D. Hold an organizational meeting to elect a Chairperson and a Board Clerk, also any other Board Officers the district Bylaws call for.

**dates may be adjusted to previous business day due to holiday*

SECTION 2 - CANDIDATE PROCEDURES

NOTE: This section was prepared by lay people rather than attorneys and is therefore not meant to be construed as legal opinion. On specific questions of law, an attorney should always be consulted

GET A RECEIPT!

If you mail the forms, petitions and information discussed in this section, mail them - **RETURN RECEIPT REQUESTED!**

If you hand deliver - **ASK FOR A RECEIPT!**

SPECIAL NOTES:

1. FINANCIAL DISCLOSURE STATEMENT.

A question that comes up each election year is whether or not candidates for election to a fire district board must file a financial disclosure statement. Arizona Attorney General Opinion No. 184-113, states, "Fire district board members are NOT required to file financial disclosure statements."

You are required to file a contribution and expense report.

2. CAMPAIGN FINANCE (CONTRIBUTIONS OR EXPENDITURES):

In order to comply with Arizona election laws relating to campaign finance, nonpartisan candidates are required to file financial statements with their county elections departments during each election cycle.

If a candidate does not receive contributions or make expenditures of more than \$500.00, and if the candidate **DOES NOT** intend to receive or expend more than \$500.00 for the current Elections, then only a \$500 Threshold Exception Statement need be filed.

Should the candidate receive contributions or make expenditures of more than \$500.00 for his or her own campaign, the candidate is required to designate a political committee and file a campaign finance report during the appropriate filing periods. [[A.R.S. § 16-903](#)]

Depending upon the number of contributions and expenditures, it is not uncommon for the campaign finance report to be as much as 35 to 40 pages long.

HOW TO BECOME A CANDIDATE

To become a candidate at any nonpartisan fire district election and to have your name printed on the official ballot you shall at the time of filing:

- 1. Be a qualified elector (registered voter)** of the fire district. [[A.R.S. § 16-311.B](#)]
- 2. Reside** in the fire district. [[A.R.S. § 16-311.B](#)]

PRIOR to 120 days BEFORE election day (keep in mind that you must file your paper work between 90 and 120 days before election day):

Call your county elections department.

- (a) Request a **NONPARTISAN ELECTION PACKET** for a fire district board member candidate.
- (b) Inquire as to the **number of signatures required** on nomination petitions for your fire district.
- (c) Verify the **general election date**.
- (d) Verify the **first and last dates to file** nomination papers and petitions.
- (e) Verify the proper **address to mail** campaign finance reports, nomination papers and petitions.

After you have received the election packet, check to see if you have the following:

- (a) Nomination Paper
- (b) Affidavit of Qualification
- (c) Campaign Finance Laws Statement

{NOTE: Items (a) through (c) above may be combined onto one page}

- (d) Nonpartisan Nomination Petitions
- (e) Candidate \$500 Threshold Exception Statement
- (f) Instruction sheets and other information

If you are also going to receive contributions or make expenditures of more than \$500.00 for your campaign, make sure you have the following:

- (g) Political Committee Statement of Organization
- (h) Political Committee Campaign Finance Report
- (i) Political Committee No Activity Statement
- (j) Political Committee Termination Statement

Remember that the contents of the election packet may vary from county to county. If you have any questions, it is of the utmost importance that you consult with your county elections department immediately.

Campaign Finance Reports.

{Contributions and Expenditures}

This report should be filed with the elections department as soon as possible after receiving the election packet.

- (a) **\$500 Threshold Exception Statement.**

If you DO NOT receive contributions or make expenditures of more than \$500.00 AND you DO NOT intend to receive or expend more than \$500.00 for the current elections, then you need only file a \$500 Threshold Exception Statement.

(b) If you exceed the \$500.00 Threshold.

If you receive contributions or make expenditures of MORE THAN \$500.00 for your own campaign, then you are required to designate a political committee and file a campaign finance report during the appropriate filing periods. [\[A.R.S. § 16-903\]](#)

Also check to see if the following forms arrived with your election packet:

- (1) Political Committee Statement of Organization
- (2) Political Committee Campaign Finance Report
- (3) Political Committee No Activity Statement
- (4) Termination Statement

Sample \$500 threshold exception statement

The Arizona \$500 Threshold Exemption Statement can be obtained online at:

[www.azsos.gov/election/Forms/500 Threshold Exemption.pdf](http://www.azsos.gov/election/Forms/500%20Threshold%20Exemption.pdf)

3. Nomination Papers.

You must sign and file nomination papers with the county election officer **NOT less than 90 or more than 120 days** before the election showing:

- (a) Your place of residence and mailing address;
- (b) The office for which you intend to run;
- (c) The fire district in which you intend to run;
- (d) The exact manner in which your name is to be printed on the ballot (provided that no nickname, abbreviated name or initials in the name suggest a reference to a professional, fraternal, religious or military title); and
- (e) The date of the election.

**MARICOPA COUNTY
GENERAL ELECTION**

**NOMINATION PAPER
AFFIDAVIT OF QUALIFICATION
CAMPAIGN FINANCE LAWS STATEMENT
(A.R.S. §§ 16-211, 16-905(J)(5))**

You are hereby notified that I, the undersigned, a qualified elector, am a candidate for the office of **Fire District Board Member** at the General Election to be held on the ____ day of **November, 20__**.

I will have been a citizen of the United States for **55** years(s) next preceding my election and will have been a citizen of Arizona for **20** years(s) next preceding my election and will meet the age requirement for the office I seek and have resided in **Maricopa** County for **15** year(s) and in precinct **Evergreen 1** for **15** years(s) before my election.

I do solemnly swear (or affirm) that as to these and all other qualifications, I am qualified at the time of filing to hold the office I seek, having fulfilled the constitutional and statutory requirements for holding said office.

Residence address 12345 S. Any Street
Shady Grove 89999
(city or town) (number and street) (zip)

Post Office address **Same as above**
(number and street) (city or town) (zip)

Print or type your name on the following line in the exact manner you wish it to appear on the ballot, last name first. A.R.S. § 16-311.G.

DOE, JONATHAN

/s/ Jonathan Doe

CANDIDATE SIGNATURE

Subscribed and sworn to (affirmed) before me this **15th** day of _____, 20__.

Mary Lou Smith

Notary Public

(Seal)

My Commission Expires:

I have read all applicable laws relating to campaign financing and reporting.

Jonathan Doe

CANDIDATE SIGNATURE

2100-090 R1/94

4. Nomination Petition.

File the nomination petitions and nomination paper together as one packet **BETWEEN 90 and 120 days BEFORE Election Day.**

- (a) Each signer shall sign only one petition for the same office unless more than one candidate is to be elected to such office, and in that case not more than the number of petitions equal to the number of candidates to be elected to the office. [[ARS § 16-321.A](#)]

Remember that a candidate may sign one of his or her own petitions.

- (b) Number of signatures required on nomination petitions: Nomination petitions shall be signed by a number of qualified electors who qualified to vote for the candidate whose nomination petition they are signing **equal to at least one-half of one per cent of the vote in the fire district but not more than two hundred fifty and not fewer than five signatures.** [[ARS §§ 16-322.A.12](#)]

The Nonpartisan Nomination Petition can be downloaded from the following website:

www.azsos.gov/election/NominationPetition.htm

5. Instruction for Circulators.

The circulator before whom the signatures were written on the signature sheet shall be a qualified elector of the state and shall verify that each of the names on the petition was signed in his presence on the date indicated, and that in his belief each signer was a qualified elector who resides at the address given as their residence on the date indicated.

Instructions for circulators must be printed on the back of the petition. See website listed above for instruction how to print the petition.

CANDIDATE CHECKLISTS

CANDIDATE PROCEDURE CHECKLIST

1. End of May:

Call your county elections department

[] Verify you are properly registered to vote in your fire district.

[] Request a NONPARTISAN ELECTION PACKET for a fire district board member candidate.

[] Inquire as to the number of signatures required on nomination petitions for your fire district.

[] Verify the general election date: _____

[] Verify the first and last dates to file nomination papers and petitions.

Between _____ & _____.

[] Verify the proper address to mail the campaign finance report, nomination papers and nomination petitions.

2. Receive Election Packet _____.

3. Submit Campaign Finance Report.

Mailed: _____.

This report should be filed with your county elections department as soon as possible after receiving the election packet.

4. Nomination Paper

[] Fill out this form and save it along with the nomination petitions. You may also have a combined form covering the nomination paper, affidavit of qualification and campaign finance law statement.

5. **Nomination Petitions.** Signatures required _____

Now is the time to go out in the district and get the required number of signatures on the petitions.

Not more than 120 or less than 90 days before the election:

6. **File Nomination Papers and Petitions** _____

[] Bundle the nomination paper and petitions together and file them with your county elections officer no later than 5:00 p.m. on the last date for filing.

7. **From filing to election day – CAMPAIGN, CAMPAIGN, CAMPAIGN!**

Before December 1:

8. *Check to see if you were elected.*

9. *Obtain the Certificate of Election from your board of supervisors.*

10. *Execute the Oath of Office*

11. *Attend the organizational meeting*

December 1:

The beginning of your term of office.

CANDIDATE FILING CHECKLIST

Before submitting your candidate nomination filing, check to be sure that all candidate papers and nomination papers are checked for:

- (a) Sufficiency of signatures;
- (b) Notary seals; and
- (c) Completeness of required candidate information.

The following forms are required:

1. A combined form covering the:
 - (a) Nomination Paper
 - (b) Affidavit of Qualification
 - (c) Campaign Finance Laws Statement
4. Nomination petitions (containing the minimum number of signatures required)

Check for the following:

- ✓ You are properly registered to vote in the district.
- ✓ The nomination paper, affidavit of qualification and campaign finance laws statement are legible.
{Please print or type}

- ✓ All required information has been completed and is properly filled out.
- ✓ The district in which the office you are seeking appears correctly on the nomination papers.
- ✓ The nomination paper states the exact manner in which your name is to appear on the ballot, i.e.: **Smith, James**
“Jim”
- ✓ The top portion of each petition has been completed, stating clearly the office and jurisdiction you are seeking.
- ✓ All petitions submitted contain the signature and address of the circulator. *{Any petition not completed by the circulator will not be accepted.}*

Remember all necessary forms and the minimum number of signatures must be submitted with the initial filing.

A PARTIAL FILING WILL NOT BE ACCEPTED.

Supplemental petition submissions will be accepted any time after the initial filing until the end of the filing period.

SECTION 3 – ARIZONA REVISED STATUTES - ELECTIONS

TITLE 16 ELECTIONS AND ELECTORS

Copies of all Arizona Revised Statutes may be obtained online at:

<http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp>

CHAPTER 1 QUALIFICATION AND REGISTRATION OF ELECTORS

ARTICLE 1 QUALIFICATIONS FOR REGISTRATION

16-101 Qualifications of registrant; definition

ARTICLE 2 QUALIFICATIONS FOR VOTING

16-120 Eligibility to vote

16-121 Qualified elector; definition

CHAPTER 2 ELECTION DATES

16-204 Declaration of statewide concern; consolidated election dates; definition

16-205 Election dates; notice; administration

ARTICLE 3 OTHER ELECTIONS; SPECIAL PROVISIONS RELATING TO ELECTION OF CERTAIN OFFICERS

16-225 Special district election dates

16-226 Nonpartisan elections; time of calling; definition

16-227 Publication of call of election for nonpartisan elections

16-228 Notice of election for nonpartisan elections

16-229 Affidavit of compliance

CHAPTER 3 NOMINATING PROCEDURES

ARTICLE 2 FILING AND FORMS

16-311 Nomination papers; filing; definitions

16-314 Filing and form of nomination petitions; definition

16-315 Form of petitions; registration of circulators

ARTICLE 3 SIGNATURE REQUIREMENTS

16-321 Signing and certification of nomination petition

16-322 Number of signatures required on nomination petitions

16-647 Declaration of election to office; delivery of certificate of election

CAMPAIGN CONTRIBUTIONS AND EXPENSES

TITLE 16 ELECTIONS and ELECTORS

CHAPTER 6 CAMPAIGN CONTRIBUTIONS AND EXPENSES

The statutes are A.R.S. §§ 16-901 through 16-924.

Copies of all Arizona Revised Statutes may be obtained online at:

<http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp>

The following Statues should be reviewed in detail.

16-913 Campaign finance reports; reporting of receipts and disbursements; exemptions; civil penalty

16-914 **Termination statement**

16-918 Campaign finance reports; notice; civil penalty; prohibition on candidacy

CHAPTER 6

FIRE DISTRICT FINANCING

NOTE: The information in this section has been compiled through the efforts of a diverse group of individuals over the years, and is updated as time permits. It should be used as a research tool only, and should not be used as your exclusive source of information and materials. Always take the time to independently research your issues. On specific questions of law an attorney should always be consulted.

INTRODUCTION

A fire district's operational efficiency and effectiveness depends upon the combined ability of its elected officials and professional staff to obtain sufficient funding. A fire district's primary source of funding is the secondary property tax. To determine how best to plan for and manage property tax revenues, elected officials and fire district professional staff must know and understand the statutory provisions that establish and regulate a fire district's property taxing authority. They must also understand the various procedural elements set forth by statute so their actions will produce the desired results.

Funding a fire district's operation may involve not only acquiring revenue but also deferring payment for equipment or facilities and/or borrowing funds to be repaid over multi-year periods by the ultimate beneficiaries of the equipment and facilities, the district's residents and property taxpayers. A district's ability to borrow funds or defer payments may potentially provide a substantial financial benefit based upon various factors. Typically most fire districts use general obligation bonding or lease-purchase instruments to finance capital acquisitions. Elected officials and fire district professional staff must be able to identify the appropriate financing option for their respective district and comply with associated statutory requirements.

This chapter sets forth the basic legal requirements involved in fire district financial management. The material presented should be used in conjunction with assistance from the district's attorney, accountant, banker, financial consultant or other advisor where necessary.

Many of the substantive requirements and statutory procedures associated with fire district financial management are technical and if not followed may result in a loss of expected revenues and in added cost to the district. The material presented here is not intended as a complete compendium of fire district financial management, but rather as an outline to describe applicable statutory provisions and basic financial process guidelines.

At a minimum, elected officials and fire district professional staff should be aware of the statutory debt limitations that impose an overriding limitation on the extent to which a district may incur debts or obligations and the limits on its authority to levy taxes.

REVENUE and EXPENDITURES

DEBT LIMITATIONS

A.R.S. § [48-805.D](#) limits the indebtedness of a fire district to the amount of taxes levied and to be collected and the money actually available and unencumbered at the time in the fire district fund. There are exceptions to this and they are detailed in *A.R.S. §§ [48-805.B.2](#), [48-806](#) and [48-807](#)*, later in this chapter.

STATUTORY AUTHORITY FOR SECONDARY PROPERTY TAX LEVIES

Pursuant to the limitations identified above, the authority and procedures required for a fire district to levy a secondary property tax is outlined below:

A.R.S. §§ [48-805.A.2](#) and [48-807](#) identify what is required of a fire district in order to have the county board of supervisors levy a secondary property tax for the district. Briefly, the district must submit an expenditure budget, certifying by item the amount of money required to operate the fire district during the next fiscal year. This must be submitted no later than August 1 of each year. Each of Arizona's 15 counties has a slightly different procedure for this, so you should contact your local county for any special forms they may require.

A.R.S. § [48-807.F](#) states the county board of supervisors will take the budget information submitted by the fire district and levy a secondary property tax, **not to exceed \$3.25 per \$100.00 of assessed value**, against all property situated within the district boundaries and appearing upon the last assessment roll. The taxes shall be collected in the same manner, at the time and by the officers provided by law for collection of general county taxes. -

SECONDARY PROPERTY TAX LEVY LIMITATIONS

The 49th Arizona Legislature, 1st Regular Session in 2009 passed into law limitations on fire districts' authority to levy secondary property taxes. In summary, a fire district's direct secondary property tax levy is limited to a maximum increase of eight percent (8%) annually over the previous fiscal year's levy amount (excluding adjustments for annexed properties). There are two voter approved "override" provisions within the statute which will exempt a fire district from the 8% maximum annual secondary property tax levy limitation.

The implementation year for fire district secondary property tax levy limits is fiscal year 2011 (which begins July 1, 2010). The statutory provisions set the property tax levy limit base year as tax year 2008 (which is fire district fiscal year 2009, beginning July 1, 2008). Using tax year 2008 as the base year, a fire district will be limited to a direct secondary property tax levy increase of 16% for the fiscal year beginning July 1, 2010 (this provides for an 8% annual maximum increase for fiscal 2009 and 2010). The \$3.25 per hundred of assessed value tax rate cap is still applicable unless an election is held and the voters approve a temporary override (specific requirements for override elections are provided below).

Each fire district's respective county assessor, or assessors in cases where fire district boundaries span more than a single county, will provide "levy limit worksheets" which will specify the maximum allowable secondary property tax levy and tax rate.

It should be noted that the 8% annual maximum allowable secondary property tax levy limitation is not a "use it or lose it" provision. A fire district's annual secondary property tax levy limitation is calculated annually by the respective county assessor's office based upon the maximum allowable amount. Therefore, a fire district that does not levy at the maximum 8% annually will build future secondary property tax levy capacity. (Example: A fire district that increased secondary property tax levy in fiscal 2009 and 2010 by 6% annually would have a

maximum tax levy limit capacity of 12% for fiscal 2011). A fire district's tax capacity carries forward each fiscal year with the maximum allowable levy and corresponding tax rate calculated at the 8% maximum amount.

The secondary property tax levy limit law enacted by the Arizona Legislature is complex and affects various sections of Arizona Revised Statutes. The following information provides a guide for fire districts to implement and adhere to the secondary property tax levy limitation law as determined by the PTOC. Additionally, chronological action specific process guides for general tax levy limitation application, override elections and PTOC Hearings developed by AFDA are provided as appendices within this chapter of the manual.

SECONDARY PROPERTY TAX LEVY LIMIT IMPLEMENTATION PROCEDURES

Chapter 118, Senate Bill 1421, First Regular Session 2009 with a general effective date of September 30, 2009 establishes levy limits on secondary property taxes for fire districts beginning with tax year 2010 based on the actual amount levied in tax year 2008. Senate Bill 1421 amends [Title 42](#), Chapter 17, Article 1 - Property Tax Oversight Commission (§§ [42-17001](#), [42-17003](#), [42-17004](#), [42-17005](#)); Article 2 - Property Tax Levy Limits (§§ [42-17052](#), [42-17054](#), [42-17055](#)); and [Title 48](#), Chapter 5 - Fire Districts, Article 1 - General Provisions (§ [48-807](#)). The information contained herein is the implementation procedures adopted by the PTOC to administer this legislation.

COUNTY ASSESSOR / LEVY LIMIT WORKSHEETS

1. The Arizona Department of Revenue (ADOR) Property Division will provide centrally assessed property values to County Assessors for fire districts during the first half of January.
2. On or before February 10 of the tax year, the county assessor will certify the values required to compute the levy limit worksheet for fire districts.
3. The values will not be changed for the official calculation of the levy limit worksheet and tax rates after February 10 without the approval of the Property Tax Oversight Commission (PTOC).
4. Prepare and transmit a final levy limit worksheet to each fire district (including County Island Fire Districts) that imposes a secondary property tax with copies to the PTOC.
 - a. Levy Limit Worksheets are not required for fire districts that did not impose a secondary tax levy in 2008 or in 2009.
 - b. Levy Limit Worksheets are not required for the County Fire District Assistance Tax.
5. Beginning with tax year 2010, the maximum allowable levy limit will not exceed the amount levied in tax year 2008 multiplied by 1.16, plus amounts attributable to annexations. Thereafter, the maximum allowable levy limit will not exceed the amount levied in the preceding tax year multiplied by 1.08 or \$3.25 per one hundred dollars of assessed valuation, whichever is less, plus amounts attributable to annexations.
 - a. PTOC staff will provide County Assessors with a standard levy limit worksheet format.
 - b. The 2010 levy limit worksheets will include Fire Districts that have merged or consolidated since 2008.
 - c. The actual amount levied in tax year 2008 will be based on the levy amount reported by the County (excluding the amount levied for bond debt service) or the levy amount based on the actual tax rate reported by the County, whichever is greater without exceeding a tax rate of \$3.25.

6. The levy limit is considered to be increased each year to the maximum allowable limit regardless of whether the district actually levies taxes up to the maximum amount permissible in that year.
7. The County Assessor will assist the fire district in determining the total net assessed values of property annexed in the preceding tax year.
 - a. When values have been verified by the County Assessor, the County Assessor will notify the fire district and the PTOC.
 - b. For an adjustment to be considered in the calculation of the current year's maximum allowable levy limit, the net assessed values of annexed property must be determined prior to February 10.
 - c. If a fire district requests an adjustment to their allowable levy limit for tax year 2010, the 2008 tax rate will be used for property annexed during 2008 and the 2009 tax rate will be used for property annexed during 2009.

FIRE DISTRICT RESPONSIBILITIES FOR SECONDARY PROPERTY TAX LEVY LIMIT

8. On or before February 10 of the tax year, the governing board of each fire district will transmit to the PTOC, the County Assessor, and the Department of Revenue the total assessed value of all property annexed by the district in the preceding calendar year.
 - a. If a fire district intends to request an adjustment to their allowable levy limit for amounts attributable to annexations in the preceding tax year, the fire district should begin working with the County Assessor by November 1 to determine the net assessed values as a final determination must be completed prior to February 10.
9. Fire districts will notify the County Assessor and the Property Tax Oversight Commission when districts are merged or consolidated.
10. Each fire district will notify the PTOC in writing within 10 days of its agreement or disagreement with the final levy limit worksheet.
 - a. If a fire district intends to request a hearing for the PTOC to review their final levy limit worksheet, a written notice of their disagreement must have been submitted to the PTOC within 10 days.
11. On or before February 15 of the tax year, fire districts will make available for public inspection the values determined in § 48-807.
12. The fire district secondary property tax levy will not exceed \$3.25 per \$100 of assessed valuation or the amount of the levy adopted in the preceding tax year multiplied by 1.08, whichever is less.
 - a. The above levy limitation excludes any tax levied for the purposes of paying for principal and interest on bonds.
 - b. If fire districts are merged or consolidated, the limit in the first year after the districts are merged or consolidated is the lesser of the total of the levies in the preceding tax year multiplied by 1.08 or the amount of the levies allowed by the maximum tax rate of \$3.25.
 - c. If a new fire district is formed without the consolidation of an existing fire district or if an existing fire district did not previously impose a tax levy, a levy limit worksheet for the following tax year will calculate the maximum allowable levy limit based on their initial levy amount adopted in the preceding tax year per their budget submitted to the County Board of Supervisors multiplied by 1.08 not to exceed \$3.25 per \$100 of assessed valuation.

- d. Adopted levy amounts will be based on the February 10 net assessed values unless the PTOC approved the change in values.
- 13. The fire district will maintain any property tax revenues collected in excess of the maximum allowable levy limit in a separate fund to be used to reduce the property tax levy in the following year.

VOTER AUTHORIZED OVERRIDE

- 14. The call for an override election must state the purpose for requesting additional secondary property tax revenue for the district.
- 15. The call for an override election must state the maximum dollar amount of secondary property tax that may be collected in the first year compared to the existing maximum allowable levy limit if the override is approved by voters.
- 16. The call for an override election must state the estimated tax rate to fund the proposed maximum dollar amount of secondary property tax levy in the first tax year compared to the tax rate levied in the current year.
- 17. Voters may authorize the fire district board to levy a tax exceeding the maximum allowable levy limit under one, but not both, of the following options:
 - a. A permanent override to allow annual levies not to exceed \$3.25 per \$100 of assessed valuation but eliminating the limitation based on the amount levied in the preceding tax year multiplied by 1.08. The election must be held at a regularly scheduled general election held on the first Tuesday following the first Monday in November.
 - b. A temporary override for five consecutive tax years to allow levies not to exceed the amount levied in the preceding tax year multiplied by 1.05 but eliminating the limitation of \$3.25 per \$100 of assessed valuation. After the fifth year, the maximum allowable levy limit will not exceed the amount levied in the year preceding the override multiplied by 1.08 for each year through the current tax year. The levy shall not exceed \$3.25 per \$100 of assessed valuation. This option is only available if the net assessed valuation of all property in the fire district declines by a combined total of 20% or more over two consecutive valuation years. The election must be held at the next regularly scheduled general election held on the first Tuesday following the first Monday in November.
- 18. Prior to holding a general election under the temporary override option, the fire district will notify the PTOC that the 20% decline in net assessed valuation condition has been satisfied. February values will be the basis for determining if the 20% decline has been satisfied. The fire district will notify the County Assessor and the PTOC of the outcome of the election immediately after the election has been certified.

PROPERTY TAX OVERSIGHT COMMISSION

- 19. The Commission will review the secondary property tax levy adopted by each fire district and County Island Fire District to determine violations for exceeding the maximum allowable levy limit or for collecting excess revenue.
- 20. On or before September 15, the Commission will notify in writing to the fire district and the County Board of Supervisors the nature of any violations.

21. If the fire district disputes the Commission's findings, the district has until October 1 to request a hearing in an attempt to resolve the dispute.
22. A fire district may request the Commission to hold a hearing regarding the calculation of the maximum allowable secondary property tax levy limits.
23. If the dispute is resolved at the hearing, the Commission will immediately notify the fire district and the County Board of Supervisors.
24. If the dispute is not resolved, the fire district may appeal to tax court within 30 days after the Commission renders the decision and levy secondary property taxes in the amount that the fire district considers to be proper pending the outcome of the appeal.
25. If the Commission determines that errors were made in the calculation of the maximum allowable levy limit after hearing an appeal, a corrected maximum allowable secondary property tax levy will be sent to the fire district and the County Board of Supervisors within 5 days.
26. If a fire district receives written notice of a violation of its allowable levy limit, the fire district will correct their tax levy and tax rate to properly reflect the allowable levy for the current year or reduce property taxes levied in the following year.
27. If the Commission discovers that it has made an error in computing the levy limit after September 15, they will notify the fire district, the County Board of Supervisors, and the County Assessor. The corrected maximum allowable secondary property tax levy will be used to determine the following year's levy limit.

OTHER ASSOCIATED SECONDARY PROPERTY TAX ISSUES

28. Fire districts are not subject to Truth in Taxation hearing requirements.
29. The PTOC is not required to review the amount levied, revenue collected, or the distributions from the County Fire District Assistance Tax to the fire districts.

Although a fire district with property in two different counties may adopt a tax rate that is the same for both counties, levy limit worksheets will be prepared individually by the Assessor of each county.

COUNTY FIRE DISTRICT ASSISTANCE TAX; ANNUAL BUDGET, A.R.S. § [48-807](#)

Fire District Assistance Tax - Summary

A.R.S. § [48-807](#) details that the county in which a fire district is located shall establish a "fire district fund". The monies in this fund are obtained through a county-wide fire district assistance tax that is limited to ten cents of each one hundred dollars of net assessed valuation within the county.

The distribution of these funds to the fire districts within a county are based on a statutory formula. The normal distribution is 20% of what a fire district collects through their direct secondary property tax levy. There are two significant limitations on the amount of fire district assistance tax that an individual fire district is entitled to receive.

The first is that no fire district may receive more than \$400,000 per year

The second reason the fire district assistance tax may be reduced is when a county does not have enough aggregate assessed value to raise the sufficient amount of fire district assistance tax without going over the statutory ten cent limit. In that case the county sets the fire district assistance tax levy at the maximum of ten cents per hundred dollars of assessed value, and the proceeds are distributed by statutory formula (pro-rata share to each of the county's fire districts). This results in a reduction of the amount of fire district assistance tax distributed to each fire district in that county. It should be noted that fire district assistance tax is distributed along with local district taxes as they are appropriate and collected by the respective county treasurer.

A.R.S. § 48-807.M outlines that the county treasurer shall keep the monies collected through taxes in a separate fund known as the "Fire District General Fund" for the district for which the taxes are collected. Any surplus remaining in the fund at the end of the fiscal year shall be credited to the "Fire District Fund" of that district for the succeeding fiscal year.

ISSUANCE AND SALE OF BONDS

(A.R.S. §§ [48-805](#).B.3 and [48-806](#))

BOND ELECTION; ISSUANCE AND SALE OF BONDS, A.R.S. § [48-806](#)

NON-TAX REVENUES

There are other potential sources of income available to fire districts which do not involve the levying of taxes. These sources which are authorized by statute will be discussed below:

Contract Income

A.R.S. § [48-805](#).B.8 authorizes a district to contract with any city or town to provide fire protection services to all or part of the city or town. A fire district may also contract with another district, town or city for a variety of services such as: communications, maintenance, fire prevention services or any other service a district normally provides. Fire districts may also execute agreements or contracts with other state and federal agencies to provide fire protection and suppression services.

Fee Schedules for District Services

A.R.S. § [48-805](#).B.13 allows a district to "adopt resolutions establishing fees schedules" for district services provided to nonresidents and non-taxpayers of the district, such as "emergency fire and emergency medical services, plan reviews, standby charges, fire cause determination, users' fees, facilities benefit assessments or any other fee schedule that may be required."

Service Charges

A.R.S. § [48-814](#) provides that a fire district may charge the owner of the property, in an unincorporated area that is located outside the fire district, for fire suppression or EMS services if: (1) the fire presented a fire hazard to any adjacent property of value within the fire district; or (2) the service is provided on request of either the property owner or a law enforcement authority, fire district, fire department or private person. The District should adopt a fee schedule for this purpose.

Interest Income

There is no specific authority in the Arizona Revised Statutes for the investment of district funds. However, if your county treasurer is not presently investing district funds not needed for immediate expenditures by the

district, you should contact your county treasurer and request that he or she invest the district funds along with the county funds. The county treasurer is not required to invest funds for the district, but it is advantageous to both the district and the county. Care should be taken to insure that the investments are coordinated with the district's cash disbursements requirements.

Donations

A.R.S. § [48-805.B.11](#) authorizes fire districts to accept donations of money or property. A donation to the district may be tax deductible for the donor under federal income tax statutes and regulations. All donations made to the district must be received and deposited into the general fund of the district and reported as all other income for auditing purposes. The expenditure of such funds must comply with any donor-imposed restrictions and unexpended "restricted" monies may be expended in accordance with board-established policies. There is no authority for a district to accept a donation and transfer the funds to a social, non-profit, or private organization.

Grants

A.R.S. § [48-805.B.11](#) authorizes a fire district to receive grants and comply with any requirements of such grants not inconsistent with state statute. There are areas under federal revenue sharing laws and occasionally under state laws where a grant or matching funds for particular purposes may be obtained by a fire district. The difficulty in obtaining grants encountered by most districts is the lack of an adequate method to find the grants available and to obtain the knowledge and information necessary for the preparation of a successful application. There are books available to assist in locating grants and in preparing and substantiating the application. Grant recordkeeping and fiduciary requirements can be very cumbersome and time-consuming. Fire districts are cautioned to research all grant requirements prior to application and to verify they have the time and resources to meet mandatory requirements.

Sale of District Assets

Another source of revenue to a fire district is the sale of district assets that are no longer being used by the district. The procedures to be used in the sale of either real or personal property are not defined. It is normally good practice for the elected officials to use bidding procedures in most cases involving the sale of assets. You should contact your local county attorney or legal representation to get their legal opinion on what procedures you should use.

In order to sell assets, the elected officials initially must, by resolution, declare the property to be surplus to the needs of the district and authorize its sale. The elected officials should then determine what method of sale should be used to insure that the district will obtain the best price available.

FINANCING DEBT OBLIGATIONS

Deferred Payment

There are occasions when a fire district needs funds for operations, to purchase equipment or land or to construct facilities but the funds are not available at that time. If it can reasonably be anticipated that funds will become available over a period of months or years (through increased tax collections based upon an increase in property valuations in the district or from some other source) elected officials should consider some possible form of temporary indebtedness. Many times, if the district can defer all or a portion of the cost or expense involved, it will be able to accomplish its purpose without the need for additional tax revenues. Deferred payment also means that the taxpayers who will benefit from the equipment or facilities purchased by the district will eventually pay the associated costs.

Contract Purchases

A.R.S. § 48-805.B.2 authorizes fire districts to purchase real or personal property on conditional sales contracts from other governmental agencies and from private parties. There is no requirement for an election to approve the contracted indebtedness. When negotiating a contract or preparing specifications for bids to purchase equipment or construct a building on a contract, the district should inform the other party or bidders that the interest paid by the district on the contract balance will be non-taxable to the recipient. Consideration should be given to specifying the maximum rate of interest that the district is willing to pay in bid specifications. If the district decides not to establish a specific rate, the bid specification should at least provide that the interest rate to be paid must be stated in the bid proposal and will be a consideration in the awarding of any contract. Keep in mind the Board's fiduciary duties. This may encourage a district to use the bid process even if not required by statute.

Leasing or Lease-Purchase of Facilities or Equipment

A.R.S. § 48-805.B.2 authorizes a fire district to lease or lease-purchase both real and personal property. The use of a lease or lease-purchase rather than a cash purchase to acquire needed property eliminates the need for an immediate outlay of the current fiscal year's appropriated maintenance and operating (M&O) funds. There are no statutory provisions that specify the details regarding a lease or lease-purchase, such as term, monthly payments, future ownership rights, etc. It is a reasonable expectation that the fire district's elected officials will use sound and reasonable judgment to uphold their fiduciary duty to the taxpayers, and may enter into any type of lease or lease-purchase arrangement they deem appropriate to carry out the fire district's purpose.

Lease

In a lease agreement, the district acquires no rights of ownership during the lease period. At the end of the lease period, the district may renew the lease through negotiations with the owner or must return the equipment or vacate the property.

Lease-Purchase

A tax-exempt lease-purchase obligation is simply a long-term purchase contract under which a project is acquired by a government entity from a private investor or investors through the payment of annual or semi-annual installment payments. The private investor provides funding for the construction of such a project on a passive basis and allows the government entity to complete the project according to its own specifications. In return for the project funding, the government entity ("Lessee") enters into a lease-purchase agreement with the private investor ("Lesser") in which the government entity agrees to make a fixed number of installment payments over a fixed period of time consisting of principal and interest components at an interest rate which may be fixed or variable, depending upon the wishes of the Lessee. Upon making all contract payments and meeting all other obligations under the lease, ownership of the project is conveyed from the Lesser to the Lessee. There would be no additional payments necessary, or residual value, under this type of lease. If the documents are properly structured, the interest component of the payments made to the private investor under the lease-purchase agreement will be exempt from federal and state income taxation, resulting in a lower interest cost to the government entity.

Some of the general attributes of lease-purchase financing are listed below:

1. The project is financed and owned by a private investor or investors who lease it to the district over a fixed period of time at a fixed or variable interest rate.

2. The lease would be annually renewable **subject to the appropriation of sufficient funds** to meet the subsequent annual lease payments. In the event of a non-appropriation of funds, the lease is terminated and the district is relieved of its responsibilities under the lease.
3. The lease would have a purchase option, which may be executed on any principal payment date. Upon executing the purchase option, the district would obtain ownership of the project.
4. *Upon payment of the last lease installment, ownership of the project would be conveyed to the district.*
5. *A lease-purchase is not a debt of the district. It is a liability for the period of each annually renewed term of the agreement only, just like any other leasing arrangement.*
6. Upon execution and financing of a lease-purchase agreement, lease proceeds are deposited into an escrow account to earn interest prior to being drawn as construction or acquisition of the project is accomplished. Interest earned during the construction period may be used to offset future lease payments.
7. The lease would be sold similar to a municipal bond at tax-exempt interest rates. The lease could be a highly rated instrument if structured correctly.
8. The term of a lease-purchase agreement could be two to thirty years, typically approximating the useful life of the project. Should interest rates decline after execution of the lease, the agreement could be refinanced at a lower rate.
9. Should appropriations or future revenue bonds be available for the financing of the project, the purchase option could be executed and the lease terminated. Hence, the lease could serve as an interim financing vehicle.

Interest Bearing Warrants

A.R.S. §§ [48-805](#) and [48-807](#). *I* provide for the issuance of interest bearing tax anticipation warrants. After the fire district has adopted a budget and the board of supervisors has levied a fire district tax, and the district has insufficient funds to operate, the elected officials may, on or after August 1, draw warrants on the county treasurer. The warrants become payable on November 1 of that year or on April 1 of the succeeding year. The total amount of the warrants may not exceed 90% of the taxes levied by the county for the district's current fiscal year. If the treasurer cannot pay a warrant due to a lack of funds in the fire district fund, the warrant shall be endorsed, registered, bear interest and be redeemed as provided by law for county warrants, except that the warrants are payable only from the fire district fund.

If you anticipate registering warrants, be sure to budget an amount for the interest on the warrants. You can obtain the interest rate being charged by contacting your county treasurer. Interest bearing warrants normally are used only as short term funding primarily to carry a district during periods of time between tax collection periods.

Note: The number of county treasurers who facilitate the registering of warrants for fire districts is fairly limited. Fire districts planning to register warrants should ensure the county treasurer of their respective county is ready and willing to register the warrants well in advance of August 1.

Line of Credit/Short-Term Financing

With the assistance of the county treasurer, the fire district may establish a "line of credit" (LOC) with the county's contract servicing bank. The establishment of a LOC is the predominant method of short term financing used by fire districts to finance operations during the absence of secondary property tax receipts. Many fire districts begin the fiscal year with minimal cash fund balances and draw upon the LOC until secondary property taxes are received in November, and again through spring until second half of the year tax payments are received in April / May. The LOC is statutorily limited to a maximum of 45% of the secondary property tax levy of the preceding fiscal year. Fire district elected officials and professional staff should actively monitor operational expenditures and corresponding LOC use to ensure adequate liquidity is maintained, and no operational disruptions occur.

Establishing a LOC requires a resolution of the fire district elected body and approval of the county servicing bank. Dependent upon the fire districts credit rating / financial risk assessment, the LOC can be established at less than the 45% maximum threshold and is at the sole discretion of the servicing bank.

CAPITAL PROJECT (RESERVE) FUNDS

What exactly are **Capital Project (RESERVE) Funds**?

Perhaps it is easier to define what it is not. A **capital project fund** should not to be used as a place to store or salt away funds for a rainy day that can be drawn upon when other taxes are not paid. A **capital project fund** should only be created by a formal **resolution of the fire district board**. The resolution should also specify what these funds are to be set aside for, some of the most common being the purchase of new apparatus, buildings and land.

As an example, with the rapidly escalating cost of fire apparatus, even well capitalized fire districts find difficulty in appropriating the funding necessary to acquire a new engine or aerial fire apparatus in a single fiscal year. By creating a **capital project fund**, a district may budget and subsequently appropriate funding within each fiscal year's secondary property tax levy. These funds are then placed into an interest-bearing capital project account until it is time to make the capital expenditure, whether it be new fire apparatus, buildings or land acquisition. If a **capital project fund** is not established, capital acquisitions may still be made and financed over several years. It should be noted multi-year revenue analysis forecasts and planning are essential components in planning for all capital acquisitions.

Capital project funds may also be part of the fire district's funds managed by the county treasurer's office. The district may establish a capital project fund on the expenditure side of the budget in its budget plan. These funds would be included in the June treasurer's balance and then added to the district's revenue for the following year. The district can continue to build its capital fund until it transfers it to the capital outlay account and purchases the planned building or equipment.

Fire District Property Tax Levy Limit – General Implementation Guide

A.R.S. Reference	Deliverable Date	Action Item	Responsible Party	Detail
A.R.S. §42-17052 D	November 1	Transmit annexation data for current year to county assessor and DOR	Fire district	Annexed property must have values certified by county assessor before transmittal to PTOC, DOR and county assessor
A.R.S. §42-17052 D	On or before February 10	Fire district transmits the AV of all property annexed the preceding calendar year	Fire district	Certified annexation values transmitted to PTOC, DOR and county assessor
A.R.S. §42-17052	On or before February 10	Levy limit worksheets transmitted to fire district and PTOC	County assessor	Levy limit worksheets will include property values, maximum allowable tax levy, maximum allowable tax rate and adjustments for annexed property.
NOTE: The allowable levy limit is considered to be increased each year to the maximum allowable limit regardless of whether the district actually levies taxes to the maximum amount permissible in that year (A.R.S. §48-807 K)				
NOTE: The values in the levy limit worksheet transmitted to the fire district cannot be changed for the purpose of calculation levy limit and tax rate. Written appeal to the PTOC required (A.R.S. §42-17052).				
A.R.S. §42-17055	On or before February 15	Public inspection of values	Fire district	Fire district must provide for public inspection of the values used to determine the levy limit
A.R.S. §42-17054 B	On or before February 20	Fire district notifies the PTOC of agreement or disagreement with levy limit worksheet	Fire district	Fire district must notify the PTOC in writing within 10 days of receipt of the levy limit worksheet from the county assessor

Fire District Property Tax Levy Limit – General Implementation Guide

A.R.S. §48-807 F	On or before August 1	Fire board levies tax within values established on the levy limit worksheet	Fire district	Cannot exceed preceding year's maximum allowable tax levy by more than 8% or 3.25 tax rate cap (whichever is less)
<div style="border: 1px solid black; padding: 5px;"> NOTE: For the initial implementation year (fiscal year beginning July 1, 2010), fire district tax levy cannot exceed 2008 tax levy by more than 16% or the 3.25 tax rate cap (whichever is less). </div>				
A.R.S. §42-17003 B	On or before September 15	PTOC notification to fire district and county board of supervisors of violations	PTOC	Written notice provided concerning violations of law in regards to levy limits or excess collections and necessary adjustment to tax levy and collections
A.R.S. §42-17004 A	On or before October 1	Fire district may request hearing before PTOC regarding violations	Fire district	Dispute resolution process for fire districts provided with notice of violating law regarding levy limits or excess collections
A.R.S. §48-807 I	On occurrence date	Notification of merger or consolidation	Fire district	Provide notice of merger or consolidation to the county assessor and PTOC

Fire District Property Tax Levy Limit Override Elections – Implementation Guide

A.R.S. Reference	Deliverable Date	Action Item	Responsible Party	Detail
A.R.S. §16-205	180 days prior to election	Jurisdictional notice – upcoming election date	County Board of Supervisors / County Elections	Notice of election date provided to fire districts. Notice will identify 120 day notice deadline date and 105 day ballot text deadline date
A.R.S. §16-225	Prior to 120 day call for election deadline	Fire board resolution calling for election	Fire district	Fire district board by majority vote passes resolution calling for override election
A.R.S. §16-226	On or before 120 days prior to election	Call for election	Fire district	Fire district provides written notice to county election department to hold an override election
<p>NOTE: Fire district override elections are restricted to general election dates held on the second Tuesday following the first Monday in November of even numbered years (Nov. 2010 is the first available override election date for fire districts)</p>				
	On or before 105 days prior to election	Ballot text deadline	Fire district	Fire district provides ballot text for override to county elections department
<p>NOTE: The call for an override election and ballot text <u>must</u> contain the following three elements:</p> <ol style="list-style-type: none"> 1. Must state the purpose for requesting additional secondary property tax revenue for the fire district. 2. Must state the maximum dollar amount of secondary property tax that may be collected in the first year compared to the existing maximum allowable levy limit if the override is approved by voters. 3. Must state the estimated tax rate to fund the proposed maximum dollar amount of secondary property tax levy in the first tax year compared to the tax rate levied in the current year. 				
A.R.S. §16-227	Within the 6 calendar weeks preceding 90 days prior to election	Publication of call for election	Fire district	Fire district publishes purpose, election date, last date to register to vote in election. Publication must appear twice in a newspaper of general circulation within the fire district not less than 1 week apart

Arizona Fire District Association – November 2009

Fire District Property Tax Levy Limit Override Elections – Implementation Guide

A.R.S. §16-228	Within the 6 calendar weeks preceding 20 days prior to election	Publication of notice of election	Fire district	Fire district publishes purpose, election date, location and hours of polls. Publication must appear twice in a newspaper of general circulation within the fire district not less than 1 week apart
A.R.S. §16-229	On or before 5 days prior to election	Affidavit of compliance	Fire district	Fire district submits affidavit to county certifying compliance with all applicable federal and state election laws
	November general election	Override election	County elections	Electors by majority vote approve or deny fire district tax levy limit override
<p>NOTE: Voters may authorize the fire district board to levy a tax exceeding the maximum allowable levy limit under one, but not both of the following options:</p> <ol style="list-style-type: none"> 1. A <u>permanent</u> override to allow annual levies not to exceed \$3.25 per hundred of assessed valuation but eliminating the limitation based upon the amount levied in the preceding tax year multiplied by 1.08. 2. A <u>temporary</u> override for five consecutive tax years to allow levies not to exceed the amount levied in the preceding tax year multiplied by 1.05 but eliminating the tax rate cap limitation of \$3.25 per hundred of assessed valuation. This option is only available if net assessed valuation of all property in the fire district declines by a combined total of 20% or more over two consecutive valuation years. The election must be held at the <u>next</u> regularly scheduled general election. 				
<p style="text-align: center;"><u>Fire District Override General Election Schedule</u></p> <p>November 2, 2010 – voter approval adjusts February 10, 2011 levy limit worksheet – adjusted tax levy July 1, 2011 (fiscal 2012)</p> <p>November 6, 2012 - voter approval adjusts February 10, 2013 levy limit worksheet – adjusted tax levy July 1, 2013 (fiscal 2014)</p> <p>November 4, 2014 - voter approval adjusts February 10, 2015 levy limit worksheet – adjusted tax levy July 1, 2015 (fiscal 2016)</p>				

Arizona Fire District Association – November 2009

Fire District Property Tax Levy Limit PTOC Hearings / Actions

A.R.S. Reference	Deliverable Date	Action Item	Responsible Party	Detail
A.R.S. §42-17003.A.3	Prior to September 15	Review secondary property tax levy adopted by fire district	Property Tax Oversight Commission (PTOC)	Commission reviews secondary property tax levy of each fire district to determine violations for exceeding maximum allowable levy limit or collecting excess revenue
A.R.S. §42-17003.B	On or before September 15	Notification of violations	PTOC	Fire district and county board of supervisors will be notified of violations. Fire district must correct secondary property tax levy or appeal
NOTE: If a fire district receives written notice of a violation of its allowable levy limit, the fire district will correct their tax levy and tax rate to properly reflect the allowable levy for the current year or reduce property taxes levied in the following year.				
A.R.S. §42-17005	September 16 and beyond	Discovery of PTOC levy limit computation error	PTOC	Notification to fire district, board of supervisors and county assessor. Maximum allowable property tax levy will be used to determine following year's levy limit
A.R.S. §42-17004.A	On or before October 1	Request dispute hearing on violations	Fire district	Fire district has until October 1 to request a hearing before the PTOC to dispute violations
NOTE: If the dispute is resolved at the hearing, the PTOC will immediately notify the fire district and county board of supervisors. If the dispute is not resolved, the fire district may appeal to tax court.				
If the PTOC determines errors were made in calculation of the maximum allowable levy after hearing an appeal, a corrected maximum allowable secondary property tax levy will be sent to the fire district and county board of supervisors within 5 days.				
A.R.S. §42-17003.E.1	Within 30 days of PTOC hearing decision	Appeal to tax court	Fire district	The fire district may appeal the decision of the PTOC to tax court and levy the amount the fire district considers to be proper pending the outcome of the appeal

DISTRICT BUDGETS

Fire districts organized under Title 48, Chapter 5 shall submit the annual budget most recently adopted by the district to the county board of supervisors. The district budget shall be prepared consistent with the annual financial statements required by this article. The county may supply forms for use by districts in preparing their annual budget. An example of a simple line item budget form is shown in this section. The example form is essentially a summary budget for all but the smallest of fire districts. Most fire districts financial requirements necessitate a more complex and robust accounting of revenues and expenditures than shown in the basic line item form.

A budget is an organizational plan stated in monetary terms. In summary, the purpose of the budget is to:

1. Provide a forecast of revenues and expenditures i.e. construct a model of how the fire district might perform financially speaking if certain strategies, events and plans are carried out.
2. Enable the actual financial operation of the fire district to be measured against the forecast.

As a policy document, a fire district's budget is designed as a plan for implementing its policy. For fire districts this would include levels of service to the community and the various aspects of operating the district. Traditionally, budgets serve as a tool to implement policy in a retrospective setting. The functions associated with traditional budgeting methodologies are control, management, and planning. Today a more elastic and proactive budget model has emerged that is more reactive and less rigid.

Three essential component values are generally associated with fire district / public agency budgeting; accountability, efficiency, and efficacy.

Accountability focuses on the inputs going into the system or program in action and is best characterized by the Line-Item type budgeting approach, typically used by a majority of fire districts.

Efficiency focuses on the process of the system or program and its conversion of inputs (resources) into outputs (policy / fire district service delivery).

Efficacy focuses on outputs and outcomes, measuring the impact of policy and service delivery.

Fire district budgeting in general follows public budgeting methodologies. Inputs (in the case of fire districts; property taxes) enter the governmental system as revenues that produces outputs (fire and EMS service delivery) which--in turn--are related to outcomes (lives saved, property protected, fire loss etc.). The conversion of inputs to outputs is a measure of efficiency as the measurement of contributing inputs to impacting outcomes is a measure of efficacy. A summary description of budget types and methods are listed below. The type of budget method used is dependent upon the size and complexity of the fire district, along with a governing board's specific expectations for financial management. Most fire districts use line item budgeting or a hybrid line item budget which incorporates aspects of program and performance budgeting.

Line Item Budgeting is arguably the simplest form of budgeting. This approach links the inputs of the system (property taxes, ambulance revenues) to the budget system. These budgets typically appear in the form of

accounting documents that express minimal information regarding purpose (service delivery levels / outcomes) or an explicit object within the system.

Program Budgeting takes a normative approach to budgeting in that decision making--allocating resources--is determined by the funding of one program instead of another based on what that program offers (example; fire and EMS delivery vs. general community fire education).

Performance Based Budgeting --is the link between the line-item and program budgets. Performance based budgeting attempts to solve decision making problems based on a programs ability to convert inputs to outputs and/or use inputs to affect certain outcomes outputs (example; reduced fire loss by increased fire staffing). A fire district board's decision making concerning allocation of resources is driven by determining which project (fire district function) maximizes budget efficiency and efficacy.

Zero-based budgeting is a response to an incremental decision making process whereby the budget of a given fiscal year (FY) is largely decided upon by the existing budget of FY-1. The allocation of fire district resources--funding--is determined from a zero-sum accounting method. Each fire district function proposes certain objectives that relate to some goal the section could achieve if allocated x dollars (rarely used budget method which requires significant staff support).

For additional information the Government Finance Officers Association provides a wealth of information concerning the development and management of budgets.

A.R.S. § [48-807](#) County fire district assistance tax; annual budget; override

E. Not more than ten days after the perfection of the organization of a fire district, and thereafter not later than August 1 of each year, the chairman of the board shall submit to the board of supervisors an estimate, certified by items, of the amount of money required for the equipment and maintenance of the district for the ensuing year.

F. The board, based on the budget submitted by the district, shall levy, in addition to any tax levied as provided in section [48-806](#), a tax not to exceed three dollars twenty-five cents per one hundred dollars of assessed valuation, or the amount of the levy in the preceding tax year multiplied by 1.08, whichever levy is

<p style="text-align: center;">____ COUNTY, ARIZONA ____ FIRE DISTRICT ANNUAL BUDGET JULY 1, 20 - JUNE 30, 20</p>		
Revenues		
Taxes		
Special Assessments		
Licenses and permits		
Intergovernmental: Federal		
State		
County		
Charges for services		
Fines and forfeits		
Interest on investments		
Rents		
Contributions		
Miscellaneous		
Other revenues (itemize)		
Total revenues		
Expenditures		
Salaries and wages		
Employee benefits		
Administration		
Professional services		
Utilities and communications		
Insurance		
Repairs and maintenance		
Interest		
Capital outlay:		
Land		
Buildings		
Improvements other than Buildings		
Machinery and equipment		
Construction in progress		
Capital Project Funding		
Debt service:		
Principal retirement		
Interest and fiscal charges		
Miscellaneous		
Other expenditures (itemize)		
Total expenditures		

less, and minus any amounts required to reduce the levy pursuant to subsection I of this section, against all property situated within the district boundaries and appearing on the last assessment roll. The levy shall be made and the taxes collected in the manner, at the time and by the officers provided by law for the collection of general county taxes.

ARIZONA SPECIAL DISTRICT ANNUAL REPORT REPORTING INSTRUCTIONS

ANNUAL FINANCIAL REPORT

Rule and regulations for Annual Reports can be viewed at A.R.S. § [48-251](#) Annual Report.

SAMPLE ANNUAL REPORT INSTRUCTIONS & FORMS

Sample annual reports and instruction forms can be found online at:

http://www.auditorgen.state.az.us/Reports/Other/Other_Publications.htm

NOTE: The Arizona Auditor General's Office will not send out annual report forms. Annual report forms and instructions may be downloaded in Microsoft Excel format from the Auditor General's website at:

<http://www.auditorgen.state.az.us>

Year references have been removed from the form so it can be modified for current and future fiscal year reporting. The downloadable version of the form also contains a number of protected formulas to automatically calculate numbers while allowing you to make minor formatting changes to row height, column width and font size, as well as insert additional rows.

Please note that the reporting form and instructions may change from time to time. Immediately before preparing your annual report, you should contact the Auditor General's Office at (602) 553-0333 to be certain you are using the most current materials.

A memorandum from the Auditor General concerning the revised annual report form, together with copies of the applicable instructions and reporting form for special districts, can be printed from the follow link: [Special District Annual Financial Report](#)

GENERAL INFORMATION

Arizona Revised Statutes (A.R.S.) § [48-251](#) requires special districts not exempt under A.R.S. § [48-251.C](#) to prepare an annual report. According to A.R.S. § [48-251](#), the report must be filed **annually** within 240 days after the district's fiscal year end with the **Clerk of the Board of Supervisors of each county in which the district is located**. (This requirement is independent of the audit and review filing requirements explained below.) This report is not required to be filed with the Office of the Auditor General.

According to A.R.S. § [48-253](#), Parts D and E of the report (the Schedule of Revenues, Expenditures, and Changes in Fund Balances and the Schedule of Revenues, Expenses, and Changes in Retained Earnings/Fund Equity, respectively) must be **audited annually** for districts with budgets that are equal to or greater than \$1,000,000. Districts with budgets that are equal to or greater than \$100,000 but less than \$1,000,000 are required to have a **financial review** of these schedules performed **annually**. Districts with budgets that are less than \$100,000 must have a **financial review** of these schedules **for each year** performed at least **biennially**. Districts must file the audited or reviewed schedules with the board of supervisors and treasurer of each county in which the district is located. Districts with annual requirements must file within 180 days after the district's fiscal year end, and districts with biennial requirements must file within 180 days after the fiscal year end of the second year.

A.R.S. §§ [48-251](#) and [48-253](#) allow districts to submit to the board of supervisors and treasurer of each county in which the district is located, audited or reviewed financial statements in lieu of the schedules discussed in the preceding paragraph. However, if the district chooses to submit audited or reviewed financial statements in place of the schedules, the information on pages 1 and 2 of the enclosed forms (Parts A, B and C) must still be submitted to the Clerk of the Board of Supervisors within 180 days after **each** fiscal year-end.

Additionally, districts filing an annual report for the first time must include an accurate map showing the district boundaries as of the fiscal year end.

DETAILED INSTRUCTIONS

Detailed instructions for preparing the annual report are as follows:

Step 1. Enter the county in which the district is located, district name and the fiscal year end on the top of each page of the report.

Step 2. On Page 1, enter the district's mailing address and business telephone number, and the name and title of the person(s) completing the report.

Step 3. On Part A, enter the name, occupation, and business telephone number of each governing board member and district officer as of the fiscal year end.

Step 4. On Part B, enter the date, time and location of all regular governing board meetings held during the fiscal year. Also, enter the locations where public notices of these meetings were posted.

Step 5. If the district's boundaries changed during the fiscal year, enter the legal description of the boundary changes on Part C.

Step 6. Determine if the district wishes to complete Part D and/or Part E (Schedule of Revenues, Expenditures, and Changes in Fund Balances and/or Schedule of Revenues, Expenses, and Changes in Retained Earnings/Fund Equity) or submit audited or reviewed financial statements for the fiscal year. If the district chooses to complete and submit the enclosed schedules, Steps 7 through 9 should be completed.

Step 7. Determine that Parts D and E include all district fund types. If a district fund type is not included on the forms, enter it in the blank column provided.

Districts should use separate funds to account for district revenues and expenditures/expenses. A fund is defined as a fiscal and accounting entity with a self-balancing set of accounts in which assets, liabilities, residual equities or fund balances, revenues, and expenditures/expenses are recorded and segregated to carry on specific activities or attain certain objectives in accordance with special regulations, restrictions, or limitations. However, the district should combine funds that have similar characteristics into the appropriate fund types for presentation on Parts D and E.

The following are definitions of commonly used governmental fund types that may be included on Part D - Schedule of Revenues, Expenditures, and Changes in Fund Balances.

General Fund - The General Fund accounts for all resources used to finance district services except those required to be accounted for in other fund types.

Capital Projects Funds - Capital Projects Funds account for resources to be used for acquiring or constructing major capital facilities (other than those financed by proprietary or trust funds).

Debt Service Funds - Debt Service Funds account for the accumulation of resources for, and the payment of, general long-term debt principal, interest, and related costs. Debt Service Funds are required if they are legally mandated, or if financial resources are being accumulated for principal and interest payments maturing in future years.

The following are definitions of commonly used proprietary and similar fund types that may be included on Part E - Schedule of Revenues, Expenses, and Changes in Retained Earnings/Fund Equity.

Enterprise Funds - Enterprise funds account for operations that are financed and operated in a manner similar to private business enterprises where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services be financed or recovered primarily through user charges; or, where the governing body has decided that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate (e.g., Water and Sewer Authority Enterprise Fund).

Pension Trust Funds - In general, trust funds account for assets held by a governmental unit in a trustee capacity or as an agent for individuals, private organizations, other governmental units, and/or other funds. Pension Trust Funds account for the accumulation of resources for pension benefit payments to qualified employees (e.g., Fire Fighter's Relief and Pension Fund).

Step 8. If the district has governmental and similar fund types, complete the Schedule of Revenues, Expenditures, and Changes in Fund Balances, Part D.

Check the appropriate box indicating whether the district uses the modified accrual or cash basis of accounting. Under the modified accrual basis of accounting, the district recognizes revenues in the fiscal year in which they become measurable and available to make expenditures of the current fiscal year, and expenditures in the fiscal year in which the liability is incurred. Under the cash basis of accounting, the district should only recognize cash receipts and disbursements of the current period.

REVENUES

Record revenues by fund type on the appropriate lines for each of the revenue categories and total all categories to arrive at Total Revenues by fund type. The following are descriptions of some revenue categories.

Charges for Services - Revenues received for district services, such as fire protection, emergency medical, water, sewer, and power. Revenues received for services provided by the district outside district boundaries should also be included.

Miscellaneous - Revenues that do not meet the criteria of other reported revenues, but individually **are not** significant in dollar amount.

Other Revenues - Revenues that do not meet the criteria of other reported revenues, but individually **are** significant in dollar amount, should be itemized on the blank lines provided.

EXPENDITURES

Record expenditures by fund type on the appropriate lines for each of the expenditure categories and total all categories to arrive at Total Expenditures by fund type. The following are descriptions of some expenditure categories.

Employee Benefits - Expenditures for district paid employee benefits, such as retirement contributions, Social Security, Medicare, and insurance.

Administration - Expenditures for items such as office supplies, postage, printing and duplicating, administrative travel, dues, subscriptions, governing board members' and officers' fees, and election costs.

Professional Services - Expenditures for contract services such as legal, data processing, accounting and auditing. Expenditures recorded by fire districts for fire protection contracted by the district with an outside fire protection service should also be included.

Utilities and Communications - Expenditures for items such as electricity, natural gas, water, sewage disposal, telephones, radio communications, and fire hydrant maintenance, if fire hydrants are not maintained by a fire district.

Insurance - Expenditures for insurance premiums not related to personnel, such as premiums related to coverage on buildings, machinery and equipment, and district liability.

Capital Outlay

Land - Expenditures for real property purchased by the district, including related costs of escrow, closing, attorneys' fees, survey fees, and grading and clearing prior to construction.

Buildings - Expenditures for the purchase, construction, rehabilitation, or conversion of buildings by the district. Architectural and engineering fees relating to a construction project, and improvements such as heating and cooling equipment, plumbing, and other immovable fixtures should also be included.

Improvements other than Buildings - Expenditures for items such as sewer and water lines, parking lots, fences, roads, bridges, and sidewalks.

Machinery and Equipment - Expenditures for machinery and equipment, including motor vehicles, that meet the district's asset capitalization policy. Items that do not meet the district's capitalization policy should be recorded as repairs and maintenance or miscellaneous expenditures, as applicable, or itemized as "other expenditures" if significant in dollar amount.

Construction in Progress - Expenditures for construction undertaken but not yet completed.

When acquiring real or personal property, payments made to the county treasurer for unpaid property taxes, including penalties and interest, should be included in the property's total cost.

Debt Service

Principal Retirement - Expenditures for retirement of long-term debt, such as bonds and capital leases.

Interest and Fiscal Charges - Expenditures for interest charges on outstanding long-term debt, such as bonds and capital leases.

Miscellaneous - Expenditures that do not meet the criteria of other reported expenditures, but individually are not significant in dollar amount.

Other Expenditures - Expenditures that do not meet the criteria of other reported expenditures, but individually are significant in dollar amount, should be itemized on the blank lines provided.

EXCESS OF REVENUES OVER (UNDER) EXPENDITURES

Subtract Total Expenditures from Total Revenues to determine Excess of Revenues Over (Under) Expenditures.

OTHER FINANCING SOURCES (USES)

Record Other Financing Sources (Uses) by fund type on the appropriate lines for each of the categories to arrive at Total Other Financing Sources (Uses) by fund type. Such amounts should be shown separately from revenues and expenditures. The following are descriptions of the most common other financing sources (uses) categories.

Operating Transfers-In/Out - Routine transfers of monies among fund types (e.g., transfers from a fund type receiving revenue to a fund type from which the revenue is to be expended). Total operating transfers-in must equal total operating transfers-out.

Capital Lease Agreements - Assets acquired by capital lease recorded as another financing source. Record the lesser of the present value of the net minimum lease payments or the fair market value of the assets. This entry should be made only at the inception of the lease as an offset to the initially recorded expenditure.

EXCESS OF REVENUES AND OTHER SOURCES OVER (UNDER) EXPENDITURES AND OTHER USES

Record by fund type the total of Excess of Revenues Over (Under) Expenditures and Total Other Financing Sources (Uses).

BEGINNING FUND BALANCE

Enter the first day of the fiscal year and record the fund balance for each fund type as of that date.

ENDING FUND BALANCE

Enter the last day of the fiscal year. Calculate ending fund balances as of that date, by adding Beginning Fund Balance to Excess of Revenues and Other Sources Over (Under) Expenditures and Other Uses.

Step 9. If the district has proprietary and similar fund types, complete the Schedule of Revenues, Expenses, and Changes in Retained Earnings/Fund Equity, Part E.

Check the appropriate box indicating whether the district uses the accrual or cash basis of accounting. Under the accrual basis of accounting, revenues are recognized in the fiscal year in which they are earned, and expenses are recognized in the fiscal year in which the liability is incurred. Under the cash basis of accounting, only cash receipts and disbursements of the current period should be recognized.

OPERATING REVENUES

Record operating revenues by fund type on the appropriate lines for each of the revenue categories and total all categories to arrive at Total Operating Revenues by fund type. The following descriptions of the operating revenue categories are to be used in either enterprise or pension trust fund types.

Charges for Services (not applicable for pension trust fund types) - Revenues received for district services, such as fire protection, emergency medical, water, sewer and power. Revenues received for services the district provided outside district boundaries should also be included.

Employer Contributions (pension trust fund types only) - Revenues representing the district's contribution to the public employee retirement system (PERS). Note: These contributions would be recorded as an expenditure/expense in the fund making the payment.

Employee Contributions (pension trust fund types only) - Revenues representing the employees' contributions to the PERS.

Investment Income (pension trust fund types only) - Revenues received from interest earned on pension fund assets.

Miscellaneous - Revenues that do not meet the criteria of other reported operating revenues, but individually **are not** significant in dollar amount.

OPERATING EXPENSES

Record operating expenses by fund type on the appropriate lines for each of the operating expense categories and total all categories to arrive at Total Operating Expenses by fund type. Descriptions of many operating expense categories are similar to those given for expenditures recorded on Part D - Schedule of Revenues, Expenditures, and Changes in Fund Balances. [*Editor's Note:* see "Expenditures" under Step 8, above.]

Additional descriptions of some operating expense categories follow:

Depreciation - Expenses for the portion of the cost of a capital asset that represents expiration in the life of the capital asset. In proprietary and similar funds, the cost of a capital asset is prorated over the estimated service life of such an asset, and each period is charged with a portion of such cost. Through this process, the entire cost of the asset is ultimately charged off as an expense.

Benefits (pension trust fund types only) - Expenses for payments of plan benefits to qualified employees.

Refunds (pension trust fund types only) - Expenses for refunds to withdrawing members, including interest.

Miscellaneous - Expenses that do not meet the criteria of other reported expenses, but individually **are not** significant in dollar amount.

OPERATING INCOME (LOSS)

Subtract Total Operating Expenses from Total Operating Revenues to determine Operating Income (Loss).

NON-OPERATING REVENUES (EXPENSES)

Record no-operating revenues and expenses by fund type on the appropriate lines and total all no-operating revenues and expenses to arrive at Total (Net) Non-operating Revenues (Expenses). The following are descriptions of some no-operating revenue (expense) categories.

Interest Revenue (enterprise fund types only) - Revenues received from interest earned on idle cash and investments.

Gain (Loss) on Disposal of Capital Assets - A gain or loss on the disposal of a capital asset results when an asset is sold, abandoned, exchanged, or donated. A gain results when the consideration received is greater than the book value of the asset. A loss results when the book value of an asset is greater than the consideration received.

INCOME (LOSS) BEFORE OPERATING TRANSFERS

Add Operating Income (Loss) to Total (Net) No-operating Revenues (Expenses) to arrive at Income (Loss) Before Operating Transfers.

OPERATING TRANSFERS-IN (OUT)

Record routine transfers of monies among fund types. No-routine, nonrecurring type transfers of equity among fund types should be recorded as an Increase (Decrease) in Contributed Capital.

NET INCOME (LOSS)

For each fund type, add/subtract Operating Transfers-In (Out) to Income (Loss) Before Operating Transfers to arrive at Net Income (Loss).

BEGINNING RETAINED EARNINGS/FUND EQUITY

Enter the first day of the fiscal year and record retained earnings or fund equity, as appropriate, for each fund type as of that date.

INCREASE (DECREASE) IN CONTRIBUTED CAPITAL

Record nonrecurring transfers of equity among fund types (e.g., contribution of Enterprise Fund capital by the General Fund; subsequent return of all or part of such contribution to the General Fund).

ENDING RETAINED EARNINGS/FUND EQUITY

Enter the last day of the fiscal year. Calculate retained earnings or fund equity, as appropriate, as of that date by adding Net Income (Loss) to Beginning Retained Earnings/Fund Equity and the amount recorded as an Increase (Decrease) in Contributed Capital.

Sample Annual Report Form

____ COUNTY, ARIZONA
____ DISTRICT

ANNUAL REPORT
YEAR ENDED _____

STREET OR P.O. BOX: _____
CITY: _____ ZIP CODE: _____
BUSINESS TELEPHONE: _____
COMPLETED BY: _____
TITLE: _____

Part A—Governing Board Members and Officers of the District

[illegible]

_____ COUNTY, ARIZONA

ANNUAL REPORT
YEAR ENDED _____

Part B—Schedule of District Governing Board Regular Meetings

[illegible]

Part C—Legal Description of Boundary Changes Occurring During Fiscal Year _____

[illegible]

____ COUNTY, ARIZONA
____ DISTRICT
ANNUAL REPORT
YEAR ENDED _____

Part D—Schedule of Revenues, Expenditures, and Changes in Fund Balances
(for governmental fund types)

Basis of Accounting: Modified Accrual

☐

Cash

☐

Revenues

Taxes

Special assessments

Licenses and permits

Intergovernmental:

 Federal

 State

 County

Charges for services

Fines and forfeits

Interest on investments

Rents

Contributions

Miscellaneous

Other revenues (itemize)

Total Revenues

Expenditures

Salaries and wages

Employee benefits

Administration

Professional services

Utilities and communications

Insurance

Repairs and maintenance

Interest

Capital outlay:

 Land

 Buildings

 Improvements other than buildings

 Machinery and equipment

 Construction in progress

Debt service:

 Principal retirement

 Interest and fiscal charges

Miscellaneous

Other expenditures (itemize)

Total Expenditures

GENERAL
FUND

CAPITAL
PROJECTS
FUNDS

DEBT
SERVICE
FUNDS

FUNDS

_____ COUNTY, ARIZONA
 _____ DISTRICT
 ANNUAL REPORT
 YEAR ENDED _____

Part D--(Concl'd)

	GENERAL FUND	CAPITAL PROJECTS FUNDS	DEBT SERVICE FUNDS	FUNDS
<u>Excess of Revenues Over</u> <u>(Under) Expenditures</u>	_____	_____	_____	_____
<u>Other Financing Sources (Uses)</u>				
Operating transfers-in	_____	_____	_____	_____
Operating transfers-out	_____	_____	_____	_____
Proceeds from the sale of bonds	_____	_____	_____	_____
Loan proceeds	_____	_____	_____	_____
Capital lease agreements	_____	_____	_____	_____
Total other financing sources (uses)	_____	_____	_____	_____
<u>Excess of Revenues and Other Sources</u> <u>Over (Under) Expenditures and Other</u> <u>Uses</u>	_____	_____	_____	_____
<u>Beginning Fund Balance—</u> / /	_____	_____	_____	_____
<u>Ending Fund Balance—</u> / /	=====	=====	=====	=====

_____, COUNTY, ARIZONA
_____, DISTRICT
ANNUAL REPORT
YEAR ENDED _____

Part E—Schedule of Revenues, Expenses, and Changes in Retained Earnings/Fund Equity
(for proprietary and similar fund types)

Basis of Accounting: Accrual ☐

Cash ☐

	ENTERPRISE FUNDS	PENSION TRUST FUNDS	FUNDS
<u>Operating Revenues</u>			
Charges for services			
Employer contributions			
Employee contributions			
Investment income			
Miscellaneous			
Total Operating Revenues			
<u>Operating Expenses</u>			
Salaries and wages			
Employee benefits			
Administration			
Professional services			
Utilities and communications			
Insurance			
Repairs and maintenance			
Landfill closure and postclosure care costs			
Depreciation			
Benefits			
Refunds			
Miscellaneous			
Total Operating Expenses			
Operating income (loss)			
<u>Nonoperating Revenues (Expenses)</u>			
Intergovernmental			
Interest revenue			
Interest expense			
Gain (Loss) on disposal of capital assets			
Total (Net) nonoperating revenues (expenses)			
Income (Loss) before operating transfers			
<u>Operating Transfers-In (Out)</u>			
Net income (loss)			
<u>Beginning Retained Earnings/Fund Equity— / /</u>			
<u>Increase (Decrease) in Contributed Capital</u>			
<u>Ending Retained Earnings/Fund Equity— / /</u>			

DISTRICT AUDITS

A.R.S. § [48-253](#)

District audits and financial reviews

- A. Each district which is organized under this title, which is not exempt under subsection F of this section and which is required to make an annual report under this article shall have its reports audited in accordance with generally accepted government auditing standards and the following:
- 1. Audits required by this section shall be performed annually for districts whose budgets are one million dollars or more. Districts whose budgets are one hundred thousand dollars or more but less than one million dollars shall have a financial review performed annually. Districts whose budgets are less than one hundred thousand dollars shall have a financial review performed at least biennially.*
 - 2. A district may select an outside auditor who is a certified public accountant or a representative who is selected by the board of supervisors and who is trained as an auditor.*
 - 3. A district may advertise and use competitive bidding practices to select an agent to perform the audits or financial reviews required by this section.*
- B. Each district that submits a financial statement for the preceding fiscal year that has been attested to by an independent certified public accountant pursuant to A.R.S. § [48-251](#) is deemed to have complied with this section by submitting a copy of the financial statement to the county treasurer.
- C. *Each district shall submit a copy of the completed audit or financial review to the county treasurer and the board of supervisors within two hundred forty days after the close of the district's fiscal year.*
- D. If a district fails to submit an audit or financial review as required by this section, any taxpayer residing in the district, the board of supervisors or the county treasurer may petition the superior court in a county where the district is organized to show cause why the audit or financial review has not been submitted. On a failure to show cause the court shall order the district to submit the audit or financial review within ten days after the judgment is entered.
- E. If the court enters a judgment against the district under this section, the court may award the taxpayer, board of supervisors or county treasurer reasonable attorney fees and costs associated with bringing the action.
- F. Districts organized under chapters 4, 6, 17, 22, 27 and 28 of this title are exempt from the requirements of this section.

HOW FIRE DISTRICTS SHOULD PREPARE FOR AN AUDIT

When selecting an auditor, keep in mind the following:

1. Engage them as early in the year as possible rather than waiting until June 30 or later. This allows the auditor to do interim work and determine if there will be any problems with completing the audit. It also allows them to schedule work for more favorable times when workloads are lower, so they can give better rates.
2. Ask for engagement letters or requests for proposals that clearly state the fees to be charged, the work to be performed, their professional independence, and the time frame for completing the audit and the report. The U.S. Government produces a booklet entitled **How to Avoid a Substandard Audit: Suggestions for Procuring an Audit**, which provides information on what factors to consider in awarding audit contracts, including the monitoring of contract performance.
3. Require references to be provided with the proposals and contact those references.

Most of the following information can be assembled during the year and provided to the auditors when they arrive.

At the beginning of the audit, the auditor will generally ask for the following:

1. Written procedures for cash receipts, cash disbursements, payroll, and purchasing.
2. An organization chart listing key personnel.
3. List of board members and officers.
4. Minutes of the board of directors' meetings for the year and maybe prior. These should be properly signed and dated by the secretary.
5. Copies of all leases, bond indentures, inter-governmental agreements, and other contracts.
6. List of all assets owned over \$5,000 (\$2,500 for small districts) showing at a minimum the date of acquisition, cost, and a description of the asset. (A current list of equipment with insured value on items that cost is not available is acceptable.)
7. List of accounts payable (items or services received before June 30, but not paid for until after June 30) for the beginning and end of the year.
8. List of accounts receivable (revenues that were earned before June 30, but payments were not received until after June 30) for the beginning and end of the year.
9. List of vacation and sick leave earned by employees at June 30, but not yet paid to them for the beginning and end of the year.
10. Written descriptions of vacation, sick, and retirement policies.
11. Copies of prior years' financial statements and/or reports provided to the Auditor General's Office.
12. Copies of adopted budgets.

13. Copies of pension plans or other retirement agreements.
14. Copies of actuarial reports on pension plans.
15. Copies of payroll reports filed for the year

The auditor may also ask you:

16. To prepare confirmation letters for certain revenues and expenses.
17. To prepare letters to your attorneys asking them to inform the auditor of any potential or pending lawsuits.
18. To prepare a representation letter from the department to the auditor.

During the audit field work, the auditor will generally ask to review:

1. All invoices for legal expenditures.
2. All invoices for insurance and all insurance policies.
3. All invoices for major capital outlay expenditures.
4. A sample of invoices chosen at random.
5. Employee benefit expenditures (i.e., retirement, worker's compensation, unemployment).
6. All invoices supporting large or unusual expenditures.

During an audit, an auditor usually tries to determine:

1. What assets and liabilities exist and that they are properly valued.
2. That all transactions creating revenues and expenditures have occurred and that they are properly recorded, and that any and all other transactions are recorded.
3. That all rights and obligations of the entity are being honored, acknowledged, and properly recorded.
4. That all expenditures are properly allocated to departments.
5. That the financial statement presentation and disclosures are proper.

The auditor will make an initial review of your internal control structure and should provide you with a management letter describing ways you may be able to improve your effectiveness and efficiency, as well as reduce the likelihood of asset misappropriation. These suggestions should be helpful in improving your operations.

Besides performing the audit, your auditor should be able to provide you with additional information throughout the year to help you comply with other reporting requirements, such as payroll reporting and completing Form

1099s and Worker's Compensation reports. Your auditor should be an important resource to get answers to various accounting and business questions when they arise.

Cash basis versus modified accrual basis:

Most fire districts maintain their books on the cash basis of accounting. That means that revenues are recorded when they are received and expenditures are recorded when they are paid. This method is acceptable and proper for budgeting purposes and for reporting to various state agencies. However, for financial statement purposes, the modified accrual basis must be used. This means that revenues are generally recorded when earned and expenditures are generally recorded when incurred. Thus, entries must be prepared to convert the cash basis financial information to the modified accrual basis for the audit report. That is why information must be assembled for accounts payable, accounts receivable, and accrued expenses.

EXAMPLES OF REVENUE OTHER THAN TAXES

PREFACE

The information that follows should be considered as a guideline ONLY. Most districts that have set up a schedule of rates have their own set of charges, therefore, you also should devise your own charges.

BILLING PROCESS FOR EMS ASSISTANCE

The following is a step-by-step suggested procedure:

STEP 1 - Accident Scene

1. Take all required information on scene from patient and insurance card.
2. If patient is unable to give insurance information and there is no insurance card, get a DR# from DPS or the Sheriff. Note: Information can also be obtained by calling the hospital where patient is transported.

STEP 2 - In Quarters

1. In returning to quarters fill out a Fire or EMS report.
2. Fill out a Billing Statement with as much information as possible – if there is no insurance information, the patient will be billed directly.
3. Attach the Billing Statement to the Fire or EMS report.

STEP 3 - Billing Process

1. An invoice is made out and mailed to the insurance company or directly to the patient. If the patient is billed directly, type on the invoice "Please submit this invoice to your insurance company or remit payment to":

_____ Fire District
Billing Dept. Attn: _____

Billing Address
City, State, Zip Code

2. *A copy of the invoice, EMS/Fire report, and Billing Statement is retained for department record.*
3. If the amount owed is not paid within a 30-day period from the date of billing, a second notice is sent stipulating:

"Second Notice - without further contact, regarding payment of the amount due, this account will be turned over to Collections, and all collection fees will be added to the amount due."

DAISY MOUNTAIN BILLING RATES FOR EACH APPARATUS USED

BRUSH \$200.00 first hour + \$50.00 per hour thereafter.

RESCUE \$250.00 first hour + \$50.00 per hour thereafter.

ENGINE \$350.00 per hour

TANKER \$350.00 per hour

STATE LAND CONTRACT

ENGINE (Type 1) \$125.00 per hour / \$400.00 per day

BRUSH (Type 6) \$ 76.00 per hour / \$225.00 per day

TANKER/WATER TENDER \$113.00 per hour / \$500.00 per day

F.F.* Amount paid depends on specific District pay scales

OFFICER Amount paid depends on specific District pay scales

*Firefighter

NOTE: Your district needs to have a fee schedule adopted to bill for services rendered.

STATE FORM FM 122 INVOICE FORMAT (rev 1/10)
FIRE DEPARTMENT BILLING TO THE STATE FORESTER

FIRE DEPARTMENT NAME		Fire District of Sun City West			INVOICE DATE	
ADDRESS		18818 N Spanish Garden Dr			06/14/12	
CITY, STATE, ZIP		Sun City West, AZ 85375			INVOICE #	
TELEPHONE NUMBER		623-584-3500			26180	
FIRE NAME		FIRE NUMBER			FIRE DATE	
Sunflower		AZ-TNF-000039			5/12/12	
EQUIPMENT (MUST ATTACH EQUIPMENT SHIFT TICKETS SIGNED BY SUPERVISOR)						
RESOURCE ORDER #	LICENSE NUMBER	UNIT# (OR NAME)	VEHICLE TYPE	UNIT WORKED HRS/DAY/MI	RATE PER UNIT	TOTAL AMOUNT
E-8	G264EF	BR103 ID #71936	Engine, Type 6 With Winch	130.5	\$76.00	\$9,918.00
SUB-TOTAL EQUIPMENT						\$9,918.00
PERSONNEL (MUST ATTACH CREW TIME REPORTS SIGNED BY INCIDENT COMMANDER or IMMEDIATE SUPERVISOR)						
RESOURCE ORDER #	PERSONNEL NAME	PERSONNEL TYPE	HOURS WORKED	RATE PER HOUR	TOTAL AMOUNT	
E-8	Employee 1 - Shift Hours	FF II	52	\$25.78	\$1,340.56	
E-8	Employee 1 - Overtime Hours	FF II	95.5	\$35.81	\$3,419.86	
E-8	Employee 2 - Coverage for Emp 1	Backfill	24	\$19.50	\$468.00	
E-8	Employee 3 - Coverage for Emp 1	Backfill	24	\$14.90	\$357.60	
E-8	Employee 4 - Coverage for Emp 1	Backfill	4	\$20.09	\$80.36	
E-8	Employee 5 - Shift Hours	ENG B	52	\$33.30	\$1,731.60	
E-8	Employee 5 - Overtime Hours	ENG B	95.5	\$46.94	\$4,482.77	
E-8	Employee 6 - Coverage for Emp 5	Backfill	24	\$2.51	\$60.24	
E-8	Employee 7 - Coverage for Emp 5	Backfill	24	\$0.00	\$0.00	
E-8	Employee 8 - Coverage for Emp 5	Backfill	4	\$17.68	\$70.72	
E-8	Employee 9 - Shift Hours	FF II	96	\$36.61	\$3,514.56	
E-8	Employee 9 - Overtime Hours	FF II	69.5	\$51.84	\$3,602.88	
E-8	Employee 10 - Coverage for Emp 9	Backfill	48	\$7.07	\$339.36	
E-8	Employee 11- Coverage for Emp 9	Backfill	24	\$20.24	\$485.76	
E-8	Employee 12- Coverage for Emp 9	Backfill	24	\$19.25	\$462.00	
E-8	Employee 13 - Shift Hours	ENG B	48	\$43.20	\$2,073.60	
E-8	Employee 13 - Overtime Hours	ENG B	36.5	\$62.14	\$2,268.11	
E-8	Employee 14- Coverage for Emp 13	Backfill	24	\$18.71	\$449.04	
E-8	Employee 15- Coverage for Emp 13	Backfill	24	\$20.10	\$482.40	
SUB-TOTAL PERSONNEL						\$25,689.42
SUPPLIES, TRAVEL, AND MISCELLANEOUS (ORIGINAL RECEIPTS AND TRAVEL CLAIMS MUST BE ATTACHED)						
RESOURCE ORDER #	ITEM	QUANTITY	RATE PER UNIT	TOTAL AMOUNT		
				\$0.00		
				\$0.00		
SUB-TOTAL SUPPLIES & MISCELLANEOUS						\$0.00
GRAND TOTAL						\$35,607.42

PLEASE PAY THE TOTAL AMOUNT ABOVE

AUTHORIZED SIGNATURE & TITLE

STATE FORM FM 122 INVOICE FORMAT (rev 1/10)
FIRE DEPARTMENT BILLING TO THE STATE FORESTER

FIRE DEPARTMENT NAME		Fire District of Sun City West			INVOICE DATE	
ADDRESS		18818 N Spanish Garden Dr			09/20/12	
CITY, STATE, ZIP		Sun City West, AZ 85375			INVOICE #	
TELEPHONE NUMBER		623-584-3500			26278	
FIRE NAME		FIRE NUMBER			FIRE DATE	
Bench		ID-SCF-012234			7/27/12	
EQUIPMENT (MUST ATTACH EQUIPMENT SHIFT TICKETS SIGNED BY SUPERVISOR)						
RESOURCE ORDER #	LICENSE NUMBER	UNIT# (OR NAME)	VEHICLE TYPE	UNIT WORKED HRS/DAY/MI	RATE PER UNIT	TOTAL AMOUNT
						\$0.00
SUB-TOTAL EQUIPMENT						\$0.00
PERSONNEL (MUST ATTACH CREW TIME REPORTS SIGNED BY INCIDENT COMMANDER or IMMEDIATE SUPERVISOR)						
RESOURCE ORDER #	PERSONNEL NAME	PERSONNEL TYPE	HOURS WORKED	RATE PER HOUR	TOTAL AMOUNT	
E-135	Employee 1 - Shift Hours	ENG B(T)	144	\$37.22	\$5,359.68	
E-135	Employee 2 - Overtime Hours	ENG B(T)	172	\$48.22	\$8,292.98	
E-135	Employee 3 - Coverage for EMP 1	Backfill	48	\$11.47	\$550.56	
E-135	Employee 4 - Coverage for EMP 1	Backfill	24	\$15.91	\$381.84	
E-135	Employee 5 - Coverage for EMP 2	Backfill	24	\$15.39	\$369.24	
E-135	Employee 6 - Coverage for EMP 2	Backfill	13	\$15.39	\$200.01	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
SUB-TOTAL PERSONNEL						\$15,154.31
SUPPLIES, TRAVEL, AND MISCELLANEOUS (ORIGINAL RECEIPTS AND TRAVEL CLAIMS MUST BE ATTACHED)						
RESOURCE ORDER #	ITEM	QUANTITY	RATE PER UNIT	TOTAL AMOUNT		
E-135	Travel Expenses	1	\$38.13	\$38.13		
				\$0.00		
SUB-TOTAL SUPPLIES & MISCELLANEOUS						\$38.13
GRAND TOTAL						\$15,192.44

PLEASE PAY THE TOTAL AMOUNT ABOVE

AUTHORIZED SIGNATURE & TITLE

Sample Billing Statement

DAISY MOUNTAIN FIRE DEPARTMENT

38447 North 7th Avenue
PHOENIX, AZ 85027

BILLING STATEMENT

R U N	DATE:	INVOICE:	DR#
	INCIDENT ADDRESS:		
	TRANSPORTED BY:	RECEIVING FACILITY:	
	ENG CO/MANPOWER:		

P A T I E N T I N F O	LAST NAME	FIRST	MIDDLE	DRIVERS LICENSE	AREA CODE	PHONE #
					()	
	PHYSICAL ADDRESS			APT #	GENDER	DATE OF BIRTH AGE
	MAILING ADDRESS					
	CITY			EMPLOYER NAME		
	STATE			ZIP		
	RESPONSIBLE PARTY - LAST NAME			FIRST		
	ADDRESS			CITY		
STATE			ZIP CODE			
NEXT OF KIN NAME AND ADDRESS			RELATIONSHIP		AREA CODE PHONE #	
					()	

I N S U R A N C E	PRIVATE INSURANCE NAME	GROUP POLICY #	MEDICARE #	S.S.#
	ADDRESS			
	AUTO INSURANCE CARRIER		POLICY #	
	ADDRESS		AGENT	
	AHCCCS PLAN		DATE ELIG.	ENROLLED PLAN

V E H	YEAR, MAKE, MODEL, COLOR	LICENSE PLATE # & STATE
	VEHICLE ID NUMBER (VIN)	VEHICLE TOWED BY
<p>I understand that I am financially responsible for emergency service supplied by DAISY MOUNTAIN FIRE DEPARTMENT. By signing I agree to make arrangements for payment within 30 days and payment for any legal collection fees involved in collection of this debt. I authorize any holder of medical or other information about me to release it to the appropriate agencies and offices any information needed for this and related claims, and request payment of medical insurance benefits directly to Daisy Mountain Fire Department. I permit a copy of this authorization to be used in place of the original.</p> <p>_____ Signature of patient or responsible person</p> <p>_____ Address</p>		Reporting person signature

		BLS RATE \$
		ALS RATE \$
		APPARATUS RATE \$
		TOTAL \$

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RESOURCE ORDER #	ITEM	QUANTITY	RATE PER UNIT	TOTAL AMOUNT		
				\$0.00		
				\$0.00		
SUB-TOTAL SUPPLIES & MISCELLANEOUS						\$0.00
GRAND TOTAL						\$35,607.42

PLEASE PAY THE TOTAL AMOUNT ABOVE

AUTHORIZED SIGNATURE & TITLE

STATE FORM FM 122 INVOICE FORMAT (rev 1/10)
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RESOURCE ORDER #	LICENSE NUMBER	UNIT# (OR NAME)	VEHICLE TYPE	UNIT WORKED HRS/DAY/MI	RATE PER UNIT	TOTAL AMOUNT
						\$0.00
SUB-TOTAL EQUIPMENT						\$0.00
PERSONNEL (MUST ATTACH CREW TIME REPORTS SIGNED BY INCIDENT COMMANDER or IMMEDIATE SUPERVISOR)						
RESOURCE ORDER #	PERSONNEL NAME	PERSONNEL TYPE	HOURS WORKED	RATE PER HOUR	TOTAL AMOUNT	
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E-135	Employee 5 - Coverage for EMP 2	Backfill	24	\$15.39	\$369.24	
E-135	Employee 6 - Coverage for EMP 2	Backfill	13	\$15.39	\$200.01	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
SUB-TOTAL PERSONNEL						\$15,154.31
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				\$0.00		
SUB-TOTAL SUPPLIES & MISCELLANEOUS						\$38.13
GRAND TOTAL						\$15,192.44

PLEASE PAY THE TOTAL AMOUNT ABOVE

AUTHORIZED SIGNATURE & TITLE

Sample State Wildland Individual Wildland Fire Report

ARIZONA INDIVIDUAL WILDLAND FIRE REPORT

Please submit within 15 days to your DISTRICT FORESTER. (see instruction sheet for address)

ARIZONA STATE FORESTER'S INDIVIDUAL WILDLAND FIRE REPORT			
1. FIRE NUMBER: 04-1200 2. DISTRICT: PHX PHX=Phoenix TUC=Tucson FLG=Flagstaff 3. COUNTY: YAVA Enter first four letters i.e. Maricopa = MARI 4. TOWNSHIP: 11.0N i.e. 01.0n, 23.0 S 5. RANGE: 10.0W (i.e. 01.0E, 10.0W) 6. SECTION: 36 (i.e. 01 or 36) 7. SECT SUBDIVISION: NE (i.e. NW,NW) 8. UTM NORTH: 3600000 UTM EAST: 320000 9. MAP OF FIRE: <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; width: 100px; height: 100px; margin-right: 10px;"> <div style="position: relative; width: 100%; height: 100%;"> <div style="position: absolute; top: 50%; left: 50%; transform: translate(-50%, -50%); width: 10px; height: 10px; border: 1px solid black;"></div> </div> </div> <div style="border: 1px solid black; padding: 5px;"> Sect # 36 Mark "x" For Origin </div> </div>	12. AGENCY NAME ASLD-PHX 13. AGENCY No.: 1 14. ACRES BURNED: STATE: 25.00 PRIVATE: 4.00 FEDERAL: 4.00 COUNTY: MUNICIPAL: 15. TOTAL: 33.00 16. DATE STARTED: 6/3/2004 17. DAY STARTED MON (Sun, Mon, Tue, Wed, Thu, Fri, Sat) 18. TIME REPORTED DATE/HR 6/3/04 1200(24 HR) 18a. REPORTED BY: YCSO 19. INITIAL ATTACK DATE/HR 6/3/04 1300(24 HR) 19a: CONTAINMENT DATE/HR 6/3/04 1800(24 HR) 19b: CONTROL DATE/HR 6/4/04 1800(24 HR) 20. DECLARED OUT DATE/HR 6/5/04 1800(24 HR) 21. COOP EQUIP USED: N (Y=Yes or N=No) Remarks: Fire threatened the Yava Subdivision for 3 hours.	22. FIRE NAME YAVAPAI 23. BI & STN: 54 GDWN 24. CONTRIBUTED COSTS 25. AREA BURNED: C A. Commercial Forest B. Noncommercial Forest C. Nonforest D. Roadside 26. FUEL TYPE BURNED: 2 1. Grass 2. Brush or Chaparral 3. Pinyon-Juniper 4. Pine, Fir, Spruce 5. Unclassified Desert 6. Other 27. SIZE CLASS: C A. 0.25 acres or less B. 0.26 - 9 acres C. 10 - 99 acres D. 100 - 299 acres E. 300 - 999 acres F. 1000 - 4999 acres G. 5000 or more acres 28. ACTION TAKEN: S O. Observed L. Limited S. Suppression 29. FIRE STARTED BY: 9 (see instructions for code) 30. STRUCTURES/IMPROVEMENTS # and Type Threatened (list all) 6 R 6 O # and Type Damaged (list all) 0 # and Type Destroyed (list all) 0 31. EVACUATIONS # Persons Evacuated: 12 # Hours Evacuated: 3	
10. GENERAL CAUSE: 1 1. Lightning 2. Campfire 3. Smoking 4. Debris Burning 5. Arson 6. Equipment Use 7. Railroad 8. Children 9. Miscellaneous 0. Undetermined 11. SPECIFIC CAUSE: 1 (see instructions)			

Send Original Report to Fire Mgmt.

Signature

Title

12/2/2008 8:22

Date

NOTE: The most recent version of this report may be obtained online from the Arizona State Land Department, Fire Management Division, at <http://www.azstatefire.org>.

DAISY MOUNTAIN FIRE DEPARTMENT

INSURANCE COLLECTION INVOICE

DATE: 03-10-20__ TO: Insurance Company North Carefree Hwy New River, AZ 85027	INVOICE NO: 91-999 NAME: Joe Smith ID or SS NO: Policy #, DR#, Social Security #, or Birth Date.
--	--

DATE OF SERVICE	TYPE OF SERVICE	CHARGES
03-01-20__	<p>First Emergency Response to I17, M.P. (mile post) 235 NB (north bound).</p> <p>E145, E146, B14 responded</p> <p>EXTRICATION / EMS SERVICES</p> <p>Please submit this invoice to your insurance company or remit payment to:</p> <p>DAISY MOUNTAIN FIRE DEPARTMENT BILLING DEPT. ATTN: SHELLEY HILL BOX 1369B BLACK CANYON STG 2 PHOENIX, AZ 85027</p>	\$ 700.00
TOTAL DUE		\$ 700.00
REMITTANCE DUE UPON PRESENTATION - THANK YOU		

1,200 Federal Assistance Programs at Your Fingertips

Use a computerized system to find information about Federal grants, loans, insurance, training and other assistance programs.

- Fast
- Comprehensive
- Easy-to-Use
- Category searches
- On-line
- Keyword searches
- Low Cost
- Program information lists

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For information on how to access the Federal Assistance Programs Retrieval System (FAPRS), write the Federal Domestic Assistance Catalog Staff, General Services Administration, 300 7th Street, S.W., Washington, D.C. 20407 or call (202) 708-5126 or toll free (800) 669-8331.

General Services Administration ● Information Resources Management Service

FEDERAL ASSISTANCE PROGRAMS RETRIEVAL SYSTEM (FAPRS)

The Federal Assistance Programs Retrieval System (FAPRS) is a computerized question-answer system designed to provide rapid access to federal domestic assistance program information. The system provides information on federal programs which meet the developmental needs of the applicant and for which the applicant meets basic eligibility criteria. Program information provided by FAPRS is determined from input supplied by the requestor. Input includes the type of applicant (e.g., state or local government, federally designated Indian tribal government, nonprofit organization, small business, individual), the type of assistance under which programs are administered (e.g., grant, loan), and the specific functional category and subcategory of interest. Based upon the input supplied, the output consists of: (1) a list of program numbers and titles; (2) the full text of selected programs; or (3) specific sections of the program text.

The keyword search facility of FAPRS was added in response to users' requests. The new features allow the applicant to: (1) perform a program search of all catalog programs by using up to five "keywords" or phrases with several operators; (2) position the keyword options in the same order, paragraph or program or within a selected range of words; and (3) determine the number of programs and occurrences selected. (This allows programs to be listed by program number and titles, with the option to view each occurrence in context.) Keyword search is designed for experienced users and provides greater search specificity. The original menu-driven FAPRS category search facility is still available to all users.

As originally developed, FAPRS was designed to aid small, rural isolated communities unfamiliar with federal assistance programs or unable to locate federal aid programs that had the greatest funding potential. The present FAPRS is an enhanced version that was developed by incorporating data provided from an analysis of FAPRS users and an OMB study of the overall requirements for federal information systems. FAPRS may now be accessed by both rural and urban communities and fire districts.

FAPRS consists of the following features:

1. Functional search criteria – 20 functional categories and 175 subcategories to specify areas of interest, as listed in the functional index of the catalog.
2. Applicant eligibility search criteria – 10 government related and 11 non-government related applicant types.
3. Type(s) of assistance search criteria – 15 types of assistance categories.
4. A display of definitions for functional subcategories, applicant types, and types of assistance to assist the user in selecting the desired search criteria.
5. Program text printout selection to print entire text(s) or only specified sections of text(s) if desired.
6. Formatted display of federal circular coordination requirements for a selected list of programs.

States have designated access points where FAPRS searches may be requested. In addition, bulletins or FAPRS are available from the system to inform users of the addition or deletion of programs, changes to program numbers from one update cycle to the next, and enhancements or changes to the system. For volume users, direct access to FAPRS is available through GSA on a cost-reimbursable basis. For further information on FAPRS, the location of the nearest state access point, or procedures for directly accessing the system, write or call:

Federal Domestic Assistance Catalog Staff (WKU)

General Services Administration

Ground Floor, Reporters Building

300 7th Street, SW.

Washington, DC 20407

Telephone: (202) 708-5126

TOLL-FREE ANSWERING SERVICE: 1-800-669-8331

<p style="text-align: center;">CHAPTER 7 PERSONNEL POLICY AND PROCEDURE MANUAL</p>
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Preface

This material is being provided as a “checklist” for, and discussion of, various items that the Fire District may wish to include in a personnel policy manual, if you elect to have one. Although we have provided some sample policy language, it is not designed to be adopted “as is” by the Fire District. Each Fire District has unique characteristics that require careful customization of any policy provisions adopted.

AFDA’s personnel policy and procedures manual is intended to provide information as to the various issues a Fire District should consider when adopting a policy manual. **It is not possible to simply adopt AFDA’s sample policy manual without supplementation or modification. While considerable sample language is provided within the context of the discussion, it will be necessary for each Fire District to formulate its own policy manual provisions.**

It is critical that each Fire District set aside the time and resources necessary to have their policy manual reviewed by someone with expertise in the area. This might be a knowledgeable staff member, the Fire District’s attorney, the county attorney, a human resources professional or another AFDA member with substantial experience in the field. In any event, it is essential that the Fire District adopt only those provisions which you have taken the time to understand and consciously decide should apply to the Fire District.

Information provided by:

William R. Whittington, Esq. - Attorney; Donna Aversa, Esq. - Attorney; Brenda Tranchina, SPHR - Human Resources

THE PERSONNEL POLICY MANUAL

PERSONNEL POLICY MANUAL: SHOULD MY DISTRICT HAVE ONE?

The decision to adopt personnel policies should not be taken lightly. Personnel policies are only the first step of a three-step process towards the goal of having both the employer and employee know what is expected of each of them and to avoid miscommunications and litigation. First, once the decision is made to adopt a policy manual, the Fire Board must adopt a well-prepared policy manual. Second, the policy manual must be distributed to the employees, and the employees educated regarding the policy manual. Third, the policy manual must be enforced consistently.

No matter how frequently you modify your personnel policy manual, you should archive, by date, each and every edition and amendments thereto. You should also consider listing the policy manual in the retention schedule filed with the Arizona State Library, Archives and Public Records.

POLICY V. GUIDELINES

Questions frequently arise as to which topics are appropriate for inclusion as personnel policies and which are more appropriate as operational or administrative guidelines. The general rule is that policies are those things adopted by the Fire Board regarding the overall operations of the Fire District. Policies are the governing board's opportunity to articulate the philosophy of the Fire District, at least as it relates to personnel conduct and practices. In contrast, guidelines are typically generated administratively regarding the specific operations of the Fire District. As an example, the Fire Board may adopt a policy establishing rules of conduct and the disciplinary process, or providing employees and dependents with medical insurance. By contrast, a guideline may contain the specific information as to how the disciplinary process will be implemented or as to how the Fire District's insurance plan will be administered.

WHAT DOES A PERSONNEL POLICY MANUAL LOOK LIKE?

Personnel policy manual topics seem to naturally fall into three general sections:

1. Employment Practices;
2. Employee Relations; and
3. Compensation Practices and Benefits.

Although each category is important, the policies within the category of Employee Relations contains a minefield of issues which can be the source of the most common and potentially the most expensive problems of a Fire District.

INTRODUCTION/PURPOSE

A decision needs to be made as to whether each provision of the policy manual will be applicable to all employees (paid and/or volunteer) – operational, staff and the Fire Chief. Many of the provisions can quite readily be applied both to operational and staff personnel. However, care should be taken when applying such things as FLSA requirements, leave benefits, drug testing requirements, discipline procedures, and benefit packages to each group, while avoiding unlawful discrimination when applying standards differently between groups.

A philosophical decision will need to be made as to the application of the policy manual (especially as to the progressive discipline provisions) to the Fire Chief. If the Fire Chief is under written contract, the Fire District will probably wish to have that contract supersede policy manual provisions. Even without a written contract, there is a historical and common law preference for using an "at will" or hybrid relationship with the Fire Chief, given the political nature of his position. This will often lead to excluding a Fire Chief from the provisions of the progressive discipline policies altogether, in favor of regular reviews by the District Fire Board.

The samples that follow contemplate an "at will" relationship between the Fire District and its employees. In 1996, Arizona law was modified to clarify that Arizona law presumes an "at will" employment relationship. No longer will the mere existence of a policy manual be enough to create a "contract for employment," without express language to that effect. However, recent case law suggests that modification of "benefits" set forth in a policy manual may not be possible without additional consideration, at least where a contractual relationship has been created. In addressing the "at will" status of an employee, as well as the decision to amend the policy manual, consideration must be given to the status of any employee who was a member of the Fire District prior to Arizona's 1996 adoption of the Employment Protection Act. It may now be possible to have a "bifurcated" labor pool – including pre-1996 "for-cause" and post-1996 "at-will" employees. To prevent bifurcation, a Fire District should consider confirming that pre-1996 employees are "at will". Doing so may require "new consideration," but can serve to simplify and establish a more consistent employment practice.

Sample Language

The policies set forth in this Manual are not intended to create a contract, nor are they to be construed to constitute contractual obligations of any kind or a contract of employment between the Fire District and any of its employees.

This Manual is intended to provide an effective framework for the orderly and proper operation of the Fire District. It is not designed nor intended to limit any member in the exercise of his/her judgment or initiative in taking any action that a responsible person would take in the extraordinary situations which are bound to arise in the fire and emergency medical services. By necessity, much must be left to the loyalty, integrity, and discretion of members. Rather, this Manual is intended to provide effective and meaningful direction for the overall operation of the Fire District.

Specific departmental rules, directives, guidelines or past practice will control work hours, timing of breaks and lunch periods, work assignments, training requirements and any matters not addressed (or only partially addressed) in this Manual.

No manual can anticipate every circumstance or question about policy. If a specific work rule, regulation or procedure is not formally set forth in writing, or if policies require interpretation, the judgment of the Fire Chief and/or supervisor will control the situation. The Fire Chief will implement these policies, and establish rules and practices within the context of the policies as needed to develop a successful operational strategy.

The Fire District's needs and issues, service demands, resources, and personnel requirements are not static. The Fire District, therefore, reserves the right to revise, supplement, or rescind any policies in this Manual, or any benefits described herein, as it deems appropriate at any time and without notice.

MANAGEMENT PHILOSOPHY/MISSION STATEMENT

The practice of including a statement of management philosophy or a mission statement within a policy manual varies greatly. It is obviously not required as part of a policy manual. Many Fire Districts choose to include a copy of their mission statement within the policy manual because it is easy to find, and to encourage employees

to review it. The decision to include a statement regarding management philosophy is a bit more problematic, as it may be more fluid. Remember, anything you put into a policy manual may later be relied on by Fire District personnel. Thus, give careful consideration before including any statement which is not absolutely required. Also, keep in mind that including such statements in the policy manual means the Fire District will need to amend the policy manual whenever the management philosophy or mission statement is modified.

ORGANIZATIONAL CHART

While clearly not required by law, providing an organizational chart makes for easy reference when discussing chain of command, grievance procedure, etc. However, if you choose to include an organizational chart within your policy manual, you will need to be vigilant about updating the chart whenever there are changes to the organizational structure. The better alternative to including it in the policy manual may be to instead make it an Addendum to the policy manual.

It must also be recognized that if the organizational chart is a part of the policy manual, the Fire Chief will be required to receive Board approval to make adjustments to positions within the structure. Some districts opt to include it in the manual; others do not, based on the desire for the Fire Chief to change it so long as there is not a budgetary impact.

SECTION 1 – EMPLOYMENT PRACTICES

The Employment Practices section of your policy manual would relate to the recruitment, hiring, assignment, and termination of employees and associated record keeping.

AT-WILL / FOR-CAUSE

Whether employees should be treated as “at-will” employees or as “for-cause” employees is an issue of substantial philosophical importance. Not only are there constitutional and property right implications, but the impact on morale cannot be overlooked. If a Fire District chooses to pursue an at will relationship with its employees, it will need to deal with the issue of existing vested rights, and probably will want to amend, at least in part, its progressive discipline provisions. In doing so, the Fire District must be careful that its actual practice thereafter does not contravene the “at will” philosophy. Care should also be exercised in dealing with the property rights of employees existing prior to the adoption of the 1996 Employment Protection Act, if any.

In establishing policies, there are some significant questions that a Fire District must address. Foremost is the type of employment relationship the Fire District is going to have with its employees. If the Fire District elects to have an at-will employment relationship with its employees, then generally an employee may be terminated with or without cause, as long as it is not unlawful. For example, this prevents termination based on unlawful discrimination. By contrast, a Fire District may elect to have a for-cause relationship with its employees. Just as it sounds, under this theory, an employer may only terminate an employee for cause.

In 1996, Arizona adopted the Employment Protection Act. This Act provides guidance in regard to the at-will status of an employee. Under the Act, a policy manual will not be considered to be a contract for employment unless specifically so stated in writing. Thus, for employees hired after the date of the Act, an employee will be presumed to be at will, unless otherwise evidenced by written agreement. Caution however, must be exercised in dealing with employees who were employed prior to the adoption of the Act. Their existing contractual rights, if any, are not affected by the Act. Additional consideration may be needed to convert existing “vested” employees to an “at will” status, such as a pay raise or additional benefits. While it is possible to adopt a progressive disciplinary policy which is consistent with an at-will relationship, care must be taken in drafting the language so as not to mislead employees or result in contradictory practices.

While the 1996 Act deals specifically with the “at will” nature of the employment relationship, it does not address other contractual issues or potential claims such as promises of benefits, salaries, etc.

Language should be included which permits the Fire District to modify all aspects of the policy manual from time to time. In addition to policy manual changes, this also reserves the Fire District’s right to modify benefits offered. This is especially important when adjusting compensation ranges, retirement benefits and health insurance benefits. Also, the Fire District should consider using a signature sheet for each new employee, acknowledging that the employee has familiarized themselves with the policy manual, acknowledging the at-will relationship (if so established) and acknowledging the Fire District’s ability to modify benefits from time to time.

NOTE: The consideration of “at-will” status is distinguished from the status of a “right to work” state (which deals with union membership.)

Sample Language #1

Employment and/or membership with the Fire District are voluntarily entered into and the employee/member is free to resign, at will, at any time, with or without cause. Similarly, the District may terminate the employment relationship at will at any time, with or without cause, and with or without notice. An employee's at will status cannot be changed by any supervisor or manager, and no oral or written statement or representation will be recognized as a modification of that relationship.

Sample Language #2

Nothing in the Fire District’s policies, procedures, practices, handbooks, manuals or other employment materials shall be construed or interpreted as an employment contract. The Fire District reserves the unconditional right to modify, delete, or make any exception to any of its policies or procedures with or without notice at any time and for any reason. The Fire District, in its full discretion, also reserves the unconditional right to terminate any person’s employment at any time and for any reason. Any oral statements, representations, or promises contrary to the above, including promises of employment for any specified period of time, are not binding upon the Fire District unless confirmed in writing.

EMPLOYMENT CONTRACTS

If a Fire District decides to enter into an employment contract, it should be done deliberately, and outside the confines of the policy manual (although it may require compliance with Fire District policy). For a contract to be enforceable, the material terms must be present, including duration, duties, compensation (or formula or method for determining the same), benefits, termination, restrictions of conduct and dispute resolution alternatives (such as arbitration, if applicable).

It is important to remember that the Arizona courts have limited the ability to bind a future District Fire Board to a personal service contract (at least for the position of Fire Chief). Similarly, the courts have said that a contract which attempts to use a severance package to prevent a new Board from terminating a Fire Chief’s contract will not be enforceable.

DEFINITION OF AN EMPLOYEE

This section would establish who is subject to the policies and clarify any categories of employee that the Fire District may have, such as employee, volunteer, reserve, or member. Because certain policies and benefits may apply only to various classifications, it is also beneficial to fully define what constitutes a full-time employee, part-time employee, or limited assignment/temporary employee. Differentiation may also need to be made between suppression, non-shift suppression, and non-suppression or administrative/support employees.

This would also be the place to again clarify the “at-will” status of the employer/employee relationship. (See section on At-Will vs. For Cause.)

EMPLOYEE RECRUITMENT AND SELECTION PROCESS

General Considerations

The Fire District will need to determine generally what method it will use to determine the best qualified candidate for any given open position with the Fire District. The Fire District should also consider which positions will require testing, if any, including oral interviews, written exams, assessment centers or physical ability exams. (See following discussion regarding physical ability testing.)

Application

The Fire District will need to determine factors such as whether or not it will accept applications in a format other than on its own application form, whether or not it will accept resumes, whether or not it will accept applications only when a position is posted, and how long it will maintain applications on file. All of this should be clarified in the policy manual, so as to ensure consistency in practice.

Sample Language

[See Article 3 - Employment Application and Interview Questions.]

Recruitment/Selection

The Fire District will need to consider whether or not it will be a priority to promote and hire from within, together with how the Fire District will attempt to recruit qualified applicants. This must be done in a manner which does not result in an unlawful discriminatory hiring practice. If the Fire District wishes to consistently adhere to specific processes regarding internal job postings, external advertisements, and selection methods, it is suggested to delineate those within the policy manual. The Fire District should be able to articulate the “business necessity” behind its recruiting practices, including the decision to give preference to internal promotions. Given the reputation attributed to the fire service over the years, care must be taken to avoid any practice which serves to restrict women’s opportunity to enter the work force.

Besides recruiting via “word of mouth,” the Fire District may consider sending announcements to other Fire Districts, posting on the AFDA website or placing a classified advertisement in the newspaper and professional journals.

The law provides a preference be granted to veterans of the armed forces. Thus, any veteran of the armed forces of the United States separated from the armed forces under honorable conditions following more than six months of active duty shall, in the final determination of scoring (recruitment testing, etc.) be given a veteran preference of five percentage points over persons other than veterans. This shall be added to the grade earned by such veteran only if the veteran earns a passing score without preference.

Additionally, the law mandates that there will be a ten percent point preference for any veteran who has a service-connected disability, or according to the definitions of the Americans With Disabilities Act, is considered to be disabled. This preference must also be given to the spouse or surviving spouse of the following: a veteran who dies of a service-connected disability; a member of the armed forces who is listed with the Secretary of Defense as missing in action; or a person who has a total permanent disability resulting from a service-connected disability or who died while such disability was in existence.

Sample Language

When a position vacancy occurs, the Fire Chief or his designee shall coordinate a recruitment, examination, assessment, and selection process designed to identify the most capable individual for the position, without regard to race, sex, color, age, national origin, religious affiliation or disability.

The Fire Chief shall review the position opening, the job description, and any other information pertinent to the position vacancy, and then shall give final approval to the minimum requirements for the position, on the premise that circumstances may at times drive the need for some variation in the specific requirements.

First consideration may be given to any potential internal promotions or transfers. If an eligibility list does not exist, a promotional examination process shall be administered in order to create such a list. In the event of an entry level position, public notice shall be published at all stations and additionally, at the discretion of the Fire Chief, a classified advertisement may be placed in at least one newspaper of general circulation.

[NOTE: At this point in the policy manual, the Fire District must provide additional policy language that conveys the application process, examination process and scoring, and establishment of eligibility lists. An additional consideration may be identifying the Fire Chief's ability to exercise a Rule of Three.]

Initial Screening

If the Fire District decides to use a testing process, then it needs to determine whether or not the testing process will result in an eligibility list and the ground rules for the use of such a list. Ground rules may include: (1) whether such list will apply to both operational and non-operational employees; (2) the duration of the eligibility list; and (3) whether the Fire Chief has the authority to dissolve the list.

Background Check

As a precautionary measure, it is recommended that the Fire District have language on the application form that indicates their intent to conduct background checks. Thus, by signing the application form, the employee is agreeing to allow the Fire District to conduct such an investigation.

There is a limit to the depth of the criminal background check permissible with consent from the employee or an order from the governor. Also, in Arizona, public employment cannot be denied based on a criminal background unless there is established a "reasonable relationship" to the job function.

Also, while a credit check is possible, it is only available for purposes of considering someone for new hire, promotion, reassignment or retention, and comes with consent and notification requirements, under the Fair Credit Reporting Act.

Sample Language

In order to learn as much about the applicant, the Fire District engages in background checks which include communications with various agencies and organizations. In this regard, checks may be made with courts, police, credit reporting agencies, former employers, educational institutions, and other sources and/or references. Not all agencies or organizations may be contacted for each applicant, but if you have reservations about background checks, you should not fill out an application.

Driving Record

In the case of employees who regularly drive as a part of their duties, the Fire District may also wish to include in the policy manual the employee's obligation to report any DUI, reckless driving or other moving violation

citations. As well, it is advisable to clearly state that, in the event that an employee who is required to drive in his job loses his driver's license, he must immediately notify his supervisor.

[NOTE: This policy manual provision may have greater applicability to operational employees than non-operational employees.]

Sample Language

One of the concerns of the Fire District involves an individual's driving record. Since employees may use Fire District vehicles and/or their own vehicle in pursuit of Fire District business, it is important that employee(s) have good driving record(s) and be insurable by the District's insurance carrier so as to minimize risk to the Fire District and the public. Therefore, the applicant's driving record may be checked as a condition of employment. Likewise, an employee's driving record may be periodically reviewed.

Any employee who is required to drive as part of the employee's duties must immediately report any loss or restriction of driving privileges to the immediate supervisor.

HIRING AUTHORITY

The Fire District will need to make a determination as to whether the Fire Chief or the Fire Board will have hiring/firing authority. Obviously, a Fire Board that involves itself in the day-to-day operations of the Fire District, including the hiring process, risks committing that most evil of all sins – micro-management. Thus, it is recommended that the policy manual designate that only the Fire Chief has full hiring authority. The general exception is that the Fire Board has the authority to hire/fire the Fire Chief. While it may be appropriate to involve supervisors in the hiring process (i.e. members of the testing team) it is critical that they be provided with training to ensure consistency in that process. Any hiring process used must be administered in a manner so as to avoid discriminatory adverse impact.

See EEOC Uniform guidelines for the selection process, (Article 3) for discussion relating to the different methods available for determining employment test validity.

TEMPORARY ASSIGNMENTS

In the event of a vacancy, a Fire District may consider the following: (1) will the Fire Chief have the ability to temporarily assign an employee to a higher ranking position, and if so, what will be the associated compensation consequences; (2) what is the allowable duration of a temporary assignment; (3) what are the options at the end of the temporary assignment, such as return to previous position, placement in the assignment on a regular basis, extension of the temporary assignment; (4) how does the temporary assignment affect performance evaluations; and (5) leave accrual?

HIRING DOCUMENTATION / IRCA / E-VERIFY

Prior to or on the first day of employment, an employee should be required to complete all new hire paperwork, including the legally required I-9 form. Other forms to complete at this time should include an Emergency Contact form, federal and state tax forms, equipment/uniform agreements, and acknowledgment of the policy manual.

The Immigration Reform Control Act (IRCA) of 1986 requires that an employer document that an applicant is legally permitted to work in this country. This must be done in a very specific manner to avoid discriminatory conduct. Under the IRCA law, the employee must provide the Fire District with specific documentation that verifies their identity and their right to work in the United States. This documentation should be reviewed by a designated individual; the IRCA I-9 form should be signed, and then placed in a separate file. It is *not* recommended that the Fire District photocopy the identification documents that are provided. Additionally, it

is *not* recommended that the I-9 forms be held in individual personnel files; rather they should be placed in a separate file. I-9 forms should be maintained in the file for one year beyond the date of an employee's termination or a minimum of three years from the date of hire, whichever is longer.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires that information on new hires be reported to the Arizona New Hiring Reporting Office (See Article 3.)

The hiring process requires that all employers complete the E-Verify process on www.uscis.gov. E-Verify is a free Web-based system that electronically verifies the employment eligibility of newly hired employees. In addition, each contract the District enters into is now required to contain language requiring its service providers to comply with Arizona's Legal Arizona Workers Act.

PHYSICAL ABILITY TESTING

The use of a physical ability test has been the source of considerable contention and litigation throughout the country. Most often, challenges have arisen when one group of applicants is excluded from employment because of their inability to compete in the context of the physical ability test. Historically, in the fire service, women have been the group most concerned with the application of the physical ability testing procedure. In order for a physical ability test to withstand scrutiny, it must be appropriately validated under the regulations adopted by the EEOC. There are several methods of validation possible. (See uniform guidelines, Article 3.) Some of the most common concerns raised about the use of physical ability tests are that the tests do not reflect actual job requirements and that the time limits imposed by the tests are arbitrary. Test "portability" from one Fire District or department is possible. However, when considering the use of another Fire District's physical ability test standard, consideration must be given to the operational similarities and differences between the Fire Districts (or departments).

Standardized physical ability testing for new hires (CPAT) has been approved by the EEOC. However, a "portability" test may be required before a District can implement such a test. Similar testing for existing employees has been proposed. However, to date, none have been approved by the EEOC.

While some standards are fairly universal (i.e., hose pull, rescue/drag, attic crawl), the practice (and needs) among Fire Districts varies greatly in regard to other requirements.

In addition, regarding time tests, there are a number of published studies which comment on the physical requirements/stamina and oxygen use associated with suppression and emergency activities. These studies are often referenced or relied on as part of the validation process. There has also been significant debate on the need for such testing when a Fire District's primary function is emergency medical service. However, case law still permits testing when only a small (but essential) portion of the job includes suppression and related high-stress activities.

EMPLOYMENT OF RELATIVES/DATING

Because of the inherent problems arising out of family members working closely, the policy manual should include a definition of "relative" and prohibit relatives working in a direct supervisor/subordinate (vertical) relationship. The level of restriction may depend on the size of the Fire District and the particular staffing issues that may exist at any given time. However, the practice on this issue is far from uniform. It is suggested that at a minimum, relatives should not be allowed to work in the same location on the same shift. Some Fire Districts prefer to restrict suppression employees even further, believing that it is best to not have them on the same shift at all, due to the likelihood of more than one station responding jointly to a scene. If the Fire District adopts these types of limitations on relatives working together, it is advisable to allow for exceptions at the discretion of the Fire Chief, and/or to indicate that such limitations are applied to "regular"

assignments. This allows the Fire District flexibility in the event of a need to cover a shift or temporarily reassign an employee.

If the Fire District believes that dating relationships within the workplace may potentially have impact on the Fire District and employees, it is advisable to address this within the policy manual. Most commonly, employers choose to restrict dating between supervisors and subordinates, or at a minimum to require notification with appropriate releases. It is difficult to forbid dating practices altogether, and usually less contentious (and less an invasion of privacy) to place limits on how those involved work together.

Sample Language

The following guidelines shall apply regarding the employment of relatives:

- A. Relatives may not regularly work for the same immediate supervisor.*
- B. Relatives may not regularly work on the same shift (may also include “at the same station”).*
- C. Relatives may not regularly directly supervise their employed relatives.*
- D. No official of the Fire District shall appoint or vote for the appointment of a relative.*
- E. If, during the course of employment, two employees become related, resulting in a conflict to this policy manual, consideration will be given to adjusting the work assignments. The Fire Chief shall review each situation on an individual basis and determine the necessary adjustment to the work assignment of the individuals involved.*
- F. “Relatives” generally includes an employee’s spouse, child, grandchild, parent, grandparent, brother or sister of the whole or half-blood and their spouses and the parent, brother, sister or child of a spouse.*

PERSONNEL RECORD KEEPING

This policy should set forth the Fire District’s intent to maintain employee files according to Federal and State record keeping requirements, as well as guidelines regarding what types of documents shall be included in the file, the employee’s obligation to notify the Fire District of changes, and how the Fire District will respond to inquiries regarding information in the files.

It is important to keep in mind that various documents within the personnel file are subject to disclosure as a public record. In the event of a public records request for information from an employee’s personnel file, be sure to check with your attorney to determine if any information should be redacted prior to release.

The policy provision would set forth the employee’s ability to review his or her own personnel file. An employee should be able to review or photocopy his personnel file during regular business hours provided the employee can be supervised to avoid any question of alteration of the file. An employee should already have in his possession copies of all disciplinary documents which the employee has been asked to sign. Separate evaluation/disciplinary/commendation records, health records, INS records, workman’s compensation records, etc.

MEDICAL RECORDS

In addition to maintaining a regular personnel file, the Fire District should maintain a separate medical file for each employee. These files are highly confidential and should be kept secure, with limited access by the Fire Chief and those with a specific “need to know”. The medical files would contain information regarding pre-hire physical examination, annual examination, PSPRS medical review, workers’ compensation reports, drug screening results, hazardous materials exposure reports, and any other medical information related to the employee. The employee should be able to review his or her own medical file during regular business hours provided that the employee can be supervised.

HIPAA (HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT)

It is important that Fire Districts are in compliance with the Health Insurance Portability and Accountability Act (HIPAA) in order to protect the privacy of protected health information of both patients and personnel.

Accordingly, it is beneficial to establish a policy that addresses the concerns of patient privacy and stipulates that the Fire District will adhere to the rules and regulations set forth in HIPAA.

Sample Language

It is the policy of the District to protect and maintain the confidentiality of Protected Health Information for all of its patients and employees. This policy applies to all employees, board members, volunteers, and trainees who may have any access to patient information, and includes work and related activities that occur in the fire stations, headquarters, in the field, at home or via telecommunications.

The District recognizes that it is necessary to obtain and communicate personal health information in the rendering of fire and emergency medical care. This information may exist in a variety of forms including oral, radio transmission, electronic, written or photographic materials. All such information is strictly confidential and protected by federal and state laws.

The District provides services to patients that are private and confidential. Given the nature of Fire/EMS work, it is imperative that the confidentiality of patient information that is received both on active duty and in offices and quarters is maintained at all times.

The District prohibits the release of any patient or employee information to anyone outside the organization unless required for purposes of treatment, payment or healthcare operations. Discussions of Protected Health Information (PHI) within the District will be limited to the minimum necessary to perform the job.

Acceptable uses of PHI within the District include, but are not limited to:

- Exchange of patient information needed for the treatment of the patient*
- Release of basic employee information upon receipt of a written request from a licensed practitioner*
- Billing and other essential healthcare operations*
- Internal audits*
- Quality management activities*

All District members must comply with all confidentiality policies and standard operating or administrative guidelines set in place by the District during their employment or association with the District.

District members are prohibited from personally retaining any patient information they obtain while performing any services for patients. Upon request, District members must return any and all confidential patient information they may have in their possession.

If a member knowingly or inadvertently breaches patient confidentiality policies or guidelines at any time, the member must immediately notify the District Privacy Officer.

Failure to comply with District HIPAA policies will result in progressive disciplinary action up to and including termination, and may also include potential prosecution for civil/criminal penalties.

PROBATIONARY PERIODS

Probationary periods need to be carefully structured, particularly if the employer has elected to have an “at-

will” employment relationship with its employees. If used for “new hires” in an “at will” setting, the probationary status can be justified by the use of additional performance reviews. A probationary period is generally described as the evaluation process to see if the employee and the job are an appropriate match. Typically, an employee in a probationary period may have more frequent and more specific employee evaluations or performance reviews. The Fire District would also need to determine if a reassigned or promoted employee should also enter into a probationary period, and for what amount of time. Finally, the Fire District would need to determine whether or not a probationary employee would be eligible to use the Fire District’s grievance procedure. Probation can also be “extended,” thus emphasizing the more extensive review period being used.

In the context of an “at-will” employment relationship, a Fire District may wish to consider using the term “orientation” as opposed to “probationary.” Additionally, in such context, it should be stated that successful completion of the orientation period does not necessarily constitute a guarantee to continued employment.

TERMINATION OF EMPLOYMENT

Although termination usually appears associated with the disciplinary process, termination of employment also occurs upon a voluntary resignation, retirement or reduction in force. Therefore, the Fire District may want to define the different types of termination of employment and the significance of such termination, such as any eligibility for rehire and its effect on benefits. Included with the definitions of the various types of termination should be the clarification of who has the authority to terminate (which generally lies only with the Fire Chief). In addition, this would be a place to put in the procedures that the Fire District intends to use upon termination such as the processing of final paychecks, checking in Fire District equipment, and the use of any exit interviews.

[For a more thorough discussion of the due process used in disciplinary termination, see Section 2 – Employee Relations.]

PHYSICAL EXAMINATIONS / FITNESS FOR DUTY

Because of the physical and mental demands of most positions within fire service, Fire Districts often place a requirement for all potential suppression employees (and in some Fire Districts, administrative employees as well) to undergo a pre-employment medical/physical examination to ensure that the individual meets the physical standards for the position that he or she will perform. Many Fire Districts also opt to require medical/physical examinations of all suppression employees on an annual basis, with the goal of ensuring continued fitness for duty.

In order to ensure that this standard is upheld, it is paramount that the Fire District establishes a sound relationship with an occupational physician who receives copies of all job descriptions and clearly understands the essential functions of the job and the associated physical rigors of each position. If a Fire District does not have such a relationship, it then is forced to rely upon the opinions of physicians who may not have a clear understanding of the roles. Another advantage to establishing such a relationship is that the physician can then also maintain those medical records for the Fire District, thereby only providing the Fire District with pass/fail results to place in the employee’s medical file.

Under the Americans with Disabilities Act, the employer is prohibited from requiring applicants to undergo a physical examination prior to being offered a job. Therefore the examination must be made post-offer, but prior to employment. In order to do this, the Fire District must extend job offers contingent upon successful completion of the examination.

Additionally, it is prudent to include in policy a provision that allows the Chief to order an employee to undergo a physical or psychological fitness-for-duty examination as the Chief deems appropriate.

Sample Language

The Fire District requires physical examinations prior to employment, and annually thereafter, in order to ensure that employees are physically capable of fulfilling the essential functions of the position to which they are assigned. Therefore, all job offers will be made contingent upon the applicant passing a physical examination with the Fire District-designated physician. If the applicant does not pass the physical examination, the job offer will be withdrawn.

In order to ensure that physical standards continue to be met, all (suppression) employees shall be required to undergo annual physical examinations, the results of which shall be maintained in the employee's medical file.

Further, at the discretion of the Fire Chief, an employee may be required to submit to a physical or psychological examination if there is any concern as to the employee's fitness-for-duty.

[NOTE: The next portion of the policy manual should address what will occur in the event that the employee does not pass the annual physical examination. This will vary by Fire District, but should be carefully outlined.]

RESIDENCY REQUIREMENTS

Some Fire Districts opt to have residency requirements for certain classifications of employment. Because of the political and operational nature of the position of Fire Chief, along with the desire to integrate the Fire Chief into the community, many Fire Districts require the Fire Chief to live within the boundaries of the Fire District. This requirement is typically written into the individual contract between the Fire District and the Fire Chief.

Additionally, some Fire Districts may opt to place a residency requirement on employees within certain positions based upon a need to ensure reasonable response times. In some Fire Districts, this requirement only needs to be placed upon reserve personnel, whose primary function is to respond to emergency scenes to serve as additional backup personnel. In other smaller Fire Districts that may rely on their full-time personnel to respond off duty to emergency scenes, there may also be a need to have a residency requirement. Decisions surrounding residency requirements should be based upon these considerations, along with the overall size of the Fire District and the availability of affordable housing within the Fire District boundaries. It is important to be cautious in establishing stringent residency requirements that could potentially place the Fire District in a position of difficulty in being able to recruit qualified personnel. Likewise, the Fire District must be aware of potential disparate impact that could result from residency requirements.

PERFORMANCE EVALUATIONS

Many Fire Districts choose to set forth a system for regular performance evaluations for all personnel. Principal considerations within the evaluation may include, but are not limited to: job knowledge, quality and quantity of work, attendance, teamwork, communication, adherence to policies and procedures, ability to execute position responsibilities, initiative, etc.

Important factors to include within the policy manual are the timing of evaluations, which may be more frequent in the probationary period, the required approval process, the performance evaluation discussion, and the correlation of the evaluation to pay increases.

SECTION 2 – EMPLOYEE RELATIONS

EQUAL EMPLOYMENT OPPORTUNITY

The Fire District must be an equal opportunity employer and should state this in its policy manual. Such a policy will emphasize the Fire District's commitment to EEO as well as clearly establish that the Fire District does prohibit discrimination in the workplace. It is also suggested that the policy manual state that it applies to employees and applicants for employment.

The policy manual should include, at a minimum, the statement that the Fire District prohibits discrimination, and a reporting mechanism for employees to follow in the event that there is a concern of discrimination..

The law imposes a higher burden of proof on the employer when dealing with certain “protected classes of employees.” Numerous federal and state laws have been passed to help define and enforce the anti-discrimination requirements, as well as prohibiting retaliation against employees who seek protection or to assist others in seeking protection of the law prohibiting discrimination. While these are not the only areas affected by the legislation, they deserve special note. Historically, two areas of particular concern in the fire service are discrimination based on disabilities and sexual harassment.

A note on sexual orientation: Fire Districts need to determine whether or not they will include sexual orientation with the other protected classes (race, color, national origin, religion, sex, age, and disability). Neither Arizona law nor federal law currently recognizes sexual orientation as a protected class. This continues to be an area of debate in the courts, and therefore, worthy of consideration. Moreover, Fire Districts should be aware that several municipalities within the state, including the City of Tucson and the City of Phoenix prohibit discrimination based on sexual orientation. At a minimum, Fire Districts should be aware of the potential that sexual orientation may at some point become a protected class.

In terms of practical use of the ADA, there is application not only in terms of the policy manual, but also in terms of job descriptions. Each job description should identify the “essential functions” of the job, according to the ADA. The person's ability to perform those functions is, in turn, used to determine whether or not the person is qualified to do the job, with or without reasonable accommodation.

The ADA prohibits discrimination against a qualified individual with an individual when involving the application process, hiring or firing process, or any other term, condition or privilege of employment. Questions cannot be used as part of the hiring process that are likely to require disclosure of a disability. Once an individual is known to be a qualified individual with a disability, the employer and employee must dialogue in good faith regarding “reasonable accommodation.” A Fire District may not retaliate against another employee who is assisting someone in using or enforcing their rights under the ADA.

HARASSMENT/SEXUAL HARASSMENT

The policy prohibiting harassment should include a definition of sexual harassment and general harassment, and a complaint reporting mechanism. The Fire District policy manual should clearly prohibit all forms of harassment and state that such conduct may result in disciplinary action up to and including termination.

Recent case law has recognized additional protection for employers and supervisors where a well-crafted harassment policy is in place, the managers/supervisors have been trained as to how to maintain a workplace free from harassment, and the employees have clearly been made aware of the harassment policy and complaint procedure. However, the employer will be liable for harassment if the harassment culminates in “tangible employment action.”

There is significant case law dealing with the discipline of employees for failing to report acts of harassment. There are also cases dealing with actions for retaliation in conjunction with reports of harassment later shown to be unsubstantiated or untimely.

Sample Language

The Fire District prohibits harassment of its members in any form, by other employees or non-employees doing business with the Fire District. Such conduct may result in disciplinary action up to, and including, verbal or written warnings, suspensions without pay, transfers, demotions, and immediate dismissal. Discipline of a progressive nature will not be required if circumstances warrant. Such a determination is at the sole discretion of the Fire Chief.

Sexual harassment is defined as an unwelcome sexual advance, request for sexual favors, and other verbal or physical conduct of a sexual nature when:

- *Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;*
- *Submission to or rejection of such conduct by an individual is used for the basis of employment decisions (including benefits, compensation or advancement) which may affect the individual; or*
- *Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.*

Examples of sexual harassment can include, but are not limited to:

- *Offensive sexual flirtations, advances, or propositions;*
- *Verbal abuse of a sexual nature;*
- *Graphic verbal commentaries (i.e., off color jokes);*
- *Graphic verbal references to an individual's body (i.e., sexually degrading words used to describe an individual);*
- *The display of sexually suggestive objects or pictures anywhere on the Fire District property (i.e., stations, vehicles, etc.)*

Harassment of a more general nature is defined as unwelcome verbal, physical or visual conduct of a racial, ethnic, or other type that impairs an employee's ability to perform the job or has the purpose or effect of interfering with work or creating an otherwise offensive, hostile, and/or intimidating work environment.

Examples of such harassment can include, but are not limited to:

- *Racial slurs;*
- *Imitating a disabled employees' walk or speech;*
- *Blatantly different treatment of older workers;*
- *Display of objects or pictures that are denigrating to members of a protected class.*

In addition, the use of foul and vulgar language is inappropriate in the workplace, and therefore is unacceptable.

Any employee who is aware of any type of harassment is required to report it immediately. While the chain of command is important, it may not be appropriate in these situations; therefore, it is understood that the complaint may be reported to an appropriate person (i.e., supervisor, next level supervisor, Fire Chief). In the event that the allegation of harassment is against the Fire Chief, the complaint may be made directly to a Board member.

Employees must come forward in the event they observe offensive conduct or any other conduct in the work place, whether it is from another employee, vendor, or visitor which may reasonably be construed as harassing, whether in a sexual nature or otherwise, of any individual. Any individual who comes forward to report such behavior and makes the report in good faith shall not be subject to retribution for making such report. The Fire District shall handle all investigations and information revealed in such investigations in a professional manner and with discretion.

WHISTLEBLOWERS

Both federal and state law provide protection from retaliation against an employee for reporting certain violations of law. As an example, federal law protects employees from retaliation for making (or assisting others in making) a Title VII claim. The Arizona Employment Protection Act provides protection against retaliation for reporting violations of Arizona statutes or constitutional provisions.

PERFORMANCE AND BEHAVIORAL EXPECTATIONS

The Fire District may use this provision to set the general tone for what it expects from its employees. The Fire District expects its employees to exercise their good judgment, and demonstration loyalty, integrity and discretion with each other and with the public.

Sample #1 does not address the due process requirements of a “for-cause” relationship. In the context of a “for-cause” relationship, while a strict “progressive” discipline format need not be required, some form of “pre-disciplinary” hearing and “post discipline” appeal is still required.

Sample Language #1

Employees and others who represent the Fire District are responsible for maintaining high standards of conduct, cooperation, and performance. Supervisors and managers are responsible for organizing and directing the work of employees so that optimum quality and productivity can be achieved and maintained. Whenever behavior, productivity, or effectiveness of an employee falls below an acceptable level, the supervisor will attempt to work with the employee to solve the problem(s). The methods utilized by the supervisor to work with the employee to resolve performance problems are within the discretion of the supervisor, are aimed at preserving the Fire District's integrity maintaining and improving high levels of conduct, and ensuring consistently high quality of services and products.

Professional and/or specialized competence may, for the protection of the Fire District, be reviewed periodically. In case of deficiencies, employees may be required to attend special training and successfully demonstrate knowledge, skills and abilities acceptable to management to remain in an assigned capacity.

The actions described in this policy manual are not intended to limit a supervisor or manager to following a progressive series of intensifying remedies (progressive discipline) in every case. Each situation/problem will be reviewed on its own merits and the employee's total record and action appropriate to the situation (as

determined by management) will be taken. Corrective action (discussions, written warnings, counseling, letters, memos, etc.) are considered proper and sufficient notice to an employee to change conduct. Corrective actions may precede more emphatic remedies (such as suspension, involuntary demotion, dismissal) whenever, in the judgment of management, a situation is readily correctable and of lesser consequence. However, management retains discretion to impose any discipline it believes appropriate at any time, without prior warning, up to and including termination. Setting forth work expectations and level(s) of acceptable performance are strictly a responsibility of management.

Sample Language #2

Every employee of the Fire District is expected to operate in a highly self-disciplined manner and is responsible for the regulation of his own conduct in a positive and mature way. Failure to do so will result in disciplinary action ranging from counseling to termination. The following list is instructive, but not all-inclusive, and represents the conduct standards of the Fire District:

- *Be governed by the ordinary and reasonable rules of behavior observed by law-abiding and self-respecting citizens. No member shall commit any act tending to bring discredit upon the Fire District or its employees.*
- *Be courteous and respectful in their contacts with the public.*
- *Be properly attired at all times when representing the Fire District, in accordance with the requirements as set forth by departmental policy.*
- *Accept responsibility for the performance of duties of higher rank when assigned to act in such position.*
- *As directed, accept assignment within the Fire District, administer the duties thereof, and maintain discipline, morale and efficiency.*
- *Accept the command of the senior employee when two or more employees find themselves in a position which requires initiative action. The senior employee shall assume such command until relieved by an officer or ranking officer.*
- *Operate through the chain of command in the transaction of Fire District business unless otherwise directed by standard operating procedures of the Fire District, or as may be required to resolve an emergency situation.*
- *Consult with and report in writing to the commanding officers when making recommendations for changes, alterations, or improvements in procedures, operations, or equipment. All such recommendations shall be forwarded to Headquarters with the approval or disapproval of intermediate officers.*
- *Keep in good physical condition so that all assignments might be performed at an acceptable level.*
- *Attend all fires or emergencies to which the employee may be dispatched or detailed, and exert the greatest effort to perform to the best of one's ability under all circumstances. Displaying neglect, inefficiency, or indifference in the performance of any of one's duties is sufficient cause for disciplinary action.*
- *Exercise proper precautionary measures to avoid injury. Report to the immediate superior any accident, illness, or injury occurring while on duty.*
- *Submit to drug screening procedures.*

- *Possess a current Arizona drivers' license before driving any Fire District vehicle.*
- *Exclude unauthorized individuals from riding on fire apparatus except after the company officer has obtained a signed and written waiver.*
- *Wear appropriate protective clothing and equipment.*
- *Wear seat belts in all Fire District vehicles while the vehicle is in motion.*
- *Exercise due caution to avoid unnecessary damage, waste, or loss of Fire District property. Personnel shall not give away, sell, loan, appropriate or in any way dispose of any property belonging to the Fire District without permission of the on-call duty officer.*
- *Accept no reward or present for service rendered in discharge of their duty.*
- *Promptly notify the immediate superior or on-call duty officer of all matters coming to one's attention which affects the interest and welfare of the Fire District.*
- *Become familiar with all equipment that may be required to be used in performance of one's duties.*
- *Maintain a telephone at home, and notify the immediate supervisor within 24 hours of any change in residence or telephone number.*
- *Promptly notify the immediate supervisor or on-call duty officer of any inability to report for duty at the required time.*
- *Refrain from wearing the uniform of the Fire District or any portion thereof while off-duty, unless so authorized.*
- *Maintain all certifications and licenses, and maintain all skill levels necessary and required for one's service position.*

TOBACCO USE

The Fire District may consider several options in regard to tobacco use. Obviously, a Fire District may forbid tobacco use on premises. When implementing a tobacco use policy, consideration needs to be given to the fact that some employees may currently be using tobacco. It is not uncommon to provide outdoor tobacco use, or to provide advance notice for employees of the Fire District's expectation that they stop using tobacco during work hours altogether. Nationwide, a number of public safety agencies have attempted to forbid tobacco use by employees on or off duty. These requirements have been challenged on privacy grounds in several jurisdictions. The results of that litigation have been somewhat mixed, with the majority of decisions supporting the employer's ability to so restrict tobacco use behavior. Arizona law specifically prohibits discrimination based on an employee's propensity to use tobacco. Thus, caution should be exercised when establishing a tobacco use policy.

Sample Language

In keeping with the Fire District's intent to provide a safe and healthful work environment, the use of tobacco in the work place, in Fire District vehicles, or on Fire District grounds is prohibited except in designated tobacco

use areas. Receptacles are provided in the designated areas, and employees are expected to use the receptacles, thereby maintaining the cleanliness and appearance of the surrounding area.

PERSONAL APPEARANCE

It is appropriate to establish clear policies governing employees' general appearance, the wearing of uniforms, appropriate non-uniform attire, etc. Fire Districts maintain the right to establish standards for appearance, including those surrounding hair standards. While some Fire Districts require only male suppression employees to maintain hair at or above the collar line while allowing female suppression employees to have long hair as long as it is pulled back and secured, other Fire Districts are opting to not have hair length requirements that are specific to each gender. Thus far, policies with differing standards based on gender have not been successfully challenged.

Because most Fire Districts provide suppression employees with uniforms, it is appropriate to have a policy manual that outlines the employee's responsibility in the maintenance of the uniform, as well as dictating when and in what circumstances such uniform items can be worn. It is also advisable to include the requirement of returning the uniform items at the point of termination of employment, and the understanding that failure to do so will result in the deduction of the cost of the uniform from the final paycheck.

Sample Language

General. While on active duty, every member of the Fire District shall be well-groomed and present a neat and clean appearance, unless the nature of assignment requires otherwise. This shall include well-groomed hair, proper attention to oral hygiene, absence of offensive body odors, and attire that is appropriate to the individual's line of work. Clothing shall be properly cared for, pressed and cleaned. Shoes shall be shined and dress shall conform to the policies in this section.

Attire/Uniform: It is very important to our profession that we have a neat and acceptable appearance to the public and those we serve. This Fire District strives for some flexibility in dress to maintain professionalism, as well as comfort to perform our job functions. Accordingly, administrative personnel are expected to dress in a manner that is professional and business-like in nature. Suppression personnel are to dress according to the uniform standards set forth in the Standard Operating Guidelines Manual. The following standards apply specifically to suppression personnel:

Hair. Members shall keep their hair properly cut and trimmed so as to present a neat appearance at all times. Hair will not hang below the bottom line of the collar of the uniform shirt when standing erect and will not in any way interfere with firefighting or rescue operations.

Facial Hair: Sideburns shall be neatly trimmed and shall not interfere with the seal of the face mask used with the Fire District's Self-Contained Breathing Apparatus. Sideburns shall not extend below a line level with the bottom of the ear. Mustaches shall not be of such length that they interfere with the face mask used with the Fire District's Self-Contained Breathing Apparatus. Beards and goatees shall not be worn.

Earrings or other visible body piercing shall not be worn by fire suppression personnel while on shift.

Clothing: There are consistent guidelines of dress and appearance for suppression employees, dependent upon the job assignment and the work activity being performed. The specific uniform items and requirements are outlined in detail in the Standard Operating Guidelines Manual. No other insignia, emblem, advertising button, ribbon, jewelry or other device shall be attached to the uniform without authorization of the Fire Chief. The wearing of Fire District-issued uniform items is prohibited off duty without prior approval of a Chief Officer, with the exception of when an employee is traveling to or from work. Additionally, uniform items are to be

worn only by current Fire District employees, thus employees may not allow their Fire District-issued uniform items to be worn by other individuals. All uniform items issued remain the property of the Fire District and are to be returned, clean and in good condition, upon one's termination of employment. The cost of uniform items not returned may be deducted from the employee's final paycheck.

DRUG AND ALCOHOL TESTING

Beware! This is a topic of discussion of great importance, but also of great liability. Because of the nature of the type of jobs and the level of public service, it is extremely important that Fire Districts have confidence that no employee is under the influence of alcohol or drugs while working. Thus, the establishment of a drug and alcohol testing policy is certainly advisable, but must be done with great caution.

Also beware that there have been recent cases that limit random drug testing for all employees and pre-employment drug testing for non-safety personnel.

First and foremost, before the Fire District can undertake any kind of drug/alcohol testing program, it is imperative that the Fire District establish a sound relationship with a certified laboratory that will serve as the testing facility. The policy must be written in a way that will coincide with the services the laboratory can and is willing to provide.

The primary consideration is determining the circumstances under which testing may be required. Options include the following:

- Pre-Employment
- For Cause/Reasonable Suspicion
- Post Accident/Post Incident
- Annual (generally along with an annual physical examination)

The policy manual must outline the testing methods and collection procedures. This must be determined in advance with the testing laboratory. Then, the policy manual must outline what actions may be taken in the event of an employee's refusal to submit to a test, and in the event of a positive test result. Most employers opt to allow some flexibility for a first time offense, if the employee agrees to a leave of absence with attendance in a rehabilitation program. Beyond a first offense, we see variations in actions. The actions to be taken must, in general, dovetail with the Fire District's disciplinary action guidelines. Thus, this is an area in which the Fire Districts are strongly advised to seek counsel or assistance in establishing a policy manual.

NOTE: With the new laws surrounding medical marijuana, it is advised that Fire Districts include within their Drug and Alcohol Testing policy some related language. (See discussion below)

NOTE: **Limitations on Random Drug Testing:** Recently, the Arizona Supreme Court ruled in the case of Peterson v. City of Mesa that its firefighters could not be randomly drug tested. The Court emphasized that the City of Mesa had not demonstrated sufficient history of drug problems in order to justify the additional invasion of personal privacy rights that accompanies random drug testing. However, there are a number of questions that were not answered by the Court, including: (1) the ability to randomly drug test firefighters who also serve in an EMS capacity; or (2) how much of a drug abuse/use history must a fire department show before it can implement random drug testing. Currently, there are some Arizona fire departments that are moving forward to random drug testing, having made the determination that there is either adequate history of drug use within the department, or that the Peterson case is narrow enough to permit random drug testing within the broader context of their department's practice. It is recommended that you consult with your district's attorney before implementing random drug testing.

MEDICAL MARIJUANA

The Arizona Medical Marijuana Act, passed by voters in November 2010, allows qualifying individuals to use medical marijuana to treat debilitating conditions. The Act contains a broad anti-discrimination provision that substantially limits an employer's ability to make employment related decisions based upon an employee's or applicant's status as a medical marijuana cardholder. The Act further states that an employer may not discriminate based upon the cardholder status or because the individual tests positive for the presence of marijuana. However, the Act does not prohibit an employer from taking adverse action against employee who uses, possesses or is impaired by marijuana during work hours or in the workplace. Accordingly, an employer is not required to allow the ingestion of marijuana in the workplace or to allow an employee to work while under the influence of medical marijuana.

In essence, the AMMA places on employers a general duty to reasonably accommodate and not discriminate against an applicant or employee who is a medical marijuana cardholder.

Following the passage of the AMMA came an amendment to the Arizona Drug Free Workplace Act (House Bill 2541). This provided employers with some flexibility and granted some immunity from liability if employment decisions were based on good faith belief than an individual used, possessed, or was impaired by any drug, including medical marijuana, while on duty on premises. Additionally, and a key component for Fire Districts, is that HB 2541 provides a safe harbor protection for employers who make employment decisions against an employee who is in a safety sensitive position.

While many positions within the Fire District may be considered as "safety sensitive," it is critical that the District clearly define which positions would fall into this category; it is not an across the board assumption that all positions within the District would be construed as safety sensitive, solely on the basis that the fire service as a whole is safety sensitive.

It is plausible that a Fire District can exclude an employee from a safety sensitive position based on a good faith belief that the employee is currently engaged in the use of medical marijuana. The District must approach any decision making about a medical marijuana cardholder with extreme caution. When notified of an employee's status as a medical marijuana cardholder, the District should require the employee to undergo an examination with the District physician in order to make a determination as to appropriate workplace adjustments.

In many instances, an individual who has been qualified as a medical marijuana cardholder may also be a qualified individual under the Americans with Disabilities Act. Accordingly, the District may be required to provide reasonable accommodation, which *could* include reassignment to a non-safety sensitive position (if available), or placement on a leave of absence (paid or unpaid). Likewise, if an employee is placed on a leave of absence due to medical marijuana use, it may also trigger the need for coverage under the Family Medical Leave Act.

Issues related to medical marijuana cardholders/users must be approached in the same manner as issues with individuals using other drugs; thus, policies must be carefully crafted to ensure protection for the employee and the District, as well as the public. Recognizing that this is newly enacted legislation, therefore uncharted territory, it is critical that Fire Districts seek assistance or counsel in revising or creating policy to address the use of medical marijuana, as well as in dealing with the situation if/when it arises.

PHYSICAL FITNESS / EXERCISE FACILITIES

The Fire District may wish to consider including a provision for mandatory training on the use of the exercise equipment prior to allowing employees to use the exercise facilities. Also, some Fire Districts may opt to allow

non-employees to use the exercise facilities. While this is not recommended, if a Fire District opts to make such an allowance, a liability waiver should be required.

If the Fire District wishes to emphasize physical fitness and wellness, it is prudent to have a policy that mandates physical training for suppression employees. However, it is suggested to require employees to opt for activities that minimize delay in response and that do not lend themselves to frequent injury or potential harm. In addition, some Districts are opting to prohibit employees from engaging in on duty fitness activities that involve physical contact.

Sample Language

In order to help ensure that Fire District employees are physically able to perform the function of their jobs, the Fire District is committed to establishment of a physical fitness and training program for all suppression employees. Company Officers shall allocate a minimum of one hour of physical fitness training time during each shift for employees to participate in physical fitness activities.

To such means, the Fire District may provide fitness equipment for the purpose of encouraging all employees to establish and maintain a regular exercise and fitness routine. Everyone shall respect the equipment. Care of the equipment should be the utmost concern at all times. In addition, the equipment should be put away and the room should be clean after use.

It is up to the discretion of the supervisor to determine if and when an employee may use the equipment during working hours. Whenever employees are participating in physical training, consideration shall be given to minimizing delay in response to emergency alarms. Additionally, employees are expected to avoid fitness activities that lend themselves to frequent injury or potential harm to Fire District property.

DISCIPLINARY ACTION

One of the most important (and problematic) policy manual provisions is that of disciplinary action. Thus, it is imperative that the disciplinary action policy be carefully crafted to accommodate the unique needs of each Fire District.

“Progressive discipline” is *typically* afforded to employees, both in “at will” or “for cause” environments. However, as discussed in the section on At-Will Employment, very careful precautions must be taken in drafting language that will still allow the Fire District to utilize the “at-will” doctrine. In an “at-will” relationship, the policy must indicate that the Fire District *may* exercise progressive discipline in an attempt to correct or improve performance or behavior, however there is not an obligation to do so, and termination of employment may result with or without cause.

While not always the case, a “progressive disciplinary process” is most often used in a “for cause” environment. Unlike an “at will” employee, a “for cause” employee has a property right in his employment. That right may only be taken away after due process is afforded the employee. This takes the form of a “pre-disciplinary” hearing and a “post-disciplinary” appeal process. Also, be alert to the occasional need for a “liberty-interest” hearing when a terminated employee’s reputation is at issue.

Because of the nature of this type of policy, it is impossible to provide a sample policy that would be suited to all Fire Districts. Thus, each Fire District will need to develop their own policies, taking into account such things as their “at will” vs. “for cause” status, their organizational structure, etc. Some introductory language is provided in the *sample language* section.

Included in the policy manual should be discussion surrounding the various types of disciplinary action, how each will be administered, how it will be documented, where and for how long such documentation shall be maintained, and which types of disciplinary actions are subject to appeal.

Before terminating an employee, keep in mind the following:

1. Have other employees in similar circumstances been treated the same?
2. Has the employee been given a chance to explain themselves?
3. Has the employee been told all the possible reasons for termination, and been given an opportunity to review the documents suggesting the decision?
4. Have you consulted with the Fire District's attorney or human resources specialist?

Sample Language

It is the policy of the Fire District to provide a work environment that encourages freedom of thought, expression and conduct, as long as these actions support our mission and are consistent with our efforts to provide excellent public service. It is also our policy to provide a safe, harmonious and positive environment that enhances career development.

Accordingly, the Fire District shall approach employee performance deficiencies in a positive and supportive way, geared toward helping the employee achieve success with improvement efforts. However, there may be times when performance and conduct may require some form of corrective or disciplinary action to achieve these ends.

It shall be the responsibility of all Chief Officers, with the authority empowered to them by the Fire District Board, to maintain discipline and administer disciplinary actions equitably. Chief Officers are responsible for ensuring that all employees know the rules, regulations, administrative instructions and conditions of employment which they must observe.

Every reasonable effort will be made to make disciplinary action a positive and corrective experience.

Steps of the disciplinary action may include, but are not limited to:

1. *Admonishment/Verbal Reprimand*
2. *Official Reprimand*
3. *Suspension*
4. *Demotion*
5. *Termination*

Any disciplinary action reported should require Fire Chief approval.

The Fire District will attempt to use progressive discipline when appropriate, but management retains discretion to determine when such progressive discipline is appropriate and at what stage discipline shall be implemented. This process does not constitute a contract and does not require that any one step of disciplinary action be taken before any other step. The decision to use or not use progressive discipline is made on a case by case basis, and the decision to do so does not in any way imply contractual obligation to continue to use progressive discipline or to terminate an employee only for cause.

Uniformity of Disciplinary Action

When evaluating an offense and the appropriate discipline, the responsible officer must consider circumstances carefully, including the elements of enticement and provocation. The extent to which a disciplinary action will serve as a constructive example to other employees shall also be considered.

When a member commits a series of unrelated offenses over a period of time, or a combination of different offenses at the same time, a more serious discipline may be imposed.

Counseling

A counseling session is an informal discussion between an employee and a supervisor involving unacceptable behavior and/or performance.

Counseling is non-disciplinary in nature. However, counseling sessions may impact future disciplinary actions and/or performance evaluations.

Supervisors should document all counseling sessions in order to track behavior and/or performance patterns.

Documentation of counseling sessions will become part of the employee's local personnel file for a minimum of one (1) year, but will not become part of the central personnel file unless further action is taken.

Admonishment (verbal warning)

An admonishment is a verbal reprimand to a member concerning misconduct or inadequate performance.

It shall be documented on an Interaction Notice and signed by the employee.

Records of admonishments will be permanently maintained in the employee's central personnel file in the Headquarters' Office and for a period of one (1) year in the employee's local file.

Official Reprimand (written warning)

An official reprimand is a formal written notice, on an Interaction Notice, to a member concerning significant misconduct, inadequate performance, or repeated infractions of a lesser nature. Official reprimands are permanent records to be filed in the member's central personnel file in the Headquarters' Office and in their local file.

An official reprimand may result from specific formal charges submitted by a supervising officer or as the result of an accumulation of infractions which, in the opinion of a supervising officer, necessitates more severe disciplinary action.

All official reprimands shall be signed by the member acknowledging receipt of an explanation of the reprimand and a copy.

Suspension

A suspension is a designed absence from duty, in a paid or non-paid status, which may be imposed for violating the Operating Standards, Policies and Procedures, or Administrative Directives of the Fire District, or for breaches of good order and discipline.

For disciplinary purposes, officers having the responsibility for supervision of stations or sections may suspend members of the Fire District in accordance with departmental Policies and Procedures. In every case, they shall immediately notify the available ranking chief officer by telephone, submit a report of their investigation, prepare and forward charges, and make specific recommendations for appropriate disciplinary action. Suspension shall be documented on an Interaction Notice.

Demotion

Demotion of a member of the Fire District shall be in accordance with departmental rules for violating the Operating Standards, Policies and Procedures, Administrative Directives of the Fire District, or for breaches of good order and discipline.

Dismissal

Dismissal is the most severe type of disciplinary action. Before it is initiated, the facts and circumstances of each individual case must be carefully analyzed and must support the conclusion that the member has clearly demonstrated an unwillingness or refusal to conform to the rules of conduct. Normally, a progression of disciplinary measures will be applied in an effort to rehabilitate an employee before dismissal is considered. Certain violations, however, may be serious enough to warrant dismissal for the first offense.

COMPLAINT AND GRIEVANCE PROCESS

In an attempt to allow employees a means for discussing complaints or problems with management, it is a good idea to establish a policy that encourages employees to bring forth their complaints or problems to management and to appeal unfavorable decisions. However, there are numerous considerations in establishing such a process. The Fire District must identify those issues/decisions that are not subject to grievance/appeal, which may or may not include such things as wages, policies and procedures, performance evaluations, or certain steps in a disciplinary action process.

Dependent upon the size of the Fire District, the levels of management, the desired involvement of the Fire Board, various steps can be put into a complaint/grievance procedure. Such steps may include, but not be limited to:

- Discuss with immediate supervisor;
- Discuss with supervisor's superior;
- Discuss with Fire Chief;
- Appeal to Grievance Committee;
- Final Appeal

It is important that the policy manual outline specific timeframes for each step in the process, the necessary documentation, and the various steps in the hearings with the Grievance Committee and/or the Fire Board. If the Fire District chooses to allow for the impaneling of a Grievance Committee, consideration must be given to whether the members of such a committee are employees or non-employees, who is involved in the selection, and if the Committee is selected as a standing committee for a designated time frame or if it will be selected for each individual situation. Often times when the committee is appointed by the Fire Chief, there can be concerns of favoritism, lack of objectivity, bias, etc. Thus, it is prudent to minimize such concerns in designing a policy/procedure best suited to the individual Fire District. Fire Districts also have the option to enter into an Inter Governmental Agreement with the State Office of Administrative Hearings for an independent administrative law judge to adjudicate disciplinary appeals.

[Please Note: If the Fire District is involved with a recognized bargaining unit for the emergency service personnel, the negotiated grievance procedure will prevail.]

Sample Language

It is the policy of the Fire District to afford all employees a means of obtaining further consideration of problems when they remain unresolved, and to establish procedures that provide for timely resolution of complaints and/or grievances.

Every attempt will be made to resolve the complaint and/or grievance to the mutual satisfaction of the member and the Fire District. A member may withdraw a complaint and/or grievance at any time. Appeals to a complaint and/or grievance may only be filed by the complainant or grieving party.

All actions connected to a complaint and/or grievance shall be conducted professionally and with discretion. No punitive action, retaliation or retribution shall be carried out against a member for utilizing the complaint and/or grievance procedure in good faith.

Elimination of position(s) as a result of a reduction in force and/or restructuring or reorganization, adoption of benefit packages, duty assignments, and compensation scales constitute administrative action of the Fire Board, rather than punitive action, and therefore are not subject to grievance.

All employees are responsible for the proper handling of complaints and/or grievances. Members who circumvent the appropriate procedure in airing their complaints and/or grievances will be subject to disciplinary action. Members who use either procedure to make frivolous complaints and/or grievances will also be subject to disciplinary action. All complaints and/or grievances are to receive serious consideration, however, and would only be considered frivolous if the member exhibited a pattern of repeated abuse of either procedure. Legitimate complaints and/or grievances are to be given full attention, and no retaliation will be allowed against any employee making proper use of either procedure. Any supervisor who attempts to block an employee from using the appropriate procedure will be subject to disciplinary action.

[NOTE: At this point in the policy manual, it is appropriate to set forth the detailed procedure developed by your individual Fire District, taking into consideration the factors noted in the Discussion above.]

AMERICANS WITH DISABILITIES ACT

See Article 4, "Americans with Disabilities Act."

CONFLICT OF INTEREST

It is advisable to clearly state that employees are to avoid activities, acts, or secondary employment that might create a conflict between personal interests and employment with the Fire District. This policy is designed to discourage business or financial relationships that may be in conflict, acceptance of gifts or services that may impact business decisions, etc. Avoiding potential conflict of interest situations can often be precluded by requiring disclosure of any such conflicts to the Fire Chief.

Sample Language

In order to protect the integrity of Fire District information, services and employee efforts, Fire District employees shall avoid any activity, practice, secondary employment or act which might create a conflict between one's personal interests and one's employment with the Fire District.

While the Fire District does not prohibit the practice of holding a second job, the Fire District does insist that an employee's job with the Fire District come first and that the second job does not interfere with or reflect unfavorably on the Fire District. Employees who hold a second job must provide written notification to the Fire Chief, and must maintain current notification at all times.

No employee or member of the employee's immediate family shall accept or solicit any gift, service, or other favor from any current or potential customers or vendors with whom the Fire District does business. This policy does not preclude normal, ethical business practices, such as token luncheons, token gifts, advertising items such as pens, pencils, and calendars, or other gifts of nominal value.

No employee shall directly or indirectly give, offer or promise anything of value to anyone in connection with any transaction or business that the Fire District may have with any organization.

No employee shall engage in conduct that is disloyal, disruptive, or damaging to the reputation of the Fire District.

Because it is not possible to describe every situation that could arise involving potential conflicts of interest, employees are required to carefully evaluate any activity that could potentially be construed as conflicting with their Fire District employment, and to provide written notification to the Fire Chief of any such potential conflict.

CONFIDENTIALITY OF INFORMATION

The Fire District has an obligation to protect the privacy of both Fire District affairs and employees' personal information. Accordingly, employees should be required to follow policies surrounding confidentiality of information. Likewise, it is prudent for the Fire District to state that the policy manual is not intended to deny anyone their constitutional rights.

[See discussion re: HIPAA in "Medical Records" Section above.]

SOLICITATION/DISTRIBUTION

This type of policy provision is particularly pertinent to non-union environments. If a Fire District wishes to try to limit union organizing activity on the premises during working time, a clear policy must be established. Such a policy will also help in controlling sale of merchandise on the premises, soliciting funds, and political campaigning. It is important to realize that if such a policy is put in place, it may place limitations on such activities as employees selling candy/cookies for their children's activities. Because this may be commonplace, the Fire District must decide how structured the limitations of the policy will be.

Sample Language

In order to minimize disruption of normal Fire District operations, it is our policy to limit and control solicitation and distribution on Fire District premises. Persons who are not employed by the Fire District are prohibited from solicitation and distribution on Fire District premises without prior management approval.

Employees are permitted to engage in solicitations or distributions of literature for any group or organization, including charitable organizations, only as follows:

- *The sale of merchandise is prohibited on Fire District premises. Exceptions may be granted in advance by the Fire Chief for charitable fundraisers.*
- *Literature for any political campaign shall not be displayed on Fire District premises.*

- *Solicitation and distribution of literature are prohibited during the working time of both the employee making the solicitation and distribution and the employee being solicited. Such working time does not include one's unpaid meal or break period or other time when the employee is not required to be working.*

Employees may be involved in political activities while off duty, however any political involvement including, but not limited to solicitation, distribution of literature, and campaigning may not be done in Fire District uniform.

USE OF ELECTRONIC COMMUNICATION TECHNOLOGY

With recent electronic communication technology advances, the use of computers, the Internet, electronic mail and other electronic communication devices are becoming very commonplace in both administrative offices and fire stations. While there are great benefits to such, it is important that Fire Districts make clear the restrictions placed on employees surrounding the use of such, as well as the Fire District's rights to monitor such use. Obviously, the Fire District would want to state that employees are prohibited from accessing websites that are inappropriate in the workplace. Additionally, it should be made clear that employees may not expect privacy in their Internet and electronic mail use and use of electronic communications; rather, management retains the right to access and review all employee activities on the systems.

Other considerations for this policy manual would include whether or not an employee can use the systems for personal business or only for Fire District business, whether or not an employee may download software to or from the computers, whether or not the policy guidelines apply to use of personal devices in the workplace and/or while on duty, etc.

Another area that Fire Districts should consider monitoring and controlling is that of photographs or electronic images taken by an employee in the course of his employment; such images are the property of the District and should be under the control of a designated Chief Officer. Policy should also strictly prohibit the posting of any photographs or electronic images or media taken in the course of employment on any personal website such as Facebook, YouTube, Myspace, etc. Additionally, the posting of photographs or electronic images that may be taken while an employee is off-duty but are District-related should require prior approval by a designated Chief Officer.

SOCIAL MEDIA

Given the widespread use of social media, it is advised that the policy manual should address the use of social networking sites and blogging. This can be a stand-alone policy, or be incorporated into a comprehensive Electronic Communication Technology. Policy may prohibit **or** limit the use of social networking sites during work time for purposes of general social communications; it is important that the policy make clear that the use of such sites while on duty is subject to monitoring and review, and any communications on such sites shall be subject to the guidelines of District policy. Furthermore, a Fire District would be well served by policy guidelines that state that employees' use of social media/social networking sites while off-duty may also come under scrutiny and review if the employee posts any information on such websites that could reflect unfavorably on the Fire District, its' employees or Board members.

WORKPLACE VIOLENCE

In our society today, the threat of potential acts of workplace violence has become more prevalent. Clearly, a Fire District has the responsibility to take any measures possible to prevent any such incidents. Creating a policy that prohibits such acts or threats and sets forth a procedure for reporting concerns of such demonstrates a proactive approach.

Sample Language

It is the policy of the District that threats or acts of physical violence, including intimidation, harassment, and/or coercion which involve or affect District employees or which occurs on District property or at District functions shall not be tolerated.

Threats or Acts of Violence are defined as conduct against persons or property that is sufficiently severe, offensive or intimidating to alter the condition of District employment, or to create a hostile, abusive or intimidating work environment for one or more District employees.

Prohibited workplace violence includes, but is not limited to, the following:

- 1. Threats or acts of violence occurring on District premises, regardless of the relationship of the District with the individual(s) involved.*
- 2. Threats or acts of violence not occurring on District premises, but involving someone who is acting in the capacity of a representative of the District.*
- 3. Threats or acts of violence not occurring on District premises, but involving an employee of the District if the threats or acts of violence affect the legitimate interests of the District.*

Any employee who experiences or witnesses such acts, conduct, behavior or communications that would fall within the definition above shall immediately notify their immediate supervisor or another member of management. Failure to report such information according to the guidelines within this policy shall be grounds for disciplinary action.

The District shall promptly and thoroughly investigate any report of threats or acts of violence. The identity of the individual making a report shall be protected to the greatest extent possible.

The District also prohibits the possession of weapons while on duty, on District premises or during any District-related activity. Weapons include visible and concealed weapons, including those for which the person has necessary permits. Weapons can include firearms, knives, explosive materials or any other objects that could be used to harass, intimidate or injure another individual. Knives, if carried and used as a work related tool are permissible if the blade does not exceed 5 inches. However, if an employee is legally permitted to possess a weapon, he shall be allowed to leave the weapon in his personal vehicle, as long as it is secured and locked in the trunk or glove compartment, or placed in a location that is not visible. As an alternative, the District may elect to provide storage facilities for weapons, and if so, may require those storage facilities be used. In addition, the District may designate specific parking areas for vehicles containing weapons.

Any employee determined to be responsible for threats of or actual violence or other conduct that is in violation of these guidelines shall be subject to disciplinary action, up to and including dismissal. Incidents of workplace violence that involve criminal conduct shall be referred to law enforcement for investigation and handling.

At the sole discretion of the Fire Chief, any employee who exhibits any potential warning signs, symptoms, and risk factors may be required to submit to a psychological fitness for duty evaluation. The cost of such evaluation shall be at the expense of the District.

If the act of violence constitutes an emergency, an employee who witnesses or is made aware of the situation shall call 911. After contacting 911, the employee shall immediately contact the duty Battalion Chief or higher authority. Upon receipt of such a report, the Fire Chief shall be notified as soon as possible. If a situation of workplace violence occurs but does not constitute an immediate emergency, the employee shall contact his immediate supervisor.

It shall be the responsibility of the Fire Chief to direct the investigation into the allegation and determine any appropriate and necessary action.

SECTION 3 – COMPENSATION AND BENEFITS

LEAVE

Vacation Leave

The first issue to be addressed is who is covered under the vacation policy: full-time, part-time, etc.

Typically vacation hours are accrued per pay period, and the Fire District must determine the point at which an employee begins to accrue the hours. Many Fire Districts will allow accrual to begin at the first day of full time employment, however, will indicate that the time is not earned, and therefore may not be used, until the employee has completed six months or one year of employment.

It is appropriate to reward employees with greater vacation accrual based upon their length of service with the Fire District. The policy should set forth a vacation accrual schedule accordingly. Additionally, because of the vast difference in schedules/hours between suppression and administrative employees, the policy must reflect the difference in the accrual hours. Likewise, some consideration should be given as to whether there will be a difference based upon one's distinction as an exempt or non-exempt employee.

In order to encourage time off for rest and relaxation, and to avoid tremendous financial liability, it is appropriate for the Fire District to establish a maximum allowable accrual. This can vary, but the norm is typically 1.5 to 2 times one's annual accrual. The policy should specify that one may not accrue hours in excess of the allowable maximum, but should grant the Fire Chief the authority to make exception and allow carryover beyond the established maximum. The policy should also address that payment may not be taken in lieu of vacation time off, and that the only "cash payout" of vacation hours will be upon termination of employment.

It is also suggested to include what the employee's responsibilities are for requesting vacation, as well as the Fire District's authority to grant or deny the request.

In addition, it is important to designate whether or not the Fire District intends to include vacation hours as "hours worked" for purposes of calculating overtime. While this is not a requirement under the law, and it is not the norm in most situations, many fire departments allow for such because of the regular overtime included in suppression employees' normal work schedules. This is an issue that definitely needs careful consideration.

Sick Leave

The first portion of the policy must address if sick leave is granted to full-time and/or part-time employees, and what the sick leave accrual schedule will be. Similar to vacation leave, it should specify if length of service determines one's accrual or if it is standard for all employees, whether or not the accrual rate differs for exempt employees, and whether or not there is a maximum accrual.

Additionally, the sick leave policy must designate what events qualify for the use of sick leave. A decision should be made as to whether or not to allow employees to use sick leave for the purpose of caring for family members who are ill, as well as for their own illness or medical appointments.

A determination must be made as to whether or not any accumulated unused sick leave will be paid (i.e., annually through a buy back, upon termination, "use it or lose it" etc.). Included in this should be a decision as

to whether the “right” to sick leave is to be “vested” or forfeited upon separation from service, etc.

The policy should specify that unused sick leave that is paid out at the point of termination of employment will not be counted as wages for purposes of retirement contributions, workers’ compensation, etc. Additionally, a decision must be made as to whether or not the Fire District will allow a person’s unused sick leave to be counted toward service credits for purposes of retirement.

Sick leave is often used in conjunction with FMLA leave, but any accrued sick leave must be made available under the Victim’s Rights Act (to attend criminal hearings.)

It is also prudent to stipulate in the policy that a fitness for duty release may be required prior to returning to work. The policy may specify certain situations which automatically require such a release, as well as those situations which allow for discretion of the Fire Chief.

Some possible restrictions on sick leave buy back include requiring it be done annually (use it or lose it); making it available only on separation from service if in good standing, etc.

A decision should be made as to how both vacation and sick leave buy back are to be computed (pay rate at the end of the year; pay rate on the date of retirement or resignation, etc.). A sick leave incentive plan is often considered as an alternative to sick leave buy back. Such plans could include allowing for conversion of a percentage of unused sick leave hours to vacation days, or a bonus payment granted to employees who did not use sick leave during the year.

[NOTE: New hire probationary employees and promotional probationary employees can have differing vested rights in accrued benefits upon termination.]

Holidays

While some Fire Districts do not provide holiday pay for suppression employees, the majority of the Fire Districts do provide paid holidays for administrative employees. If employees are to receive holiday pay, the policy should address who is eligible, after what time period, for which holidays, how holidays will be handled if they fall on a day when the employee is not scheduled to work, and whether or not holiday hours will be counted as hours worked for purposes of the calculation of overtime.

FMLA

FMLA leave is mandated for all public employers, regardless of the number of employees.

Where the FMLA applies, the statute allows the employer to make several elections in terms of how family medical leave is to be documented and used. The FMLA entitles employees to take up to 12 weeks in a 12-month period of leave (job protected) each year for specified family and medical reasons. It is critical that the policy define how the 12-month period shall be measured. The recommended method is a “rolling method”, which measures it forward from the first day of the employee’s leave. Such a distinction shall serve to avoid “leave stacking” from one year to the next.

Under the Family Medical Leave Act, the leave can be paid or unpaid, dependent upon the Fire District’s policy and the individual employee’s sick leave and vacation accrual. Also, a decision needs to be made as to whether an employee will be *required* to use accrued sick and/or vacation leave during the leave. It is generally recommended to make such a requirement, so as to minimize the total time off of the job, because in the absence of such a requirement, the employee may take the 12 weeks of FMLA, then begin to use sick leave and vacation, resulting in a very extended time period.

The law does allow for denial of job restoration in very limited circumstances:

- If the Fire District can prove that an employee would not still be employed even if the leave had not been taken (i.e., layoff or completion of a specific project for which the employee was hired); or
- If the employee is a “key employee,” defined as a salaried employee amongst the highest paid ten percent of all employees, provided that the denial is necessary to prevent substantial and grievous economic injury to the Fire District.

Another option the Fire District may wish to include in the policy manual would address the Fire District’s ability to require the opinion of a second, and possibly a third, medical opinion. If the Fire District opts to do so, it must be at the Fire District’s expense.

Situations in which an employee is on workers’ compensation leave may also qualify under the FMLA. It is important that the Fire District be very careful in the application of such combined leaves. There are specific concerns regarding benefits, use of accrued paid leave, etc., that may differ from a non-work related FMLA leave.

[NOTE: Samples #1 and #2 also contain benefits that exceed the minimum requirements established under the FMLA.]

Family Medical Leave Act notification requirements are set forth in the regulations established under the FMLA.

A format and forms for leave verification and notice should be established. (See Article 4.) The Department of Labor website (www.dol.gov) provides the necessary forms to be used in administering the FMLA.

Posters required to be in workplace are available from U.S. Department of Labor. (See Article 4.)

Sample Language #1

Family/Medical Leave Entitlements

The Fire District provides Family and Medical leave (referred to as “FMLA:”) to eligible employees who are temporarily unable to work due to any of the following reasons:

- *The birth, adoption, or foster care placement of a child of an employee.*
- *A serious health condition that renders the employee unable to perform the functions of the job.*
- *The care of an immediate family member with a serious health condition.*

Military Family Leave Entitlements

In accordance with the National Defense Appropriates Act (NDAA), a spouse, child, parent or next of kin (nearest blood relative) shall be granted up to 26 weeks of leave in order to care for a member of the Armed Forces who is undergoing medical treatment or therapy, recuperation or is otherwise in outpatient status or on temporary disability retirement for a serious injury or illness. For purposes of this allowance, the serious injury or illness must have been incurred in the line of active duty in the Armed Forces. This type of leave is only available during a single 12-month period and an employee is limited to a combined total of 26 weeks of FMLA leave, whether it is taken for care of a service member or for another FMLA qualifying reason.

Additionally, eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave FMLA entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

This policy applies to employees who have been employed by the Fire District for at least twelve (12) months and have been employed by the Fire District for at least 1250 hours during the twelve (12) months immediately preceding the commencement of the leave.

As soon as an eligible employee becomes aware of a need for a medical leave of absence, he/she must provide a statement acceptable to the Fire District from a physician verifying the existence and nature of the qualifying condition. The statement will contain the approximate date the leave is expected to begin, its anticipated duration, and the date the employee can be expected to return to work. Any changes in this information should be promptly reported to Human Resources.

Eligible employees will be granted FMLA leave for the period of the disability, up to a maximum of twelve weeks in a twelve-month period, or in the case of a military family leave, up to 26 weeks in a twelve-month period. Upon completion of the FMLA leave, an employee may request an extension into medical or personal leave of absence. Such requests will be granted at the discretion of the Fire Chief, and generally will not extend the overall absence beyond a total of 180 days.

Under the FMLA, an employee may be granted intermittent or reduced schedule leave when it is necessary for the employee's own serious health condition or for the care of an immediate family member with a serious health condition. Approval for intermittent or reduced schedule leave shall be granted only if deemed necessary by the health care provider. In such an event, the Fire District reserves the right to assign the employee to a different position in order to accommodate the intermittent or reduced schedule. Such a position will be comparable in pay and benefits.

Employees are required to use any accrued sick or vacation leave at the commencement of the leave. Exception to this guideline shall be made for a PSPRS-covered employee who is receiving Workers' Compensation lost-time wage replacement benefits and is granted eligibility under the Supplemental Benefit Plan. In such a case, the employee's leave accrual shall be frozen and he shall not be required to use his accrued leave. Employees who exhaust their paid leave accrual prior to the end of the FMLA leave period shall then be on unpaid leave.

Group insurance benefits shall be provided for the duration of the FMLA leave as though the employee were on active status. It will be the responsibility of the employee to contact Human Resources to make any necessary arrangements for payment of their portion of the premiums.

Vacation and sick leave accrual and other benefit eligibility are suspended during the leave, resuming upon return to active employment.

During the course of the FMLA leave, the Fire District may request periodic, updated certification of the condition, in intervals not less than 30 days.

Employees returning from FMLA leave are required to provide a physician's opinion regarding fitness to return to work. To the extent possible, employees will be returned to their former position or a position of equivalent pay and benefits.

Employees who sustain a work-related illness or injury may be placed on FMLA leave of absence concurrent with a Workers' Compensation leave for the period of disability in accordance with all applicable laws.

Sample Language #2

This policy is intended to be interpreted and applied in compliance with the Family and Medical Leave Act and the regulations thereto. The entire Family and Medical Leave Act is on file in the headquarters' office and available for review.

The purpose of the Act is to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families while increasing employee loyalty, involvement, and commitment to the operation and business goals of the employer. The stated intent of Congress is for employer and employee to work together in a spirit of mutual cooperation and respect to ensure the benefits of the FMLA for employees in a manner that accommodates the legitimate interests of the employer.

Family and Medical Leave Entitlements

The Family and Medical Leave Act of 1993 gives eligible employees up to 12 workweeks of unpaid leave for:

- The birth and care of a newborn child or placement of a child for adoption or foster care.*
- To care for the employee's spouse, child, or parent with a serious health condition.*
- For a serious health condition whereby the employee is unable to perform the functions of the employee's job.*

Military Family Leave Entitlements

In accordance with the National Defense Appropriates Act (NDAA), a spouse, child, parent or next of kin (nearest blood relative) shall be granted up to 26 weeks of leave in order to care for a member of the Armed Forces who is undergoing medical treatment or therapy, recuperation or is otherwise in outpatient status or on temporary disability retirement for a serious injury or illness. For purposes of this allowance, the serious injury or illness must have been incurred in the line of active duty in the Armed Forces. This type of leave is only available during a single 12-month period and an employee is limited to a combined total of 26 weeks of FMLA leave, whether it is taken for care of a service member or for another FMLA qualifying reason.

Additionally, eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave FMLA entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

Employees will be required to use paid, leave prior to unpaid Family and Medical Leave under certain conditions which are addressed in the qualifying circumstances section of this policy, and paid leave taken will be deducted from the balance of the Family and Medical leave entitlement. The reason the leave is being taken (family or medical) will determine what type of paid leave will be used. The determination as to what type of leave is to be applied needs to be made before the leave has ended. Exception to this guideline shall be made for a PSPRS-covered employee who is receiving Workers' Compensation lost-time wage replacement benefits and is granted eligibility under the Supplemental Benefit Plan. In such a case, the employee's leave accrual shall be frozen and he shall not be required to use his accrued leave.

An eligible employee is one who has been employed by the employer for at least 12 months (not necessarily consecutively) and has been employed for at least 1250 hours of service during the 12-month period immediately preceding the commencement of the leave.

Exempt employees are presumed to have met the 1250 hours of service required for eligibility if they have worked for the employer at least 12 months.

The employee is required to provide the employer with at least 30 days advance notice if the leave is foreseeable. If the leave is not foreseeable, the employee should notify the employer within one or two business days after learning of the need for leave or as soon as is practical.

Employees will be required to complete a Request for Family and Medical Leave form at the time of the request. Employees requesting medical leave or leave to care for a family member will be required to complete a

Certification of Physician or Practitioner statement within 2 weeks after requesting leave.

Under FMLA, eligible employees can take up to 12 workweeks of leave in a given 12-month period, or up to 26 work weeks in the event of a qualifying military caregiver leave. The FMLA allows employers to choose a uniform method to compute the 12-month period from among 4 alternatives and to change the method of calculation with 60 days notice to all employees. The Fire District has opted to use 12 months measured forward from the first date leave is used.

Employees will be required to use certain types of paid leave prior to unpaid Family and Medical Leave depending on the reason the leave is taken, and paid leave taken will be deducted from the balance of the Family and Medical Leave entitlement.

1. *For the birth and care of a newborn child, the placement of a child with the employee for adoption or foster care.*

The right to take leave under FMLA applies equally to male and female employees; a father or mother can take family leave. Absent unusual circumstances, the birth or placement of the child will initiate the start of the 12-week leave period.

Entitlement to take leave for the birth or placement of a child expires at the end of the 12-month period following the birth or placement.

Employees will be required to use up to 20 days of accrued vacation leave prior to unpaid leave for the birth and care of a newborn child or placement of a child for adoption or foster care. The employee will have the option of using their accrued sick leave prior to unpaid leave. After the employee has used a total of 20 days of paid leave (vacation leave or sick leave), the remaining leave will be unpaid unless otherwise approved by the Fire Board. The period of childbirth and recovery is considered as a period of temporary disability for the birth mother and is specifically described in the legislative history of the Act as "the employee's serious health condition" for which paid sick leave may be used. Paid leave taken will be deducted from the balance of the leave entitlement.

2. *To care for the employee's spouse, child or parent with a serious health condition.*

Employees will be required to use up to 20 days of accrued vacation leave prior to unpaid leave under these circumstances. They will have the option of using their accrued sick leave prior to unpaid leave. After the employee has used a total of 20 days of paid leave (vacation leave or sick leave), the remaining leave will be unpaid unless otherwise approved by the Fire Board. Paid leave taken will be deducted from the balance of the leave entitlement.

3. *Because of a serious health condition that makes the employee unable to perform the functions of the position of the employee.*

Employees will be required to use accrued sick leave and then accrued vacation leave prior to unpaid leave under this circumstance, and paid leave taken will be deducted from the balance of the leave entitlement. Time absent from work for work-related accidents that meet the FMLA definition of a "serious health condition" will be designated as Family Medical Leave.

It is not necessary for the employee to specifically request leave as FMLA qualifying; if the qualifying conditions are present, the employer can designate the leave as Family and Medical Leave and must so notify the employee immediately. The determination as to what type of leave is to be applied must be made before the leave has ended.

In order to determine eligibility under the FMLA, it is important to understand the key definitions of qualifying relationships and circumstances.

Spouse – Husband or wife as defined under state law; unmarried domestic partners do not qualify for family leave to care for their partners.

Child – A biological, adopted or foster child, stepchild, legal ward or a child of a person having day-to-day care for the child. It may also include a son or daughter who is 18 or more years old if he/she is incapable of self-care because of a physical or mental disability.

Parent – A biological parent or individual that was responsible for the day-to-day care of the employee as a child. Parents-in-law are not included in this term.

Serious health condition – An illness, injury, impairment, or physical or mental condition that involves:

Any period of incapacity or treatment in connection with or subsequent to inpatient care in a hospital, hospice or residential medical facility.

Any period of incapacity requiring absence from work, school or other regular daily activities of more than 3 calendar days that also involves continuing treatment by or under the supervision of a health care provider.

Continuing treatment by or under the supervision of a health care provider for a chronic or long-term health condition that is incurable or so serious that if not treated would likely result in a period of incapacity of more than 3 calendar days or for prenatal care.

The employee or family member is treated two or more times for the injury or illness by a health care provider; the employee or family member is treated on at least one occasion which results in a regimen of continuing treatment under the supervision of a provider (medication, therapy) to resolve the condition; or the employee or family member is under the continuing supervision of, but not necessarily being actively treated by, a health care provider due to a serious long-term or chronic condition or disability which cannot be cured (Alzheimer's, terminal disease, etc.) but may not require active treatment. Treatments for allergies, stress and substance abuse are covered by this clause if all the conditions of the regulation are met; however the inclusion of substance abuse does not prevent an employer from taking action against an employee who is unable to perform the functions of the job due to substance abuse.

An employee is considered to be "unable to perform the functions of the position of the employee", and therefore entitled to take FMLA, where the health care provider finds the employee is unable to work at all or is unable to perform any of the essential functions of the employee's position within the meaning of the Americans with Disabilities Act (ADA) and its regulations. The employer has the option to provide a statement of the essential functions of the job for the provider to review in the certification process.

An employee is considered to be "needed to care for" a family member if the health care provider finds that the employee is needed to provide physical and psychological care when the family member is unable to care for his or her own basic medical, hygienic, nutritional or safety needs, or is unable to transport him/herself to the doctor.

In either case the health care provider's statement should include the diagnosis of the serious health condition and the date it commenced, the probable duration of the condition, a brief statement outlining the course of care that will be followed (number of visits, frequency/duration of treatment), whether hospitalization will be required and a statement as to whether the employee is unable to work or unable to perform the essential functions of the job or how/why the employee is needed to provide care to the family member.

In the event the employer has reason to doubt the validity of a medical certification, the employer may require the employee to obtain a second or third opinion or periodic re-certification at the employer's expense; the employer may designate the provider furnishing the second opinion or re-certification but it may not be a provider regularly utilized by the employer.

Employees may also be required to report periodically to the employer on their status and their intention to return to work.

FMLA leave may be taken "intermittently" or on a reduced leave schedule when medically necessary to care for a family member or for the employee's own serious health condition as agreed upon by the employer and the employee.

Intermittent leave may include periods of time from an hour or more to several weeks, such as might be necessary for medical treatment.

Reduced leave schedule is leave that would reduce the employee's usual number of working days per week or hours per workday.

Intermittent or reduced schedule leave is subtracted from the total of 12 weeks of unpaid leave to which the employee is entitled under the FMLA by the actual amount of leave the employee has taken.

The employee is required to arrange for intermittent leave for scheduled medical treatment in advance with as much consideration for the business needs of the employer as possible.

In addition, if an employee requests intermittent leave or reduced leave schedule, the employer may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than the employee's regular position. Their alternative position must have equivalent pay and benefits but not equivalent duties so that the employer may assign the employee to a lower position at the employee's same rate of pay.

A husband and wife who are both employed by the same employer are permitted to take only a combined total of 12 weeks of leave during the 12-month period, if they are taking leave for the birth or adoption of a child.

This limitation does not apply, however, to leave taken by either spouse to care for the other who is seriously ill and unable to work, to care for a child with a serious health condition, or for his or her own serious illness.

During leave under the FMLA an employer must maintain the employee's coverage under any group health plan on the same conditions as the coverage would have been provided if the employee had been continuously employed during the entire leave period with the employee continuing to pay his/her share of health benefit premiums.

An employee may choose not to retain health coverage during FMLA leave and is entitled to be reinstated on the same terms as prior to taking the leave without any qualifying period or re-qualification conditions.

Employees on unpaid FMLA continue to accrue benefits except sick and vacation leave. Service credits also continue to accrue. Employees on unpaid FMLA do not receive performance increases. Employees on paid FMLA will continue to accrue all benefits, including sick and vacation leave.

An employee who returns to work for at least 30 calendar days is considered to have "returned" to work. Should the employee fail to return to work after FMLA leave, the employer is entitled to recovery of health benefit premiums paid by the employer for dependent coverage during the leave period.

Employees may be required to provide medical certification from their health-care provider attesting that they are able to resume work.

It is unlawful for any individual to discriminate against, interfere with or deny the exercise of or the attempt to exercise any right under the Family and Medical Leave Act.

Personal Leave

Generally, a Fire District should have in place a policy that allows for leaves of absence that may not be covered under the FMLA, and may not be emergency, bereavement, or military leaves. Thus, a general “personal leave” category can be established to allow for those circumstances that, at the sole discretion of management, warrant an approved time away from work. If your Fire District wishes to provide for such leaves, a policy should be created to outline the eligibility requirements, allowable duration, provisions for returning to work, benefit continuation or cessation during the leave, and the process for applying for such a leave.

It should be understood and clarified in the policy manual that the Fire District will make every attempt to place the employee back into his position, or a similar position, upon completion of the leave. However, unlike with an FMLA leave, the Fire District is not *required* to reinstate the person. Thus, these things should be set forth in policy.

Additionally, it should be noted that time spent on an unpaid personal leave will not be counted as credited service for purposes of PSPRS.

Emergency/Bereavement Leave

Emergency leave provisions are designed to offer a short-term paid leave for employees who have a critical situation such as a serious illness or death of a member of the immediate family. The policy should designate who is covered, what types of situations are included under the policy, how much leave time will be granted, and who must approve the leave.

Compulsory Leave

While compulsory leave may not be common, it has been found to very beneficial in situations in which the Fire District, particularly the Fire Chief, believes that an employee should not be working. Such situations could include one in which management believes the employee appears to be unable to perform the duties due to illness or injury, or if the employee has been formally charged with a felony or a misdemeanor that has any bearing on his employment or in any other circumstances that the Fire Chief deems appropriate.

It is critical that the policy manual address how the continuation of pay and benefits will be handled in each individual situation, the requirements for returning to work, and the impact on credited service.

Military Leave

Arizona and federal law require that a Fire District pay an employee while on military reserve training leave. An employee is entitled to a maximum of 30 days of paid military leave in 2 consecutive years (this means any two years coupled together).

It is also suggested that the policy manual address the situation in which an employee enters the military service during a war or a period of national emergency. Typically, such a leave is without pay or benefits, but does allow for reinstatement of position and benefits as required by law.

Additionally, in accordance with state statute, if a suppression employee is a member of the reserves or a member of the Arizona National Guard and is called to active military duty, the Fire District must make PSPRS contributions on behalf of the District and the employee for the period of time of active military service, up to a maximum of 48 months. The contributions must be made based upon the salary being received by the employee immediately prior to active military duty.

Sample Language

All employees required to attend military training shall be entitled to a military leave from their respective duties without loss of benefits, time, evaluation rating, vacation accrual, sick leave, or salary while in military status.

This period is not to exceed 30 days over a “rolling” 24-month period measured backward from the date an employee requests military leave.

Personnel involved shall submit a copy of their military orders directing them to report for duty to their immediate supervisor as soon as possible.

Any employee called into active service, or who volunteers for active service, shall be entitled to appropriate re-employment rights under state and federal law.

Jury Duty

Sample Language

The Fire District encourages employees to fulfill their civic responsibilities by serving as jurors when required. Employees who have completed a minimum of thirty (30) calendar days of service in an eligible classification may request up to thirty (30) days of paid jury duty leave during any one-year period.

Jury duty will be calculated on the employee's base pay rate times the number of hours the employee would otherwise have worked on the day of absence. Compensation will be provided by the Fire District only for time/days the employee would normally be scheduled to work less any compensation received from the court or any related remuneration. Travel, meals, lodging and/or other incidental reimbursements allocated by the court may be retained by the employee.

If an employee is required to serve as a juror beyond the period of paid jury duty leave, he or she may use any available paid time off (for example, vacation or sick leave time) or may request an unpaid leave of absence.

Employees must show the jury duty summons to the supervisor as soon as possible so that the supervisor may make arrangements to accommodate the employee's absence. An employee is expected to report for work whenever the court schedule permits.

Either the employer or the employee may request an excuse from jury duty if, in the employer's judgment, the employee's absence would create serious operational difficulties.

Insurance and leave benefits will remain in effect and unchanged for the full term of the jury duty absence. The same leave policies will apply to summons issued by a court for criminal or civil cases in which an employee is a witness and not a defendant or plaintiff.

Voting Time Off

If an employee's work schedule interferes with his ability to vote, state law requires that the employee be given up to three (3) hours in which to vote. Typically, with the voting polls being open from 0600 – 1900 hours,

employees are able to vote prior to or following their scheduled shift. If their scheduled shift does not allow for them to get to the polls prior to or after their scheduled work hours, then the Fire District must allow them time off with pay to exercise their voting rights.

EDUCATIONAL ASSISTANCE/TUITION REIMBURSEMENT

There is a varied practice among Fire Districts in dealing with the payment of educational expenses.

There are two areas to be addressed: reimbursement for college courses, and payment for job-related training or seminars. These are typically processed differently, in that the employee generally must pay up front for college tuition, and receive reimbursement upon completion. By contrast, the Fire District will typically pay up front for job-related training or seminars.

Consideration must be given to issues such as length of service, how relevant are the classes being offered, and whether the employee might be required to repay the Fire District. If an employee is required to repay the Fire District, care should be exercised in determining the appropriate pro-rate formula.

It is important to determine if the Fire District is willing to reimburse for any accredited institution, or only state and local colleges. This distinction is important because of the often high tuition costs associated with private institutions.

Additionally, consideration may be given to establishing an annual maximum that can be granted to an individual employee for tuition reimbursement. This will allow the Fire District to control the total costs associated with such a benefit.

Additionally, the policy should specify if the Fire District will only reimburse for course tuition, or if it is also willing to reimburse for books, lab fees, etc.

If the Fire District opts to have a repayment provision in the policy, there should be consideration given to the appropriate amount of time to associate with repayment. It may be advisable to leave this on an individual case basis at the discretion of the Fire Chief, to be specified on the Educational Assistance Agreement form.

Sample Language

The Fire District philosophy is to develop an increasingly educated and more highly skilled work force by providing educational assistance and training to its employees. This may come in the form of educational assistance with job-related training or seminars or tuition reimbursement for college level courses of study.

Upon recommendation of the supervisor, and at the discretion of the Fire Chief, an employee may be provided educational assistance in which the Fire District will pay the costs associated with attending a job-related training course or seminar. Any employee may be eligible for this benefit.

The other form is that of tuition reimbursement, which carries the following eligibility requirements:

- 1. Must be an employee/member of the Fire District.*
- 2. Must have completed one year of continuous service.*

Educational assistance in the form of tuition reimbursement will be provided only for courses of study which are directly related to the employee's present or potential position with the Fire District. In addition, the course(s) or program(s) must be offered by accredited institutions.

Requests for reimbursement of tuition must be submitted PRIOR to enrollment to the employee's supervisor, who will forward it to the Fire Chief for review and approval or disapproval.

The amount of tuition reimbursement paid by the Fire District is based upon the grade received for the course:

- 1. Grade of "A" or "Pass" - 100% reimbursement*
- 2. Grade of "B" - 75% reimbursement*
- 3. Grade of "C" - 50% reimbursement*
- 4. Grade of "D" or "F" - No reimbursement*

The maximum reimbursement is limited to that amount approved upon submission of request for approval, and may typically include tuition, laboratory and book fees.

After completing the course, the employee must submit a transcript of grades and receipts for expenses incurred to the supervisor who will prepare a Manual Check Request and forward all paperwork (Educational Assistance form, grades and receipts) to the Fire Chief. The Fire District will then reimburse the employee the applicable percentage of the noted costs.

However, employees taking courses at the specific request or direction of management may be reimbursed for costs in advance. An employee who voluntarily leaves the Fire District (or is terminated) prior to completing a course will not be reimbursed for expenses associated with the course.

Class attendance and completion of study assignments will be outside of the employee's regular working hours, and it is expected that education activities will not interfere with the employee's work. Unsatisfactory job performance during enrollment may result in forfeiture of educational assistance and discontinuation of employment.

If an employee leaves the Fire District (voluntarily or involuntarily) within six (6) months of completion of the course, the employee must repay the full amount reimbursed by the Fire District. If the employee leaves service (voluntarily or involuntarily) between six (6) months and one (1) year after completing the course, one-half (1/2) of the amount will be recovered by Fire District.

Any records of all education programs completed by each employee will be maintained by the Fire District in the employee's file(s). It is the employee's responsibility to ensure that the records are submitted and that any updates to the records are provided to the Fire District.

TRAVEL REIMBURSEMENT

The purpose of this policy is to establish consistent guidelines to apply to employees who travel on job-related business or for job-related training.

The policy should specify what is covered, such as per diem, lodging, mileage, airfare, etc. However, it is not recommended that the policy include specific allowable rates for such things as per diem, hotels, mileage, etc. Rather, it can reference an SOG or in the case of mileage, the applicable federal government rate.

Another item for consideration is when employees will be granted the use of a Fire District vehicle for such travel, and how it will be handled if the employee instead chooses to use a personal vehicle.

TIMEKEEPING REQUIREMENTS

All Fire Districts are required to comply with the timekeeping requirements set forth by the Wage and Hour laws covered in the Fair Labor Standards Act. It is important to require that all *non-exempt* employees

complete and sign a timecard or timesheet for each pay period. Common mistakes made by employers include not having well-documented payroll records, which can be extremely detrimental in the event of a Wage and Hour/Department of Labor audit. Exempt level employees are not required under the law to complete time records, but it is advisable to maintain some sort of records with regard to time not worked (sick leave, vacation, leave of absence, etc.).

The timekeeping requirement should also outline the process for minimum callback time in the event of off-duty callbacks, as well as time for attendance at drills and required meetings outside one's normal work schedule.

OVERTIME

While the Fair Labor Standards Act dictates the requirements for the payment of overtime, some policy decisions must be made in order to determine exactly how the Fire District will calculate overtime for non-exempt employees. In order to take advantage of the 7(k) exemption of the FLSA, the Fire District must determine the work period, which will in turn determine the threshold for overtime for suppression personnel. This should be established in policy. (See Article II: FLSA Issues) For non-suppression personnel, the policy should state that overtime compensation will be provided for all hours worked in excess of forty hours in the designated work week. Also, it is very important to include language in the policy that requires employees to get prior approval before working overtime.

WORK SCHEDULES/PAY PERIODS/PAYCHECK DISTRIBUTION

Along with the issue of overtime noted above, it is important to designate the work periods and pay periods of the Fire District so as to maintain compliance under the FLSA. The Fire District should define the number of days in the work period for suppression personnel (it is always 7 days for non-suppression personnel). Additionally, it should indicate the day of the week and time that the work period and pay period start and end.

The policy should indicate the payroll periods and the actual pay day, along with the basic procedure for releasing paychecks.

This policy is also an ideal place to stipulate that work schedules will be established by the supervisor, and may be amended at any time, subject to such factors as workload, customer service needs, and the efficient management of the Fire District.

GROUP INSURANCE

While it is not desirable to provide any details regarding the specific group health/dental/vision/life insurance benefits provided, it is advisable to establish a policy that covers who is eligible for the insurance benefits, the eligibility period, whether or not the employee must cover any of the premiums, and how the employee can gain further information.

With the escalating costs of insurance, it is wise to not commit in policy to the actual contribution that the Fire District will make, understanding that this may change from year to year, depending upon budgetary restraints.

Sample Language

In order to assist employees and their families in providing protection in the event of a need for medical, dental or vision attention, the Fire District makes available group health insurance benefits to full time employees and their eligible dependents. Coverage becomes effective on the first day of the month following the date of hire as a full time employee. (Note: Refer to your Fire District's specific insurance contract, because this can vary.)

The Fire District pays a portion of the employee's coverage, subject to the discretion of the Fire Board. If an employee wishes to elect coverage for dependents, the portion of the premium will be deducted from the bi-weekly paycheck.

Detailed information regarding the available group insurance plans is available in the Administration Office.

COBRA

If the Fire District employs 20 or more employees and offers group health insurance, you are covered under the Consolidated Omnibus Budget Reconciliation Act, which requires you to offer continuation of group health benefits to employees and their dependents in circumstances under which the coverage would otherwise cease. It is suggested that you seek additional information from your group insurance provider or a benefits broker as to how to administer the continuation coverage.

However, included in the COBRA regulations are specific requirements that the employer must follow in order to comply with the act. Specifically, it should be addressed in the policy manual or employee handbook, and any affected employee must receive notification of such a benefit.

WORKERS' COMPENSATION

As an employer, each Fire District is required to provide Workers' Compensation insurance benefits for all employees. The available benefits include payment for medical treatment, compensation for lost wages, and awards for partial or permanent disability.

The policy on Workers' Compensation should establish the employee's responsibility for notification of any and all work-related illness or injury, and outline the process to be followed for seeking treatment. Additionally, the policy should specify the requirements for fitness for duty examinations, whether or not the Fire District will supplement the workers' compensation pay, whether or not the employee can use vacation/sick leave to supplement the workers' compensation pay, what benefits will continue during the workers' compensation leave, and whether or not an employee will be allowed to work a light duty assignment.

It may also be important to indicate in policy that there may be a simultaneous use of FMLA leave while out on a workers' compensation leave.

Additionally, in accordance with House Bill 2643 which was passed in 2012, fire districts are required to provide a supplemental benefits plan to augment the lost-time wage benefit provided by the Workers' Compensation carrier. The plan must ensure that the employee receives his identical base salary less the amount of the Workers' Compensation benefit, taxes, and any other voluntary deductions. The fire district may either directly provide the supplemental compensation benefit, or provide supplemental insurance coverage. Additionally, the employee's leave accrual shall be frozen during the applicable time period; therefore, the employee shall not accrue additional time, nor shall he be required to use accrued leave. Lastly, during the applicable time frame, the District is required to pay the employee's contribution to PSPRS. The District may establish policy that requires the employee to apply for coverage under the supplemental benefits plan, and such coverage may be denied if the employee incurred the injury while engaging in conduct that is in violation of District policy or is a result of gross negligence. Law requires this supplemental benefit to be provided for an initial six-month period, with an option to extend it for up to twelve months.

FLSA ISSUES SPECIFIC TO FIRE DISTRICT PERSONNEL

FAIR LABOR STANDARDS ACT

The Fair Labor Standards Act (FLSA), governed by the United States Department of Labor, establishes regulations regarding how organizations must pay their employees. Compliance with the FLSA is enforced by the Wage and Hour Division of the DOL.

In 2004, Congress finally updated the FLSA. New exemption regulations were adopted and DOL issued regulations clarifying a number of issues which have been the source of litigation over the years. The following are some of the areas of common question within the Fire Districts:

Exempt v. Non-Exempt

For purposes of determining proper payment of wages, each position within the Fire District must be classified as “exempt” or “non-exempt.” The FLSA recognizes three primary categories of employees that are considered “white collar exemptions” and are therefore exempt from the overtime provisions of the act, which require payment of one and a half times the regular hourly rate for all hours in excess of forty in a work week. The following gives a basic overview of the requirements for each category, generalized for the purpose of Fire Districts:

- ❖ *Executive* – The most significant change (starting in 2004) to the executive exemption duties test is the addition of a requirement that a worker have the authority to hire or fire (or make hiring or firing recommendations) in order to qualify for the exemption. To qualify for the executive exemption under the new rules, an employee must meet all of the following requirements:
 - (1) be paid a salary (as that term is defined in the regulations) of at least \$455 per week;
 - (2) have as his or her primary duty managing the enterprise or managing a customarily recognized department or subdivision of the enterprise;
 - (3) customarily and regularly direct the work of at least two other full-time employees or their equivalent; and
 - (4) have the authority to hire or fire other employees, or have his or her suggestions and recommendations regarding the hiring, firing, advancement, promotion of any other change of status of other employees be given particular weight.

Example: Fire Chief, Administrative Chief Officer

It is the additional requirement of the authority to hire or fire (4) above, along with the salary increase that is likely to make it more difficult for workers to meet the executive exemptions new duties test. However, DOL noted in the preamble of the new regulations that “most supervisors and managers should at least have their suggestions and recommendations as to hiring, firing... be given particular weight.” The new rules also make it clear that a worker may perform both exempt and non-exempt tasks and still qualify for the executive exemption. In addition, the new regulations contain definitions of many of the terms used in the criteria for the executive exemption:

- Primary duty ([29 C.F.R. § 541.700](#));
- Management ([29 C.F.R. § 541.102](#));
- Particular weight ([29 C.F.R. § 541.105](#));
- Concurrent duties ([29 C.F.R. § 541.106](#));

- Department or subdivision (29 C.F.R. § 541.103);
- Customarily and regularly (29 C.F.R. § 541.701); and
- Two or more other employees (29 C.F.R. § 541.104).

❖ *Professional* – DOL’s revisions to the professional exemption may be the least dramatic of all the changes to the FLSA’s so called “white collar exemption duties test.” In addition to earning a minimum salary of \$455 a week, a learned professional must meet three requirements to be considered exempt from the FLSA’s minimum wage and overtime pay rules under the new regulations (29 C.F.R. § 541.301[a]):

- The primary duty must be performing work that requires advanced knowledge;
- The advanced knowledge must be in a field of science or learning; and
- The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

Example: accountant, computer programmer, etc.

In the preamble of the new rules, DOL defines “advanced knowledge” as “work which is primarily intellectual and varied in character, and which includes work requiring the consistent exercise or discretion and independent judgment.” The DOL explained that in using the phrase “customarily acquired by a prolonged course of specialized instruction,” it was retaining the general concepts from the existing rules, but added guidance to the regulations regarding when a worker without a formal degree might be able to qualify for the professional exemption. DOL noted two additional factors for employees to apply when considering the professional exemption:

- (1) The standard prerequisite for entry into the job must be “specialized academic training;” and
- (2) Employees who work in such a profession must either possess an advanced degree or “have substantially the same knowledge level and perform substantially the same work as the degreed employees.”

Item #2 above is not intended to expand the learned profession exemption. Instead, it is intended to provide a better guide for determining when a non-degreed employee working in a recognized field of science or learning can qualify as an exempt learned professional by focusing the inquiry on the actual work performed by the employee.

❖ *Administrative* – DOL jettisoned the existing “long” and “short” duties test and replaced them with a new “standard” test for each exemption, including the administrative exemption. In general, the new standard administrative exemption test retains the requirement that an exempt administrator have a primary duty of “performing office or non-manual work directly related to the management or general business operations of the employer or the employer’s customers.”

Example: administrative manager or administrative assistant to the fire chief (Note: positions such as these must be very carefully evaluated to determine the true existence of discretionary authority and duties which are not of a retained, clerical nature).

The new regulations also maintain, but clarify, the confusing “discretion and independent judgment” requirement. However, in the final rules, DOL elaborated on this criterion, stating that exempt administrators must exercise discretion and independent judgment “with respect to matters of significance.” As with executive and professional tests, an administrative exempt employee must be paid a salary of at least \$455 a week.

The new rules provide further clarification of the term “primary duty” which is defined at 29 C.F.R. § 541.700(a), as “the principal, main, major, or most important duty that the employee performs.” This

language is the first time the DOL has attempted to include a short, general statement defining the term “primary” in the regulations, but is not a change in the current law (according DOL in its preamble.) The new rules list factors for employers to consider when determining whether an employee’s primary duty would meet the administrative exemption test, such as:

- the relative importance of the exempt duties as compared to other types of duties;
- the amount of time spent performing exempt duties;
- the employee’s relative freedom from direct supervision; and
- the relationship between the employee’s salary and the wages paid to other employees for the kind of non-exempt work performed by the employee.

As was the case in the pre-2004 rules, DOL retained the standard that employees who spent more than 50% of their time performing exempt work generally satisfied the primary duty requirement. The new regulations also include language from the current regulations that “time alone,” however, is not the sole test in determining a worker’s primary duty (29 C.F.R. § 541.700[b].) However, the primary duty test does not require a 50% bright line test. Indeed, DOL cited case law suggesting that even 10% or 20% of the employee’s time may suffice, in the right situation.

Exemption under the FLSA allows for the employee to be paid a salary, not requiring hourly payment or payment for overtime. Each position within the Fire District must be carefully evaluated to determine its status under the FLSA. The position of firefighter, for example, is always non-exempt. Typically, the position of Fire Captain is also considered non-exempt, because the employee spends a majority of the time performing non-exempt (firefighting) duties. Within the typical chain of command in fire departments, the position of Battalion Chief is the point at which exemption can possibly be established. However, the title of the position is not the determining factor; rather the duties of the specific position must be examined in order to make a sound determination.

Safe Harbor Rules

The liability of employers that makes improper deductions to an exempt worker’s wages has been significantly limited by DOL in the new FLSA regulations. Under the new rules, an employee’s white collar exempt status will not be lost if impermissible pay deductions are “isolated” or “inadvertent” and if the employee is reimbursed (29 C.F.R. § 541.603). DOL also created a new “safe harbor” rule that allows a white collar exemption to be retained – with no further liability to the employer other than reimbursing the worker – if the employer demonstrates a good faith effort to comply with the FLSA by:

- have a “clearly communicated policy” that prohibits improper pay deductions;
- have a complaint mechanism;
- reimbursing the worker for the improper deductions; and
- make a good faith commitment to comply with the act in the future.

If any employer does all of the above, it will retain the exemption from the FLSA’s minimum wage and overtime rules unless it willfully continues to make improper deductions after receiving employee complaints.

Sample Language #1

The Fair Labor Standards Act (FLSA) is a federal law which requires that most employees in the United States be paid at least the federal minimum wage for all hours worked and overtime pay at time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek.

However, Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional and outside sales employees. Section

13(a)(1) and Section 13(a)(17) also exempt certain computer employees. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the Department's regulations.

Salary Basis Requirement

To qualify for exemption, employees generally must be paid at not less than \$455 per week on a salary basis. These salary requirements do not apply to outside sales employees, teachers, and employees practicing law or medicine. Exempt computer employees may be paid at least \$455 on a salary basis or on an hourly basis at a rate not less than \$27.63 an hour.

Being paid on a "salary basis" means an employee regularly receives a predetermined amount of compensation each pay period on a weekly, or less frequent, basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee's work. Subject to exceptions listed below, an exempt employee must receive the full salary for any workweek in which the employee performs any work, regardless of the number of days or hours worked. Exempt employees do not need to be paid for any workweek in which they perform no work. If the employer makes deductions from an employee's predetermined salary, i.e., because of the operating requirements of the business, that employee is not paid on a "salary basis." If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

Circumstances in Which the Employer May Make Deductions from Pay

Deductions from pay are permissible when an exempt employee: is absent from work for one or more full days for personal reasons other than sickness or disability; for absences of one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for salary lost due to illness; to offset amounts employees receive as jury or witness fees, or for military pay; or for unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions (see Company Policy on penalties for workplace conduct rule infractions).

Also, an employer is not required to pay the full salary in the initial or terminal week of employment; for penalties imposed in good faith for infractions of safety rules of major significance, or for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. In these circumstances, either partial day or full day deductions may be made.

District Policy

It is our policy to comply with the salary basis requirements of the FLSA. Therefore, we prohibit all managers from making any improper deductions from the salaries of exempt employees. We want employees to be aware of this policy and that the company does not allow deductions that violate the FLSA.

What To Do If An Improper Deduction Occurs

If you believe that an improper deduction has been made to your salary, you should immediately report this information to your direct supervisor, or to [insert alternative complaint mechanism(s)].

Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, you will be promptly reimbursed for any improper deduction made.

Sample Language #2

It is the employer's policy to comply with applicable wage and hour laws and regulations. The improper pay deductions specified in Title 29 of the Code of Federal Regulations § 541.602(a) may not be made from the pay of employees who are subject to the salary basis test under the Fair Labor Standards Act.

If you believe that any deduction has been made from your pay that is inconsistent with your salaried status, you should immediately contact _____ at _____.

Any complaint will be resolved within a reasonable time given all the facts and circumstances. If an investigation reveals that you were subjected to an improper deduction from pay, you will be reimbursed and the employer will take whatever action it deems necessary to ensure compliance with the salary basis test in the future.

Sample Language #3

It is the employer's policy to comply with applicable wage and hour laws and regulations. Accordingly, the employer intends that deductions be made from your pay only in circumstances permitted by the Fair Labor Standards Act and the U.S. Department of Labor's rules governing the salary basis of pay for exempt employees. The improper pay deductions specified in Title 29 of the Code of Federal Regulations §541.602(a) may not be made from the pay of employees who are subject to the salary basis test.

If you have any questions or concerns about your salaried status or you believe that any deduction has been made from your pay that is inconsistent with your salaried status, you should immediately raise the matter with your immediate supervisor. If you have raised the matter with your supervisor and it is not resolved within ten (10) business days, or if, for any reason, you are uncomfortable discussing the matter with your supervisor, you must submit your question, concern or complaint to [NAME] in the [HR, Payroll, Other] Department at: [Insert at least two of the following: room number, telephone number, fax number, email address.]

To ensure that the employer understands your concern or complaint (hereinafter, both referred to as "complaint") and is able to conduct a proper investigation, the employer requires that any complaint that seeks the payment of money or requests a change in policy be submitted in writing. ; No particular form is required, but each such complaint must include the employee's name, ID number and a brief description of the issue. You also must identify the pay period(s) to which the complaint relates. If you are unable for any reason to submit your complaint in writing, the employer's representative named in the previous paragraph (or his/her representative) will take a statement from you. You then will be asked to review and sign the statement to ensure it accurately reflects your complaint.

The employer is committed to investigating and resolving all complaints as promptly, but also as accurately, as possible. Consistent with the U.S. Department of Labor's policy, any complaint will be resolved within a reasonable time given all the facts and circumstances. If an investigation reveals that you were subjected to an improper deduction from pay, you will be reimbursed and the employer will take whatever action it deems necessary to ensure compliance with the salary basis test in the future.

7(K) Exemption

Under the FLSA, public safety employers (including Fire Districts) that employ five or more people are allowed a special exemption for those employees engaged in fire protection activities (this excludes EMS-only personnel) for purposes of calculation of overtime. Accordingly, the 7(K) exemption allows each agency to establish a "work period" ranging from 7 – 28 days, and to pay overtime based upon a corresponding threshold from 53 – 216 hours. This threshold is based upon a ratio of 7.57 hours/day in the work period. This exemption was established to allow for the non-regular work schedules typically seen within fire and police departments. Example: If a Fire District establishes a work period of 27 days, overtime compensation is only due for hours within that work period that exceed 204.

The key to maximizing the benefits of the 7(K) exemption is to identify the work period that will best align with the department work schedule and pay periods.

Payroll Averaging

The concept of “payroll averaging” is a common practice in fire departments as a way to calculate the total annual earnings (including overtime) and then divide it by the number of pay periods in the year, so as to allow the employee to receive a level “salary” for their regular schedule hours. However, this is potentially problematic and a majority of the payroll averaging plans that are seen may not be in compliance with the FLSA.

While “straight time” hours can be averaged for purposes of payment on a regular basis, any “overtime” hours must still be paid a premium on top of the “straight time” salary.

The FLSA requires that employees be paid for *actual hours worked* in a given work period, with overtime paid for all hours in excess of the FLSA allowable threshold. If a department is paying a flat salary for the fluctuating schedule, the pay plan may not be in compliance!

Lump Sum Payments/Bonuses

Employers must recognize that various types of lump sum payments must be included in the calculation of overtime pay for non-exempt employees. Some types of lump sum payments would include:

- Incentive pay
- Bonuses
- Longevity Pay
- Retroactive Pay
- On-Call Pay

If any of these lump sum payments are made, the employer is required to go back and recalculate the employee’s *regular* rate of pay in order to determine the employee’s *overtime* rate of pay. This can be particularly problematic and administratively very difficult for a longevity bonus that is based on completion of an additional year of service.

Sleep Time

While relatively few departments are still taking advantage of the sleep time allowance under the FLSA, it is important for those departments to ensure compliance. The FLSA allows for sleep time deductions only if the following conditions are met:

- The shift is *more than* 24 hours
- No more than 8 hours are deducted
- The employee is allowed to get 5 hours of uninterrupted sleep
- Any work interruptions (calls) are paid
- There is an agreement between the employees and the department

Extra Duty

This is an area in which districts may unintentionally violate the FLSA. It is required that the district compensate non-exempt employees for *all hours worked*, including:

- Mandatory education or training sessions
- Public education presentations, tours, etc.

- Shift change, briefings
- Mandatory employee meetings

Often times, Fire Districts believe that if the employee *voluntarily* performs the off-duty tasks, the Fire District is not obligated to pay the employee. However, this is incorrect; a department employee cannot perform volunteer services to the same agency by which he is employed, if those services are similar in nature to his regular duties.

Volunteers

Volunteers are not regarded as employees under the FLSA statutes. The FLSA defines a volunteer as “an individual who performs hours of service for a public agency...without promise, expectation or receipt of compensation for services rendered...”

The law does allow for reimbursement of volunteers’ expenses, reasonable benefits, and nominal fees. However, the nominal fee is not a substitute for compensation, and cannot be tied to productivity. However, there is an exception that allows for a “per call” based fee to be paid to volunteer firefighters. A Fire District may provide a nominal monthly or annual stipend for providing periodic services on a year round basis.

The FLSA regulations prohibit a paid employee from volunteering services to perform the same duties or responsibilities for which they are otherwise paid by the same department.

Compensatory Time

Compensatory time is allowable for public employers such as Fire Districts. This means that the non-exempt employee may be allotted “comp time” hours in lieu of monetary overtime payment. However, the Fire District must adhere to the following circumstances:

- The employee must be given the choice of overtime pay or compensatory time
- For every hour of overtime worked, the employee must receive 1.5 hours of compensatory time
- Maximum allowable accrual of compensatory time is 480 hours, at which point cash payment must be made
- The employee must be allowed to use the compensatory time within a “reasonable time” at his request, provided that it doesn’t “duly disrupt” the operations of the Fire District

Fire Districts are cautioned in the development of compensatory time provisions. It should be recognized that if the employee were allowed to accrue compensatory time, the cost of such time would increase as the employee’s salary goes up. Therefore, in the long run, the budgetary impact may be much greater to the Fire District; thus careful consideration is warranted. Accordingly, it may be prudent to incorporate into policy a maximum allowable accrual that may be far less than what is allowable under the law.

Out-of-Town Travel Time

Frequent questions are asked regarding when the Fire District must pay for a non-exempt employee’s out of town travel time. The Fire District may be responsible for paying travel time if the out of town travel is required of the employee (i.e., to attend a mandatory training or meeting).

According to the FLSA, the travel time must be considered as hours worked when it is during the employee’s regular workday hours. Additionally, if the time is during the employee’s regular work hours, but on non-work days, the time is also compensable.

If the travel time is *outside* of the employee's regular work hours, and the employee is a *passenger* in a car, plane, train, bus, etc., the time is not compensable. But, if the employee is the *driver or assigned driver's helper*, the time is then compensable.

Example: An employee typically works Monday through Friday, 0800 – 1700. If the employee travels any day between the hours of 0800 – 1700, the travel time is compensable. However, if the employee travels before 0800 or after 1700, and is a passenger, the time is not compensable. If the employee travels before 0800 or after 1700, but must be the driver or must engage in productive work during the time as a passenger, the time is compensable.

Training Time

Because training is so essential within the fire service, many Fire Districts encourage employees to pursue additional training and/or education. It is important that the Fire District be cautious in determining when an employee will be paid for such training time. Any time that the Fire District mandates or requires the employee to attend a training session, the employee's time must be paid by the Fire District.

The training time is not considered hours worked if *all* of the following circumstances apply:

- The training is outside the regularly scheduled work hours
- Attendance is voluntary
- The course is not *directly* related to the employee's current job
- The employee does not perform productive work during attendance at the training session

Additionally, if continuing education is required in order to maintain a *state* certification, the Fire District is not required to pay for the time the employee attends the training.

Shift Trades

Under the FLSA, suppression employees may be allowed to take time off without using paid leave hours via the use of a shift trade. In such a trade, a suppression employee may work for another suppression employee to avoid either employee from losing paid leave hours when taking time off. In a shift trade, the employee taking time off shall be paid for normal hours worked, while the employee working for him is not paid. However, the employee working the shift shall be compensated at a later date when the other employee repays those hours traded by working an equivalent number of hours for him.

The employees should be required to obtain prior supervisory approval, and the trades should only be approved if there will be no impact on operational effectiveness or no creation of financial burden on the Fire District. If the Fire District chooses to adopt a policy that allows for shift trades, it is recommended that there be a maximum allowable hours that can be worked consecutively.

EMPLOYMENT APPLICATION AND INTERVIEW QUESTIONS

Application Process

The Fire District will need to determine factors such as whether or not it will accept applications in a format other than on its own application form, whether or not it will accept resumes, whether or not it will accept applications only when a position is posted, and how long it will maintain applications on file.

The application for membership or employment to the Fire District should contain, at a very minimum, the following:

- Equal employment opportunity statement
- Background/reference check with other relevant conditions of employment (example titled "For All Job Applicants" follows).
When doing background checks, be sure to avoid asking questions of past employers that you could not ask of the employee (medical questions, workers' compensation issues, etc.)
- Employment application form
- Statement of Understandings

Topics to avoid during the interview process include age, citizenship, national origin or ancestry, race, religion, marital status, sex, disabilities.

While it is permissible to ask whether a particular work schedule can be met, avoid questions relating to child care responsibilities, or an applicant's responsibility to provide ongoing care to family members. These questions tend to implicate sexual discrimination and ADA issues.

An employer may state physical requirements of a job and ask if the potential employee can satisfy the requirements. The employer may even ask potential employees to describe or demonstrate how they would perform the task. Discussion may be had relating to a potential employee's work history, education, certifications and licenses.

The employer may not ask whether a potential employee will require reasonable accommodation to perform the essential job functions. There are some exceptions to this general rule. However, it is recommended to the Fire District that you seek advice of counsel prior to discussing reasonable accommodation as part of the job application process.

As part of the application process, avoid questions relating to medical history, disability status, physical limitations, past occupational injuries or workers' compensation claims.

Distinction is often made between felony convictions, misdemeanor convictions and crimes of moral turpitude. Often, these matters are included without adequate discussion or an understanding of the meaning of the terms. Be sure to take the time to understand the difference before using such criteria as an application standard.

The interview process can be time consuming. Nevertheless, every effort should be made to match the questioning and testing mechanisms to the job requirements. While some subjective elements enter into the process ("Rule of Three"), such decisions should be reviewed to assure no abuse or favoritism has entered the process.

Placing “scores” and “values” on answers (done consistently by the interview panel) will help assure consistency in the process and avoid allegations of arbitrariness.

Much of the discussion above surrounds the need to avoid unlawful discrimination in the hiring process, especially in the areas of sex, age and disability. The ADA is a growing source of litigation. It prohibits discrimination against “qualified individuals” with a disability, or those who are “perceived” to have a disability.

If an applicant makes known to the employer that a disability exists, the “door is open” to allow the employer to ask how the applicant will perform the job functions. This can be dangerous, given an employer’s obligation to dialogue in regard to reasonable accommodations.

Permissible Interview and Pre-Employment Inquiries

1. Name

- May Ask –
 - * Ever used another name
 - * Any additional information regarding an assumed name, changed name, or nickname necessary to enable a check on your work and education record
- May Not Ask –
 - * Maiden name

2. Age

- May Ask –
 - * Are you 18 years or older?
 - * If not, state your age
- May Not Ask –
 - * Age
 - * Birth date
 - * Ages of your children

3. National Origin

- May Ask –
 - * Languages applicants reads, speaks, or writes, provided foreign language ability is relevant to the job
- May Not Ask –
 - * Nationality lineage, ancestry, national origin, place of birth of applicant, or applicant's parents, or spouse
 - * What is your mother tongue or the language you most often speak
 - * How applicant acquired foreign language ability

4. Color and Race

- May Not Ask –
 - * Race or color
 - * Questions regarding color of applicant's skin, eyes, hair

5. Citizenship

- May Ask –
 - * Are you a U.S. citizen
 - * If not a U.S. citizen, do you intend to become a U.S. citizen
 - * If not a U.S. citizen, do you have the legal right to remain permanently in the U.S.
 - * Do you intend to remain permanently in the U.S.
- May Not Ask –
 - * Of which country applicant is a citizen
 - * Whether applicant is a naturalized or native-born citizen
 - * Date when applicant acquired citizenship
 - * Applicant to produce naturalization papers
 - * Whether applicant's parents or spouse are naturalized or native-born U.S. citizens, or the date parents or spouse acquired citizenship

6. Religion

- May State –
 - * The employer's regular days, hours, and shifts

- May Not Ask –
 - * Questions about applicant’s religion

7. Physical description, ability

- May Ask –
 - * Height and weight but only commensurate with the specific job requirements
- May Not Ask –
 - * Applicant to furnish a photograph with the application
 - * Applicants, at their option, to submit a photograph with their application
 - * Applicant to furnish a photograph after the interview but before the job offer

8. Sex, Marital Status

- May Ask –
 - * Name and address of parent or guardian if applicant is a minor
 - * May state the employer’s policy regarding work assignment of employees who are related
 - May ask name of applicant’s relatives already employed by employer
- May Not Ask –
 - * Questions that would indicate applicant’s sex
 - * Questions that would indicate applicant’s marital status
 - * Number and/or ages of children or dependents
 - * Questions regarding pregnancy, childbearing, or birth control
 - * Name or address of relative, spouse, or children of adult applicant

9. Disability

- May Ask –
 - * Whether applicant can perform primary tasks with or without accommodation
- May Not Ask –
 - * If applicant has a disability
 - * If applicant has ever been treated for any of the following diseases
 - * If applicant has, or has ever had, a drug or alcohol problem
 - * If applicant needs an accommodation

10. Injuries

- May Ask –
 - * How an injury occurred (once disclosed)
- May Not Ask –
 - * Do you expect it to heal normally
 - * Do you injure easily
 - * Will there be a permanent effect
 - * May not ask about job-related injuries or workers compensation history

11. Arrest record

- May Ask –
 - * If applicant has ever been convicted of a crime (if yes, may ask for details, but if basis for job denial, there must be a reasonable relationship between the job function and the conviction)
- May Not Ask –
 - * Whether applicant has ever been “arrested”

12. Membership in organizations

- May Ask –
 - * Memberships in organizations that applicant considers relevant to ability to perform the job
- May Not Ask –

- * All organizations, clubs, societies, and lodges to which applicant belongs

13. Military service

- May Ask –
 - * Questions regarding relevant skills applicant acquired during U.S. military service
 - * Whether applicant received a dishonorable discharge
- May Not Ask –
 - * Questions regarding service in a foreign military

14. Education

- May Ask –
 - * Applicant's academic, vocational, or professional education
 - * Schools applicant attended
- May Not Ask –
 - * No relevant restrictions
- Do Not Ask –
 - * Dates of attendance/degrees obtained until after hired (may be construed as a way to identify age)

15. Miscellaneous

- Should not ask –
 - * Questions about financial credit
 - * Questions about union membership
 - * Questions about financial status
 - * Questions about friends or associates

SAMPLE EMPLOYMENT APPLICATION

POSITION FOR WHICH YOU ARE APPLYING

1. POSITION TITLE _____

PAID _____ VOLUNTEER _____

2. SOCIAL SECURITY NUMBER _____

3. NAME
LAST _____ FIRST _____ MIDDLE _____

4. OTHER NAMES USED _____

5. PRESENT ADDRESS _____ APT/SPACE NO. _____

CITY _____ STATE _____ ZIP _____

6. PREVIOUS ADDRESS _____ APT/SPACE NO. _____

CITY _____ STATE _____ ZIP _____

7. PHONE (AREA CODE) (_____) _____ - _____ WORK PHONE (_____) _____ - _____

8. ARE YOU 18 YEARS OF AGE OR OLDER? NO _____ YES _____

9. DO YOU POSSESS A VALID DRIVERS LICENSE? NO _____ YES _____

10. IF YES, WHAT IS YOUR DRIVERS LICENSE NUMBER? _____ STATE _____

11. HAVE YOU EVER BEEN CONVICTED OF A CRIME? NO _____ YES _____

IF YOU ANSWERED YES TO NUMBER 11, EXPLAIN BELOW, THE NATURE OF THE OFFENSE,
DISPOSITION, DATE AND LOCATION. _____

13. ARE YOU A U.S. CITIZEN? NO _____ YES _____

IF NOT, ARE YOU LEGALLY ELIGIBLE TO BE EMPLOYED UNDER A VISA OR ENTRY PERMIT?
N _____ O _____ YES _____

14. IN WHAT LANGUAGE ARE YOU FLUENT? _____

(SAMPLE EMPLOYMENT APPLICATION CONTINUED)

I authorize investigation of all information contained herein and specifically authorize the employers and references to give you any and all information concerning me and by doing so, release all persons, schools, companies, corporations, credit bureaus, government agencies and medical personnel from any liability for any damage that may result from furnishing same to you.

I further agree to submit to alcohol and/or drug screening tests, if requested of me, at any time prior to, or during my employment, including but not limited to urinalysis test, polygraph test, blood test, hair sampling, with or without reasonable suspicion.*

In consideration for my employment, I agree to conform to the Fire District policies, practices, rules/regulations and guidelines, which may be changed from time to time. I understand that my employment is at will, and the terms and benefits provided to me is not intended to and does not constitute any contractual relationship, is for no definite period of time and is terminable by myself or the Fire District with or without notice or cause. No oral statements or representations made either before or during employment can change or modify this non-contractual and at-will relationship.

In further consideration for my employment, I understand and agree that there are other forms, statements and provisions that have to be completed and agreed to, and those forms, statements and provisions are part of this application and will be included within my employment records.

I consent to a criminal background check to be performed, and authorize all law enforcement and reporting agencies to disclose to the Fire District all aspects of my criminal history, of whatever nature.

By signing this application, I certify that I have read and understand the contents and limitations set forth above, and that the information provided anywhere in this application is true, correct, and complete to the best of my knowledge and belief. I understand that providing false or misleading information shall be grounds for termination.

Signature

Date

- * Consider whether to add a consent to perform a credit background check, if applicable. (Use caution to comply with the limitations and notification requirements)
- ** Consider also placing the consents on a separate page that can be submitted to past employers, enforcement agencies, schools, ADHS, etc.
- *** May choose to disclose physical testing, license, certification, educational and residency and post-offer medical testing requirements.

(SAMPLE EMPLOYMENT APPLICATION CONTINUED)

STATEMENT OF UNDERSTANDINGS

In furtherance of and in addition to the understandings stated on the employment application, and if you wish to be employed, you will be asked to sign this Statement of Understanding.

1. I understand that my employment does not constitute any contractual relationship and is terminable at any time by myself or the District for any reason or without reason. I further understand that no supervisor has any authority to (and cannot) enter into any agreement for employment, written or oral; and no representations made either before or during employment can change or modify this non-contractual policy.
2. The District utilizes basic common sense rules, standards, guidelines, and practices in its day-to-day work requirements and employment. Only some of these rules, standards, etc., are in written form. However, both the written and unwritten standards of employment and job performance are in effect. The rules, standards, guidelines, and practices (often times referred to as "policies") may be amended or rescinded from time to time at the discretion of the District. These "policies" are not intended to and do not constitute any contractual relationship.
3. District property and District premises include lockers, closets, or other receptacles for storing personal property. The District reserves the right to inspect or search lockers, etc., in the event grounds exist for such inspection or search, or on a random basis. The grounds may include questions, suspicions, or investigation of theft or missing property (District or otherwise), possession of alcoholic beverages or illicit drugs, and/or possession of dangerous weapons. I understand and agree that I am subject to the possibility of searches or inspections of my personal effects, lunch box, purse, etc., in the event it is deemed necessary by the District. Periodic notices of random inspections may be given.
4. Drug/Alcohol Testing. In order to assure a drug-free work environment, the District prohibits the use, sale, transfer, being under the influence and/or reporting to work after using or ingesting illicit drugs. Under District policy, alcohol is included within the meaning and prohibition of drugs. One way to maintain a drug-free workplace is to test applicants and employees; and therefore, successful passage of drug test will be a condition for employment and/or continued employment.
5. Sexual Harassment. Sexual Harassment is defined as any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when (1) submission of such conduct is made a job requirement or causes changes in working terms or conditions, and/or (2) it has the effect and purpose of unreasonably interfering with work performance or creating an intimidating, hostile, or offensive workplace. Sexual harassment will not be tolerated and will be grounds for immediate termination.

I have read this statement and fully understand and agree with it.

Printed Name

Signature

Date

ADDITIONAL APPLICATION ITEMS

These are additional items you may wish to add to the job application.

- Resumes will not be accepted in place of this completed application.
- Have you ever previously applied for employment with this Fire District?
- If yes, give date and position applied for:
- Have you ever been employed with this Fire District before?
- If yes, give date and position:
- Have you ever been known to schools, employers, and /or references by another name?
- If yes, provide necessary name information:
- Is there any reason you will not be able to secure an Arizona drivers license?
- Name of state issuing license if other than Arizona.
- Provide an original motor vehicle record showing the past 5 years.
- Can you provide a DD-214 to verify military service?
- Have you ever been denied a certification by the Arizona Department of Health Services?
- Do you know of any reason you will not be able to secure a certification as an Arizona Emergency Medical Technician? (if applicable to the position)
- List professional society memberships, job related licenses, registrations, certificates with their numbers and expiration dates:
- Provide any additional comments or information that would be of assistance in considering you for this position:
- Include paid or verifiable non-paid experience including unemployment, self-employment, school and military service. If you had more than one position with the same employer, list each position separately.
 - Employer's name:
 - Complete Address:
 - Phone Number:
 - Reason for leaving:
 - From (mo/yr):
 - To (mo/yr):

- Type of business:
- Supervisors name:
- Job title:
- Description of duties:
- Hours worked:
- If presently employed, may we contact your employer?
- Explain any breaks in the time frame between employment:
- Based on your opinion of yourself and your previous employment, what kind of employee will you be regarding:
 - Attendance:
 - Responsibility:
 - Attitude:
 - Conscientiousness:
- List all schools attended, list most recent first:
- Provide the following information for each school attended:
 - School address:
 - Dates attended (mo/yr - mo/yr):
 - Semester hours earned:
 - Degree or diploma and date received:
 - Major area of study:
- If you did not graduate from High School, what was the last year you completed?
- Do you have a reason to believe that you will not be able to perform any essential job function for the position applied for?
- Residency requirements:
- Have you received/reviewed the EEOC Notices/ Posters attached to this policy?
- Have you received/reviewed a copy of the job description you are applying for?

SAMPLE OF PHYSICAL ABILITY TEST

APPLICABLE TO ALL FIRE DISTRICTS

{The validation procedure for a physical agility test is complex, and care should be taken to make sure that federal guidelines are followed in establishing and implementing the physical agility test. Pass/fail vs. rank order methods should be considered.} Standardized physical ability testing for new hires (CPAT) has been temporarily approved by the EEOC. However, a “portability” test may be required before a District can implement such a test. Similar testing for existing employees has been proposed. However, to date, none has been approved by the EEOC.

Firefighters or Firefighter recruit candidates should wear turnout coat, helmet, gloves, boots and SCBA tank without face piece.

This test should be conducted with each exercise immediately following the previous. There should be no rest time between exercises, walk between events. Maximum allowable time should be determined by the Fire District. Five minutes should be considered reasonable time.

LADDER CLIMB

The applicant should demonstrate their ability to climb to the top of a ladder applicable to the Fire District's operation.

VENTILATION EXERCISE

Use an eight-pound sledgehammer to strike an object 40 consecutive blows with enough force to penetrate roofing materials.

HOSE PULL

The applicant extends 200 feet of 2.5 inch hose with a nozzle.

LADDER ROPE RAISE

By pulling the rope hand over hand, the applicant will raise the extension ladder to maximum height, secure, and then lower to the full bedded position.

LADDER REMOVAL

The applicant removes the roof ladder from the apparatus, walks backward 16 feet to a mark and then returns the ladder to the position on the apparatus.

RESCUE DRAG

The applicant drags a 140 pound object for a total distance of 120 feet.

IF APPLICABLE TO YOUR FIRE DISTRICT, THESE ADDITIONAL EXERCISES MAY BE ADDED. Consideration will need to be given for additional time to complete these evaluations.

HIGH-RISE PACK

The applicant picks up the high-rise pack (36 pounds) and carries up two flights of stairs to the third floor landing and returns it to the ground level.

ATTIC CRAWL

The applicant enters a simulated attic and proceeds on hands and knees across rafters. The applicant crawls to the end of the attic and returns. Some type of signal is necessary at the end of the attic such as a bell or flag.

ATTACHMENTS

<u>Law</u>	<u>Purpose</u>	<u>Minimum Employees</u>	<u>Comments</u>
• ERISA	Employee Benefits	1	Employee Benefits
• FLSA	Wage and Hour	1	Must be engaged in interstate commerce.
• Arizona Civil Rights Act– Sexual Harassment		1	Sexual Harassment provisions apply to all employment discrimination employers; rest of the Act applies to those with fifteen or more employees.
• National Labor Relations Act (NLRB)	Unions	1	Must be engaged in interstate commerce (doesn't apply to Arizona governmental entities).
• OSHA	Occupational Safety	1	Federal OSHA applies on Indian reservations and Federal land; Arizona OSHA applies elsewhere in state.
• Section 1981, Civil Rights Act of 1866	Employment Discrimination	1	Applies to public and private employers except for Federal.
• Unemployment Compensation	Unemployment Compensation	1	Employees must work 20 or more weeks per year or be paid \$1,500 per quarter.
• Worker's Compensation Act	Workmen's Compensation	1	Applies to each person who regularly employs another person.
• Equal Pay Act	Employment Discrimination	2	Opposite Sex
• Immigration Reform and Control Act (IRCA)	Immigration	4	Reporting requirements; penalties
• ADA	Occupational Safety and Health Statutes	15	Employee must work at least 20 weeks per year.
• Title VII, Civil Rights Act of 1964	Employment Discrimination	15	Work 20 weeks a year.
• Age Discrimination Act (ADEA)	Employment Discrimination	20	Work 20 weeks per year.
• COBRA	Health	20	Employee must be covered under group health plan.
• FMLA	Employee Leave	50	Within 75 miles; 1,250 hours per year.
• Fair Credit Reporting Act (FCRA)	Credit/background checks		

SELECTED DEFINITIONS

ADA	=	Americans with Disability Act
EAP	=	Employee Assistance Program
EECO	=	Equal Employee Opportunity Commission
EPA	=	Employment Protection Act
EPPA	=	Employee Polygraph Protection Act
NFPA	=	National Fire Protection Administration
FMLA	=	Family and Medical Leave Act
PSOB	=	Federal Death and Disability Benefit for Public
FRWORA	=	Personal Responsibility and Work Opportunity
Recon		ciliation Act

Selected Employment Related Statutes Affecting Fire Districts

See Chapter 4 for the following:

<u>A.R.S. § 23-1361, et. seq.</u>	The Black List Statute.
<u>A.R.S. § 23-1501, et. seq.</u>	The Employment Protection Act
<u>A.R.S. § 23-1502, et. seq.</u>	Constructive Discharge
<u>A.R.S. § 23-722, et. seq.</u>	New Hire Reporting
<u>A.R.S. § 13-4439, et. seq.</u>	Victim Rights Act
<u>A.R.S. § 26-1012, et. seq.</u>	Voting Rights
<u>A.R.S. § 21-236, et. seq.</u>	Jury Duty
<u>A.R.S. § 26-127, et. seq.</u>	Military Duty
<u>A.R.S. § 41-1461, et. seq.</u>	Arizona Civil Rights Act
<u>A.R.S. § 23-401, et. seq.</u>	Arizona OSHA
<u>A.R.S. §16-402, et. seq.</u>	Voting

Arizona New Hire Reporting Form

Mail completed form to: Arizona New Hire Reporting Center
PO Box 25638
Phoenix, AZ 85002

Or fax completed form to: 602-340-0669
1-888-282-0502 toll-free fax

EMPLOYER INFORMATION

Federal Employer Identification Number: _____

Employer Name: _____

Address: _____
(Please indicate the address where the Income Withholding Order will be sent)

City: _____ State: _____ Zip Code: _____ 4: _____

Complete one entry for each new employee

EMPLOYEE INFORMATION

Social Security Number: _____ - _____ - _____

Employee First Name: _____ Middle: _____

Employee Last Name: _____

Employee Address: _____

City: _____ State: _____ Zip Code: _____ 4: _____

EMPLOYEE INFORMATION

Social Security Number: _____ - _____ - _____

Employee First Name: _____ Middle: _____

Employee Last Name: _____

Employee Address: _____

City: _____ State: _____ Zip Code: _____ 4: _____

**For information please visit our web-site at www.az-newhire.com
or call us at 602-340-0555 or toll-free at 1-888-282-2064**

The Arizona New Hire Reporting Center is an authorized agent of the Arizona Department of Economic Security.

TITLE 29—LABOR

COMMISSION

PART 1607--UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES (1978)--Table of Contents

Sec. 1607.2 Scope.

A. Application of guidelines. These guidelines will be applied by the Equal Employment Opportunity Commission in the enforcement of title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (hereinafter "title VII"); by the Department of Labor, and the contract compliance agencies until the transfer of authority contemplated by the President's Reorganization Plan No. 1 of 1978, in the administration and enforcement of Executive Order 11246, as amended by Executive Order 11375 (hereinafter "Executive Order 11246"); by the Civil Service Commission and other Federal agencies subject to section 717 of title VII; by the Civil Service Commission in exercising its responsibilities toward State and local governments under section 208(b)(1) of the Intergovernmental-Personnel Act; by the Department of Justice in exercising its responsibilities under Federal law; by the Office of Revenue Sharing of the Department of the Treasury under the State and Local Fiscal Assistance Act of 1972, as amended; and by any other Federal agency which adopts them.

B. Employment decisions. These guidelines apply to tests and other selection procedures which are used as a basis for any employment decision. Employment decisions include but are not limited to hiring, promotion, demotion, membership (for example, in a labor organization), referral, retention, and licensing and certification, to the extent that licensing and certification may be covered by Federal equal employment opportunity law. Other selection decisions, such as selection for training or transfer, may also be considered employment decisions if they lead to any of the decisions listed above.

C. Selection procedures. These guidelines apply only to selection procedures which are used as a basis for making employment decisions. For example, the use of recruiting procedures designed to attract members of a particular race, sex, or ethnic group, which were previously denied employment opportunities or which are currently underutilized, may be necessary to bring an employer into compliance with Federal law, and is frequently an essential element of any effective affirmative action program; but recruitment practices are not considered by these guidelines to be selection procedures. Similarly, these guidelines do not pertain to the question of the lawfulness of a seniority system within the meaning of section 703(h), Executive Order 11246 or other provisions of Federal law or regulation, except to the extent that such systems utilize selection procedures to determine qualifications or abilities to perform the job. Nothing in these guidelines is intended or should be interpreted as discouraging the use of a selection procedure for the purpose of determining qualifications or for the purpose of selection on the basis of relative qualifications, if the selection procedure had been validated in accord with these guidelines for each such purpose for which it is to be used.

D. Limitations. These guidelines apply only to persons subject to title VII, Executive Order 11246, or other equal employment opportunity requirements of [[Page 202]] Federal law. These guidelines do not apply to responsibilities under the Age Discrimination in Employment Act of 1967, as amended, not to discriminate on the basis of age, or under sections 501, 503, and 504 of the Rehabilitation Act of 1973, not to discriminate on the basis of handicap.

E. Indian preference not affected. These guidelines do not restrict any obligation imposed or right granted by Federal law to users to extend a preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation.

TITLE 29—LABOR

COMMISSION

PART 1607--UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES (1978)--Table of Contents

Sec. 1607.14 Technical standards for validity studies.

The following minimum standards, as applicable, should be met in conducting a validity study. Nothing in these guidelines is intended to preclude the development and use of other professionally acceptable techniques with respect to validation of selection procedures. Where it is not technically feasible for a user to conduct a validity study, the user has the obligation otherwise to comply with these guidelines. See sections 6 and 7 above.

A. Validity studies should be based on review of information about the job. Any validity study should be based upon a review of information about the job for which the selection procedure is to be used. The review should include a job analysis except as provided in section 14B(3) below with respect to criterion-related validity. Any method of job analysis may be used if it provides the information required for the specific validation strategy used.

B. Technical standards for criterion-related validity studies—

(1) Technical feasibility. Users choosing to validate a selection procedure by a criterion-related validity strategy should determine whether it is technically feasible (as defined in section 16) to conduct such a study in the particular employment context. The determination of the number of persons necessary to permit the conduct of a meaningful criterion-related study should be made by the user on the basis of all relevant information concerning the selection procedure, the potential sample and the employment situation. Where appropriate, jobs with substantially the same major work behaviors may be grouped together for validity studies, in order to obtain an adequate sample. These guidelines do not require a user to hire or promote persons for the purpose of making it possible to conduct a criterion-related study.

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(2) Analysis of the job. There should be a review of job information to determine measures of work behavior(s) or performance that are relevant to the job or group of jobs in question. These measures or criteria are relevant to the extent that they represent critical or important job duties, work behaviors or work outcomes as developed from the review of job information. The possibility of bias should be considered both in selection of the criterion measures and their application. In view of the possibility of bias in subjective evaluations, supervisory rating techniques and instructions to raters should be carefully developed. All criterion measures and the methods for gathering data need to be examined for freedom from factors which would unfairly alter scores of members of any group. The relevance of criteria and their freedom from bias are of particular concern when there are significant differences in measures of job performance for different groups.

(3) Criterion measures. Proper safeguards should be taken to insure that scores on selection procedures do not enter into any judgments of employee adequacy that are to be used as criterion measures. Whatever criteria are used should represent important or critical work behavior(s) or work outcomes. Certain criteria may be used without a full job analysis if the user can show the importance of the criteria to the particular employment context. These criteria include but are not limited to production rate, error rate, tardiness, absenteeism, and length of service. A standardized rating of overall work performance may be used where a study of the job shows that it is an appropriate criterion. Where performance in training is used as a criterion, success in training should be properly measured and the relevance of the training should be shown either through a comparison of the content of the training program with the critical or important work behavior(s) of the job(s), or through a demonstration of the relationship between measures of performance in training and measures of job performance. Measures of relative success in training include but are

not limited to instructor evaluations, performance samples, or tests. Criterion measures consisting of paper and pencil tests will be closely reviewed for job relevance.

(4) Representativeness of the sample. Whether the study is predictive or concurrent, the sample subjects should insofar as feasible be representative of the candidates normally available in the relevant labor market for the job or group of jobs in question, and should insofar as feasible include the races, sexes, and ethnic groups normally available in the relevant job market. In determining the representativeness of the sample in a concurrent validity study, the user should take into account the extent to which the specific knowledge or skills which are the primary focus of the test are those which employees learn on the job. Where samples are combined or compared, attention should be given to see that such samples are comparable in terms of the actual job they perform, the length of time on the job where time on the job is likely to affect performance, and other relevant factors likely to affect validity differences; or that these factors are included in the design of the study and their effects identified.

(5) Statistical relationships. The degree of relationship between selection procedure scores and criterion measures should be examined and computed, using professionally acceptable statistical procedures. Generally, a selection procedure is considered related to the criterion, for the purposes of these guidelines, when the relationship between performance on the procedure and performance on the criterion measure is statistically significant at the 0.05 level of significance, which means that it is sufficiently high as to have a probability of no more than one (1) in twenty (20) to have occurred by chance. Absence of a statistically significant relationship between a selection procedure and job performance should not necessarily discourage other investigations of the validity of that selection procedure.

(6) Operational use of selection procedures. Users should evaluate each selection procedure to assure that it is appropriate for operational use, including establishment of cutoff scores or rank ordering. Generally, if other factors [[Page 210]] remain the same, the greater the magnitude of the relationship (e.g., correlation coefficient) between performance on a selection procedure and one or more criteria of performance on the job, and the greater the importance and number of aspects of job performance covered by the criteria, the more likely it is that the procedure will be appropriate for use. Reliance upon a selection procedure which is significantly related to a criterion measure, but which is based upon a study involving a large number of subjects and has a low correlation coefficient will be subject to close review if it has a large adverse impact. Sole reliance upon a single selection instrument which is related to only one of many job duties or aspects of job performance will also be subject to close review. The appropriateness of a selection procedure is best evaluated in each particular situation and there are no minimum correlation coefficients applicable to all employment situations. In determining whether a selection procedure is appropriate for operational use the following considerations should also be taken into account: The degree of adverse impact of the procedure, the availability of other selection procedures of greater or substantially equal validity.

(7) Overstatement of validity findings. Users should avoid reliance upon techniques which tend to overestimate validity findings as a result of capitalization on chance unless an appropriate safeguard is taken. Reliance upon a few selection procedures or criteria of successful job performance when many selection procedures or criteria of performance have been studied, or the use of optimal statistical weights for selection procedures computed in one sample, are techniques which tend to inflate validity estimates as a result of chance. Use of a large sample is one safeguard: cross-validation is another.

(8) Fairness. This section generally calls for studies of unfairness where technically feasible. The concept of fairness or unfairness of selection procedures is a developing concept. In addition, fairness studies generally require substantial numbers of employees in the job or group of jobs being studied. For these reasons, the Federal enforcement agencies recognize that the obligation to conduct studies of fairness imposed by the guidelines generally will be upon users or groups of users with a large number of persons in a job class, or test developers; and that small users utilizing their own selection procedures will generally not be obligated to conduct such studies because it will be technically infeasible for them to do so.

(a) Unfairness defined. When members of one race, sex, or ethnic group characteristically obtain lower scores on a selection procedure than members of another group, and the differences in scores are not reflected in differences in a measure of job performance, use of the selection procedure may unfairly deny opportunities to members of the group that obtains the lower scores.

(b) Investigation of fairness. Where a selection procedure results in an adverse impact on a race, sex, or ethnic group identified in accordance with the classifications set forth in section 4 above and that group is a significant factor in the relevant labor market, the user generally should investigate the possible existence of unfairness for that group if it is technically feasible to do so. The greater the severity of the adverse impact on a group, the greater the need to investigate the possible existence of unfairness. Where the weight of

evidence from other studies shows that the selection procedure predicts fairly for the group in question and for the same or similar jobs, such evidence may be relied on in connection with the selection procedure at issue.

(c) General considerations in fairness investigations. Users conducting a study of fairness should review the A.P.A. Standards regarding investigation of possible bias in testing. An investigation of fairness of a selection procedure depends on both evidence of validity and the manner in which the selection procedure is to be used in a particular employment context. Fairness of a selection procedure cannot necessarily be specified in advance without investigating these factors. Investigation of fairness of a selection procedure in samples where the range of scores on selection procedures or criterion measures is severely restricted for any subgroup sample (as compared to other [[Page 211]] subgroup samples) may produce misleading evidence of unfairness. That factor should accordingly be taken into account in conducting such studies and before reliance is placed on the results.

(d) When unfairness is shown. If unfairness is demonstrated through a showing that members of a particular group perform better or poorer on the job than their scores on the selection procedure would indicate through comparison with how members of other groups perform, the user may either revise or replace the selection instrument in accordance with these guidelines, or may continue to use the selection instrument operationally with appropriate revisions in its use to assure compatibility between the probability of successful job performance and the probability of being selected.

(e) Technical feasibility of fairness studies. In addition to the general conditions needed for technical feasibility for the conduct of a criterion-related study (see section 16, below) an investigation of fairness requires the following:

(i) An adequate sample of persons in each group available for the study to achieve findings of statistical significance. Guidelines do not require a user to hire or promote persons on the basis of group classifications for the purpose of making it possible to conduct a study of fairness; but the user has the obligation otherwise to comply with these guidelines.

(ii) The samples for each group should be comparable in terms of the actual job they perform, length of time on the job where time on the job is likely to affect performance, and other relevant factors likely to affect validity differences; or such factors should be included in the design of the study and their effects identified.

(f) Continued use of selection procedures when fairness studies not feasible. If a study of fairness should otherwise be performed, but is not technically feasible, a selection procedure may be used which has otherwise met the validity standards of these guidelines, unless the technical infeasibility resulted from discriminatory employment practices which are demonstrated by facts other than past failure to conform with requirements for validation of selection procedures. However, when it becomes technically feasible for the user to perform a study of fairness and such a study is otherwise called for, the user should conduct the study of fairness.

C. Technical standards for content validity studies—

(1) Appropriateness of content validity studies. Users choosing to validate a selection procedure by a content validity strategy should determine whether it is appropriate to conduct such a study in the particular employment context. A selection procedure can be supported by a content validity strategy to the extent that it is a representative sample of the content of the job. Selection procedures which purport to measure knowledge, skills, or abilities may in certain circumstances be justified by content validity, although they may not be representative samples, if the knowledge, skill, or ability measured by the selection procedure can be operationally defined as provided in section 14C(4) below, and if that knowledge, skill, or ability is a necessary prerequisite to successful job performance. A selection procedure based upon inferences about mental processes cannot be supported solely or primarily on the basis of content validity. Thus, a content strategy is not appropriate for demonstrating the validity of selection procedures which purport to measure traits or constructs, such as intelligence, aptitude, personality, commonsense, judgment, leadership, and spatial ability. Content validity is also not an appropriate strategy when the selection procedure involves knowledge, skills, or abilities which an employee will be expected to learn on the job.

(2) Job analysis for content validity. There should be a job analysis which includes an analysis of the important work behavior(s) required for successful performance and their relative importance and, if the behavior

results in work product(s), an analysis of the work product(s). Any job analysis should focus on the work behavior(s) and the tasks associated with them. If work behavior(s) are not observable, the job analysis should identify and analyze those aspects of the behavior(s) that can be observed and the observed work products. The work behavior(s) [[Page 212]] selected for measurement should be critical work behavior(s) and/or important work behavior(s) constituting most of the job.

(3) Development of selection procedures. A selection procedure designed to measure the work behavior may be developed specifically from the job and job analysis in question, or may have been previously developed by the user, or by other users or by a test publisher.

(4) Standards for demonstrating content validity. To demonstrate the content validity of a selection procedure, a user should show that the behavior(s) demonstrated in the selection procedure are a representative sample of the behavior(s) of the job in question or that the selection procedure provides a representative sample of the work product of the job. In the case of a selection procedure measuring a knowledge, skill, or ability, the knowledge, skill, or ability being measured should be operationally defined. In the case of a selection procedure measuring a knowledge, the knowledge being measured should be operationally defined as that body of learned information which is used in and is a necessary prerequisite for observable aspects of work behavior of the job. In the case of skills or abilities, the skill or ability being measured should be operationally defined in terms of observable aspects of work behavior of the job. For any selection procedure measuring a knowledge, skill, or ability the user should show that (a) the selection procedure measures and is a representative sample of that knowledge, skill, or ability; and (b) that knowledge, skill, or ability is used in and is a necessary prerequisite to performance of critical or important work behavior(s). In addition, to be content valid, a selection procedure measuring a skill or ability should either closely approximate an observable work behavior, or its product should closely approximate an observable work product. If a test purports to sample a work behavior or to provide a sample of a work product, the manner and setting of the selection procedure and its level and complexity should closely approximate the work situation. The closer the content and the context of the selection procedure are to work samples or work behaviors, the stronger is the basis for showing content validity. As the content of the selection procedure less resembles a work behavior, or the setting and manner of the administration of the selection procedure less resemble the work situation, or the result less resembles a work product, the less likely the selection procedure is to be content valid, and the greater the need for other evidence of validity.

(5) Reliability. The reliability of selection procedures justified on the basis of content validity should be a matter of concern to the user. Whenever it is feasible, appropriate statistical estimates should be made of the reliability of the selection procedure.

(6) Prior training or experience. A requirement for or evaluation of specific prior training or experience based on content validity, including a specification of level or amount of training or experience, should be justified on the basis of the relationship between the content of the training or experience and the content of the job for which the training or experience is to be required or evaluated. The critical consideration is the resemblance between the specific behaviors, products, knowledge, skills, or abilities in the experience or training and the specific behaviors, products, knowledge, skills, or abilities required on the job, whether or not there is close resemblance between the experience or training as a whole and the job as a whole.

(7) Content validity of training success. Where a measure of success in a training program is used as a selection procedure and the content of a training program is justified on the basis of content validity, the use should be justified on the relationship between the content of the training program and the content of the job.

(8) Operational use. A selection procedure which is supported on the basis of content validity may be used for a job if it represents a critical work behavior (i.e., a behavior which is necessary for performance of the job) or work behaviors which constitute most of the important parts of the job.

(9) Ranking based on content validity studies. If a user can show, by a job analysis or otherwise, that a higher [[Page 213]] score on a content valid selection procedure is likely to result in better job performance, the results may be used to rank persons who score above minimum levels. Where a selection procedure supported solely or primarily by content validity is used to rank job candidates, the selection procedure should measure those aspects of performance which differentiate among levels of job performance.

D. Technical standards for construct validity studies—

(1) Appropriateness of construct validity studies. Construct validity is a more complex strategy than either criterion-related or content validity. Construct validation is a relatively new and developing procedure in the employment field, and there is at present a lack of substantial literature extending the concept to employment practices. The user should be aware that the effort to obtain sufficient empirical support for construct validity is both an extensive and arduous effort involving a series of research studies, which include criterion related validity studies and which may include content validity studies. Users choosing to justify use of a selection procedure by this strategy should therefore take particular care to assure that the validity study meets the standards set forth below.

(2) Job analysis for construct validity studies. There should be a job analysis. This job analysis should show the work behavior(s) required for successful performance of the job, or the groups of jobs being studied, the critical or important work behavior(s) in the job or group of jobs being studied, and an identification of the construct(s) believed to underlie successful performance of these critical or important work behaviors in the job or jobs in question. Each construct should be named and defined, so as to distinguish it from other constructs. If a group of jobs is being studied the jobs should have in common one or more critical or important work behaviors at a comparable level of complexity.

(3) Relationship to the job. A selection procedure should then be identified or developed which measures the construct identified in accord with subparagraph (2) above. The user should show by empirical evidence that the selection procedure is validly related to the construct and that the construct is validly related to the performance of critical or important work behavior(s). The relationship between the construct as measured by the selection procedure and the related work behavior(s) should be supported by empirical evidence from one or more criterion-related studies involving the job or jobs in question which satisfy the provisions of section 14B above.

(4) Use of construct validity study without new criterion-related evidence—

(a) Standards for use. Until such time as professional literature provides more guidance on the use of construct validity in employment situations, the Federal agencies will accept a claim of construct validity without a criterion-related study which satisfies section 14B above only when the selection procedure has been used elsewhere in a situation in which a criterion-related study has been conducted and the use of a criterion-related validity study in this context meets the standards for transportability of criterion-related validity studies as set forth above in section 7. However, if a study pertains to a number of jobs having common critical or important work behaviors at a comparable level of complexity, and the evidence satisfies subparagraphs 14B (2) and (3) above for those jobs with criterion-related validity evidence for those jobs, the selection procedure may be used for all the jobs to which the study pertains. If construct validity is to be generalized to other jobs or groups of jobs not in the group studied, the Federal enforcement agencies will expect at a minimum additional empirical research evidence meeting the standards of subparagraphs section 14B (2) and (3) above for the additional jobs or groups of jobs.

(b) Determination of common work behaviors. In determining whether two or more jobs have one or more work behavior(s) in common, the user should compare the observed work behavior(s) in each of the jobs and should compare the observed work product(s) in each of the jobs. If neither the observed work behavior(s) in each of the jobs nor the observed work product(s) in each of the jobs are the same, the Federal enforcement agencies will presume that the [[Page 214]] work behavior(s) in each job are different. If the work behaviors are not observable, then evidence of similarity of work products and any other relevant research evidence will be considered in determining whether the work behavior(s) in the two jobs are the same. Documentation of Impact and Validity Evidence

REQUIRED POSTERS AND NOTICES/ATTACHMENTS

Be sure to update your District's posters each year – using both the state and federal websites for that purpose. Some of the forms in this section have been superseded.

ARIZONA FIRE DISTRICTS MUST POST ** POSTERS

The following posters are required by Federal and/or State of Arizona laws to be posted at each business.
Copies can be obtained from the agencies listed.

POSTER	FROM
1. Family and Medical Leave Act (FMLA) Poster #WH-1420	U.S. Department of Labor 3221 North 16 th Street, Suite 201 Phoenix AZ 85016 Phone: (602) 640-2990
2. Equal Employment Opportunity Is The Law	
3. Notice of Eligibility and Rights & Responsibilities Poster #WH-381	
4. Designation Notice (FMLA) Poster #WH-382	
5. Job Safety & Health Protection Poster #OSHA 2203	U.S. Department of Labor Occupational Safety and Health Administration 1-800-475-4022
6. Equal Employment Opportunity Rights (EEO) and Americans with Disability Act (ADA)	U.S. Equal Employment Opportunity Commission 3300 North Central, Suite 390 Phoenix AZ 85012 - Phone: (602) 640-5000 For Poster call: 1-800-669-3362
7. Safety and Health Protection On the Job	Industrial Commission of Arizona/ADOSH 800 West Washington Phoenix AZ 85007-2922 Phone: (602) 542-1769
8. ADOSH/OSHA Log of Occupational Injuries and Illnesses (OSHA Form 200, to be posted Feb/March) (Employer is exempt if less than 11 employees)	Industrial Commission of Arizona/Statistics P.O. Box 19070 Phoenix AZ 85007 Phone: (602) 542-3739
9. Unemployment Compensation	Arizona Department of Economic Security P.O. Box 6028 Phoenix AZ 85005-6028 Phone: (602) 248-9396
10. Prohibition of Discrimination in Employment	Arizona Civil Rights Attorney General's Office 1275 West Washington Phoenix AZ 85077 Phone: (602) 542-5263
11. Workers Compensation Insurance	Workers Compensation Insurance Carrier
12. Work Exposure to Bodily Fluids	
13. Constructive Discharge	

The law requires an employer to post notices describing the Federal laws prohibiting job discrimination based on race, color, sex, national origin, religion, age, equal pay and disability. Posters should be placed in a conspicuous location in each Fire District facility and in the workplace location where notices to applicants and employees are customarily posted. Printed notices should be made available in an accessible format, as needed, to persons with disabilities that limit the ability to see or read. Notices can be recorded on an audio cassette or read to applicants or employees with visual or reading disabilities. Some posters must be in Spanish and English.

NOTE: This list is not all inclusive. Other State and Federal agencies may have additional required posters.

The required posters should be checked and updated each year if they have been modified. Additionally, it is suggested that the Fire District post its Equal Employment Opportunity and Harassment/Sexual Harassment policies along with the legally required posters and notices.

Your Rights Under The Family and Medical Leave Act of 1993

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to “eligible” employees for certain family and medical reasons.

Employees are eligible if they have worked for a covered employer for at least one year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

Reasons for Taking Leave:

Unpaid leave must be granted for any of the following reasons:

- to care for the employee’s child after birth, or placement for adoption or foster care;
- to care for the employee’s spouse, son or daughter, or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee’s job.

At the employee’s or employer’s option, certain kinds of *paid* leave may be substituted for unpaid leave.

Advance Notice and Medical Certification:

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days advance notice when the leave is “foreseeable.”
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer’s expense) and a fitness for duty report to return to work.

Job Benefits and Protection:

- For the duration of FMLA leave, the employer must maintain the employee’s health coverage under any “group health plan.”
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee’s leave.

Unlawful Acts by Employers:

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement:

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring civil action against an employer for violations.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

For Additional Information:

Contact the nearest office of the Wage and Hour
Division, listed in most telephone directories under
U.S. Government, Department of Labor.
U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
Washington, DC 20210

WH Publication 1420
June 1983

Equal Employment Opportunity is **THE LAW**

Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a federal government contract or subcontract are protected under the following Federal Authorities:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

INDIVIDUALS WITH DISABILITIES

Section 503 of the Rehabilitation Act of 1973, as amended, prohibits job discrimination because of a disability and requires affirmative action to employ and advance in employment qualified individuals with disabilities who, with reasonable accommodation, can perform the essential functions of a job.

VIETNAM ERA AND SPECIAL DISABLED VETERANS

38 U.S.C. 4212 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 prohibits job discrimination and require affirmative action to employ and advance in employment qualified Vietnam era veterans and qualified special disabled veterans.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP),
Employment Standards Administration,
U.S. Department of Labor (DOL),
200 Constitution Avenue, N.W.,
Washington, D.C. 20210 or call
(202) 219-9475 (DOL's toll-free

TDD number for individuals with hearing impairments is (800) 326- 2577), or an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.

Private Employment, State and Local Governments, Educational Institutions

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under the following federal laws:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex or national origin.

DISABILITY

The Americans with Disabilities Act of 1990, as amended, protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability. The law also requires that covered entities provide qualified applicants and employees with disabilities with reasonable accommodations that do not impose undue hardship.

AGE

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination on the basis of age in hiring, promotion, discharge, compensation, terms, conditions or privileges of employment.

SEX (WAGES)

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act (see above), the Equal Pay Act of 1963, as amended, prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment.

Retaliation against a person who files a charge of discrimination, participates in an investigation, or opposes an unlawful employment practice is prohibited by all of these Federal laws.

If you believe that you have been discriminated against under any of the above laws, you immediately should contact:

The U.S. Equal Employment Opportunity Commission (EEOC), 1801 L Street, N.W., Washington, D.C. 20507 or an EEOC field office by calling toll free (800) 669-4000. For Individuals with hearing impairments, EEOC's toll free TDD number is (800) 800-3302.

U.S. GOVERNMENT PRINTING OFFICE: 1995-0-398-062

Programs or Activities Receiving Federal Financial Assistance

RACE, COLOR, NATIONAL ORIGIN, SEX

In addition to the protection of title VII of the Civil Rights Act of 1964, Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by the Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal assistance.

INDIVIDUALS WITH DISABILITIES

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of a disability in any program or activity which receives Federal Financial assistance. Discrimination is prohibited in all aspects of employment against person with disabilities who, with reasonable accommodation, can perform the essential functions of a job.

If you believe you have been discriminated against in a program of any institution which receives Federal assistance, you should contact immediately the Federal agency providing such assistance.

EEOC-P/E-1

NOTICE TO EMPLOYEES

YOU ARE COVERED BY UNEMPLOYMENT INSURANCE

For an explanation of what this insurance means to you, ask your employer for the pamphlet What You Need to Know about Unemployment Insurance in Arizona (PAU-007). You may obtain additional information from the nearest Unemployment Insurance office of the Arizona Department of Economic Security (DES).

IF YOU BECOME UNEMPLOYED, YOU WILL BE ELIGIBLE FOR UNEMPLOYMENT BENEFITS IF YOU:

- ◆ Were separated from your last job for a non-disqualifying reason
- ◆ Open or reopen a claim in an Unemployment Insurance office
- ◆ Meet the wage requirements established by law
- ◆ Register for work at the nearest DES Job Service office
- ◆ Actively seek work and remain available and able to accept suitable employment
- ◆ Meet all other eligibility requirements

You may receive partial unemployment insurance payments if your hours and wages are reduced.

POSTING REQUIRED BY ARS § 23-772.C

PARA COLOCARSE EN LUGAR VISIBLE CONFORME CON ARS § 23-772.C

AVISO A LOS EMPLEADOS

USTED TIENE SEGURO POR ESEMPLEO

Para una explicación de lo que este seguro significa para usted, pídale a su empleador el folleto Lo que Usted debe saber sobre el Seguro por Desempleo en Arizona (PAU-007-S). También puede obtener información adicional en cualquier oficina cercana del Seguro por Desempleo del Departamento de Seguro Económico de Arizona (DES).

SI UD. SE QUEDA SIN EMPLEO, ES ELEGIBLE PARA BENEFICIOS DE DESEMPLEO SI UD:

- ◆ Fue separado de su último empleo por un motivo que no le descalifica
- ◆ Abre o reabre un reclamo en una oficina de Seguro por Desempleo
- ◆ Satisface los requisitos salariales establecidos por ley
- ◆ Se registra para trabajo en la oficina más cercana de Servicios de Trabajo de DES
- ◆ Está activo buscando trabajo, y disponible y capacitado para aceptar un empleo adecuado
- ◆ Satisface todos los demás requisitos de elegibilidad

Si se reducen su salario y horas de trabajo, tal vez Ud. Reciba pagos parciales de seguro por desempleo.

Equal Opportunity Employer/Program α Empleador/Programa con Igualdad de Oportunidades

Available in alternative format; contact your local office manager α Disponible en formato diferente; hable con gerente de su oficina local α TDD 1-800-367-8939

TO BE POSTED BY EMPLOYER

POLICY NUMBER _____

NOTICE TO EMPLOYEES

RE: ARIZONA WORKERS' COMPENSATION LAW

All employees are hereby notified that this employer has complied with the provisions of the Arizona Workers' Compensation Law (Title 23, Chapter 6, Arizona Revised Statutes) as amended, and all the rules and regulations of The Industrial Commission of Arizona made in pursuance thereof, and has secured the payment of compensation to employees by insuring the payment of such compensation with SCF Arizona.

All employees are hereby further notified that in the event they do not specifically reject the provisions of the said compulsory law, they are deemed by the laws of Arizona to have accepted the provisions of said law and to have elected to accept compensation under the terms thereof; and that under the terms thereof employees have the right to reject the same by written notice thereof prior to any injury sustained, and that the blanks and forms for such notice are available to all employees at the office of this employer.

* * * * *

PARA SER COLOCADO POR EL PATRON NUMERO DE POLIZA _____

AVISO A LOS EMPLEADOS

RE: LEY DE COMPENSACIÓN PARA LOS TRABAJADORES DE ARIZONA

A todos los empleados se les notifica por este medio que este patrón ha cumplido con las provisiones de la Ley de Compensación para los Trabajadores de Arizona (Título 23, Capítulo 6, Estatutos Enmendados de Arizona) tal como han sido enmendados, y con todas las reglas y ordenanzas de La Comisión Industrial de Arizona hechas en cumplimiento de ésta, y ha asegurado el pago de compensación a los empleados garantizando el pago de dicha compensación por medio de: _____

Además, a todos los empleados se les notifica por este medio que en caso de que específicamente ellos no rechazen las disposiciones de dicha ley obligatoria, se les considerará bajo las leyes de Arizona de haber aceptado las provisiones de dicha ley y de haber escogido aceptar la compensación bajo estos términos; también bajo estos términos los empleados tienen el derecho de rechazar la misma por medio de una notificación por escrito antes de que sufran alguna lesión, todos los formularios o formas en blanco para tal notificación por escrito estarán disponibles para todos los empleados en la oficina de este patrón.

* * * * *

**KEEP POSTED IN A CONSPICUOUS PLACE
COLOQUESE EN LUGAR VISIBLE.**

To reorder call Hrdirect toll free 1-800-346-1231.

NOTICE TO EMPLOYEES

RE: HUMAN IMMUNODEFICIENCY VIRUS (HIV) & ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

Employees are notified that a claim may be made for a condition, infection, disease or disability involving or related to the Human Immunodeficiency Virus (HIV) or Acquired Immune Deficiency Syndrome (AIDS) within the provisions of the Arizona Workers' Compensation Law, and the rules of The Industrial Commission of Arizona. Such a claim shall include the occurrence of a significant exposure at work, which generally means contact of an employee's ruptured or broken skin or mucous membrane with a person's blood, semen, vaginal fluid, surgical fluid(s) or any other fluid(s) containing blood. AN EMPLOYEE MUST CONSULT A PHYSICIAN TO SUPPORT A CLAIM. Claims cannot arise from sexual activity or illegal drug use.

Certain classes of employees may more easily establish a claim related to HIV or AIDS, if they meet the following requirements:

1. The employee's regular course of employment involves handling or exposure to blood, semen, vaginal fluid, surgical fluid(s) or any other fluid(s) containing blood. Included in this category are health care providers, forensic laboratory workers, fire fighters, law enforcement officers, emergency medical technicians, paramedics and correctional officers.
2. NO LATER THAN TEN (10) CALENDAR DAYS after a possible significant exposure which arises out of and in the course of employment, the employee reports in writing to the employer the details of the exposure as provided by Commission rules. Reporting forms are available at the office of this employer or from the Industrial Commission of Arizona, 800 West Washington, Phoenix, Arizona 85007, (602) 542-4661 or 2675 East Broadway, Tucson, Arizona 85716, (602) 628-5188. If an employee chooses not to complete the reporting form, that employee may be at risk of losing a prima facie claim.
3. NO LATER THAN TEN (10) CALENDAR DAYS after the possible significant exposure the employee has blood drawn, and NO LATER THAN THIRTY (30) CALENDAR DAYS the blood is tested for HIV by antibody testing and the test results are negative.
4. NO LATER THAN EIGHTEEN (18) MONTHS after the date of the possible significant exposure at work, the employee is retested and the results of the test are HIV positive or the employee has been diagnosed as positive for the presence of HIV.

SCF ARIZONA

3030 NORTH 3RD STREET ● PHOENIX, ARIZONA 85012

**KEEP POSTED IN A CONSPICUOUS PLACE
NEXT TO WORKERS' COMPENSATION NOTICE TO EMPLOYEES**

THIS NOTICE APPROVED BY THE INDUSTRIAL
COMMISSION OF ARIZONA FOR CARRIER USE

61-260 REV 4/9

FEDERAL DEATH AND DISABILITY BENEFIT FOR PUBLIC SAFETY OFFICERS (PSOB)...

On September 29, 1976, the President signed Public Law 94-430 establishing a death benefit to eligible survivors of firefighters and police officers from local, state and federal organizations. The legislation became known as the Public Safety Officers Benefit Act (PSOB). The Act has been amended several times since 1976. The most profound amendments came in November, 1988 and in November, 1990.

The PSOB Act, amended in 1988, increased the death benefit to \$100,000. It had an escalator clause tied to the Consumer Price Index, which increases every October 1. Death benefits to public safety officers on and after October 1, 1990, became \$114,235. Also among the 1988 amended changes made, were beneficiary requirements.

The Act added benefits for the survivors of single firefighters or police officers, including parents without regard to dependency. Spouses became eligible automatically, as did stepchildren, adopted children and children born to unmarried parents. Parents also were included if they were the only survivors-- whether or not they were dependent on the child-- as long as a parent/child relationship existed.

Children over 18 are eligible when they are younger than 23 years old and a full time student. When there is a surviving child or children, and a surviving spouse, one-half of the benefit shall be provided to the child or children of the officer in equal shares. One-half goes to the surviving spouse. Because the PSOB benefit is not paid into the deceased officer's estate, *benefits are not paid when an officer dies without an eligible survivor.*

To be covered, a firefighter or rescue squad person must be an officially designated member of a fire or rescue squad (department). Under the law, an "officially designated" person is one who is carried on the department's membership roll as an active member. If not on the listed roll, beneficiaries must prove that the individual was conscripted legally at the scene of an emergency to engage in emergency operations.

To be covered, a firefighter's death must be the result of a traumatic injury suffered in the line of duty. A traumatic injury is a blow to the body by an outside force. An accident in which the victim suffers crushing injuries in a building collapse is eligible, as well as accidents involving apparatus or falls. Burns, smoke inhalation and such climatic injuries as heatstroke or frostbite are considered traumatic injuries. Deaths from stress, heart attacks, strokes and diseases, including occupational diseases, are not covered by the law unless a traumatic injury was a substantial factor in the death. To be a substantial factor, a traumatic injury must have been capable in itself of having caused the death. Smoke inhalation is considered a substantial factor in a heart or stroke related death when the firefighter's blood/carbon monoxide level is 10% or greater for non-smokers, 15% or greater for smokers.

Excluded from the coverage are deaths from suicide, intentional misconduct, gross negligence and voluntary intoxication. Intoxication is described as evidence by the postmortem blood alcohol level of .20 percentum or greater. A postmortem blood alcohol level of at least .10 percentum, but less than .20, will exclude coverage unless the Bureau receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to his/her death. Exclusion will also be made if the blood tests show evidence of the introduction of drugs or other substances into the blood.

President Bush, on December 1, 1990, signed into law the "Crime Control Act of 1990." This legislation includes a major revision to the PSOB. The revision makes available \$100,000 to any public safety officer that becomes permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty. The catastrophic injury is defined as "consequences of an injury that permanently prevents an individual from performing any gainful work." As with the death benefit, the amount of the award will be adjusted annually.

Also revised are the eligibility requirements for EMS, rescue squad and ambulance personnel. These personnel are now eligible for the death and disability benefits under the same limitations as police and firefighters. Previously, emergency medical personnel were only covered if they were responding to a fire, rescue or police emergency.

A Limitation to the new PSOB is that beneficiaries are not eligible to collect both the disability and death benefits. An example of this limitation would be if a firefighter became permanently injured, collected the disability award and later died from the injuries; his beneficiaries would not be eligible for the death benefit.

At the present time, less than 60% of the firefighters and rescue personnel that lose their lives during emergency incidents, have the survivors receive the proper benefits. In many cases, the department is ignorant of the benefit, but most often proper procedures have not been followed. Insurance agents can be a great asset to their emergency service clients by keeping themselves up-to-date on current requirements and status of the PSOB, informing the clients of changes, and making themselves available when the need arises to assist in filing claims.

An extremely important requirement of the PSOB is for a postmortem examination and a proper blood gas test be performed. It is the responsibility of the department's chief officer to make sure that the pathologist, medical examiner, and/or coroner of the jurisdiction, is aware of the particular requirements of the PSOB Act and the necessary tests be performed. When insurance agents review the fire

department's insurance program, a review should be made of the department's standard operating procedures in handling personnel line-of-duty deaths. Ensure that the department knows how to contact the Department of Justice, that it should be notified as soon as possible (within hours) after the incident and the importance of the blood test and postmortem. An agent may be one of the first person notified about the accident and could be a great asset in a very trying time for a department. When the Bureau of Justice Assistance is called, the representative will need basic information as to the circumstances of the death and will give guidance for further information that is needed to complete the contact.

To obtain current information or notification of a death,
call: (202) 307-0635; or write to:

Public Safety Officer's Benefits Program
Bureau of Justice Assistance
Washington, D.C. 20531

Appendix D to Part 825 – Prototype Notice: Employer Response to Employee Request for Family and Medical Leave
(Form WH-381)

Notice of Eligibility and Rights &
Responsibilities
(Family and Medical Leave Act)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



OMB Control Number: 1215-0181
Expires: 12/31/2011

In general, to be eligible an employee must have worked for an employer for at least 12 months, have worked at least 1,250 hours in the 12 months preceding the leave, and work at a site with at least 50 employees within 75 miles. While use of this form by employers is optional, a fully completed Form WH-381 provides employees with the information required by 29 C.F.R. § 825.300(b), which must be provided within five business days of the employee notifying the employer of the need for FMLA leave. Part B provides employees with information regarding their rights and responsibilities for taking FMLA leave, as required by 29 C.F.R. § 825.300(b), (c).

[Part A – NOTICE OF ELIGIBILITY]

TO:

Employee

FROM:

Employer Representative

DATE:

On _____, you informed us that you needed leave beginning on _____ for:

- ☐ The birth of a child, or placement of a child with you for adoption or foster care;
- ☐ Your own serious health condition;
- ☐ Because you are needed to care for your _____ spouse; _____ child; _____ parent due to his/her serious health condition.
- ☐ Because of a qualifying exigency arising out of the fact that your _____ spouse; _____ son or daughter; _____ parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.
- ☐ Because you are the _____ spouse; _____ son or daughter; _____ parent; _____ next of kin of a covered servicemember with a serious injury or illness.

This Notice is to inform you that you:

- ☐ Are eligible for FMLA leave (See Part B below for Rights and Responsibilities)
- ☐ Are **not** eligible for FMLA leave, because (only one reason need be checked, although you may not be eligible for other reasons):
- ☐ You have not met the FMLA's 12-month length of service requirement. As of the first date of requested leave, you will have worked approximately _____ months towards this requirement.
- ☐ You have not met the FMLA's 1,250-hours-worked requirement.
- ☐ You do not work and/or report to a site with 50 or more employees within 75-miles.

If you have any questions, contact _____ or view the
FMLA poster located in _____.

[PART B-RIGHTS AND RESPONSIBILITIES FOR TAKING FMLA LEAVE]

As explained in Part A, you meet the eligibility requirements for taking FMLA leave and still have FMLA leave available in the applicable 12-month period. **However, in order for us to determine whether your absence qualifies as FMLA leave, you must return the following information to us by _____.** (If a certification is requested, employers must allow at least 15 calendar days from receipt of this notice; additional time may be required in some circumstances.) If sufficient information is not provided in a timely manner, your leave may be denied.

- ☐ Sufficient certification to support your request for FMLA leave. A certification form that sets forth the information necessary to support your request _____ is/_____ is not enclosed.
- ☐ Sufficient documentation to establish the required relationship between you and your family member.
- ☐ Other information needed: _____

No additional information requested

Page 1

CONTINUED ON NEXT PAGE

Form WH-381 Revised January 2009

If your leave does qualify as FMLA leave you will have the following responsibilities while on FMLA leave (only checked blanks apply):

- ____ Contact _____ at _____ to make arrangements to continue to make your share of the premium payments on your health insurance to maintain health benefits while you are on leave. You have a minimum 30-day (or, indicate longer period, if applicable) grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work.
- ____ You will be required to use your available paid _____ sick, _____ vacation, and/or _____ other leave during your FMLA absence. This means that you will receive your paid leave and the leave will also be considered protected FMLA leave and counted against your FMLA leave entitlement.
- ____ Due to your status within the company, you are considered a "key employee" as defined in the FMLA. As a "key employee," restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us. We _____ have/_____ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us.
- ____ While on leave you will be required to furnish us with periodic reports of your status and intent to return to work every _____.
(Indicate interval of periodic reports, as appropriate for the particular leave situation).

If the circumstances of your leave change, and you are able to return to work earlier than the date indicated on the reverse side of this form, you will be required to notify us at least two workdays prior to the date you intend to report for work.

If your leave does qualify as FMLA leave you will have the following rights while on FMLA leave:

- You have a right under the FMLA for up to 12 weeks of unpaid leave in a 12-month period calculated as:
 - ____ the calendar year (January – December).
 - ____ a fixed leave year based on _____.
 - ____ the 12-month period measured forward from the date of your first FMLA leave usage.
 - ____ a "rolling" 12-month period measured backward from the date of any FMLA leave usage.
- You have a right under the FMLA for up to 26 weeks of unpaid leave in a single 12-month period to care for a covered servicemember with a serious injury or illness. This single 12-month period commenced on _____.
- Your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work.
- You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. (If your leave extends beyond the end of your FMLA entitlement, you do not have return rights under FMLA.)
- If you do not return to work following FMLA leave for a reason other than: 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; 2) the continuation, recurrence, or onset of a covered servicemember's serious injury or illness which would entitle you to FMLA leave; or 3) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.
- If we have not informed you above that you must use accrued paid leave while taking your unpaid FMLA leave entitlement, you have the right to have _____ sick, _____ vacation, and/or _____ other leave run concurrently with your unpaid leave entitlement, provided you meet any applicable requirements of the leave policy. Applicable conditions related to the substitution of paid leave are referenced or set forth below. If you do not meet the requirements for taking paid leave, you remain entitled to take unpaid FMLA leave.

____ For a copy of conditions applicable to sick/vacation/other leave usage please refer to _____ available at: _____.

____ Applicable conditions for use of paid leave: _____

Once we obtain the information from you as specified above, we will inform you, within 5 business days, whether your leave will be designated as FMLA leave and count towards your FMLA leave entitlement. If you have any questions, please do not hesitate to contact:

____ at _____.

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

It is mandatory for employers to provide employees with notice of their eligibility for FMLA protection and their rights and responsibilities. 29 U.S.C. § 2617; 29 C.F.R. § 825.300(b), (c). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**

Designation Notice
(Family and Medical Leave Act)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



OMB Control Number: 1215-0181

Expires: 12/31/2011

Leave covered under the Family and Medical Leave Act (FMLA) must be designated as FMLA-protected and the employer must inform the employee of the amount of leave that will be counted against the employee's FMLA leave entitlement. In order to determine whether leave is covered under the FMLA, the employer may request that the leave be supported by a certification. If the certification is incomplete or insufficient, the employer must state in writing what additional information is necessary to make the certification complete and sufficient. While use of this form by employers is optional, a fully completed Form WH-382 provides an easy method of providing employees with the written information required by 29 C.F.R. §§ 825.300(c), 825.301, and 825.305(c).

To: _____

Date: _____

We have reviewed your request for leave under the FMLA and any supporting documentation that you have provided.
We received your most recent information on _____ and decided:

☐ Your FMLA leave request is approved. All leave taken for this reason will be designated as FMLA leave.

The FMLA requires that you notify us as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against your leave entitlement:

☐ Provided there is no deviation from your anticipated leave schedule, the following number of hours, days, or weeks will be counted against your leave entitlement: _____

☐ Because the leave you will need will be unscheduled, it is not possible to provide the hours, days, or weeks that will be counted against your FMLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period).

Please be advised (check if applicable):

☐ You have requested to use paid leave during your FMLA leave. Any paid leave taken for this reason will count against your FMLA leave entitlement.

☐ We are requiring you to substitute or use paid leave during your FMLA leave.

☐ You will be required to present a fitness-for-duty certificate to be restored to employment. If such certification is not timely received, your return to work may be delayed until certification is provided. A list of the essential functions of your position ☐ is ☐ is not attached. If attached, the fitness-for-duty certification must address your ability to perform these functions.

Additional information is needed to determine if your FMLA leave request can be approved:

☐ The certification you have provided is not complete and sufficient to determine whether the FMLA applies to your leave request. You must provide the following information no later than _____, unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied.
(Provide at least seven calendar days)

(Specify information needed to make the certification complete and sufficient)

☐ We are exercising our right to have you obtain a second or third opinion medical certification at our expense, and we will provide further details at a later time.

☐ Your FMLA Leave request is Not Approved.

☐ The FMLA does not apply to your leave request.

☐ You have exhausted your FMLA leave entitlement in the applicable 12-month period.

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

It is mandatory for employers to inform employees in writing whether leave requested under the FMLA has been determined to be covered under the FMLA. 29 U.S.C. § 2617; 29 C.F.R. §§ 825.300(d), (e). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 – 30 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**

Form WH-382 January 2009

EDUCATIONAL REIMBURSEMENT AGREEMENT

The _____ Fire District, (hereinafter “_____FD” or “District”), and _____, (hereinafter “Student”), agree as set forth below.

WHEREAS, the _____ Board believes that it is in the best interest of the District and its citizens/taxpayers for _____ employees to improve and maintain their skills and abilities through educational, technical, and medical classes, program, seminars and training, and

WHEREAS, often the full payment or advance payment of fees, books, tuition, and other related costs, would be prohibitive to the employees, and,

WHEREAS, the _____ Board has approved different types of payment and or reimbursement for said programs by the employees,

THEREFORE, it is agreed between the _____ and the Student as follows: (All paragraphs marked with an (X) apply to this contract)

1. PAYMENT BY _____FD: The _____ will pay to the agency providing the herein described program, or to the Student, whichever is applicable,

- ☐ A. In advance of each program class.
- ☐ B. Upon presentation of paid receipt.
- ☐ C. Upon successful completion of the program.
- ☐ D. Upon attainment of State Certification (AzDHS).

The sum of \$_____.

☐ _____ will provide standby staffing for the didactic (classroom) portion of this program.

☐ _____ will make a Fire District vehicle available, whenever possible, for out-of-district travel requirements.

2. PROGRAM OR CLASS TO BE COMPLETED: The payment set forth above, shall be made, in order for the Student to complete the following:

☐ Program is further described on attached documents.

3. REQUIREMENTS OF STUDENT: In order to be eligible for the payment or reimbursement, set forth above, the eligible full-time, reserve, or part-time employee Student must:

☐ A. Successfully complete the program, class, seminar, or other training provided for in this agreement according to the attached schedule.

☐ **B. OBTAIN ANY NECESSARY GOVERNMENTAL CERTIFICATION WHICH IS CONTEMPLATED BY THE PROGRAM, OR OF WHICH THE PROGRAM WAS A NECESSARY PREREQUISITE TO OBTAINING SAID CERTIFICATION. TYPE OF CERTIFICATION:**

☐ C. Obtain _____ a

☐ D. Remain as a _____ employee in the same capacity, for a period of one (1) year(s) from the completion of the program, or obtainment of state certification, whichever occurs last. If the Student receives a promotion or non-discipline reassignment within the one year period, the time in the reassignment position shall be credited towards the one year.

- [] E. The Student will be responsible for providing their own standby staffing for the clinical portion and vehicular portion of this training program.
1. The Student shall notify their Battalion Commander/immediate supervisor of the inability to secure coverage hours prior to the date of training.
 2. The Student shall pay back the District for coverage provided for clinical or vehicular time. The two forms of pay back are itemized below.

() Time pay back on an hour worked for each hour of coverage provided, as arranged by _____.

() Money reimbursement to _____ for the cost of coverage provided to be deducted from assignment pay when certified.

- [] F. The Student agrees to follow through to the ACLS (paramedic) level as training is available and at the discretion of _____ Fire District.

4. **FAILURE TO COMPLETE AGREEMENT:** In the event that the Student: (1) fails to complete the program, (2) fails to obtain the required certification, or (3) resigns voluntarily, or is terminated for cause from the District within the one year period, the Student shall repay to the District the monies paid by the District, pursuant to Paragraph 1(A)–1(D) above, (the “Expenses”) subject to the following terms and conditions:

- [] A. No repayment shall be required if the Student is unable to fulfill, due to a work-related disability.
- [] B. The full-time, or part-time, employee Student shall repay from his paycheck by regular deduction of not more than ten percent (10%) of his net paycheck, the amount to be repaid in full.
- [] C. Reserve employee Students shall make repayment by deduction of the full amount due out of the net pay from their regular paychecks, until the amount to be repaid is paid in full.
- [] D. In the event of the applicability of the above provisions of Paragraph 4, the Student hereby gives the _____ authorization to make the necessary withholdings for repayment, and further agrees and authorizes that in the event of termination from employment by the Student prior to the complete repayment due, the _____ may withhold from any final paycheck or any other payment or reimbursement due to the Student, the full balance due to the _____.
- [] E. The amount to be repaid shall be prorated, by deducting 1/12th of the full amount due for each month of employment with the District after:
- () State Certification, or
- () the date of completion of the program
- until the date of termination.
- [] F. In the event of the necessity of repayment, the _____, through its agent, shall give said Student written notice that the _____ is requiring repayment and that the same will be withheld pursuant to the agreement between the parties.

5. **EXEMPTION FROM REPAYMENT:** The requirement of repayment of the Expenses by Student to the _____ for failure to comply with this agreement, may be waived, in whole or in part, in the sole discretion of the _____ under the following terms and conditions:

- [] If the Student is unable to complete the program or fulfill the Student’s employment obligations as set forth in this Agreement, and the Student wishes to be considered for an exemption of all or a portion of the repayment obligations set forth herein, the Student may apply to the District Fire Chief, setting forth the Student’s request for exemption, and the reasons therefore. The District Fire Chief, with the concurrence of the District Board Chairman and District Board Clerk, may, at the District’s sole discretion, waive, in whole or in part, the Student’s obligation of repayment of the Expenses if the Chief determines that the Student’s request is made in good faith, and that the Student’s inability to complete the program has occurred as a result of a verifiable medical condition or extraordinary personal problems not subject to reasonable corrective action on the part of the Student.

6. The Student's obligation to repay the Expenses set forth in this Agreement, in whole or in part, shall be enforceable only to the extent permitted by law. In the event any repayment obligation of a Student as required under this

Agreement, or if any withholding prerogative granted to the District hereunder, is in violation of any applicable law, including any FLSA requirements, then said reimbursement obligation or withholding prerogative, as the case may be, shall be reduced by the smallest amount required in order to comply with applicable law.

7. The provisions of this Agreement are severable. In the event any provision herein shall be found to be unlawful, the balance of the Agreement shall remain enforceable, in its entirety.

THIS AGREEMENT, is entered into in duplicate, with both copies deemed to be an original, and with each party retaining one copy.

DATED _____

FIRE DISTRICT STUDENT

By: _____
Its: _____

STATE OF ARIZONA)
) ss.
County of Yavapai)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20_____, by
_____ the "Student" named above in the Agreement.

—

Notary Public

The ADA: Your Responsibilities as an Employer

The Americans With Disability Act of 1990 (ADA) makes it unlawful to discriminate in employment against a qualified individual with a disability. The ADA also outlaws discrimination against individuals with disabilities in State and local government services, public accommodations, transportation and telecommunications. This booklet explains the part of the ADA that prohibits job discrimination. This part of the law is enforced by the U.S. Equal Employment Opportunity Commission and State and local civil rights enforcement agencies that work with the Commission.

Are You Covered?

Job discrimination against people with disabilities is illegal if practiced by:

- private employers,
- state and local governments,
- employment agencies,
- labor organizations, and
- labor-management committees.

The part of the ADA enforced by the EEOC outlaws job discrimination by:

- all employers, including State and local government employers, with 25 or more employees after July 26, 1992, and
- all employers, including State and local government employers, with 15 or more employees after July 26, 1994.

Another part of the ADA, enforced by the U.S. Department of Justice, prohibits discrimination in State and local government programs and activities, including discrimination by all State and local governments, regardless of the number of employees, after January 26, 1992.

Because the ADA establishes overlapping responsibilities in both EEOC and DOJ for employment by State and local governments, the Federal enforcement effort will be coordinated by EEOC and DOJ to avoid duplication in investigative and enforcement activities. In addition, since some private and governmental employers are already covered by nondiscrimination and affirmative action requirements under the Rehabilitation Act of 1973, EEOC, DOJ, and the Department of Labor will similarly coordinate the enforcement effort under the ADA and the Rehabilitation Act.

What Employment Practices are Covered?

The ADA makes it unlawful to discriminate in all employment practices such as:

- recruitment
- pay
- hiring
- firing
- promotion
- job assignments
- training
- leave
- lay-off
- benefits
- all other employment related activities.

The ADA prohibits an employer from retaliating against an applicant or employee for asserting his rights under the ADA. The Act also makes it unlawful to discriminate against an applicant or employee, whether disabled or not, because of the individual's family, business, social or other relationship or association with an individual with a disability.

Who Is Protected?

Title I of the ADA protects qualified individuals with disabilities from employment discrimination. Under the ADA, a person has a disability if he has a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment, and people who are regarded as having a substantially limiting impairment.

To be protected under the ADA, an individual must have, have a record of, or be regarded as having a substantial, as opposed to a minor, impairment. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, caring for oneself, learning or working.

An individual with a disability must also be qualified to perform the essential functions of the job with or without reasonable accommodation, in order to be protected by the ADA. This means that the applicant or employee must:

- satisfy your job requirements for educational background, employment experience, skills, licenses, and any other qualification standards that are job related; and
- be able to perform those tasks that are essential to the job, with or without reasonable accommodation.

The ADA does not interfere with your right to hire the best qualified applicant. Nor does the ADA impose any affirmative action obligations. The ADA simply prohibits you from discriminating against a qualified applicant or employee because of her disability.

What Are My Obligations to Provide Reasonable Accommodations?

Reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. For example, reasonable accommodation may include:

- acquiring or modifying equipment or devices,
- job restructuring,
- part-time or modified work schedules,
- reassignment to a vacant position,
- adjusting or modifying examinations, training materials or policies,
- providing readers and interpreters, and
- making the workplace readily accessible to and usable by people with disabilities.

Reasonable accommodation also must be made to enable an individual with a disability to participate in the application process, and to enjoy benefits and privileges of employment equal to those available to other employees.

It is a violation of the ADA to fail to provide reasonable accommodation to the known physical or mental limitations of a qualified individual with a disability, unless to do so would impose an undue hardship on the operation of your business. Undue hardship means that the accommodation would require significant difficulty or expense.

CHAPTER 8
CONFLICT OF INTEREST OF OFFICERS & EMPLOYEES

ARIZONA REVISED STATUTES as pertaining to FIRE DISTRICTS

TITLE 38 PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 3. CONDUCT OF OFFICE

ARTICLE 8. CONFLICT OF INTEREST OF OFFICERS & EMPLOYEES

38-501 Application of article

- A. This article shall apply to all public officers and employees of incorporated cities or towns, of political subdivisions and of the state and any of its departments, commissions, agencies, bodies or boards.
- B. Notwithstanding the provisions of any other law, or the provisions of any charter or ordinance of any incorporated city or town to the contrary, the provisions of this article shall be exclusively applicable to all officers and employees of every incorporated city or town or political subdivision or the state and any of its departments, commissions, agencies, bodies or boards and shall supersede the provisions of any other such law, charter provision or ordinance.
- C. Other prohibitions in the state statutes against any specific conflict of interest shall be in addition to this article if consistent with the intent and provisions of this article.

38-502 Definitions

In this article, unless the context otherwise requires:

1. **"Compensation"** means money, a tangible thing of value or a financial benefit.
2. **"Employee"** means all persons who are not public officers and who are employed on a full-time, part-time or contract basis by an incorporated city or town, a political subdivision or the state or any of its departments, commissions, agencies, bodies or boards for remuneration.
3. **"Make known"** means the filing of a paper which is signed by a public officer or employee and which fully discloses a substantial interest or the filing of a copy of the official minutes of a public agency which fully discloses a substantial interest. The filing shall be in the special file established pursuant to section 38-509.
4. **"Official records"** means the minutes or papers, records and documents maintained by a public agency for the specific purpose of receiving disclosures of substantial interests required to be made known by this article.
5. **"Political subdivision"** means all political subdivisions of the state and county, including all school districts.
6. **"Public agency"** means:
 - (a) All courts.

(b) Any department, agency, board, commission, institution, instrumentality or legislative or administrative body of the state, a county, an incorporated town or city and any other political subdivision.

(c) The state, county and incorporated cities or towns and any other political subdivisions.

7. **"Public competitive bidding"** means the method of purchasing defined in title 41, chapter 4, article 3, or procedures substantially equivalent to such method of purchasing, or as provided by local charter or ordinance.

8. **"Public officer"** means all elected and appointed officers of a public agency established by charter, ordinance, resolution, state constitution or statute.

9. **"Relative"** means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.

10. **"Remote interest"** means:

(a) That of a non-salaried officer of a nonprofit corporation.

(b) That of a landlord or tenant of the contracting party.

(c) That of an attorney of a contracting party.

(d) That of a member of a nonprofit cooperative marketing association.

(e) The ownership of less than three per cent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the corporation does not exceed five per cent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five per cent of his total annual income.

(f) That of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.

(g) That of a recipient of public services generally provided by the incorporated city or town, political subdivision or state department, commission, agency, body or board of which he is a public officer or employee, on the same terms and conditions as if he were not an officer or employee.

(h) *(Not applicable to fire districts)*

(i) That of a public officer or employee, or that of a relative of a public officer or employee, unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee or his relative, of any of the following:

(i) Another political subdivision.

(ii) A public agency of another political subdivision.

(iii) A public agency except if it is the same governmental entity.

(j) That of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of that trade, business, occupation, profession or class of persons.

11. "**Substantial interest**" means any pecuniary or proprietary interest, either direct or indirect, other than a remote interest.

38-503 Conflict of interest; exemptions; employment prohibition

A. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.

B. Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.

C. Notwithstanding the provisions of subsections A and B of this section, no public officer or employee of a public agency shall supply to such public agency any equipment, material, supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that:

1. *(Not applicable to fire districts)*
2. Political subdivisions other than school districts may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the governing body if the policy for such purchases is approved annually.

D. *(Not applicable to fire districts)*

38-504 Prohibited acts

A. A public officer or employee shall not represent another person for compensation before a public agency by which the officer or employee is or was employed within the preceding twelve months or on which the officer or employee serves or served within the preceding twelve months concerning any matter with which the officer or employee was directly concerned and in which the officer or employee personally participated during the officer's or employee's employment or service by a substantial and material exercise of administrative discretion.

B. During the period of a public officer's or employee's employment or service and for two years thereafter, a public officer or employee shall not disclose or use for the officer's or employee's personal profit, without appropriate authorization, any information acquired by the officer or employee in the course of the officer's or employee's official duties which has been clearly designated to the officer or employee as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary for the proper conduct of government business. A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law.

C. A public officer or employee shall not use or attempt to use the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the

officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to manifest a substantial and improper influence on the officer or employee with respect to the officer's or employee's duties.

38-505 Additional income prohibited for services

A. No public officer or employee may receive or agree to receive directly or indirectly compensation other than as provided by law for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is pending before the public agency of which he is a public officer or employee.

B. This section shall not be construed to prohibit the performance of ministerial functions including, but not limited to, the filing, or amendment of tax returns, applications for permits and licenses, incorporation papers, and other documents.

38-506 Remedies

Opinions of the attorney general, county attorneys, city or town attorneys and house and senate ethics committee

Requests for opinions from either the attorney general, a county attorney, a city or town attorney, the Senate ethics committee or the House of Representatives ethics committee concerning violations of this article shall be confidential, but the final opinions shall be a matter of public record. The county attorneys shall file opinions with the county recorder; the city or town attorneys shall file opinions with the city or town clerk; the Senate ethics committee shall file opinions with the Senate secretary; and the House of Representatives ethics committee shall file opinions with the chief clerk of the House of Representatives.

38-508 Authority of public officers and employees to act

A. If the provisions of § 38-503 prevent an appointed public officer or a public employee from acting as required by law in his official capacity, such public officer or employee shall notify his superior authority of the conflicting interest. The superior authority may empower another to act or such authority may act in the capacity of the public officer or employee on the conflicting matter.

B. If the provisions of § 38-503 prevent a public agency from acting as required by law in its official capacity, such action shall not be prevented if members of the agency who have apparent conflicts make known their substantial interests in the official records of their public agency.

38-509 Filing of disclosures

Every political subdivision and public agency subject to this article shall maintain for public inspection in a special file all documents necessary to memorialize all disclosures of substantial interest made known pursuant to this article.

38-510 Penalties

A. A person who:

1. Intentionally or knowingly violates any provision of §§ 38-503 through 38-505 is guilty of a class 6 felony.

2. Recklessly or negligently violates any provision of §§ [38-503](#) through [38-505](#) is guilty of a class 1 misdemeanor.

B. A person found guilty of an offense described in subsection A of this section shall forfeit his public office or employment if any.

C. It is no defense to a prosecution for a violation of §§ [38-503](#) through [38-505](#) that the public officer or employee to whom a benefit is offered, conferred or agreed to be conferred was not qualified or authorized to act in the desired way.

D. It is a defense to a prosecution for a violation of §§ [38-503](#) through [38-505](#) that the interest charged to be substantial was a remote interest.

38-511 Cancellation of political subdivision and state contracts; definition

A. The state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

B. Leases of state trust land for terms longer than ten years cancelled under this section shall respect those rights given to mortgagees of the lessee by section 37-289 and other lawful provisions of the lease.

C. The cancellation under this section by the state or its political subdivisions shall be effective when written notice from the governor or the chief executive officer or governing body of the political subdivision is received by all other parties to the contract unless the notice specifies a later time.

D. The cancellation under this section by any department or agency of the state or its political subdivisions shall be effective when written notice from such party is received by all other parties to the contract unless the notice specifies a later time.

E. In addition to the right to cancel a contract as provided in subsection A of this section, the state, its political subdivisions or any department or agency of either may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any department or agency of either from any other party to the contract arising as the result of the contract.

F. Notice of this section shall be included in every contract to which the state, its political subdivisions, or any of the departments or agencies of either is a party.

G. For purposes of this section, "political subdivisions" do not include entities formed or operating under title 48, chapter 11, 12, 13, 17, 18, 19, or 22.

ARIZONA'S ANTI-NEPOTISM LAW

ARTICLE 6. EMPLOYMENT OF RELATIVES

38-481 Employment of relatives; violation; classification; definition

- A. It is unlawful, unless otherwise expressly provided by law, for an executive, legislative, ministerial or judicial officer to appoint or vote for appointment of any person related to him by affinity or consanguinity within the third degree to any clerkship, office, position, employment or duty in any department of the state, district, county, city or municipal government of which such executive, legislative, ministerial or judicial officer is a member, when the salary, wages or compensation of such appointee is to be paid from public funds or fees of such office, or to appoint, vote for or agree to appoint, or to work for, suggest, arrange or be a party to the appointment of any person in consideration of the appointment of a person related to him within the degree provided by this section.
- B. Any executive, legislative, ministerial or judicial officer who violates any provision of this section is guilty of a class 2 misdemeanor.
- B. The designation executive, legislative, ministerial or judicial officer includes all officials of the state, or of any county or incorporated city within the state, holding office either by election or appointment, and the heads of the departments of state, county or incorporated cities, officers and boards or managers of the universities.

EMPLOYMENT OF RELATIVES (NEPOTISM)

INTRODUCTION

As an elected fire district official, caution must be exercised when relatives are being considered for appointment to offices or positions of employment with the fire district. Arizona Revised Statute § [38-481](#) contains a provision preventing public officials from appointing relatives to offices or positions of employment compensated from public funds. This provision is called the anti-nepotism statute and involves a fairly concise means of defining when a public official may or may not appoint a relative to a position.

APPLICATION OF THE LAW

The law specifically states that a public officer cannot appoint or vote for the appointment of a person who is related by blood or marriage "within the third degree." Public officers of a fire district subject to this restriction would include elected board members, chiefs, secretaries and treasurers, appointed officials and department heads. This restriction also extends to anyone who would work for, suggest, arrange or be a party to the appointment of a relative to a paid office or position of employment.

DEFINITION OF "THE THIRD DEGREE"

As mentioned previously, the law only prohibits the appointment of relatives by blood or marriage "within the third degree." To apply this law accurately, there is a method to compute whether a person is related within what is legally defined as the "third degree." In summary, this method of computation would prohibit a public officer from appointing or participating in the appointment of in-laws or blood relatives which include a husband, or wife, brother or sister, parent or child, great grandparents, grandparents, grandchildren, uncles or aunts, and nephews or nieces. It appears that the anti-nepotism statute does not apply to situations where public

officials appoint cousins to paid offices or positions of employment because they are not related within the third degree. ([Attorney General Opinion No. 77-115](#))

LEGAL OPINIONS

Because the law involves a fairly concise means of determining when individuals are subject to these restrictions, relatively few legal opinions and court cases have centered on this statute. Among the legal clarifications that do exist is [Attorney General Opinion No. 63-75-L](#), holding that the wife of a justice of the peace could be appointed by her husband to perform the function of setting bail. This ruling was based in part on the fact that the public official's wife was not compensated for these duties. In [Attorney General Opinion No. 63-9](#), however, it was ruled that a justice of the peace could not appoint his wife's sister to a compensated position of clerk without violating this law.

One important question is whether a fire district employee can continue employment after a relative within the third degree has assumed a position on the district board or some other position with appointment authority. In addressing a situation of this nature, one could assume that an employee could continue employment even though a relative was elected to the fire district position. However, if a situation arises where the employee's appointment or reappointment is placed before the board, the relative on the board should not take part in that decision.

The council/manager form of government or the existence of a merit system also affect the application of the nepotism law since the law does not prohibit the appointment or employment of a relative but rather **governs the participation** of the related official in the decision making process.

PENALTIES FOR VIOLATION

A public official convicted of violating any provision of this section is guilty of a class 2 misdemeanor.

CONCLUSION

Accepting a position as a public official may introduce a number of complex and confusing legal situations into an individual's life. This chapter was intended to shed some light on selected areas of state law that place restrictions on the activities of public officials in Arizona. If the chapter has raised questions, it is of utmost importance to consult with your district's attorney on specific questions regarding this subject.

<p style="text-align: center;">CHAPTER 9 FIRE FIGHTERS' RELIEF AND PENSION FUND</p>

PREFACE

The AFDA Handbook Committee developed this chapter for the exclusive use of Arizona Fire District Association members. It is clear to the committee that this chapter will not answer all questions concerning relief and pension matters. The committee's intent was to develop a chapter that would contain guidelines only. The Arizona Revised Statutes referenced herein should always be checked to make sure they are the latest versions.

READ and COMPLY with the Arizona Revised Statutes for the good of your district and yourselves. Refer to Chapter 4 of this handbook for a more comprehensive listing of applicable statutes.

AFDA does not give LEGAL OPINIONS but will recommend sources where opinions are available.

HELP PHONE NUMBERS
Bob Barger Office of the State Fire Marshal 1110 West Washington, Suite 100 Phoenix, AZ 85007-2935 Office: (602) 364-1003 FAX: (602) 364-1084
Editor in Chief Chief Mary Dalton 18818 N. Spanish Garden Drive Sun City West, Arizona 85375 mdalton@scwfire.org
<i>See also AFDA Officers and Board of Directors List in the front of this Handbook.</i>

<p style="text-align: center;">FIRE FIGHTERS' RELIEF AND PENSION FUND</p>
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The fire insurance premium tax revenues of the Fire Fighters' Relief and Pension Fund can only be applied toward refund, relief, disability, death benefit, Article 3 pension or Article 4 pension for fire fighters as outlined in Arizona Revised Statutes §§ [9-449 thru 9-981](#).

If after reviewing these statutes your district wishes to participate in the distribution of funds, you will need to send the following items to the Office of the State Fire Marshal, 1110 West Washington Street, Suite 100, Phoenix, Arizona 85007-2935:

1. *A letter indicating your desire to participate in the distribution of funds.*
2. *A copy of the ordinance establishing your district.*
3. *The district's federal tax ID number.*

The district must also set up:

1. A pension fund board of trustees (*See "Setup Trustees Guidelines," next page*)

Two accounts for:

- (a) Employee contributions to the fund
- (b) Employer contributions to the fund

Pension fund records should be maintained on the same fiscal year as your general fund.

Eligibility documents will be sent to you in November of each year and must be **completed and returned prior to January 31st of the following year**.

SETUP TRUSTEES GUIDELINES

Premium tax funds are maintained and distributed on a calendar year basis. Therefore, the documentation you submit at the end of the calendar year will qualify you for participation in that calendar year, distribution of funds being made prior to July 1st of the next calendar year.

Board of Trustees of Fund. Membership shall be as follows: [A.R.S. §§ [9-954.A through 9-954.C](#)]

A. For an incorporated city or town:

1. Mayor or the mayor's designee
2. Fire chief
3. *Four members elected by ballot from the membership of the fire department*
4. One lay member appointed by the city or town

B. Fire district with an elected chief and members

1. Fire chief
2. Four member elected by ballot from four members of the board of trustees, or number of members as, when added to the incumbent members thereof, will constitute four members. If two members in addition to the chief are already on the board of trustees, two additional members shall be elected to hold office for the same respective terms as the two incumbent members. At the expiration of the two shorter terms, and thereafter biennially, two members shall be elected for terms of four years each.

C. Fire district administered by a district board:

1. Board member
2. Fire chief
3. Four members elected by ballot from the membership of the fire district
4. One lay member appointed by the district.

The board of trustees shall elect from its members the following: [A.R.S. § [9-955.A](#)]

1. President

2. Secretary of the board

The city or town treasurer, or the county treasurer as the case may be, shall be treasurer of the board of trustees.

Unless the board of trustees of a fire district assumes the responsibility for investing and reinvesting the funds, the board of trustees may elect from its members a treasurer.

<p style="text-align: center;">STATE FIRE MARSHAL OFFICE DOCUMENTATION PROCESS</p>
--

A. Forms mailed to districts in November must be COMPLETED and RETURNED BEFORE JANUARY 31st. Each participating district will receive the following forms:

1. Listing of volunteer board of trustees
2. Listing of public safety board of trustees
3. Secretary's report of fund
4. Secretary's report of fund distributions

B. Documents required for each type of fund.

You are only required to return the completed form(s) and other report(s) as indicated for your type of fund:

1. 100% public safety:

- (a) Listing of public safety board of trustees
- (b) Minutes of your public safety board of trustees' designated annual meeting

2. 100% volunteer:

- (a) Listing of volunteer board of trustees
- (b) Secretary's report of fund
- (c) Secretary's report of fund distributions
- (d) Minutes of your volunteer board of trustees' designated annual meeting
- (e) Copy of the annual audit
- (f) Proof of bond (if required)

Also send to the Department of Library, Archives, and Public Records the following:

- (g) Secretary's report of fund
- (h) Secretary's report of fund distributions

- (i) Copy of the annual audit

3. **Public safety and volunteer:**

- (a) Listing of public safety board of trustees
- (b) Minutes of your public safety board of trustees designated annual meeting
- (c) Listing of volunteer board of trustees
- (d) Secretary's report of fund
- (e) Secretary's report of fund distributions
- (f) Minutes of your volunteer board of trustees designated annual meeting
- (g) Copy of the annual audit
- (h) Proof of bond (if required)

Also send to the Department of Library, Archives, and Public Records the following:

- (i) Secretary's report of fund
- (j) Secretary's report of fund distributions
- (k) Copy of the annual audit

4. **Municipality or district procuring services of a private fire company.**

- (a) Secretary's report of fund
- (b) Copy of annual audit

Also send to the Department of Library, Archives, and Public Records the following:

- (c) Secretary's report of fund
- (d) Secretary's report of fund distributions
- (e) Copy of the annual audit

**ARIZONA STATE FIRE MARSHAL
RESPONSE LIST**

Bob Barger, State Fire Marshal
Office of the State Fire Marshal
1110 West Washington, Suite 100
Phoenix, AZ 85007-2935
Office: (602) 364-1003
FAX: (602) 364-1084

If unable to reach a Deputy, call above during office hours 0800-1700, Monday thru Friday.

After hours or weekends and holidays call DPS watch commander at 602-223-2000 for deputy contact.

Phoenix Office (602) 364-1003
Contacts: Statewide Support Staff Training
Melina Joya (602) 364-1075

St. Johns Office (928) 337-2556
Contact: Bob Humphrey

Tucson Office (520) 628-6920
Fax (520) 628-6930
Contacts: Ed Deschanes
George Chavez

SAMPLE FORMS

Sample Volunteer Fire Fighters' Pension Fund Board

NAME OF TRUST FUND

BOARD OF TRUSTEES

President _____
(name) (address)

SECRETARY

Treasurer _____

Member _____

Member _____

Member _____

Member _____

Member _____

Name, Address and Telephone Number (8 a.m. - 5 p.m.) of **person** preparing this report:

—

—

—

A.R.S. § 9-955.D. Notwithstanding the provisions of Subsections A and C of this Section, if the board of trustees of a fire district assumes the responsibility for investing and reinvesting the funds pursuant to Section 9-957, Subsection B, the duties of the treasurer may be performed by a member of the board elected by the board. If the duties of the treasurer are performed by a member of the board, he shall be bonded for an amount determined by the board which amount shall not be less than the maximum amount of funds in the account at any one time during the previous year.

If a member of the board of trustees is treasurer of the board of trustees of the fund, you **must** attach **PROOF OF BOND**.

ATTACH COPY OF THE MINUTES OF YOUR ANNUAL MEETING. (If you meet more than once a year, please designate one meeting as your Annual Meeting and send the minutes of that meeting only.)

RETURN FORM TO: Office of the State Fire Marshal, 1110 West Washington Street, Suite 100, Phoenix, AZ

Sample Public Safety Personnel Retirement Pension Board

Name of Trust Fund _____

BOARD OF TRUSTEES

President

(name) (address)

Secretary

Member

Member

Member

ATTACH COPY OF THE MINUTES OF YOUR ANNUAL MEETING. (If you meet more than once a year, please designate one meeting as your Annual Meeting and send the minutes of that meeting only.)

Public Safety Personnel Retirement System will furnish this office with a report of fund and a list of beneficiaries.

RETURN FORM TO: Office of the State Fire Marshal, 1110 West Washington Street, Suite 100, Phoenix, Arizona 85007-2935.

THIS FORM MUST BE COMPLETED AND RETURNED NO LATER THAN JANUARY 31, 20__.

Sample Secretary's Report of Fund

Name of Trust Fund _____

Report of Fund for Year Ended _____

Signature of Secretary _____

Revenues:

Monies received from 2% premium tax distribution _____

Interest earnings _____

Employees' Contributions _____

Employer's Contributions _____

Total Revenues

Expenditures:

Refund payments _____

Relief payments _____

Disability payments _____

Death Benefit payments _____

Article 3 Pension payments _____

Article 4 Pension distributions (paid/volunteer) _____

Payment to Private Fire Company which covers
pension liability _____

Professional Services (legal, auditing, etc.) _____

Total Expenditures

Excess of Revenue over (under) Expenditures

Year's Beginning Balance

Year's Ending Balance

You must complete the **SECRETARY'S REPORT OF PENSION FUND DISTRIBUTIONS**. (A.R.S. § 9-956, Subsection B.)

ATTACH A COPY OF THE ANNUAL AUDIT. (A.R.S. § 9-956, Subsection A.) The law no longer requires an audit by a certified public accountant; however, the audit cannot be done by a member of the Pension Fund Board of Trustees or by a potential beneficiary of the pension fund. It must be done by an **outside source**.

A COPY OF THIS REPORT TOGETHER WITH A COPY OF THE SECRETARY'S REPORT OF PENSION FUND DISTRIBUTIONS AND A COPY OF THE ANNUAL AUDIT SHALL BE SENT TO THE FOLLOWING:

- (1) Office of the State Fire Marshal, 1110 West Washington Street, Suite 100, Phoenix, Arizona 85007-2935
- (2) Department of Library, Archives and Public Records, State Capitol, 1700 West Washington Street, Phoenix, Arizona 85007. (A.R.S. § 9-956, Subsection C.)

THIS FORM MUST BE COMPLETED AND RETURNED NO LATER THAN JANUARY 31, 20__

Types of distribution include REFUND, RELIEF, DISABILITY, DEATH BENEFIT, ARTICLE 3 PENSION, or ARTICLE 4 PENSION. Under Article 4 Alternate Pension, you **MUST** list the name of each beneficiary and amount distributed to each account. Please make sufficient copies to meet your needs.

AMOUNT DISTRIBUTED

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

- (1) Office of the State Fire Marshal, 1110 West Washington Street, Suite 100, Phoenix, Arizona 85007-2935
- (2) Department of Library, Archives and Public Records, State Capitol, 1700 West Washington Street, Phoenix, Arizona 85007. (A.R.S. § 9-956, Subsection C.)

THIS FORM MUST BE COMPLETED AND RETURNED NO LATER THAN JANUARY 31, 20__

ARIZONA REVISED STATUTES CONCERNING THE
VOLUNTEER FIREFIGHTERS' RELIEF AND PENSION FUND

TITLE 9 CITIES AND TOWNS

CHAPTER 4 GENERAL POWERS

ARTICLE 8 MISCELLANEOUS

[9-499.06](#) Fire insurance premium tax revenues; cities and towns and fire districts utilizing private fire companies

CHAPTER 8 POLICE AND FIRE DEPARTMENTS

ARTICLE 3 FIRE FIGHTERS' RELIEF AND PENSION FUND

[9-951](#) Disposition of fire insurance premium tax proceeds; composition of fund

[9-951.01](#) Definition

[9-952](#) **Disposition of fire insurance premium tax**

[9-953](#) Fire districts or departments; certification by state fire marshal

[9-954](#) Board of trustees of fund; membership

[9-955](#) Officers of board; meeting; procedure for disbursements

[9-956](#) **Annual audit; report of secretary; sanctions**

[9-957](#) Powers and duties of board; investments; review of decisions

[9-963](#) Grant of temporary relief by board; procedures for immediate pension relief

[9-965](#) Termination of benefits

[9-967](#) Pension for volunteer fire fighter

[9-967.01](#) Paid fire fighters who are also volunteers; eligibility for pension benefits

[9-968](#) Exemption of pension from process; prohibition of assignments; exception

[9-969](#) Applicability of workmen's compensation law

[9-970](#) **Effect of military service**

[9-971](#) Reinstatement after military service

[9-972](#) Inapplicability of article

[9-973](#) Disability insurance for volunteer fire fighters

ARTICLE 4 ALTERNATIVE PENSION AND BENEFIT PLAN

[9-981](#) Authority to purchase alternative pension and benefit plan

ARTICLE 5 FIRE FIGHTERS' TRAINING

[9-991](#) Training requirement

PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM

Below is a table of contents referring to the specific statutes upon which the retirement system is based. Copies of all Arizona Revised Statutes may be obtained online at:

<http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp>

ARIZONA REVISED STATUTES

INDEX TO LAWS

TITLE 38 PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 5 SOCIAL SECURITY AND RETIREMENT

ARTICLE 4 PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM

- [38-841.](#) Purpose: vested benefits
- [38-842.](#) Definitions
- [38-843.](#) Contributions
- [38-844.](#) Requirements for retirement benefits and disability pensions
 - [38-844.01.](#) Vested rights to benefits
- [38-845.](#) Amount of retirement benefit; purchase of firearm
- [38-846.](#) Death benefits
 - [38-846.01.](#) Deferred annuity
 - [38-846.02.](#) Termination of membership
 - [38-846.03.](#) Reinstatement of surviving spouse's pension
- [38-847.](#) Local boards
- [38-848.](#) Fund manager
- [38-849.](#) Limitations on receiving pension; violation; classification; reemployment after severance; reinstatement of service credits; reemployment of retired or disabled member
- [38-850.](#) Assurances and liabilities; fund manager discretion; overpayments; underpayments
- [38-851.](#) Participation of new employers

[38-852.](#) Taxation of benefits; exemption of contributions and securities

[38-852.01.](#) **Benefits not to be reduced by social security payments**

[38-853.](#) **Transfer of credited service**

[38-853.01](#) **Redemption of prior service**

[38-853.02](#) Purchase of Service; payment

[38-854.](#) **Guarantees from prior systems**

[38-855.](#) **Transfer outside the public safety personnel retirement system**

[38-856.](#) **Benefit increases**

[38-856.01.](#) **Lump sum payment of benefit increases**

[38-857.](#) **Group health and accident coverage for retired members; payment; definition**

[38-858.](#) **Credit for military service**

[38-859.](#) **Medical boards; purposes; composition; medical examinations**

ARTICLE 7. TRANSFERS TO ANOTHER RETIREMENT SYSTEM OR PLAN

[38-921.](#) **Transfer of retirement service credits from one retirement system or plan to another retirement system or plan in this state; definitions**

[38-922.](#) **Transfer or redemption of service credits**

FIRE FIGHTER AND PEACE OFFICER CANCER INSURANCE PROGRAM

The State of Arizona operates a Fire Fighter and Peace Officer Cancer Insurance Program. In order to participate in the program, one must: a) be an active or retired member of the Public Safety Personnel Retirement System (“PSPRS”); b) be a fire fighter or peace officer for at least five years; and c) have a cancer diagnosed after the member’s date of joining PSPRS.

The manager of PSPRS operates the Program. For more information please contact:

Public Safety Personnel Retirement System
3010 East Camelback Road, Suite 200
Phoenix, Arizona 85016
Tel.: (602) 255-5575
Fax: (602) 255-5572
Web: <http://www.psprs.com/PSPRS>

Statutory information regarding the program may be found at A.R.S. §§ [38-641](#) through [38-645](#).

CHAPTER 10

EMERGENCY MEDICAL SERVICES

Health Insurance Portability & Accountability Act (HIPAA)

Introduction

The Health Insurance Portability and Accountability Act (HIPAA) of 1996 was enacted on August 21, 1996 and was originally intended to ensure a smooth continuation of health insurance coverage when an employee transferred to a new employer. This included the transfer of health care related information between entities, which was increasingly done through electronic means. This shift from paper to electronic sharing of patient and employee medical information raised concerns over the increased access, use and possible unauthorized disclosure of protected health information (PHI). Congressional leaders were made aware that compliance in protecting the confidentiality and integrity of health information and patients' rights to privacy was a key issue. They tasked the US Department of Health and Human Services (DHHS) with addressing this concern and setting new privacy standards to ensure basic individual protection while allowing for the flexibility and speed of technology. There are three main provisions under HIPAA including protection of privacy, administrative simplification and security.

The Privacy Provision

HIPAA legislation accomplished the first provision by setting minimum privacy standards or privacy rules for the sharing of patient or employee Protected Health Information. The Privacy Rule is intended to give patients (employees) more control over the use, sharing or release of their PHI. It also ensures that only those who absolutely need the information will receive only the minimum amount of PHI to accomplish their job.

HIPAA Rights

An individual's rights under HIPAA include:

- The right to receive a notice of their privacy rights & practices in plain language
- The right to expect to sign a written consent for the use and disclosure of PHI by providers unless it is for treatment, payment and/or other healthcare operations
- The right to expect to provide authorization in writing from the patient (employee) or his/her designee if PHI is shared for any reason other than the three listed above (7)
- The right to access and copies of their own PHI within a stipulated amount of time
- The right to amend their PHI for as long as the entity holds the information unless the provider did not create the record or the information in dispute is accurate and complete
- The right to a list of all entities to which PHI has been disclosed in the 6 year period immediately prior to the request
- The right to file a complaint should any of the preceding be violated

The Privacy Rule was implemented in April of 2001 and the deadline for training “covered entities” was April 14, 2003. A fire district is considered a covered entity if it has a large health plan, is a healthcare clearinghouse, or is a healthcare provider. A healthcare provider is defined as “a provider of medical or health services and any other person or organization that furnishes, bills or is paid for healthcare in the normal course of business” (6). Therefore, those fire districts that regularly provide and bill for services must be compliant with the HIPAA privacy standards. In addition, fire districts may be considered a covered entity if they “transmit health information in electronic form in connection with a transaction for which a HIPAA standard has been adopted by DHHS” (6).

Under the Privacy Rule, fire districts must have policies and procedures in place that describe the allowable uses and disclosures of individual PHI. In addition, these entities must ensure the “integrity, confidentiality and availability of the information”(5). The entities must also ensure and enter into written contracts that their business associates such as vendors, consultants, and attorneys also will follow the required privacy measures. The Office for Civil Rights (OCR) under the Department of Health and Human Services (DHHS) is responsible for implementing and enforcing HIPAA privacy regulations.

There are some special situations to note with regard to privacy of information. It is a criminal offense to reveal if a patient has HIV. Patients may only be tested for HIV or AIDS after they have given consent and the results of those tests may only be shared with the patient. In addition, revealing or confirming the identity of patients in any psychiatric or substance abuse program is a violation of federal law.

Finally, the Privacy Rule mandates that healthcare providers and plans must establish policies and practices that are aligned with HIPAA guidelines and maintain privacy as a primary goal. This includes not only those practices but also training of all employees and the appointment of a “privacy officer.” The primary functions of the privacy officer are to ensure compliance with privacy policy, to receive and respond to complaints and questions about privacy policy as well as to provide and document privacy training. Additional roles and responsibilities include the following (4):

Privacy Officer Roles & Responsibilities

- Directing activities related to the development, implementation and maintenance of fire district policies and procedures regarding the privacy of patient and employee personal health information
- Serving as the compliance officer for federal and state laws regarding privacy information, including HIPAA
- Ensuring fire district compliance with policies and procedures related to the access and sharing of privacy information
- Responding to both internal and external complaints regarding privacy issues
- Answering questions regarding denial of access to protected health information
- Responding to questions about receiving and processing requests for access or amendment to protected health information
- Working with operational chiefs and the district medical director to provide oversight for privacy related issues

The “Minimum Necessary” Rule

The “minimum necessary” rule, as defined by HIPAA, instructs healthcare providers and those employers required to share protected health information “to use only the minimum amount of information necessary to

get the job done” (2). This rule can guide providers in making on-the-job decisions about how much information to share or discuss regarding patient situations. This applies to radio and telephone communications as well; only share information that is critical to the patient’s situation at the moment - no more, no less.

Administrative Simplification

Administrative simplification is the second provision established under the HIPAA legislation. This provision authorizes DHHS to “draft and implement rules for privacy, security, transactions, codes sets and identifiers concerned with protected health information” (4). The deadline for appropriate covered entities to comply with establishing transaction rules and code sets was October 15, 2002 unless they requested and received a one-year extension from DHHS. Entities including fire districts with “small health plans” that pay less than \$5 million in premiums had until October 15, 2003 to comply with the transaction and code set requirements and until April 14, 2004 to implement the privacy rules.

The challenge for fire districts, as with many other businesses, is to find the resources and funding to allocate the necessary time to research the application of HIPAA to the district, develop the appropriate policies, procedures and notices as well as train the employees. The administrative simplification is intended to facilitate this process through the work of the privacy officer, but many organizations have had to either reallocate management time or hire consultants to complete this arduous task.

Healthcare providers have attempted to establish a consistent set of rules for the electronic sharing of information but this has proved to be a difficult task to accomplish. As a result, HIPAA has mandated that DHHS “adopt uniform national standards for electronically processing of insurance claims and related transactions” (1). The implementation of these standards was required by October 16, 2003 and as of that date Medicare is accepting paper claims only under limited circumstances.

The Security Provision

Security is the third and final provision of HIPAA legislation and all covered entities are required to implement these changes by April 21, 2005. The goal of this standard is to “establish standard protections for the electronic (computerized) storage and transmission of protected health information” (3). Guidelines need to be established regarding both verbal and physical security measures. Fire district employees must be sensitive to avoiding incidental disclosure of PHI to other providers or employees that have no need to know the information.

Verbal discussions should be held in private or at least every effort should be made to maintain the confidentiality of the information. While review of calls can be a valuable learning experience for EMS personnel, only the minimum amount of PHI necessary to convey the point should be shared by those involved in the care of the patient at these informal sessions. Verbal security measures *are not* intended to impede anyone from speaking directly about providing care to the patient but to minimize any possible inadvertent disclosure of PHI.

Physical security measures are far more complex and varied in their approach. With regard to patient care and records, fax machines sending and receiving such information must be in a secure area and cover sheets should include a confidentiality statement. In addition, information about how to contact the sender about an error should be provided on that cover sheet. Patient care reports including run reports or tickets should be stored in locked cabinets or files. They should be transported in a locked bag with access limited to only those who maintain/store these reports and approved couriers. Only those with a need to have the information for the completion of their job duties should have access to any paper records. Documents or copies of documents that contain any protected health information must be shredded before recycling or discarding.

Computers that can be used to access protected health information should be fully password protected and have screen savers set at 2 minutes or less to limit visual access. Passwords must be kept confidential and only shared with those who have clearance for all levels of security in the information system. Emails should not be used to send PHI unless absolutely necessary and such emails should contain a confidentiality statement as well. Computer screens should not face public doorways or access areas. Workstations should be secure and employees should log off completely when leaving their stations.

Additional steps that need to be taken prior to the security standards implementation date include establishing policies and procedures to cover security issues, providing new password protection as necessary on all computers, and upgrading information systems security throughout the district. The Privacy Rule currently does not require data encryption of PHI for electronic transfers of this information, but this may be required as the security deadline draws nearer.

Complaints of Violations

The fire district Notice of Privacy Practices must contain information for patients and employees on how to file a complaint regarding possible violation(s) of privacy. The notice must identify the district's Privacy Officer and offer guidance on how to contact the officer along with what to expect and timeframes for a response (2). Districts must set up an established procedure on the process for receiving, investigating, processing and responding to a complaint. The complaint must be in writing either on paper or electronically and be filed "within 180 days of when the complainant knew or should have known that the act or omission complained of occurred". Finally, the complainant must name the entity that is the subject of the complaint and describe the acts or omission believed to be in violation of the applicable Federal Privacy Rule (4).

Patients or employees are thus notified and encouraged to contact the district privacy officer in regard to a complaint, but they don't have to use this approach. Patients may file an official complaint via the Office for Civil Rights (OCR) out of DHHS. The OCR Health Information Privacy Complaint Form is available online and may be used to file an electronic complaint (2). The Privacy Officer must be prepared to respond to these complaints and document the process in a timely fashion.

Employees who wish to file complaints regarding privacy issues should do so with reasonable, good faith belief and should disclose only information necessary. They should be instructed to put the complaint in writing to the Privacy Officer while understanding that there will be no intimidating or retaliatory acts by the district against them. They also must be aware that there may be an opportunity for quality improvement related to the issue they are raising and that opportunity may be taken advantage of by the district.

Penalties

HIPAA requirements are meant to encourage covered entities to move patient (employee) information handling activities from manual to electronic systems in order to improve security, lower costs and lower error rates. Unfortunately, those entities that do not comply with the HIPAA standards regarding privacy, simplification and security are subject to federally mandated sanctions for this failure. Possible harm to the district or employee's reputation and employee disciplinary action including termination are two possible outcomes of HIPAA violation. In addition there are potential civil/criminal fines and imprisonment associated with more severe violations.

Civil Fines or Penalties

- Violators that **unintentionally** disclose PHI are subject to penalties of \$100 per violation up to \$25,000 per person, per year for each requirement or prohibition violated

Federal Criminal Penalties

- Violators who obtain or disclose PHI are subject to up to \$50,000 fine and one year in prison
- Violators who obtain PHI under false pretenses are subject to up to \$100,000 fine and up to five years in prison
- Violators who obtain or disclose PHI with the intent to sell, transfer or use it for commercial advantage, personal gain or malicious harm are subject to up to \$250,000 fine and up to 10 years in prison

Summary

What began as a problem with employees transferring medical information in the insurance industry has become a daunting task for businesses, healthcare providers and fire districts to manage. Healthcare providers and those businesses with healthcare plans are being challenged to protect the private health information of those they serve internally and externally. The outcome of the process should be a streamlined national system that can move healthcare information swiftly and accurately while not sacrificing confidentiality.

Fire district personnel have been supporting the needs of their patients and peers for years, but now are asked to take another step to ensure the privacy and security of protected health information. HIPAA legislation provides the guidelines for this protection and fire districts must comply with the rules for privacy, administrative simplification and security in order to reap any benefits and avoid penalties for any violation of privacy. It will require creative thinking and planning of resources to enable fire districts to meet this challenge for the future.

References

- (1) Centers for Medicare & Medicaid Services. **Health Insurance Portability and Accountability Act of 1996 - Implementation of Administrative Simplification Requirements by HHS**. CMS Website. September 4, 2003. pgs. 1-4. Available online at: www.cms.hhs.gov/hipaa/hipaa2/general/background/kkimpl.asp.
- (2) Department of Health and Human Services Office for Civil Rights. **Health Information Privacy Complaint**. Available online at: www.hhs.gov/ocr/privacyhowtofile.html.
- (3) Ecker, Margaret. MS PNP RN. **Protecting Patient Privacy**. *Nurse Week*. August 18, 2003. pgs. 19-21. Available online at: www.nurseweek.com.
- (4) Puckett, Cliff. Asst. Chief, Mesa Fire Department. **HIPAA Training**. PowerPoint presentation. Mesa Fire Department. Available online at: www.azchiefs.org/hipaa.html.
- (5) Niles, Dirk F. **Implementing HIPAA**. *HIU*. January 2003. pgs. 20-25.
- (6) Thacker, Stephen B. MD. **HIPAA Privacy Rule and Public Health**. United States Centers for Disease Control and Prevention. May 2003. pgs 1-20. Available online at: <http://www.cdc.gov/mmwr/preview/mmhtml/m2e411a1.htm>.
- (7) Whittington, William R. **Sample forms for HIPAA Authorization**. *AFDA News*. April 2003. Volume 10, Issue 1. pg. 13-14.

Resources

Federal Government

DHHS Office for Civil Rights – HIPAA Guidelines - <http://www.hhs.gov/ocr/hipaa>

CDC – Privacy Rule Guidelines - <http://www.cdc.gov/privacyrule>

Centers for Medicare and Medicaid Services

<http://www.cms.gov/hipaa>

<http://www.cms.gov/hipaa/hipaa2/support/tools/decisionsupport/default.asp>

Health Resources and Services Administration – HIPAA

<http://www.hrsa.gov/index.html>

The Health Information Privacy Complaint can be downloaded from the following website:

<http://www.hhs.gov/ocr/privacy/hipaa/complaints/hipcomplaintpackage.pdf>

HIPAA AUTHORIZATION FORM

Covered Entity requests _____ (Patient)

To authorize the use and disclosure of confidential healthcare information to _____
for the following purposes [list the purposes]: _____

[List the information that is to be used and disclosed:] _____

CONDITIONS:

1. The Patient authorizes Covered Entity to use and disclose his/her confidential healthcare information only for the purposes listed above;
2. The Patient authorizes the entity(ies)/organization(s) listed above to access and receive his/her confidential healthcare information for the purposes listed above;
3. The information that is authorized to be released may no longer be protected under federal privacy laws once it is used and disclosed for the above-referenced purposes;
4. Upon request, Covered Entity will provide the Patient (or their Personal Representative) with a copy of the confidential healthcare information for which this authorization is being sought;
5. The Patient (or their Personal Representative) is voluntarily signing this authorization;
6. The Patient (or their Personal Representative) reserves the right to refuse to sign this authorization. Covered Entity will not withhold treatment to any Patient who refuses to sign this authorization;
7. The Patient (or their Personal Representative) reserves the right to revoke this authorization at any time. This revocation must be in writing and may be submitted to Covered Entity's Privacy Officer;
8. The patient (or their Personal Representative) will receive a copy of the signed authorization, upon request;
9. This authorization will be maintained by Covered Entity for a period of six (6) years; and
10. This authorization is in effect from _____ to _____ (length of time). Upon the conclusion of that time period, this authorization is automatically revoked and no further use of the Patient's confidential healthcare information is permitted beyond that date.

Signature of Patient Or Patient's Authorized Representative

Date

If signed by the Patient's Personal Representative, please print name and describe relationship to the patient:

Name (please print)

Authorization To Disclose Protected Health Information

I authorize the disclosure of protected health information (as defined by 45 CFR §160.100) regarding, or related to:

Name: _____ Date of Birth: _____ I.D. No.: _____

I authorize the disclosure of the information specifically identified herein or on the attached page, if any:

I authorize the following individual or entity to request the disclosure of the information authorized herein:

I authorize the following individual or entity to receive the disclosure of information authorized herein:

The purpose of the authorized disclosure is:

This authorization shall expire and no longer be valid as of the following date or event:

☐ The following date: _____

☐ The following event: _____

I specifically authorize the release of medical records or information, if any, related to the diagnosis, treatment, and prognosis regarding any (initial next to each):

_____ Mental condition and/or treatment including psychotherapy notes;

_____ Drug or alcohol abuse and/or treatment; or

_____ HIV or AIDS or AIDS related complex condition and/or treatment.

I understand that this authorization may be revoked in writing at any time, except to the extent that action has been taken in reliance on this authorization.

I understand that unless a specific disclosure to the contrary is contained herein, treatment, payment, enrollment or eligibility for benefits may not be condition on whether I sign this authorization.

I understand that there is a possibility of redisclosure of any information disclosed pursuant to this authorization,

Signature of Individual or Individual's Legal Representative: _____

Date: _____

If signed by the individual's legal representative, describe your authority to sign on behalf of the individual:

Emergency Medical Services (EMS)

While fire districts are not required to provide emergency medical services by statute, many communities rely on fire districts for these essential services, which may include first responder, basic life support (EMT) and advanced life support (paramedic) assistance. In fact, fire districts typically find that the majority of their responses will be medical in nature, and it is not uncommon for a fire district to be formed because it constitutes the only way a community can have access to emergency medical care or ambulance transportation. Whenever a fire district elects to provide emergency medical care or transportation services, however, it will encounter regulatory implications. This chapter will provide resources to assist fire districts in these areas.

The Arizona Department of Health Services Bureau of Emergency Medical Services and Trauma Systems (BEMSTS) possesses the statutory authority to regulate the activities of fire districts offering ambulance services, as well as the certified emergency medical personnel they employ. As a result, fire districts must become familiar and involved with BEMSTS and its regional EMS systems. This will keep the fire district informed of changes affecting their certified medical personnel, enable the district to access information regarding grant availability and medical operating protocol for their region, and provide the district with the opportunity to influence changes to improve patient care.

Please Note: This chapter is intended to be a guide to the BEMSTS regulatory process and is not all-inclusive. Your agency must do due diligence, research, and seek advisement from your legal counsel when necessary.

Reference the following website for the most current organizational chart:

<http://www.azdhs.gov/bems/index.html>

BUREAU OF EMERGENCY MEDICAL SERVICES AND TRAUMA SYSTEMS: PHONE NUMBERS

ADMINISTRATION

- *Oversees bureau affairs and staff, handles budget and contracts administration, committee coordination and rural/border/Native American issues.*

Arizona Department of Health Services
Bureau of Emergency Medical Services
and Trauma Systems
150 North 18th Avenue, Suite 540
Phoenix, AZ 85007-3248

Main: (602) 364-3150
Toll Free: (800) 200-8523
Fax: (602) 364-3568

EMS AND TRAUMA DEVELOPMENT AND POLICY SECTION

- *Provides statewide trauma system planning and development, maintains a statewide trauma data collection program, provides injury prevention resource information to the public and health care professionals and coordinates the EMS for Children Program.*

Phoenix

Arizona Department of Health Services
Bureau of Emergency Medical Services
and Trauma Systems
150 North 18th Avenue, Suite 540
Phoenix, AZ 85007-3248

Main: (602) 364-3150
Toll Free: (800) 200-8523
Fax: (602) 364-3568

AMBULANCE & REGIONAL SERVICES

- *Administers the regulatory process for ambulance services in Arizona, including ambulance response times, the rate setting program, the ambulance rates and audit program, and the ambulance Certificate of Necessity (CON) program. Ambulance & Regional Services also approves basic and advanced life support training programs and advanced life support base hospitals, inspects and registers air and ground ambulances, and provides technical advice and assistance to EMS providers and the general public.*

Phoenix

Arizona Department of Health Services
Bureau of Emergency Medical Services
and Trauma Systems
150 North 18th Avenue, Suite 540
Phoenix, AZ 85007-3248

Main: (602) 364-3150
Toll Free: (800) 200-8523
Fax: (602) 364-3568

Tucson

400 West Congress, Suite 100
Tucson, Arizona 85701-1353

Main: (520) 628-6985
Fax: (520) 770-3103

CERTIFICATION TRAINING AND ENFORCEMENT SECTION

- *Oversees emergency medical technician (EMT) testing and certification, rules revision and development, web page development and revision, investigative and compliance coordination, and provides technical advice and assistance to EMTs and the general public.*

Phoenix

Arizona Department of Health Services
Bureau of Emergency Medical Services
and Trauma Systems
150 North 18th Avenue, Suite 540
Phoenix, AZ 85007-3248

Main: (602) 364-3150

Toll Free: (800) 200-8523

Fax: (602) 364-3568

Tucson

400 West Congress, Suite 100
Tucson, Arizona 85701-1353

Main: (520) 628-6985

Fax: (520) 770-3103

STANDING COMMITTEES OF THE BUREAU OF EMS AND MEETING SCHEDULE

Reference the following websites for the most current executive committee meeting schedules and a complete listing of subcommittees: <http://www.azdhs.gov/bems/advisory/index.htm>

EMERGENCY MEDICAL SERVICES (EMS) COUNCIL

Committee Meeting Dates TBA

Time/Location: approx. 10:30 a.m. (follows MDC)
BEMSTS Conference Room #540A
150 North 18th Avenue, 5th Floor
Phoenix, Arizona

STATE TRAUMA ADVISORY BOARD (STAB)

Committee Meeting Dates TBA

Time/Location: 9:00 a.m.
BEMSTS Conference Room #540A
150 North 18th Avenue, 5th Floor
Phoenix, Arizona

MEDICAL DIRECTION COMMISSION (MDC)

Committee Meeting Dates TBA

Time/Location: Noon
BEMSTS Conference Room #540A
150 North 18th Avenue, 5th Floor
Phoenix, Arizona

PROTOCOLS, MEDICATIONS & DEVICES (PMD) COMMITTEE

Committee Meeting Dates TBA

Time/Location: Noon
BEMSTS Conference Room #540A
150 North 18th Avenue, 5th Floor
Phoenix, Arizona

EDUCATION COMMITTEE

Committee Meeting Dates TBA

Time/Location: 10:30
BEMSTS Conference Room #540A
150 North 18th Avenue, 5th Floor
Phoenix, Arizona

Additional meeting information may be found online at: <http://www.azdhs.gov/bems/advisory/index.htm>

REGIONAL COUNCILS: CONTACTS AND BOARD MEETING DATES

Reference the following website for the most current information regarding Regional Councils:

AEMS for Central Region: <http://www.aems.org>

NAEMS for Northern Region: <http://www.naems.org>

SAEMS for Southern Region: <http://www.seams.net>

WACEMS for Western Region: <http://www.wacems.org>

State law establishes Regional EMS Councils. The councils encompass individuals from those regions. The membership may include fire and EMS providers, ground/air ambulance transportation providers, hospital providers, and other healthcare or emergency providers. The councils are charged with planning and coordinating EMS services within the respective geographical areas.

The regions can be instrumental in providing assistance with training, prioritizing EMS needs, obtaining equipment, and establishing local protocol. Finally, the regions are responsible for the provider grant and rural grant processes when available. Additional information regarding upcoming meetings may be found online at:

<http://www.azdhs.gov/bems/resources/REMSCS.htm>

ARIZONA EMERGENCY MEDICAL SYSTEMS (AEMS) ***(Gila, Maricopa and Pinal Counties)***

P.O. Box 28442
Scottsdale, AZ 85255
Phone: (623) 847-4100
Fax: (480) 452-0469
Internet: www.aems.org

Please see the AEMS website for upcoming AEMS Board of Directors' meetings.

AEMS Chair	Robert Londeree
Vice Chair	Joe Gibson
Executive Director	Peggy Baker

NORTHERN ARIZONA EMERGENCY MEDICAL SERVICES (NAEMS) ***(Apache, Coconino, Navajo and Yavapai Counties)***

P.O. Box 2127
Flagstaff, Arizona 86003-2127
Phone: (928) 284-2689
Fax: (928) 284-2640

Please contact NAEMS for upcoming NAEMS Board of Directors' meetings.

NAEMS Chair	Paul Coe
Vice Chair	Mark Venuti

SOUTHEASTERN ARIZONA EMS COUNCIL (SAEMS)
(Cochise, Graham, Greenlee, Pima and Santa Cruz Counties)

PMB 321/6890 East Sunrise
Tucson, Arizona 85750
Phone: (520) 529-1450
Fax: (520) 529-2369
Internet: www.saems.net

Please see the SAEMS website for upcoming SAEMS Board of Directors' meetings.

SAEMS Chair	Dan Spaite, M.D.
Vice Chair	Joe Gulotta
Executive Director	Taylor Payson

WESTERN ARIZONA COUNCIL OF EMS (WACEMS)
(LaPaz, Mohave and Yuma Counties)

3463 West 13th Place
Yuma, Arizona 85364
Phone: (928) 246-4208
Fax: (888) 803-1540
Internet: www.wacems.org

Please see the WACEMS website for upcoming WACEMS Board of Directors' meetings.

WACEMS-Executive Director: Rod Reed
President: Bill Johnston

ARIZONA REVISED STATUTES PERTAINING TO EMS

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Articles 2-14 Repealed

Article 15 Recodified

Chapter 25 Department of Health Services; Emergency Medical Services

[Article 1](#) Definitions

[Article 2](#) Advanced Life Support Base Hospital Certification

[Article 3](#) Training Programs

[Article 4](#) EMT Certification

[Article 5](#) Medical Direction Protocols for Emergency Medical Technicians

Article 6 Repealed

[Article 7](#) Air Ambulances Service Licensing

[Article 8](#) Air Ambulance Registration

[Article 9](#) Ground Ambulance Certificate of Necessity

[Article 10](#) Ground Ambulance Vehicle Registration

[Article 11](#) Ground Ambulance Services Rates and Charges; Contracts

[Article 12](#) Time-Frames for Department Approvals

[Article 13](#) Trauma Center Designation

[Article 14](#) Trauma Registry; Trauma System Quality Assurance

EMS RESOURCES

For questions on EMS issues, Arizona Fire District Association members can also contact the AFDA EMS Section Director (See Chapter 1 for current Section Director) or the AFDA website which lists the Board of Directors and Section Directors at <http://www.afdanews.org>

NATIONAL REGISTRY OF EMT'S (NREMT)

The NREMT is a non-profit, non-governmental agency, which developed a system of registration of emergency medical service providers.

www.NREMT.ORG

NATIONAL HIGHWAY TRANSPORTATION SAFETY ADMINISTRATION (NHTSA)

NHTSA was formed to carry out safety and consumer programs. They are responsible for reducing deaths, injuries and economic losses resulting from motor vehicle crashes. They also investigate safety defects in motor vehicles, set and enforce fuel economy standards, and promote the use of safety seats.

www.NHTSA.DOT.GOV

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEMA is an agency of the federal government reporting to the President. The agency's mission is to reduce loss of life and property and protect the nation's infrastructure from all types of hazards.

www.FEMA.GOV

AMERICAN COLLEGE OF SURGEONS

The American College of Surgeons is a scientific and educational association of surgeons that was founded in 1913 to improve the quality of care for the surgical patient by setting high standards for surgical education and practice.

www.FACS.ORG

AMERICAN TRAUMA SOCIETY

The American Trauma Society is a nationwide, non-profit, voluntary organization dedicated to the prevention of trauma and improvement of trauma care.

www.AMTRAUMA.ORG

AMERICAN AMBULANCE ASSOCIATION (AAA)

The AAA represents companies providing emergency and non-emergency medical transportation services. They serve as a voice and clearinghouse for the ambulance industry.

www.THE-AAA.ORG

ARIZONA STATE LEGISLATURE

ALIS Online is an information service of the Arizona Legislature, designed to promote increased public access to, and awareness of, the legislative process in Arizona.

<http://www.azleg.gov>

ARIZONA DEPARTMENT OF HEALTH SERVICES

<http://www.azdhs.gov>

BUREAU OF EMERGENCY MEDICAL SERVICES AND TRAUMA SYSTEMS

<http://www.azdhs.gov/bems>

ARIZONA AMBULANCE ASSOCIATION

www.AZAMBULANCE.ORG

CHAPTER 11

RECORDS MANAGEMENT

INTRODUCTION

This chapter was prepared to assist Arizona's fire districts with efficiently managing their records in compliance with the Arizona Revised Statutes and federal requirements.

Fire districts are heavily involved in services requiring large amounts of recorded information. A good records management system allows districts to house records in an economical fashion and find those records when needed.

Under A.R.S. §§ 41-151 through 41-151.023 the Director of Library, Archives and Public Records is authorized to establish standards, procedures and techniques for the economical and effective management of public records.

A.R.S. § 41-151.14 requires records management in all state and local government agencies, is shown below.

[A.R.S. § 41-151.14](#) State and local public records management; violation; classification; definition

A. The head of each state and local agency shall:

1. Establish and maintain an active, continuing program for the economical and efficient management of the public records of the agency.
2. Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the rights of the state and of persons directly affected by the agency's activities.
3. Submit to the director, in accordance with established standards, schedules proposing the length of time each record series warrants retention for administrative, legal or fiscal purposes after it has been received by the agency.
4. Submit a list of public records in the agency's custody that are not needed in the transaction of current business and that are not considered to have sufficient administrative, legal or fiscal value to warrant their inclusion in established disposal schedules.
5. Once every five years submit to the director lists of all essential public records in the custody of the agency.
6. Cooperate with the director in the conduct of surveys.
7. Designate an individual within the agency to manage the records management program of the agency. The agency shall reconfirm the identity of this individual to the state library every other year. The designated individual:
 - a. Must be at a level of management sufficient to direct the records management program in an efficient and effective manner.

b. Shall act as coordinator and liaison for the agency with the state library.

8. Comply with rules, standards and procedures adopted by the director.

B. The governing body of each county, city, town or other political subdivision shall promote the principles of efficient record management for local public records. Such governing body, as far as practicable, follow the program established for the management of state records. The director on request of the governing body, provide advice and assistance in the establishment of a local public records management program.

C. A head of a state or local agency who violates this section is guilty of a class 2 misdemeanor.

D. For the purposes of this section, “records management” means the creation and implementation of systematic controls for records and information activities from the point where they are created or received through final disposition or archival retention, including distribution, use, storage, retrieval, protection and preservation.

The director has been assigned the powers and duties to administer the public record management program (A.R.S. § 41-151.12). These duties include the establishment of standards, procedures and techniques for the economical and effective management of records and are administered through the Record Management Division (A.R.S. § 41-151.13).

This manual represents the standards, procedures and techniques established by the Records Management Division to assure the efficient and economical management of fire district records. Unless otherwise covered by specific statute, this chapter shall be considered the established standards, procedures and techniques for records management for all Arizona fire districts (A.R.S. § 41-151.22).

Additional information, consulting services, records workshops, and training sessions are available at no charge through the Records Management Division, 1919 West Jefferson, Phoenix, Arizona, 85009, telephone (602) 542-3741. <http://www.azlibrary.gov/records>

ARIZONA'S RECORDS MANAGEMENT PROGRAM

Section 1 – Why Records Management

THE REASONS FOR RECORDS MANAGEMENT

Records management is the application of contemporary systematic and scientific controls over the creation, distribution, utilization, retention, storage, retrieval, protection, preservation and final disposition of recorded information.

The reasons for records management are the basic business precepts – ECONOMY and EFFICIENCY. Cost reduction is especially important to local government. Since government has no control over income, short of raising taxes, it must maximize the use of appropriated funding. Good records management is an effective and painless way to reduce costs and thus make budgets go farther.

Studies show that the records in one four-drawer file cabinet cost nearly \$25,000 to create and over \$2,100 per year to maintain.¹ It thus becomes obvious that we should only create records which are really needed and maintain records in the office only so long as they remain active. Inactive records can be stored more economically in an off site records center. A well planned records center stores inactive records about five times more densely than a typical office, using less expensive equipment and in a far less costly building. A well managed records center also assures that records will be properly maintained and later destroyed on schedule.

One of the most wasteful records problems is misfiling. Current figures show that an organization unable to locate an average of three records per day could be spending over \$97,500 per year looking for those records.² Considering that an organization maintaining a 99% accuracy rate on filing will still have 15 misfiles per file drawer, we can see the reality of the problem.

Simply put – RECORDS MANAGEMENT SAVES \$\$\$\$. Though there may be some initial costs involved in setting up a program, payback will occur rapidly and the program will remain "profitable."

THE RECORDS MANAGEMENT DIVISION

In 1976, the legislature re-established the Arizona State Library, Archives and Public Records as a department of the legislative branch. At that time the Records Management Division was created. The State Records Management Center at 1919 West Jefferson in Phoenix is the home of this division.

The Records Management Division provides many records related services which may be utilized by fire districts, including:

1. Consulting with state agencies and political subdivisions by a professional records management staff.
2. Developing records management standards and procedures.
3. Educating state, county, municipal and fire district employees in records management practices through seminars and personal instruction.

¹Gartner Group, Coopers & Lybrand, Ernst & Young, 2009

²The Paperless Project, December 2009 AIIM. Forrester, Star Securities, US Department of Labor.

MANAGERIAL SUPPORT

Success of a records management program depends on the support it receives from top management. If a fire district directive has already been issued concerning a broad records management program, support for records management already exists. If there is no such directive, it is essential that fire district management be informed of the statutory requirement for a records management program (A.R.S. § [41-151.14](#)). To assure compliance, a records management directive must be authorized by the highest possible level of management, ideally the fire district board of directors or the fire chief of the district.

ORGANIZATIONAL POSITION

The organizational placement of the program will influence its effectiveness. The records management program must be recognized as a true management function and not as a housekeeping operation.

PROGRAM RESPONSIBILITY

Responsibility for the program must be vested in a designated fire district records manager or coordinator. The directive must permit delegation of authority to allow all fire district agencies participation in the program.

Section 2 – Legal Aspects of the Program

LEGAL BASIS OF THE PROGRAM

"Records" are defined by A.R.S. § [41-151.18](#) as any documentary materials, regardless of physical form or characteristics, made or received by a government agency. This statute also defines specific materials which are not records; e.g. library and museum materials, extra copies of documents and publications.

"Records management" is defined by A.R.S. § [41-151.14](#) as the creation and implementation of systematic controls for records and information activities from the point of creation through final disposition or archival retention.

A.R.S. § [41-151.14](#) also requires that the head of each state and local agency shall establish and maintain a records management program, designate a person to manage the program and comply with rules, regulations, standards and procedures issued by the Director of the Arizona State Library, Archives and Public Records. *Violation of this section is a class 2 misdemeanor.*

STATUTORY RESPONSIBILITIES OF THE RECORDS MANAGEMENT DIVISION

The duties of the Records Management Division of the Arizona State Library, Archives and Public Records are prescribed by A.R.S. § [41-151.13](#). The Division is required to provide for an efficient and economic records management program, operate a records management center for the maintenance of inactive records, establish standards and procedures for stored records, operate a secure vault for the maintenance of micrographic and machine readable records and operate a micrographics center.

DISPOSAL OF PUBLIC RECORDS

A.R.S. § [41-151.15](#) states that all records made or received by public officials of this state or the counties and incorporated cities and towns of this state in the course of their public duties are property of the state. It goes on to say that records shall not be destroyed or disposed of unless the Arizona State Library, Archives and Public Records has determined that the records have no further administrative, legal, fiscal, research or other value.

Pursuant to A.R.S. § [38-421](#), destruction of public records by a public officer without authorization is a class 4 felony; by a person other than public officer it is a class 6 felony. Stealing, mutilating, defacing, altering, falsifying, removing or secreting of public records are also felony offenses per A.R.S. § [38-421](#).

MICROGRAPHICS AND ELECTRONIC MEDIA

A.R.S. § [41-151.16](#) permits each agency of the state, or its political subdivisions, to implement a program for the production and reproduction of public records on film or electronic media, providing that the program has been approved by the Director, Arizona State Library, Archives and Public Records prior to initiation of the program. The elements of the program which must be approved are types of records to be produced or reproduced, the method of production or reproduction, the method of storage and the equipment to be used. *Violation of this section is a class 2 misdemeanor.* A.R.S. § [41-151.16](#) also states that following approval, records produced or reproduced on film or electronic media are admissible as evidence.

PERMANENT PUBLIC RECORDS

Permanent public records are intended to last forever. Most permanent records are preserved for their historical value, although a few records are specifically required by law to be permanent. The Arizona State Library, Archives and Public Records has Authority per A.R.S. § [41-151.17](#) to determine which records have historical value.

When it has been determined that records are permanent either for statutory or historical reasons, then conditions must be met to assure permanent retention. A.R.S. § [39-101](#) requires that permanent public records of the state or a political subdivision be maintained according to the standards established by the Director, Arizona State Library, Archives and Public Records. At this time, acid free paper and microfilm are the approved media for maintaining permanent records. A public officer who violates this requirement is guilty of a class 2 misdemeanor.

PAPER SIZE REQUIREMENT

A.R.S. § [39-103](#) states: All public records of this state or a political subdivision of this state created on paper, regardless of weight or composition, shall conform to standard letter size of eight and one-half inches by eleven inches, within standard paper manufacturing tolerances.

Figure I-1: Sample Fire District Public Records Policy

<p style="text-align: center;">_____ FIRE DISTRICT</p> <p style="text-align: center;">PUBLIC RECORDS POLICY</p> <p>A. It shall be the policy of the _____ Fire District to honor all requests for public records. As a government entity, _____ Fire District is obligated to furnish individuals with copies of such records upon their request.</p> <p>B. Individuals requesting public records shall fill out a non-commercial or commercial request form. Records shall be provided in a timely manner after a request has been made and all necessary forms have been completed.</p> <p>Charges for public records shall be collected as follows:</p> <ol style="list-style-type: none">1. Records for non-commercial purpose – the first 3 copies shall be provided free of charge. All additional copies shall be charged at a rate of \$.10 per copy.2. Records for commercial purpose as stated in A.R.S. 39-121.03 shall be charged at a rate of \$.25 per copy plus \$25.00 per hour for staff time to research, collect and copy such records. Also included in such charges shall be the value of the reproduction of such records on the commercial market and any and all related charges. These additional charges shall be computed on a case-by-case basis. <p>C. Records that may be questionable whether or not they are public records shall be brought before the district's attorney for determination as to whether they are in fact considered "public records." Once the determination is made that the records are in fact "public records," the records shall then be provided.</p> <p>D. At no time shall public records be provided unless one of the attached forms have been completed.</p>
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Figure I-2: Sample Verified Statement of Non-Commercial Purpose Data Request

<div>Verified Statement of Non-Commercial Purpose Public Data Request</div> <div><div>_____ Fire District (Fire District Name)</div><div>_____</div><div>(Street Address)</div><div>_____</div><div>(City, State, Zip)</div></div>	
<p>Caution: Arizona Revised Statutes §39-121.03(C) provides:</p> <p>“A person who obtains a public record for a commercial purpose without indicating the commercial purpose or who obtains a public record for a noncommercial purpose and uses or knowingly allows the use of such public record for a commercial purpose or who obtains a public record for a commercial purpose and uses or knowingly allows the use of such public record for a different commercial purpose or who obtains a public record from anyone other than the custodian of such records and uses it for a commercial purpose shall in addition to other penalties be liable to the state or the political subdivision from which the public record was obtained for damages in the amount of three times the amount which would have been charged for the public record had the commercial purpose been stated plus costs and reasonable attorney’s fees or shall be liable to the state or the political subdivision for the amount of three times the actual damages if it can be shown that the public record would not have been provided had the commercial purpose of actual use been stated at the time of obtaining the records.”</p>	
<div>Verified Statement</div> <p>I hereby agree that the public records I have requested are not for a “commercial purpose” as defined by A.R.S. 39-121.03. I also hereby agree that the public records will not be transmitted or sold to any other person for a commercial purpose.</p>	
<div>_____</div> <div>Signature</div>	<div>_____</div> <div>Date</div>
<div>_____</div> <div>Address (please print)</div>	

Figure I-3: Sample Verified Statement of Commercial Purpose Data Request

Verified Statement of Commercial Purpose Public Data Request	
_____ (Fire District Name) Fire District	
_____ (Street Address)	
_____ (City, State, Zip)	
<p>Caution: Arizona Revised Statutes § 39-121.03(C) provides:</p> <p>“A person who obtains a public record for a commercial purpose without indicating the commercial purpose or who obtains a public record for a noncommercial purpose and uses or knowingly allows the use of such public record for a commercial purpose or who obtains a public record for a commercial purpose and uses or knowingly allows the use of such public record for a different commercial purpose or who obtains a public record from anyone other than the custodian of such records and uses it for a commercial purpose shall in addition to other penalties be liable to the state or the political subdivision from which the public record was obtained for damages in the amount of three times the amount which would have been charged for the public record had the commercial purpose been stated plus costs and reasonable attorney’s fees or shall be liable to the state or the political subdivision for the amount of three times the actual damages if it can be shown that the public record would not have been provided had the commercial purpose of actual use been stated at the time of obtaining the records.”</p> <p>A commercial purpose is defined by Arizona Statute as the use of a public record for the purpose of:</p> <ul style="list-style-type: none">• the sale or resale or for the purpose of producing a document containing all or part of the copy, printout, or photograph for sale, or• obtaining of names and addresses from such public records for the purpose of solicitation, or• for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of such public record.	
<p>I, _____, am the _____ of (Name) (Title)</p> <p>_____, located at _____, which is (Company Name) (Address)</p> <p>engaged in the business of _____. I am requesting the following information: _____</p> <p>_____ (State information being requested. Be specific. Use back or additional sheets if needed.)</p> <p>I do hereby certify that the public records which I have requested are for the following purpose: _____ _____ (State use of public records. Use back or additional sheets if needed.)</p> <p>which I can reasonably anticipate will result in the monthly amount of \$ _____ from the direct or indirect use of these records.</p>	
_____ Signature	_____ Date
_____ Notary Public	_____ Date Commission Expires

Records Retention And Disposition

Section 1 – The Life-Cycle of Records

WHAT ARE RECORDS?

As defined in the Arizona Revised Statutes (A.R.S. § [41-151.18](#)) records are:

[A]ll books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics...made or received by any governmental agency in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of the data contained therein....

Records as defined above are the property of the State of Arizona. They are in no sense personal property nor are they the property of a specific agency or political subdivision (A.R.S. § [41-151.15](#)).

It is frequently assumed that records are only paper materials. In the definition above the phrase "regardless of physical form or characteristics" greatly expands on that original assumption. Records may include machine-readable output, still photographs, motion pictures, audio recordings, charts, maps, drawings, plans, video recordings, and micrographics.

THE CONCEPT OF THE RECORD LIFE-CYCLE

A life-cycle consists of stages through which a thing passes during the course of its lifetime. The various phases a record passes through from the time of its creation or receipt to the time of its destruction make up its life cycle.

As with any inanimate, man-made item, the life-cycle of records is determined not by natural laws, but by the needs of the individuals for whom they are created and used. [Figure II-1](#) illustrates the typical life-cycle of paper records.

RECORDS CREATION

A record's life-cycle begins when it is created or received by an agency. A record is created whenever intangible documentary information is placed onto a tangible record, such as when forms are filled out, correspondence is written, reports are compiled and printed or information is recorded magnetically or electronically. The medium a record is produced on and the manner of its creation does not significantly alter the concept of the life-cycle. All records are created, retained and disposed of on some cyclical basis.

Records creation is an area where costs can be substantially reduced through modern and efficient controls and procedures. Programs established for forms control, reports control and correspondence control can eliminate costly duplication, excessive distribution and overwrought correspondence.

RECORDS RETENTION

Records retention is the maintenance of documents for further use. Paper records are usually retained in office filing equipment while they are active. When activity on a record, such as references to it, drops to a very low level, the record is considered inactive and may more appropriately be retained in a records center.

Records centers are specifically designed to house inactive records far more economically and efficiently than an office. Records centers are also more economical than microfilming for storage of any record with a retention of less than sixty years.

THE NON-RECORD

The definition of records encompasses a broad spectrum of recorded information; but not all recorded information is a record. According to A.R.S. Section [41-151.18](#):

Library or museum material made or acquired solely for reference or exhibition purposes, extra copies of documents preserved only for convenience or reference and stocks of publications or documents intended for sale or distribution to interested persons are not included within the definition of records....

Other non-record materials may include:

- Reading file copies of correspondence.
- Tickler, follow-up or suspense copies of correspondence.
- Identical duplicate copies maintained in the same file.
- Extra copies of printed or processed materials, official copies of which have been retained for record purposes.
- Superseded manuals and other directives maintained outside the office that is responsible for retaining them.
- Blank forms.
- Processed or published materials that are received from other activities or offices require no action and are not required for any kind of documentation (the originating office or activity is required to maintain record copies).
- Catalogs, trade journals and other publications or papers that are received from government agencies, commercial firms or private institutions, require no action and are not part of a case upon which action is taken.
- Reproduction materials, such as stencils and offset plates.
- Information copies of correspondence and other papers on which no documented administrative action is taken.
- Physical exhibits, artifacts and material objects lacking documentary values.

Non-records must not be mixed with records in the same file. Sometimes papers normally considered non-record, such as transmittal or routing slips, acquire record status because they clarify the matter being documented. Such distinctions require care and discretion.

Because a file item is a copy does not necessarily give it non-record status. As [Figure II-2](#) shows, several copies of a single form may each have record status because each serves a separate program purpose. Multiple copies of a single record, however, generally are not all records. One copy of a document, for example, must be designated as the record or "official" copy.

When it is difficult to decide whether files are record or non-record materials, the agency records manager should treat them as records. The assistance of the Records Management Division, Arizona State Library, Archives and Public Records, is always available to help with this decision.

RECORDS DISPOSITION

Records disposition is the physical destruction or final transfer to archival storage of documents. When the reference activity to records approaches nil, they should be disposed of. Only records required to be retained by statute or regulation for specific periods of time should be kept beyond their true reference value. Records must **never** be retained because "someone might need them someday."

Regardless of the medium, records must be disposed of on a scheduled basis. Just because records are on microfilm or magnetic tape is not a reason for longer retention than had they been recorded on paper.

Occasionally there may be fire district records which relate to an area which has been annexed by a municipality or which has been incorporated into a new municipality. It is usually best to transfer these records to the concerned municipality. A

"Single Request for Records Destruction or Transfer" form ([Figure II-6](#)) must be used to document the transfer. (See Part Two, Section 6 of this chapter.)

RECORDS RETENTION AND DISPOSITION SCHEDULES

The records retention and disposition schedule is the document that effectively defines the life-cycle of each particular record series. When properly approved, it provides the authority to retain and dispose of records in an economical and timely fashion. Record scheduling is covered in depth in Part Two, Sections 2 and 3 of this chapter. Destruction of records is covered in Part Two, Section 6 of this chapter.

Section 2 - Records Inventory and Evaluation

RECORDS INVENTORY

The records inventory identifies and quantifies the records created and received by an agency. The inventory is the first requirement in the development of an agency or department's records program and becomes the working document for records retention and disposition schedules, file plans and essential records programs.

Regardless of agency size, the records inventory and the resulting schedules have the following overriding qualities:

- They should cover all mission records.
- They should cover the entire agency or organization.
- They must be clear with respect to both records descriptions and disposition instructions.

Non-record materials need not be included in the inventory. When there is doubt as to whether documents are records or non-records, include them in the inventory and describe them thoroughly. If they are duplicates or extra copies, indicate that they are not the record copy and show their use and proposed retention.

Simply defined, the records inventory is a list of each type of record or record series, together with an indication of where it is located and other pertinent data.

The inventory is not:

- A document by document listing
- A folder by folder listing

The inventory frequently produces some startling results. If an agency or department has not been following a systematic records disposition program, the inventory will probably reveal:³

- 40% of the total volume will remain in the office
- 30% of the total volume may be destroyed immediately
- 30% of the total volume may be boxed and shipped to inactive storage

³ARMA International, Overview of Records and Information Management, 1985.

THE RECORD SERIES CONCEPT

The nature of a record series should be understood. It is of major importance because the series description dominates the inventory, the schedule and the program. A record series is a group of documents, volumes, folders or other records having one or more of the following aspects:

- Arrangement under a single filing system
- Relation to a particular subject
- Documentation of a particular kind of transaction

TAKING THE INVENTORY

There are basically two methods of inventorying records: the physical inventory, which is the more accurate and complete method of the two, and the survey questionnaire. In the physical inventory, personnel especially trained and employed by the agency records management unit inventory all records of this agency on a carefully designed inventory form.

In the questionnaire method, a well-designed questionnaire(s) is distributed to all unit managers and completed by personnel from each unit. This method can be efficient and effective providing the individual units cooperate fully with records management personnel.

Before the inventory begins, the agency's structure, levels of authority and program responsibilities need to be understood, as they can alert you as to the existence and location of records within the agency. The following matters should be considered:

- Which are the key line and staff offices?
- What programs does the agency have?
- What units are responsible for developing policies?
- What units are charged with carrying out policies?
- What is the nature of each staff support activity?

Equally important is a prior knowledge of the agency or department's filing systems. The following questions need to be answered:

- Is there a prescribed agency-wide filing system? If so, how widely is it used?
- Is there a prescribed file classification system? If so, what is its nature? Numeric, subject numeric, or another system?
- Is there a central file? Does it operate as planned? At what levels?
- Where is essential documentation likely to be?

RECOMMENDED INVENTORY FORMAT

A sample records inventory worksheet is illustrated in [Figure II-3](#). This form can be used for either a physical inventory or as a questionnaire. It should be filled out completely and correctly as it will be the basis for any proposed retention and disposition schedules.

RECORDS EVALUATION

The information gathered in the records inventory is used to evaluate the records for determining retention periods. Evaluation for retention periods is based on:

1. Statutory or regulatory requirements
2. Audit requirements
3. Practical need or value

Statutory or regulatory requirements for specific records retention periods are infrequent. Usually statutes and regulations are geared toward actions rather than records. Records retention may be inferred, however, by the need to provide evidence of a particular action. When a statute or regulation is being cited as the basis for a retention period, the specific statute or regulation must be indicated on the records inventory.

Audit requirements usually apply only to financial or fiscal records. These requirements are most often limited to retention for three to five years. Do not assume retention periods based on what a particular auditor wants. This determination should be made only by the fire district auditing firm.

Practical need is determined by specific values:

- **Administrative value.** Records which help an agency perform its current work have administrative value. Retention can vary greatly depending on just what the records document. Many documents at operational levels are actually non-records by definition because they are duplicates of record copies.
- **Evidential value** refers to records which provide evidence of an agency's organizational structure and functions. They include policies, directives, board minutes and organizational documents, among others. Most of these records have long term or archival value. Fortunately, these are a very small percentage of an agency's records.
- **Information value** is based on the information contained in the records. Informational value usually decreases with time. Informational value can most often be determined by studying the use of the record series over a period of time.

PERMANENT RECORDS

Permanent literally means forever, and records with this value are rare. Records with permanent value usually comprise no more than three to five percent of the total of all agency records. Frequently original copies of evidential records are of permanent or "archival" value. These include:

1. Minutes of boards, commissions and committees established by statute, resolution, proclamation or ordinance (including minutes of fire district board of directors' meetings).

2. Council minutes (incorporated cities and towns).
3. Original or "official" copies of formal policy directives.
4. One copy of the agency annual reports.
5. Original copy of organizational documentation including charts.
6. Records documenting a historic or "landmark" event.

Other types may also qualify as permanent and archival. This will be determined by the State Archives.

Arizona law (A.R.S. § [39-101](#)) prescribes the material required for permanent public records and prescribes the penalty for non-compliance. Acid free paper and microfilm are the current approved media for preserving permanent records.

DETERMINING RECORDS RETENTION

The evaluation process is used to determine the retention period best suited to a record series. No record should be destroyed while it still has significant value. On the other hand, no record should be retained after its value has been exhausted.

Records should never be retained only because "someone might need them someday." Maintaining records uses valuable resources and is costly – only records of value should be maintained.

Most records are kept for informational value. Usually, informational value decreases as time passes. A "typical" record will have most of its informational value immediately after its receipt or creation. This value then drops off or decreases over a period of time.

Establish retention periods based on the value of the record. Determine the point in time where reference drops to inactivity, and the point in time where the record has virtually no value. Following this evaluation, records retention and disposition may begin.

Section 3 - Records Retention and Disposition Schedules

SCHEDULING RECORDS

The primary objective of the records inventory and records evaluation is to provide the data necessary to produce records retention and disposition schedules. These schedules are simply timetables that identify the length of time records must be kept in active and inactive status prior to final disposition.

A records retention and disposition schedule describes the life-cycle of a specific record series. It is a reference and management tool to be used to prescribe the time to retire records to inactive status and eventually the time to destroy or otherwise dispose of the records. A.R.S. § [41-151.14](#) requires that each state and local agency submit proposed retention and disposition schedules to the Arizona State Library, Archives and Public Records.

Records retention and disposition schedules must be developed along organizational lines, with schedules written for specific organizational units. Organizationally based schedules facilitate both the transfer of inactive records to a records center and the final destruction of old records.

Retention schedules must be reviewed on a regular basis and revised as needed. The Records Management Division recommends reviewing schedules every two to three years. Since public laws, services and office operations are constantly revised, improvements in equipment and work methods become necessary. The

information resources of public agencies must adapt and respond to these changes. Retention schedule revisions should be initiated by agency management or the Arizona State Library, Archives and Public Records whenever office efficiency will improve or greater economy will result.

CUSTOM RECORDS RETENTION AND DISPOSITION SCHEDULES

If after completing your records inventory you find the Retention and Disposition Schedule for Fire Districts does not meet your needs then a custom schedule for your fire district can be created. Only items not listed on the fire district schedule or records needed for a different time period should be on the custom schedule. Contact the Records Management Division if you would like to create a custom schedule and they will assist you.

AUTHORIZATION TO DESTROY RECORDS

The retention and disposition schedule in [Figure II-4](#) has been approved and it gives fire districts the authority to destroy records. If you submit a custom schedule to the Records Management Division, after approval by the director of the Arizona State Library, Archives and Public Records, that retention and disposition schedule will authorize the destruction of the listed records.

CAVEAT (WARNING)

*Approved schedules **DO NOT** preempt good judgment. Records required for legal or audit purposes beyond the recommended retention must be maintained until cleared by the appropriate authority for destruction.*

Section 4 - Retention Schedule for Fire Districts

LEGAL APPROVAL

The retention and disposition schedule in this chapter has been approved by the Director, Arizona State Library, Archives and Public Records pursuant to A.R.S. §§ 41-151.15 and 41-151.19. The schedule represents the approved retention periods for each records series listed therein.

The schedule may be used by any fire district desiring to use it. Records destroyed in accordance with the schedule must be reported to the Arizona State Library, Archives and Public Records on a Report/Certificate of Records Destruction as more fully described in Part Two, Section 5 of this chapter.

CUSTOM RETENTION SCHEDULES

After completing an inventory of the records in the fire, the inventory should be compared to the Retention Schedule for Fire Districts. If that records retention and disposition schedule does not meet the needs of a particular official or agency, then customized and individualized schedules are recommended. Instructions on how to develop a customized schedule are set forth in Part Two, Section 3 of this chapter.

The Records Management Division of the Arizona State Library, Archives and Public Records is the best source of assistance when developing customized records retention and disposition schedules. The Records Management Division also has records management analysts on staff to assist with the development of schedules. For assistance call (602) 542-3741.

FOLLOWING RETENTION SCHEDULES

Whether the general schedule is used or custom schedules are developed, retention periods for each records series should be followed carefully and faithfully. The retention and disposition schedule comprises an approved routine records program only for so long as it is consistently followed.

There is no danger of being accused of destroying documentary evidence if the schedule is followed carefully and not selectively. Records must never be destroyed for the purpose of eliminating potentially damaging evidence. On the other hand, courts have recognized that records destroyed in the course of normal business and through a documented records retention program are legitimately not available if requested past their scheduled destruction date.

Approved schedules DO NOT preempt good judgment. Records required for legal or audit purposes beyond the recommended retention must be maintained until cleared by the appropriate authority before destruction.

Records subpoenaed by the court, pertinent to current or pending litigation or currently subject to audit SHOULD NOT be destroyed even if the approved schedule indicates they could be.

THE STATE ARCHIVES

The state Archives Division preserves records with historical value beyond their required retention. Please telephone the staff at (602) 542-4159 for assistance in appraising potentially valuable historical records.

PERMANENT PUBLIC RECORDS

Permanent public records are intended to last forever. Most permanent records are preserved for their historical value, although a few records are specifically required by law to be permanent. The Arizona State Library, Archives and Public Records has authority per A.R.S. § 41-151.17 to determine which records have historical value.

When it has been determined that records should be retained permanently for either statutory or historical reasons, conditions must be met to assure permanent retention. A.R.S. § 39-101 requires that permanent public records of the state or a political subdivision be maintained according to the standards established by the Director of the Arizona State Library, Archives and Public Records.

Section 5 - Destruction of Records

LEGALITY OF DESTRUCTION

Destroying public records without having the lawful authority to do so is a class 4 felony. A.R.S. § 38-421. The Arizona State Library, Archives and Public Records is charged by law with the responsibility of authorizing the destruction of qualified public records. A.R.S. § 41-151.15.

To reiterate, no record should be destroyed while it still has significant value, but no record should be maintained once it no longer merits continued retention. The determination as to whether records should be destroyed is ultimately the responsibility of the Arizona State Library, Archives and Public Records. A.R.S. § 41-151.15. This applies to all records irrespective of whether they are listed on approved schedules.

RECORDS ON APPROVED SCHEDULES

When a retention and disposition schedule is approved by the Arizona State Library, Archives and Public Records (including the General Schedule), the Arizona State Library, Archives and Public Records has given

the district its authorization to destroy records appearing on the schedule at the end of their scheduled retention periods. With an approved schedule, an agency may destroy listed records without further approval from the Arizona State Library, Archives and Public Records.

REMEMBER: These schedules DO NOT preempt good judgment. Records required for legal or audit purposes beyond the recommended retention period must be maintained until cleared by the appropriate authority before destruction.

Destruction must be reported to the Arizona State Library, Archives and Public Records after it has taken place and at least once a year. A.R.S. § 41-151.19. To simplify and standardize the reporting of records destruction, a preprinted "Report/Certificate of Destruction" form must be used. A copy of the current Records/Certificate of Destruction form with instructions for completion can be found at **Figure II-7** at the end of this chapter.

RECORDS NOT ON APPROVED SCHEDULES

Records not on approved schedules may be destroyed only with explicit approval from the Director of the Arizona State Library, Archives and Public Records. To request approval to destroy records, a "Single Request for Records Destruction or Transfer" form must be used. A copy of a current Single Request for Records Destruction or Transfer form, together with instructions for completing the form, can be found at **Figure II-8** at the end of this chapter.

METHODS OF DESTRUCTION

The majority of records produced by state agencies and political subdivisions are public records, and are therefore accessible to the general public. A.R.S. § 39-121. Records are restricted or treated as confidential when they are specifically identified as such by statute, contain information that violates an individual's right to privacy or when they contain information that it is in the best interest of the State not to disclose. Care must be taken when destroying these records so that the information becomes unreadable.

Recycling is perhaps the most desirable method for destroying non-confidential public records. With recycling, old records are sold to a commercial firm that will reprocess the records into new paper. In addition to providing an additional source of revenue, recycling assures that the old records will be totally destroyed during the recycling process. In a similar fashion, microfilm records can also be recycled by silver recyclers.

Landfills also provide an efficient and effective method of non-confidential public records destruction. Landfills are particularly beneficial in urban areas where they are well controlled and records are buried immediately after dumping. This allows most public records to be disposed of in an inexpensive and effective manner.

In addition these methods of destruction, shredding, pulping, mastication and disintegration are all thorough destruction methods. These methods require specialized equipment and they should be used for confidential or restricted records where the records must be destroyed in such a way that they can not be reconstructed.

Finally, burning can be a very inexpensive and effective method of record destruction, particularly with respect to confidential or other restricted records. However, because incinerators and open fires are against the law in most areas, burning should only be used where it is legal and when it can be safely monitored and contained.

TRANSFER OF RECORDS

Occasionally there may be a need to transfer records from one agency to another, such as from a political subdivision to a state agency, from a county agency to a municipal agency, from a state agency to a political subdivision or from a county agency to the Archives Division. This may come about because of a change in jurisdiction over some project or function or because the Archives Division desires the records for their historical value.

The Single Request for Records Destruction or Transfer form described above has also been designed to serve this purpose. After receiving the form, the Director of the Arizona State Library, Archives and Public Records will most likely approve the transfer between the two public bodies; transfers of public records to private individuals, organizations or corporations will normally not be approved.

In some cases the Archives Division may request that records be transferred when an agency wishes to dispose of them. In these cases the Director will usually approve the transfer.

The bottom of the Single Request for Records Destruction or Transfer form has been designed so as to also document the transfer of records. Send the original signed form to the Records Management Division and retain a copy in the transferring agency's files. Once the request has been approved, the form will be returned to the agency and they will then have written permission to transfer the records.

Grounds For Denial Of Public Records Requests

WHILE THERE IS A FAIRLY STRONG PRESUMPTION THAT ALL RECORDS IN THE HANDS OF A PUBLIC ENTITY ARE OPEN TO PUBLIC INSPECTION, THERE ARE SOME EXCEPTIONS. *SCOTTSDALE UNIFIED SCHOOL DISTRICT V. KPNX BROADCASTING CO.*, 191 ARIZ. 297, 301 (1998). IN GENERAL, THE RIGHT OF INSPECTION MAY BE DENIED IF THE INTERESTS OF PRIVACY, CONFIDENTIALITY, OR THE BEST INTERESTS OF THE STATE OUTWEIGH THE INTEREST OF THE PUBLIC'S RIGHT TO INSPECTION. THIS IS A SOMEWHAT SUBJECTIVE STANDARD THAT DEPENDS ON THE ACTUAL INFORMATION SOUGHT BY A MEMBER OF THE PUBLIC, BUT AS A GENERAL RULE, THERE ARE CERTAIN TYPES OF INFORMATION THAT ARE MOST LIKELY OUTSIDE OF THE PUBLIC'S RIGHT TO INSPECT:

1. **Employees' birth dates.** *Scottsdale Unified School District*, 191 Ariz. 297 (1998).
2. **Employees' Social Security numbers.** *Oliva v. United States*, 756 F Supp 105, 107 (E.D.N.Y. 1991) (cited in *Scottsdale Unified School District*, 191 Ariz. at 301).
3. **Employees' home addresses and telephone numbers.** Arizona Attorney General Opinion I91-004.
4. **Executive session board minutes.** A.R.S. Sec. [38-431.03\(B\)](#).

In terms of some other specific items such as warrants, ledgers, pension fund records, other personnel records and capital requests, there are no Arizona cases addressing these as of yet. As such, they would have to be judged individually based on the legal standard articulated in *Scottsdale Unified School District* – a court would have to balance the government entity's interest in keeping the information private against the public's right to inspect. 191 Ariz. at 300. However, without specific facts to show otherwise and knowing the courts' preference for the right of public inspection, the government entity would likely have a fairly heavy burden to

overcome to keep this information from public disclosure. If there is something a fire district does not feel comfortable disclosing, it is best to contact counsel about it. Please be aware that any decision to deny inspection must not be arbitrary or capricious or made in bad faith, which means that the fire district must have some legitimate good faith reason (e.g., privacy or confidentiality of personnel information) for denying public inspection. Otherwise, the fire district may be liable for attorneys' fees if the person seeking inspection should pursue the matter in court. *Cox Arizona Publications, Inc. v. Collins*, 175 Ariz. 11, 15-16 (1993).

Finally, if a fire district feels that certain parts of a public record are subject to public inspection while other parts of the record should not be released, the district must still turn over the document but may redact those portions that are not subject to public inspection. *Cox Arizona Publications, Inc.*, 175 Ariz. at 15-16; *KNPX-TV v. Superior Court in and for the County of Yuma*, 183 Ariz. 589 (App. Div. 1, 1995). - 2000

Record Retention Schedules For Fire Districts

The Arizona State Library, Archives and Public Records have approved the following Record Retention Schedules for Fire Districts. Copies of all current Record Retention Schedules are available online at: www.lib.az.us/records/fire.aspx. The following will links will take you directly to the schedules.

[Approval to image Check 21 records approved 8/30/2011](#)

[Administration Records approved 3/6/2012](#)

[Audit Records approved 7/3/2012](#)

[Bond Records approved 4/24/2012](#)

[Copy Center and Mail Room Records approved 5/1/2012](#)

[Election Records approved 7/10/2012](#)

[Electronic Communications, Social Networking and Website Records approved 3/8/2012](#)

[Environmental Quality Management and Sustainability Records approved 3/8/2012](#)

[Equipment/Vehicle Services Records approved 3/15/2012](#)

[Facilities/Grounds Management Records approved 3/3/2011](#)

[Finance Records approved 3/15/2012](#)

[Fire Fighting and Prevention Records approved 3/8/2012](#)

[Human Resources/Personnel Records approved 3/8/2012](#)

[Information Technology \(IT\) Records approved 5/1/2012](#)

[Law Enforcement Records approved 4/5/2012](#)

[Management Records approved 3/6/2012](#)

Medical Records approved 3/27/2012

Public Health Records approved 4/20/2012

Purchasing/Procurement Records approved 8/30/2011

Warehouse/Supply Records approved 4/20/2012

Record Retention Schedules:

The following schedules are specific to Fire Districts -

Fire Fighting and Prevention Records approved 3/8/2012

Electronic Communications, Social Networking and Website Records approved 3/8/2012

The Life-cycle of Records

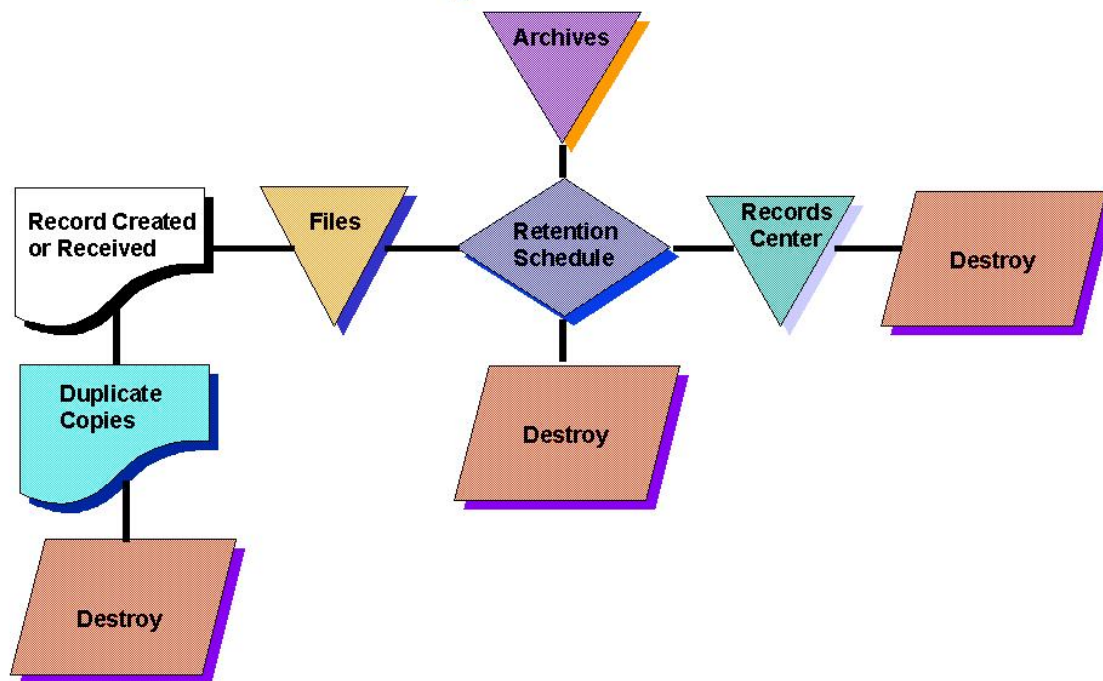


Figure II-1 The Life-Cycle of Records

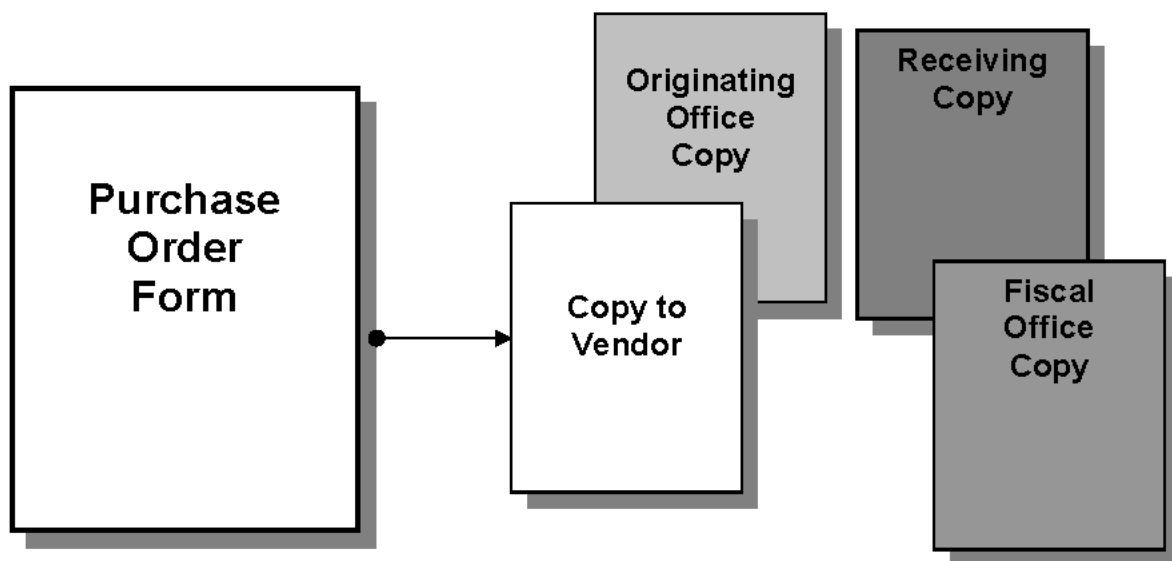



Figure II-2: Sample Records Inventory Worksheet

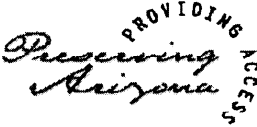
RECORDS INVENTORY WORKSHEET					
			Arizona State Library, Archives and Public Records RECORDS MANAGEMENT DIVISION 1919 West Jefferson Street, Phoenix, Arizona 85009 Phone: 602-542-3741 • Fax: 602-542-3890 • E-mail: rmd@lib.az.us		
Agency Name/Political Subdivision			Organizational Unit		
Office/Sub-Organizational Unit					
Address				Phone Number	
Contact Name			Title		
Records Series Name/Title					
				<input type="checkbox"/> Official Copy	<input type="checkbox"/> Access/Use Copy
Records Medium	<input type="checkbox"/> Paper	<input type="checkbox"/> Microfilm	<input type="checkbox"/> Electronic/Computer	Format	
	<input type="checkbox"/> Photograph		<input type="checkbox"/> Other	Describe	
Description of Records					
Inclusive Dates in File		From: _____		Through: _____	
Record/File Cut-Off		<input type="checkbox"/> After Calendar Year	<input type="checkbox"/> After Fiscal Year	<input type="checkbox"/> After Event (case closed, project completion, etc.)	
Volume of Records (select one)		_____ Cubic Feet	_____ Lineal Inches	_____ File Drawers	
Use Frequency of Records	Current Year: _____ references per month		2 through 5 years: _____ references/month		
	Past Year: _____ references per month		Over 5 years: _____ references/month		
Retention					
<input type="checkbox"/> Legal Requirement		_____ years after _____ Citation _____			
<input type="checkbox"/> Office Recommendation		_____ years after _____			
<input type="checkbox"/> Current Retention from Approved Schedule		_____ years after _____			
Electronic/Computer Media					
Operating System:					
Application Program:					
Data Format:					
Comments					

RMC-9 R5/2004

Figure II-3: Report/Certificate of Records Destruction

The following link will take you directly to the form: [Report of Records Destruction](#)

REPORT/CERTIFICATE OF RECORDS DESTRUCTION

		Arizona State Library, Archives and Public Records RECORDS MANAGEMENT DIVISION 1919 West Jefferson Street Phoenix, Arizona 85009 Phone: 602-542-3741 Fax: 602-542-3890 E-mail: rmd@lib.az.us		AUTHORITY Date of approved schedule or manual	
		<input type="checkbox"/> STATE AGENCY <input type="checkbox"/> POLITICAL SUBDIVISION		DATE	
AGENCY NAME		ORGANIZATIONAL UNIT		PHONE	
ADDRESS		CITY		AZ ZIP	
LIST RECORDS DESTROYED					
RECORD SERIES		DATES COVERED		ESTIMATED VOLUME *	
		FROM	THRU		
CERTIFICATE					
The above records have been destroyed so as to render them totally useless.					
DESTROYED BY (NAME)		TITLE			
SIGNATURE X				DATE	

*** Volume of paper records is estimated in cubic feet to the nearest whole number. Volume of digital records may be stated by the estimated memory volume it consumed.**

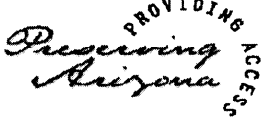
INSTRUCTIONS

1. In the upper right corner "Authority" enter the approval date of the retention and disposition schedule. If a schedule is from an ASLAPR published manual name the manual and the approval date on the schedule.
2. Complete the "FROM" section completely with official agency name, organizational unit or office name, address and zip code.
3. List the "Record Series" destroyed using the exact record series name(s) found on the approved schedule.
4. Enter the earliest date of records destroyed under "From" and the latest date under "Thru".
5. Estimate the volume, in cubic feet, of records destroyed:
 - One letter size file drawer = 1.5 cu. ft.
 - One legal size file drawer = 2.0 cu. ft.
6. At the bottom of the certificate enter the date on which the records were destroyed and the signature of the individual who actually performed or witnessed the destruction.

Figure II-4: Single Request for Records Destruction or Transfer

The following link will take you directly to the form:

[Single Request for Records Destruction/Transfer](#)

SINGLE REQUEST FOR RECORDS DESTRUCTION OR TRANSFER				
		Arizona State Library, Archives and Public Records RECORDS MANAGEMENT DIVISION 1919 West Jefferson Street Phoenix, Arizona 85009 Phone: 602-542-3741 Fax: 602-542-3890 E-mail: rmd@lib.az.us		CONTROL NO. For RMD use only.
<input checked="" type="checkbox"/> STATE AGENCY		<input type="checkbox"/> POLITICAL SUBDIVISION		DATE
AGENCY NAME		ORGANIZATIONAL UNIT		PHONE
ADDRESS		CITY	AZ	ZIP
LIST RECORDS TO BE DESTROYED OR TRANSFERRED				
CODE Provided by ASLAPR	RECORD SERIES	DATES COVERED		ESTIMATED VOLUME *
		FROM	THRU	
HISTORY & ARCHIVES COMMENTS		RECORDS MANAGEMENT COMMENTS		
AUTHORIZATION				
CODE	A – Transfer to Arizona State Library, Archives and public Records.			
	B – Continue to hold until _____.			
	C – Transfer to _____.			
	D – Destroy so as to render unusable.			
AUTHORIZED/APPROVED BY X Director, Arizona State Library, Archives and Public Records			DATE	
CERTIFICATE				
<input type="checkbox"/> The above records have been DESTROYED so as to render them totally usless.				
<input type="checkbox"/> The above records were TRANSFERRED per direction.				
BY (NAME)		TITLE		
SIGNATURE X			DATE	

* Volume of paper records is estimated in cubic feet to the nearest whole number. Volume of digital records may be stated by the estimated memory volume it consumes.

INSTRUCTIONS

1. **DO NOT MAKE ANY ENTRIES IN THE SHADED AREAS.**
2. Complete the identification section with the date, official agency name, organizational unit or office name, address, phone and zip.
3. The individual assigned with the duty of custodian for the records listed must sign the request. The name of that individual must be entered in the "Submitted by" area.
4. List the "Record Series" to be destroyed using the name of the series and a brief description if necessary.
5. Enter the earliest date of the records in the "From" column and the date of the latest records in the "Thru" column.
6. Estimate the volume of paper records in cubic feet:
 - *One letter size file drawer = 1.5 cu. ft.*
 - *One legal size file drawer = 2.0 cu. ft.*
7. **STOP.** Send the form to the Records Management Division. The Director of the Arizona State Library, Archives and Public Records will provide authorization using a code placed in the "Code " column beside each record series listed. Following approval by the Director, Arizona State Library, Archives and Public Records, the Records Management Division will return the single request to the requester for certification of destruction.
8. Destruction shall take place within 60 days of the approval date. Following destruction of the records, complete the bottom of the form with the name of the person who actually destroyed or witnessed the destruction, his/her signature and the date the records were actually destroyed.
9. Send the completed form to the Records Management Division. Retain a copy in your office for two years.

CHAPTER 12

BID OPENING PROCEDURES

INTRODUCTION

Many of the problems that involve bidding occur at the time of bid opening or after the bids have been opened. The purpose of this chapter is to discuss some of these problems and the methods that can be used to prevent or to resolve them. You should always contact your district's legal representative whenever you are considering going to bid on equipment or buildings.

As the cost of firefighting equipment increases, the bidding procedure will be used more frequently. The bidding procedure for public entities is basically designed to protect and safeguard public funds and is required to ensure that the public body will obtain the needed facilities and equipment at the lowest possible cost while providing that the bidder receive due and fair consideration of his bid. Although the emphasis in this material will be on post bid procedure, many problems can be prevented by proper drafting of the initial bidding documents.

If the elected officials decide to reject the lowest bid, facts supporting such a conclusion should be stated in the minutes of the meeting or in the resolution rejecting the bid. Valid reasons for rejection are non-compliance with bid specifications or because there is a feeling that the lowest bidder is not responsible.

To help prevent these problems from occurring or to enable elected officials to more effectively resolve these concerns, it is recommended that certain procedures involving board action at or after the bid opening be performed. It is also suggested that specific provisions be inserted in the instructions to bidders and the specifications. A sample of instructions to bidders is included.

BID OPENING

The instructions to bidders must establish the time, date and place of the bid opening. This may, but need not be, at a special or regular meeting of the fire district board. As an alternative, the elected officials could direct that the bids be opened at a specified time or place by the chief, the administrative manager of the district, the architect who designed the building or any other authorized agent. The bids should be opened in public and in the presence of any of the bidders who might want to attend.

Elected officials are not obligated to accept or reject bids submitted at the time of bid opening. Bids should be taken under consideration and they should be checked for compliance with the specifications. To ensure that the bids remain irrevocable during this period of time, the specifications or bidders' instructions should specify that the bids may not be withdrawn for a specific number of days. It is essential, for the protection of the district and the elected officials, that a period of time to review and analyze the contents of the bid proposals is allowed to ensure compliance with specifications, to consider any exceptions to the specifications and to check into the responsibility of the bidders. In the event the elected officials are unsure of the capability or quality of any bidder, the elected officials can ask the bidder to submit proof of the ability to perform the contract if it is awarded to them.

When bids are received prior to the time scheduled for opening, they should be recorded by date and time of arrival or marked on the outside of the envelope as to the time and date received. The bid should then be placed in a locked, secure place to prevent any tampering or alteration. No bid should be opened in advance of the scheduled bid opening. To avoid the possibility of accidentally opening the bids, the instruction to bidders should specify how the sealed bid envelope is to be marked. In addition, all personnel who have access to

district mail or receive documents delivered to the station should be given instructions on how to handle and store the bids when received.

In the event a bid is accidentally opened, it should be immediately resealed and a memo made showing the circumstances of what happened and who was present. If any information included in the bid is disclosed, the elected officials should consider whether or not to reject all bids and advertise for a second call for bids.

The district should require, as part of the specifications and instructions to bidders, that the bid be accompanied by a 10% bid bond or certified check. This is to establish that the bidder is responsible and to provide a means for the district to recover some of its costs of the bidding procedure if the successful bidder refuses to enter into a contract. The subject of remedies available to the district will be discussed later.

If the bid specifications and instructions are prepared properly, acceptance of the bid by resolution of the district's elected officials will constitute an enforceable contract. To ensure enforceability, there must be a requirement and evidence of authority that the bid be signed by someone with the ability to bind the bidder to a contract. Although the bid and its acceptance has been referred to as a contract, specifications and bid proposal are usually written in such a manner as to provide that a more formal contract document be entered into at a later time. The contract normally incorporates the specifications and bid proposal by reference. The American Institute of Architects has a sample contract that may be obtained by contacting a registered architect and asking for the Standard Forms of Agreement Between Owner and Contractor, number A101.

As indicated earlier, the district should provide for a period of time after the bids are opened so that the district may review and consider the proposals before choosing which to accept. During this time, the district should **not** negotiate new contract prices or provisions with any of the bidders. This undermines the fairness of the bidding process by not allowing all bidders to submit bids for the contract that is actually awarded. If none of the bids received by the district are acceptable, the only alternative is to reject all of the bids, change the specifications as necessary, and then re-advertise for bids.

BIDDING IRREGULARITIES AND VARIANCES

The nature of bidding variances or irregularities will determine the effect on the bidding process and the ability of the district to accept or reject a bid. If a variance in a bid or in the procedure is "material" or "substantial," the bid cannot be accepted. "Immaterial" or "insubstantial" variances will not prevent acceptance of the bid. To determine if the variance is substantial or material can be answered by whether the variance will give one bidder a substantial advantage over another bidder. It is highly recommended that you consult with your local county or fire district attorney when these questions arise.

REMEDIES OF THE DISTRICT

If the district conducts the bidding process correctly and according to law and accepts the lowest bidder, then it has entered into an enforceable contract. If the lowest bidder then refuses to sign the contract or refuses to perform the work or supply the equipment, the district may bring suit against the bidder for specific performance of the contract or sue the bidder for damages and forfeiture of the bid bond.

Arizona has adopted a law which allows a government entity such as a fire district to get out of an otherwise valid contract if an official of the fire district, who was substantially involved in negotiating or choosing the winner of a contract, subsequently becomes an employee of that same vendor. *A.R.S. § 38-511*. For example, a chief decided to buy a piece of apparatus from XYZ Equipment Co., negotiated a 10-year financing plan, and soon after entering into the transaction, quit and became a salesman for XYZ. The district could, during a certain time period, cancel the contract and return the apparatus of XYZ. Obviously the decision to do so

requires consultation with counsel. IMPORTANTLY, every contract a fire district enters into must carry notice of this law. **A.R.S. § [38-511](#)**.

SAMPLE

NOTICE OF INVITATION FOR BIDS

Sealed bids will be accepted by _____ Fire District, at
_____, _____ AZ 85000,
until _____ P.M. on _____ 20____, for the purchase of

Specifications and instructions to bidders are available at the above address.

Bids will be opened on _____ (date) at _____ (time).

Sample Specifications and Instructions to Bidders

Sealed bid proposals will be received by _____ Fire District, hereafter referred to as "District", on or before _____ P.M. on _____, 20____, at _____, Arizona, for the furnishing of a _____ (apparatus description).

The District reserves the right to reject any or all bids, to waive minor irregularities in any bids or in the bidding procedure, and to accept any bid presented which meets or exceeds these specifications and which the Elected Officials of the District deem to be in the best interest of the District.

All bid proposals shall be deemed to be offers to enter into a contract and will be irrevocable for a period of 30 days from the date of the opening of the bids.

All bid proposals shall contain or be accompanied by the following:

1. The date on which or before which the completed apparatus will be delivered at the District headquarters station.
2. The bidder's detailed description of the apparatus and equipment which it proposes to furnish. Such description shall be set forth in the same sequence as set forth in these specifications. In the event any exceptions to the specifications are set forth in a bid proposal, the bidder must also include an explanation to establish that such exceptions are equivalent to or exceed the specifications.
3. Satisfactory evidence of the bidder's ability to construct the apparatus specified and a statement showing the location of the factory where the apparatus is to be manufactured. The bidder shall also state the number of years it has been building fire apparatus.
4. A statement stating the length of time that parts and services will be available after delivery of the apparatus and where such parts and service will be available.
5. An agreement to defend any and all suits and assume all liability for any claims against the District, or any of its officials, employees and agents, for the use of any patented process, device or article forming a part of the apparatus or any appliance to be furnished under the bid proposal.
6. An agreement that the apparatus to be furnished will be UL tested by the bidder prior to delivery, and that a certificate of such approved test results shall be furnished to the District; that the apparatus must be approved by the Surveying and Rating Bureau; that the apparatus will meet all requirements as listed in NFPA Pamphlet No. 1901, latest edition; and that the construction, performance and design of the apparatus shall meet the requirements of such pamphlet and in addition, meet or exceed all applicable standards and regulations established under the Occupational Safety and Health Act, whether such specific requirements are set forth in these specifications or not.
7. An agreement that a set of drawings of the apparatus shall be provided by the bidder and approved by the District before construction begins.
8. An agreement to provide the District a 100% performance bond acceptance of the bid proposal.
9. An agreement that the bidder will supply to the District, at the time of delivery of the apparatus, the following documents:
 - (a) At least two copies of complete operation and maintenance manuals covering the complete apparatus as delivered.
 - (b) At least two copies of complete electrical wiring diagrams covering the complete apparatus as delivered.
10. A "yes" or "no" answer to each of the items set forth in the specifications. In the event of a "no" answer, the bid proposal must list the exceptions and indicate on such list that it is an exception to the specifications. This is to assist the Department in the evaluation of the proposal.
11. A Certificate of Insurance naming the department as additional insured for a period of one year after delivery, must be a part of proposal. All liability provisions must be a minimum of \$1,000,000.

12. A provision that the apparatus will be designed and the equipment mounted with due consideration to distribution of load between the front and rear axles so that all specified equipment, including filled water tank, a full complement of personnel and fire hose, will be carried without injury to the apparatus. Weight balances and distribution shall be in accordance with the recommendations of the International Association of Fire Chiefs and National Fire Protection Association or American Insurance Association.

13. An agreement that a delivery engineer will instruct and train Fire District personnel in the operation of the apparatus to the satisfaction of the Chief of the Fire District.

14. A bid bond or certified check payable to the District in the amount of 10% of the total bid amount.

15. A provision that upon delivery of the completed apparatus to the Fire District the District shall have a period of 10 days in which to inspect and test the apparatus prior to acceptance. Payment of the purchase price shall be made within 10 days of the date of acceptance of the apparatus by the District.

16. A provision that the following warranty shall accompany the completed apparatus and shall be set forth in the contract of purchase:

We warrant that the apparatus was constructed in conformity with the specifications contained in the accepted bid proposal. We further warrant each new piece of fire and rescue apparatus to be free from defects in material and workmanship under normal use and service. Our obligation under this warranty is limited to repairing or replacing, as the company may elect, any part or parts thereof the examination of which shall disclose to the company's satisfaction to have been defective, provided that notification of such defect shall be sent to us not later than one year after acceptance of such apparatus/vehicle. Such defective part or parts shall be repaired or replaced and returned free of charge and without charge for installation to the original purchaser.

This warranty will not apply to:

- 1) normal maintenance services or adjustments;
- 2) any vehicle which shall have been repaired or altered outside of our factory in any way so as, in our judgment, to affect its stability, nor which has been subject to misuse, negligence or accident, nor to any vehicle made by us which shall have been operated at a speed exceeding the factory rated speed, or loaded beyond the factory rated load capacity;
- 3) commercial chassis and associated equipment furnished with chassis, signaling devices, generators, batteries, or other trade accessories provided they are warranted separately by their respective manufacturers.

This warranty is in lieu of all other warranties, express or implied, all other representations to the original purchaser and all other obligations or liabilities, including liability for incidental or consequential damage on the part of the company. We neither assume any other warranty or liability on the company's behalf unless made or assumed in writing by the company.

17. The total bid price of the apparatus and the amount of the delivery charges if any.

18. The bid must be signed by an authorized representative of the bidder and proof of such representative's authority to contractually bind the bidder must be represented.

19. The sealed envelope containing the bid must be clearly marked:

**"Bid on Fire Apparatus,
Bid Opening Date ____."**

Sample Checklist

CHECKLIST

BID OPENING DATE: _____ FOR THE FURNISHING OF: _____

CONTAINED IN BID PROPOSAL	BIDDER #1	BIDDER #2	BIDDER #3
Delivery Date			
Location			
Number of years building fire apparatus			
Length of time parts and service available			
Where parts and service are available			
Agreement to assume liability			
UL Tested-Certificate of approved test			
Approved by Surveying and Rating Bureau			
Meets requirements of NFPA Pamphlet #1901			
Meets or exceeds Department of Transportation OSHA/WISHA Standards			
Distribution of load/weight balance stated			
Agreement for training of Department personnel			
Bid Bond or Certified Check - 10% of bid price			
Warranty included			
Drawings will be provided			
100% Performance Bond at time of acceptance			
Two copies of operation/maintenance manual at time of delivery			
Two copies of electrical wiring diagrams at time of delivery			
10-day inspection period after delivery			
TOTAL BID PRICE INCLUDING TAX			
DELIVERY CHARGES			
Authorized Signature			
ALTERNATE #1			
ALTERNATE #2			

CHAPTER 13

EDUCATION AND SEMINARS

One of the greatest challenges faced by all fire districts is the lack of educational resources available to board members, chiefs and administrative personnel in the proper operation of their fire districts.

In 1987 AFDA realized that many districts were not always following Arizona Revised Statutes. One of AFDA's main missions became the education of its members.

AFDA CONFERENCES/SEMINARS

AFDA holds two conferences a year and offers numerous educational classes at each of these conferences. To assist districts in attending, conferences are held at various locations throughout the state in hope of minimizing long driving distances and extra financial burdens.

Generally, classes are held all day on Friday and Saturday, with a general membership meeting being held during the conference as well.

AFDA tries to accommodate all levels of education. Classes are determined by time sensitive issues, requests, and common areas of misunderstanding and confusion.

Instructors for the seminar classes are recruited from within AFDA and from outside the Association. All are professionals with expertise in areas such as legal or financial matters, human resources, liability, fire protection, safety issues, and much more.

ASSISTANCE PROGRAM FOR DISTRICTS WITH SMALL BUDGETS

To help fire districts with the financial burden of attending these seminars, AFDA has implemented a program to provide financial assistance to districts that have small budgets and are having financial challenges.

For more information on this assistance program, please contact your area representative.

CHAPTER 14
ARIZONA FIRE DISTRICT ASSOCIATION, INC. BYLAWS

The most recent edition of AFDA Bylaws available on AFDA website (www.azfiredistricts.org) in Members Center Section.

CHAPTER 15

AFDA LEGISLATIVE PROCEDURES

PREFACE

AFDA & THE ARIZONA LEGISLATURE

The Arizona Fire District Association (AFDA) has been an active participant at the Arizona Legislature since its inception in 1982. Over the years AFDA, through its officers and members have advocated for an effective and efficient statutory framework in which fire districts would be able to provide essential public safety services to the citizens of Arizona.

During the past 29 years the AFDA legislative advocacy process has changed from a grassroots effort of the association's officers and members to employing a contract staff of two professional lobbyists who advocate for AFDA and its members throughout the year. The AFDA legislative efforts over the years have been highly successful. AFDA, through its elected board of directors and lobbyists promote fire district issues at the both the state and local level.

The AFDA board of directors is the association's legislative committee. The legislative committee determines the AFDA legislative agenda for the year. The AFDA Vice President chairs the legislative committee according to the association's bylaws. The association's legislative agenda is determined by the committee through the late summer and fall of each year in preparation of the legislative session which begins in early January.

AFDA members are encouraged to bring issues forward for consideration which benefit or protect the administration of Arizona fire districts. Issues brought forward by the membership are vetted by the board and are considered for inclusion within the legislative agenda based upon the merits of the issue and its impact on the fire district community as a whole.

Along with advocating the AFDA legislative agenda, AFDA lobbyists track legislation introduced by others that may impact (or harm) fire districts in any number of ways. When necessary, the AFDA lobbying team works to "kill" legislation introduced that may be detrimental to fire districts. In fact, this is what a significant amount of time is spent on during each legislative session.

There are typically about 1,400 bills introduced each legislative session. AFDA, through its lobbyists report weekly on the status/progress of bills which have the potential to impact fire districts, along with AFDA agenda bills. The weekly legislative report and tracking list can be found on the AFDA web site: azfiredistricts.org. Additionally, the AFDA board receives a detailed weekly progress report and ongoing communications from the lobbying team as necessary throughout the legislative session.

For the 51th Arizona Legislature, First Regular Session, which commences on January 14, 2013, the AFDA lobbying team is Lee Miller and John Flynn. The lobbying team is led by Mary Dalton, AFDA Vice President.

Lee Miller, an attorney who has extensive experience in lobbying and Arizona politics is the AFDA designated lobbyist. Mr. Miller has been the association's lobbyist for over eight years and succeeded his father, Norm Miller, whose tenure with AFDA as the designated lobbyist spanned well over a decade.

John Flynn has been an authorized lobbyist for AFDA for the past four years. Previously, Mr. Flynn spent 30 years in the fire service, serving as the fire chief of Apache Junction for sixteen years, where he acted as that agency's lobbyist as well. Mr. Flynn served on the AFDA board of directors for ten years while employed with the Apache Junction Fire District.

AFDA member fire districts should feel free to contact the lobbying team directly to express concerns or issues. Specific issues concerning the AFDA position on bills and issues to be added to the legislative agenda should be directed to Mary Dalton, AFDA Vice President.

2013 AFDA Lobbying Team Contact Information

Mary Dalton – MDalton@scwfire.org

Lee Miller – lee@leemillerlaw.com

John Flynn – johnflynn@policylogicaz.com

In addition to the legislative bill tracking documents produced by the AFDA lobbying team which can be found on the AFDA web site, members can use the Legislative Resources which are listed later in this chapter.

GENERAL LEGISLATIVE ISSUES

Arizona fire district board members, fire chiefs and other senior staff personnel should take the time to become familiar with their respective state senators and representatives of the legislative district in which their fire district is located (a complete listing with corresponding fire district reference can be found later in this chapter). The members of the Senate and House (along with the governor) pass the laws (the Arizona Revised Statutes, or the “A.R.S.”) that govern fire district operations.

Counties **DO NOT** pass laws. They, like fire districts, make interpretations of the state statute and in turn establish requirements for districts to follow based on those interpretations.

This chapter contains the following:

1. The latest list of all Arizona state senators and representatives, along with their addresses and office telephone numbers.
2. Information on where and how to obtain a revised list each year or after elections.
3. How you can be placed on a mailing list to receive the Legislative Digest, as well as receive copies of House or Senate bills that are pertinent to fire districts and bills that may otherwise affect your community or the general area in which you live.
4. Information for corresponding with your legislators.

Most importantly, AFDA strongly recommends that each fire district establish a relationship with their respective senators and representatives. One of the best methods of accomplishing this is to invite them to special functions **sponsored by** your fire district. This is a low cost and easy way to let them know who you are and the importance of the services your fire district provides to the community.

Establishing a productive ongoing relationship with your fire district’s respective senator and representatives is the most important thing a fire district board, fire chief and senior staff members can do to support AFDA at the legislature.

Room numbers and or office phone numbers of senators and representatives may be obtained by calling:

GENERAL INFORMATION

Office: (602) 926-4900

[(800) 352-8404 for in-state calls from outside the Phoenix metropolitan area]

(This information is also listed later in the chapter. It should be noted that legislator's office assignments change and the latest current information can be secured on the ALIS web site: www.azleg.gov).

Brochures containing senators' and representatives' addresses, committee assignments, committee meeting schedules and current bill statuses may be picked up at the House and Senate information desks at the State Capitol. For additional information, you may call the House of Representatives at (602) 926-4221 and the Senate at (602) 926-3559.

PURPOSE OF THE ARIZONA FIRE DISTRICT ASSOCIATION

The purpose of the Arizona Fire District Association is to operate as a non-profit corporation "exclusively for civic, educational and political purposes under Chapter 5 of Title 10 of the Arizona Revised Statutes."

The primary goals of AFDA are in the areas of advocacy, information and education. The AFDA charter and bylaws provide that the Association may "advocate ... the adoption or modification of legislation which may affect fire districts in Arizona and to oppose legislation which may adversely affect fire districts."

There are more than 160 fire districts in Arizona. Fire districts are separate political subdivisions of the state and, as such, are subject to numerous state statutes as well as other governmental codes and standards.

Prior to the creation of AFDA on November 20, 1982, fire district elected officials were insufficiently organized to interact effectively with county supervisors or state lawmakers. Therefore, one purpose of AFDA is to provide a single, politically meaningful common voice to speak before the state legislature to address fire district governance, regulatory, financial and fire service interests. Fire districts offer a highly specialized public service requiring a considerable amount of specialized expertise.

A credible statewide fire district association with common interests is essential to effectively represent fire districts positions on a variety of ever-changing issues. AFDA provides that voice at the Arizona legislature. Over the past 29 years AFDA has established itself as the voice of Arizona's rural / suburban fire service and won the confidence of the legislature.

ARIZONA'S RURAL FIRE DISTRICTS HAVE THE POTENTIAL FOR SUBSTANTIAL POLITICAL INFLUENCE

A majority of Arizona's population lives in the two metropolitan areas (Phoenix and Tucson) which elect most of the state's legislators (legislative districts are population based). It follows that legislators from these areas are numerous and sit on many legislative committees. How can Arizona's rural fire districts, then, have such a potentially powerful influence?

- (1) Fire districts number 160 or more and are distributed in 14 Arizona counties (only Yuma County lacks an active fire district).
- (2) Fire districts are by definition a single purpose local government agency, having a distinctive, common mission which citizens can relate to directly, as well as observe the tangible results of their property taxes. Firefighters not only provide fire suppression and emergency medical services, but promote fire prevention throughout their community, schools and businesses.
- (3) Not only can taxpayers see the results of their property tax dollars at work, many are unable to obtain or afford fire insurance for their homes and businesses unless they are located within a fire district. Lower insurance premiums help offset the property taxes levied by the fire district.

- (4) Rural fire districts typically are not associated with the image citizens have of most government agencies. They are community based, with local residents doing an essential local job; protecting life and property.
- (5) Many rural fire districts field a significant volunteer force, which yields a high degree of cost effectiveness for fire suppression and emergency services. They fill a need that otherwise cannot be generally provided by another governmental entity.
- (6) The fire district's elected officials and personnel, both paid and volunteer are highly motivated individuals, many of whom are leaders in the community.
- (7) Rural fire districts tend to be well received and well integrated into local communities. It stands to reason these fire districts have the potential to influence a "block" of votes from the whole community.

AFDA LEGISLATIVE PROCEDURE

The AFDA board of directors is the association's legislative committee. The legislative committee determines the AFDA legislative agenda for the year. The AFDA Vice President chairs the legislative committee according to the association's bylaws. The association's legislative agenda is determined by the committee through the late summer and fall of each year in preparation of the legislative session which begins in early January. AFDA legislative procedure generally follows the guidelines set forth below, subject to emergency action by the board of directors. These procedural guidelines are not meant to be all inclusive.

- (1) The day-to-day legislative activities of AFDA is the responsibility of the Legislative Committee (the board). The AFDA Vice President makes time sensitive/critical decisions as necessary for the good of AFDA and its members during the legislative session.
- (2) During the late summer and early fall of each year, the AFDA board begins formulating the year's legislative agenda. The majority of the work is done at the monthly AFDA board meetings. AFDA members are encouraged to bring forward ideas and issues for consideration.
- (3) At the annual AFDA conference in January, the Legislative Committee presents the adopted legislative agenda for the year. The legislative agenda contains all items being considered proactively and legislative action to be taken on behalf of AFDA.
- (4) Throughout the legislative session the AFDA lobbying team reports the status of legislation to the board and posts reports weekly to the AFDA web site.
- (5) AFDA lobbyists will identify significant issues of concern as they occur during the legislative session and elicit assistance as necessary from the AFDA board and member fire districts.
- (6) *On occasion, a bill AFDA supports or opposes may reach a point in which substantial fire district constituent advocacy is necessary. In this case, the AFDA lobbying team will initiate a campaign asking specific fire districts to personally contact their senators and/or representatives the AFDA position. The message and specific contact instructions will be passed through the established AFDA communications network of Area Representatives.*
- (6) Bills typically do not reach final passage until close to the end of the legislative session. Dependent upon the economy and other factors, the legislative session can many times extend well beyond the 100 day statutory time frame (in the recent past the legislative sessions have been extending into May and June). This unfortunately is towards the end of the fire districts' budget preparation cycles for the coming fiscal year.

A bill becomes effective with the Governor's signature if it contains an emergency clause; otherwise it takes effect 90 days after signature by the Governor.

Therefore AFDA continuously monitors and advises fire districts of known bills which could impact their budgetary planning and overall financial condition. This allows fire districts to plan for contingencies.

HOW TO MESSAGE TO YOUR LEGISLATOR

The AFDA through its lobbying team “message” to the Arizona legislature, its members, staff and the executive branch on a regular basis. This occurs year round; both during the legislative session and when the legislature is not in session. This messaging is designed to be consistent and focused on the goals established by the AFDA board of directors. The lobbying team has a consistent set of “talking points” they use which are issue specific. This ensures that the AFDA message stays consistent, succinct and “on point”.

While AFDA encourages participation in the legislative process by its member districts, it’s important for the fire district “message” to stay consistent. AFDA encourages members to consult with the lobbying team prior to contacting a legislator concerning a fire district issue. This will ensure the AFDA member is provided with the latest information about the issue and the specific “talking points” which will ensure consistency in our messaging on the topic.

In the event it becomes necessary for AFDA to initiate a “grass roots” campaign to support or defeat a bill, all or specific fire districts will be requested to help dependent upon the issue. The following are guidelines for use by a fire district when contacting their legislator is requested by AFDA.

A. Preparation:

- (1) Know which state legislative districts you are in and know who your legislators are. They are listed in this chapter. Write them down for quick reference. Some Arizona fire districts are in part of more than one legislative district.
- (2) Is it better to write or call? On emergent issues, office phone calls are obviously preferable, followed by an e-mail or a letter. All legislators have an email address (see the following pages). Please note that legislators during the session get hundreds of phone calls and e-mails from various constituency groups. You shouldn’t expect a personal reply to e-mails or to speak directly with the legislator on phone calls. *Conversely, those fire districts who have taken the time and to build a relationship with their respective legislators well ahead of session, will have a greater opportunity to communicate directly with the legislator and influence the outcome.*
- (3) Where to call? State Capitol (602) 926-4900, [(800) 352-8404 for in-state calls from outside the Phoenix metropolitan area]. This will connect you with the State Capitol switchboard in Phoenix. Ask for the office of your senator or representative. Sometimes it is difficult to make direct contact as noted above. If this is the case, leave your name, the fire district you represent, briefly state your position, and leave your contact information for additional information.
- (4) Where to write? Letters (and e-mail) should be brief and stay on point and consistent with the topic specific messaging. Letters and e-mails should be addressed as follows:

The Honorable (full name)
Arizona State Senator (or Representative)
State Capitol - Senate (or House) Wing

1700 West Washington
Phoenix, Arizona 85007

Dear Senator (or Representative – last name):

- B. Identify the bill or issue. Hundreds of bills are introduced, so it is important to be specific. When you are discussing a specific bill, give the bill number i.e., SB (1000 category) for Senate bills and HB (2000 category) for House bills, and briefly describe the bill's title or content, such as "Fire district county contributions."
- C. The communication should be timely. Tell your legislator where the bill is in the process and what action you'd like them to take and why (this is known as "making the ask") Since legislators are pressed for time, get to the point and make the ask!
- D. Concentrate on your own legislators. You, your fire district and the citizen's your district serves are the direct constituents of that legislator. This has more weight and importance to a legislator than communicating with a legislator from another district. Legislators are extremely busy during the session but are very interested in their own constituencies and genuinely try to cooperate and be responsive. In general, the AFDA lobbying team and board of directors will address the issue with the other legislators and legislative leadership of both parties.
- E. Be reasonably brief.
- F. Write your own views. A personal letter or e-mail is far more effective than a form letter or signature on a petition. AFDA on occasion will prepare standard text letters but even those should be individually addressed and signed.
- G. Give your reasons for taking a stand. Your personal views and experiences will give strength to AFDA's position.
- H. Be constructive. Try not to present a negative image of the issue if possible. Use a constructive criticism approach of issues in which AFDA is opposed. OFFER SOLUTIONS. Your knowledge and experiences can help strengthen AFDA's position directly. A real life case example can be a very effective form of persuasion on issues.
- I. Keep AFDA informed. Let the AFDA lobbying team know about your contact with legislators so follow-up can be made to reinforce the message.
- J. Some Don'ts:
 - (1) Don't make promises or threats.
 - (2) Don't become adversarial during communications with your legislator.
 - (3) Don't elude to wielding vast political influence (even if you do).
 - (4) Don't attempt to instruct or advise your legislator on off topic issues. Stick to fire district issues!
- K. Express your appreciation to your legislators, especially on difficult issues. Sometimes they may be going out on a limb with other constituency groups or other legislative members to support the fire district position.

PLEASE NOTE: The AFDA does not participate or intervene in any political campaign on behalf of, or in opposition to, any candidate for public office.

SUMMARY: Acting together, fire districts through the AFDA represent a formidable fire service advocate. Establishing trustworthy, respectful relations with the legislature can benefit everyone.

THE ARIZONA LEGISLATURE

The Arizona Legislature is a [bicameral](#) legislature that consists of a [lower house](#), the [House of Representatives](#), and an [upper house](#), the [Senate](#). There are 60 Representatives and 30 Senators. The state legislature meets in the [Capitol Complex](#), located at 1700 W. Washington, in [Phoenix](#). The legislative session begins the second Monday in January each year and is supposed to last 100 days (but typically lasts longer).

There are 30 legislative districts in Arizona, each of which is a multimember constituency. Each district elects a Senator and two Representatives for a two-year term. Serving two-year terms, both Senators and Representatives are subject to [term limits](#). Members may only serve four consecutive terms (or eight years) in each house. Once serving the limit, former members are re-eligible for election after 2 years.

Subsequent to the November 6, 2012 general elections the Republicans (R's) continue to have a majority in both the House and Senate, although diminished in total numbers (the R's no longer have a super-majority in both bodies). In addition, Arizona has a Republican Governor, and the remaining statewide elected offices are also held by the R's. Arizona is not an anomaly in this regard as single-party statehouses abound throughout the nation. With few exceptions most legislatures are in the hands of a single-party (46 states in all). Nationwide the R's control 27 legislatures and the Democrats (D's) control 19. In most states the party that controls the legislature also holds the governor's office.

AFDA has maintained a public safety first non-partisan approach to passing and or defending legislative issues. Coupled with legislative leadership that understands fire district issues, this has proved significantly successful as AFDA has had a dozen bills passed within the last several sessions and successfully defended against a multitude of others. Going forward AFDA legislative efforts will mirror this past formula.

The party breakdown in the Arizona Legislature for the 51st Arizona Legislature – 1st Regular Session is as follows:

Senate: 17 Republicans, 13 Democrats

House of Representatives: 36 Republicans, 24 Democrats

HOUSE AND SENATE LEADERSHIP

The Speaker of the House is the leader, who is elected by the majority party caucus followed by confirmation of the full House through the passage of a House Resolution. In addition to presiding over the body, the Speaker is also the chief leadership position, and controls the flow of legislation and committee assignments. Other House leaders, such as the [majority](#) and [minority leaders](#), are elected by their respective party caucuses relative to their party's strength in the chamber.

[Arizona](#) is one of the four U.S. states to have abolished the Office of the [Lieutenant Governor](#), the nominal senate president in many states. As a result, the Senate elects its own presiding officer, the [President of the Senate](#), who presides over the body, appoints members to all of the Senate's committees and to joint committees, and may create other committees and subcommittees if desired. The Senate President also appoints a [President pro tempore](#), who serves for the duration of a session of the legislature, to preside in his absence, and may appoint a temporary President pro tempore in the absence of the President and President pro tempore.

Legislative leadership positions for the 51st Arizona Legislature commencing in January 2013 are listed below.

51st Arizona Legislature –

HOUSE LEADERS: Speaker – Andy Tobin (LD-1).

Majority Leader – David Gowan (LD-14)

Majority Whip – Rick Gray (LD-21)

Speaker Pro Tem – J.D. Mesnard (LD-17)

Minority Leader – Chad Campbell (LD-24)

Asst. Minority Leader – Ruben Gallego (LD-27)

Minority Whip – Bruce Wheeler (LD-10)

SENATE LEADERS: President – Andy Biggs (LD-12)

Majority Leader – John McComish (LD-18)

Majority Whip – Adam Driggs (LD-28)

President Pro Tem – Gail Griffin (LD-14)

Minority Leader – Leah Landrum Taylor (LD-27)

Asst. Minority Leader – Linda Lopez (LD-2)

Minority Whip – Anna Tovar (LD-19)

HOUSE AND SENATE COMMITTEES

Committees are where bills are assigned after introduction (see How a Bill Becomes Law which follows this discussion). Committee Chairs lead their respective committees and control when and if a bill will be heard. Committee chairs and vice chairs are always members of the majority caucus (for the 51st Az Legislature, Republicans control the House and Senate Committees). Additionally, a majority of the members on each committee are from the majority party (this allows for passage of bills through committee on party lines when necessary).

For the 51st Arizona Legislature – 1st Regular Session, there are a total of 17 House committees and 11 Senate committees.

For the purposes of AFDA, the most important committees are those that address tax and financial policy, government regulatory matters, health and public safety. This is where a majority of the bills that AFDA initiates or defends against end up. The Senate and House Committees of the 51st Arizona Legislature – 1st Regular Session , along with their respective chairs are listed below:

Senate Committees and Chairs

Appropriations–Sen. Don Shooter, R-Yuma

Finance–Sen. Steve Yarbrough, R-Chandler

Judiciary–Sen. Rick Murphy, R-Peoria (past AFDA bill sponsor)

Public Safety–Senator-elect Chester Crandell, R-Heber

Education–Senator-elect Kimberly Yee, R-Phoenix

Health & Human Services–Sen. Nancy Barto, R-Phoenix

Commerce, Energy & Military—Sen. Al Melvin, R-SaddleBrook

Natural Resources–Sen. Steve Pierce, R-Prescott

Elections–Sen. Michele Reagan, R-Scottsdale (past AFDA bill sponsor)

Transportation–Sen. Rich Crandall, R-Mesa

House Committees and Chairs

Rules Committee - Rep. Bob Robson, R-Chandler (former Chandler city councilman, past fire service bill sponsor and knowledgeable with fire issues). Robson served in the House from 2001-08, returned in 2010 term limits

Ways and Means - Rep. Debbie Lesko, R-Peoria

Transportation - Rep. Karen Fann, R-Chino Valley (past AFDA bill sponsor)

Health - Rep. Heather Carter (past AFDA bill sponsor)

Commerce - Rep. Tom Forese, R-Chandler

Agriculture and Water - Rep. Brenda Barton R-Payson

Higher Education & Workforce Development - Rep. Jeff Dial (past AFDA bill sponsor)

Public Safety, Military and Regulatory Affairs - Rep. Justin Pierce

Appropriations - Rep. John Kavanagh, R-Scottsdale

Education - Rep. Doris Goodale, R-

Judiciary - Rep. Eddie Farnsworth, R-Gilbert

Government - Rep. Michele Ugenti, R-Scottsdale

Technology and Infrastructure - David Stevens, R-Sierra Vista (former Fry FD employee).

Reform and Human Services - Rep. Steve Montenegro, R-Phoenix (previously served as speaker pro tem)

Financial Institutions - Rep. Kate Brophy McGee, R-Paradise Valley

Federalism and Fiscal Responsibility - Rep. Justin Olson, R-Mesa

Insurance and Retirement - Rep Phil Lovas, R-Phoenix

HOW A BILL BECOMES A LAW

DEFINITION: A bill is a proposal for the enactment of a new law, the amendment or repeal of an existing one, or the appropriation of public money. It may originate in either the House or the Senate. There is no other vehicle for the enactment of a law by the Legislature. A bill must be passed by both bodies of the Legislature and approved by the Governor, or in the event of a gubernatorial veto, must be passed by both bodies as provided in the Constitution of Arizona.

INTRODUCTION: A bill may be introduced in either the House or Senate by a member, a group of members, a standing committee or a majority of a committee after being properly written by the Legislative Council. (If laypersons have a particular subject on which the laws must be changed, they should contact their legislators and discuss it to see if there is enough interest to sponsor it.)

FIRST READING: The bill is assigned a number by the Chief Clerk's Office, which the bill retains until its death or passage by both legislative houses. Numbers assigned to House bills begin at number 2000; bills originating in the Senate are numbered beginning at 1000. The bill is then first read to the entire body (by number and title only) and thereafter sent to the printer for printing.

SECOND READING: The bill is assigned to committees by the Speaker of the House or President of the Senate. It must be received from the printer before any further action can be taken. (Copies may be obtained by anyone interested by having the proper bill number and calling the mail room to request it.)

COMMITTEES: The bill is heard by committees to which it is assigned during one of their weekly meetings (Agendas are posted one week in advance). Committees may have special hearings and hear expert testimony and statements from concerned individuals. If the committee passes the bill, it is then reported to the entire house, with or without amendments.

The **RULES COMMITTEE** then reviews each bill to determine if it is constitutional and in proper form, then

places the bill on the active calendar for Committee of the Whole action, at which point the House Speaker (or Senate President) sets the order in which all bills will be considered.

The **COMMITTEE OF THE WHOLE** is a meeting of the entire House (or Senate) acting as one committee at which debate, recommendations and amendments to the bill are considered. Bills clearing the Committee of the Whole then go to the Chief Clerk's Office, where they are redrafted to include any approved amendments.

During the **THIRD READING**, a roll call vote of every member present is taken on the bill. No member may vote for another member and if present, the member must vote. If the bill receives a majority vote, the bill then goes to the remaining legislative house and follows the same procedure through first reading, second reading, committee action, and committee of the whole. (If a bill contains an emergency clause, it must have a two-thirds vote to keep the emergency clause.)

FINAL PASSAGE: If a bill passes both houses without amendments, it is transmitted to the Governor for further action. On the other hand, if a House bill passes the Senate with amendments, or vice-versa, the house of origin must either:

(1) Concur in the amendments, read the bill in full for final passage, take a roll call vote, and if passed, transmit the bill to the Governor for further action; or

(2) Fail to concur in the amendments and appoint a Conference Committee (and request the second legislative house to do the same). The presiding officer of each body usually appoints three members from each house to serve on the Conference Committee and try to reach an agreement regarding the bill. If an agreement is reached, the bill goes back first to the originating body (House or Senate) for concurrence of the amendments and/or final passage and then onto the other body (House or Senate) for the same action.

If at this point both the House and the Senate pass the bill, it then proceeds to the Governor for action.

GOVERNOR'S ACTION: After receiving a bill passed by both legislative houses, the Governor may:

- (1) Approve the bill by signing it within five days after receipt (Sunday excepted; ten days are allowed if the Legislature has adjourned);
- (2) Allow the bill to become law without his or her approval by not acting on it during the five days (ten days if adjourned); or
- (3) Veto the bill within the five days allowed and return it to the house of origin with a reason for the disapproval. (If a bill is vetoed by the Governor after the Legislature adjourns, the bill is considered to be dead.)

If the Governor's veto is overridden by a two-thirds vote of each body, it then goes to the Secretary of State for assignment of a chapter number as are those bills that pass the House and Senate and are signed by the Governor. The assigned chapter number is then what the bill is referred to and not the original House or Senate bill number.

Bills generally take effect 90 days after the Governor's approval, however, a bill may take effect immediately upon the Governor's approval (if it contains an emergency clause) or upon the effective date specified in the language of the bill.

A FINAL WORD: State Senator Randall Grant wrote about his experiences as a Legislator. His free book on this subject is available at the front lobby desk in the Arizona Senate at the Capitol. Here are a few excerpts.

ABOUT LOBBYISTS

For most of the general public the word “lobbyist” has a negative connotation. There are mental images of cigar chomping big business or big labor influence peddlers twisting arms and making back room deals – or images of under the table money and plots to punish or reward legislators “in their pocket.”

Through much of Arizona’s history, some of those images may have been true. In extremely rare instances, vestiges may still be in the process of dying out. The last two decades though, highlighted by Azscam, have been a period of change in the role of professional lobbyists and most observers will agree that politics at the Capitol has never been cleaner than it is today.

Also, it should be remembered that each of us is represented by dozens of lobbyists whether we know it or not. There are lobbying organizations for the young and for the old; there are lobbyists for landlords who own apartments and for tenants who live in them; there are lobbyists for police and for those who have run afoul of the law.

Indeed, state law requires that anyone giving testimony on a bill, who does not represent himself only, must register with the Secretary of State as a lobbyist. This means that if you appear on behalf of yourself and the neighbors on your block, you are technically a lobbyist and must register. Arizona has some of the strictest rules in the nation concerning lobbyists and those rules help explain why the total number of registered lobbyists exceeds 7,500.

To some involved with the legislative process, lobbyists may be “evil,” but, if so, they are a “necessary evil.” In the final analysis, lobbyists are simply representatives who act on behalf of others. Lobbyists from both sides of an issue provide additional information and additional perspectives on the merits of proposed legislation. They are as much a part of the political process as the staff members who provide research and background information to the legislators. In the end, it is often information supplied by lobbyists for both sides which makes the difference in helping the Senator decide how to vote.

Therefore, the term “lobbyist” includes not only any cigar chomping arm twisters who might still remain, it also includes the retirees, the mothers, the renters, the golfers and hundreds of other everyday citizens who take time from their schedules to testify for or against prospective legislation.

Index and Glossary

Ad hoc committee – an informal committee.

ALIS Online – The Internet service provided by the legislature to make available to the general public most of the paperwork of the legislature. The ALIS Online address is <http://www.azleg.state.az.us/>.

Amendments – changes to a bill.

Bill – a draft of a proposed law presented to a legislative body.

By Request – a caveat to the introduction of a bill by the sponsor usually indicating that the sponsor is introducing the bill “By Request” and not on his/her own initiative.

Calendar – a listing of bills ready for third or final reading.

Caucus

- a) the members of a particular political party in one branch of the legislature. For example, the Republican Senators are members of their caucus; the Republican House members are members of their caucus, and so on;
- b) a meeting of caucus members.

Committee Chairman – presiding officer of a committee hearing.

Committee of the Whole – a gathering of the Senate (House) at which time bills are debated by the entire body.

Conference Committee – a committee consisting of both House and Senate members, convened to reconcile differently amended versions of a bill which has passed in both houses.

Engrossing – merging amendment with a bill prior to third or final reading.

Final Reading of Bills – similar to third reading, but applies to bills which have been sent to the Senate from the House.

First Reading of Bills – a largely ceremonial step introducing a bill for the first time to the entire Senate (House).

Hopper – a box in the office of the Senate Secretary (Chief Clerk of the House) into which intro sets are placed when a bill is ready to be filed.

Interim – the period between regular sessions of the legislature.

Interim Committee – a committee which meets between the adjournment of one session of the legislature and the beginning of another. Interim committees often meet to gather facts and hear testimony. What is learned at these hearings often serves as the basis for proposed legislation for the next legislative session. Most interim committees are also joint committees.

Intro Set – paperwork which authorizes a sponsor to file a bill.

Joint Committee – a committee which has members of both the Senate and the House of Representatives. Some joint committees also have members of the general public.

Legislative Council – a staff arm of the legislature, primarily charged with the actual drafting of proposed legislation.

Reconsider, Motion to – a parliamentary maneuver aimed at getting a second chance to vote on a bill.

Second Reading of Bills – the step in which newly introduced bills are assigned to a standing committee.

Select Committee – a committee which has one or more members from the private sector.

Session – a meeting of the legislature. Each two-year legislature has two regular sessions. Each session begins on the first Monday in January and adjourns when its business is done.

Session Law

- a) a book prepared each year which contains those sections of the Arizona Revised Statutes which were changed as a result of legislation enacted;
- b) temporary or nonpermanent law, such as a law authorizing a study committee of limited duration.

Sine Die – the end of a legislative session.

Sponsor – a member of the House or the Senate who gives permission to have a bill introduced in his/her name.

Standing Committee – at the beginning of the first year of each new legislature the President of the Senate (Speaker of the House) makes appointments to various standing committees. These appointments are generally for the full length of the two-year legislative term. As commonly referred to, standing committees review bills and conduct inquiries as part of the early stages of the legislative process. Technically speaking, special committees are also standing committees.

Strike Everything Amendment – essentially, replacing one bill with another.

Third Reading of Bills – the point at which Senators (Representatives) cast their votes in favor or against a particular bill.

Vehicle Bill – a bill which acts as a “placeholder” in case an important bill fails.

LEGISLATIVE RESOURCES	
LEGISLATIVE DIGEST & INTRODUCED BILLS	
<p>Copies of the Legislative Digest and introduced bills may be obtained by WRITING, CALLING or FAXING the:</p> <p style="text-align: center;">ARIZONA STATE LEGISLATURE 1700 West Washington Phoenix, AZ 85007</p> <p style="text-align: center;">Telephone: (602) 926-4379 Facsimile : (602) 926-4099</p>	
BILLS PASSED & ASSIGNED CHAPTER NUMBERS	
<p>Copies of bills that have passed and been assigned chapter numbers may be obtained by WRITING, CALLING or FAXING the:</p> <p style="text-align: center;">SECRETARY OF STATE 1700 West Washington Phoenix AZ 85007</p> <p style="text-align: center;">Telephone: (602) 542-4086 Facsimile : (602) 542-4366</p>	

ARIZONA STATE CAPITOL NUMBERS

The State Legislature maintains the following toll-free number for in-state calls originating from outside the Phoenix metropolitan area:

1-800-352-8404

Persons calling from within the Phoenix metropolitan area may reach House and Senate offices using the following local numbers:

Senate Information Desk (602) 926-3559

Senate Research (602) 926-3171

House Information Desk (602) 926-4221

House Constituent Services (602) 926-5897

ALIS ONLINE

The **Arizona Legislative Information System** may be accessed by going on the internet and logging on:

<http://www.azleg.state.az.us/>

ARIZONA LEGISLATIVE DISTRICTS BY FIRE DISTRICT

The following pages show legislative district information current for all Arizona fire districts.

Arizona Fire District Association
51st Arizona Legislature - 1st Regular Session

FIRE DISTRICT LD-1	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Ash Fork FD	Yavapai	Steve	Pierce	R	Senate	Prescott	Former Senate President; SUPPORTS Fire	4-0	47.1%	20.2%	32.7%
Black Canyon FD	Yavapai										
Central Yavapai FD	Yavapai	Karen	Fann	R	House	Prescott	SUPPORTS Fire / past <u>Priority Bill Sponsor</u>	4-0			
Chino Valley FD	Yavapai										
Congress FD	Yavapai	Andy	Tobin	R	House	Prescott Valley	Speaker of the House ; #1 fire service advocate in legislature - H2184 fire tax relief architect / champion - SUPPORTS Fire	4-0			
Crown King FD	Yavapai										
Daisy Mountain FD	Maricopa										
Groom Creek FD	Yavapai										
Mayer FD	Yavapai										
Peeples Valley FD	Yavapai										
Seligman FD	Yavapai										
Verde Valley FD (pt.)	Yavapai										
Wickenburg Rural FD (pt.)	Yavapai										
Williamson Valley FD	Yavapai										
Yarnell FD	Yavapai										
FIRE DISTRICT LD-2	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Arivaca FD	Pima	Linda	Lopez	D	Senate	Tucson	Asst. Minority Leader; SUPPORTS Fire	4-0	24.5%	42.3%	33.2%
Green Valley FD	Pima										
Nogales Suburban FD	Santa Cruz	Andrea	Dalessando	D	House	Green Valley	<i>(freshman)</i>	n/a			
Rio Rico FD	Santa Cruz										
Sonoita Elgin FD (pt.)	Santa Cruz	Rosanna	Gaboldon	D	House	Green Valley	<i>(freshman)</i>	n/a			
Three Points FD (pt.)	Pima										
Tubac FD	Santa Cruz										
FIRE DISTRICT LD-3	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Drexel Heights FD (pt.)	Pima	Olivia	Cajero Bedford	D	Senate	Tucson	SUPPORTS Fire	3-0-1(NV)	17.7%	50.1%	32.2%
Northwest FD (pt.)	Pima										
Three Points FD (pt.)	Pima	Sally Ann	Gonzales	D	House	Tucson	SUPPORTS Fire	3-0-1(NV)			
		Marico	Saldante	D	House	Tucson					
FIRE DISTRICT LD-4	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority	DISTRICT COMPOSITE		
Buckeye Valley VFD (pt.)	Maricopa	Lynne	Pancrazi	D	Senate	Yuma	SUPPORTS Fire	4-0	24.5%	40.4%	35.1%
Drexel Heights FD (pt.)	Pima										
Gila Bend VFD	Maricopa	JC	Escamilla	D	House	San Luis	<i>(freshman)</i>				
Rincon Valley FD	Pima										
Three Points FD (pt.)	Pima	Lisa	Ontando	D	House	Yuma	<i>(freshman)</i>				
Why FD	Pima										

* Comments and Priority Vote indicate legislator's voting record on last session's AFDA Priority Bills and past support for fire district issues

Arizona Fire District Association
51st Arizona Legislature - 1st Regular Session

FIRE DISTRICT LD-5	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
									Rep %	Dem %	Other %
Beaver Dam/Littlefield FD	Mohave	Kelli	Ward	R	Senate	Lake Havasu	(freshman)				
Bouse FD	La Paz										
Buckskin FD	La Paz	Doris	Goodale	R	House	Kingman	SUPPORTS Fire	3-1-1(NV)			
Bullhead City FD	Mohave										
Colorado City FD	Mohave	Sonny	Borreli	R	House	Lake Havasu	(freshman)				
Desert Hills FD	Mohave										
Ehrenberg FD	La Paz										
Fort Mojave Mesa FD	Mohave										
Golden Shores FD	Mohave										
Golden Valley FD	Mohave								39.7%	23.7%	36.6%
Lake Mohave Ranchos FD	Mohave										
McMullen Valley FD	La Paz										
Mohave Valley FD	Mohave										
Northern AZ Consolidated FD	Mohave										
Oatman FD	Mohave										
Parker FD	La Paz										
Pine Lakes FD	Mohave										
Pinion Pines FD	Mohave										
Quartzsite FD	La Paz										
Yucca FD	Mohave										

* Comments and Priority Vote indicate legislator's voting record on last session's AFDA Priority Bills and past support for fire district issues

Arizona Fire District Association
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FIRE DISTRICT LD-6	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
									Rep %	Dem %	Other %
Beaver Valley FD	Gila	Chester	Crandell	R	Senate	Heber	NO on H2184 fire tax relief - not a consistent supporter on fire issues - Public Safety Committee Chair	2-1-1(NV)	37.8%	29.0%	33.1%
Blue Ridge FD	Coconino										
Camp Verde FD	Yavapai										
Christopher Creek/Kohl's FD	Gila										
Clarkdale FD	Yavapai										
Claysprings-Pinedale FD	Navajo	Brenda	Barton	R	House	Safford	SUPPORTS Fire	4-0			
East Verde Park FD	Gila										
Flagstaff Ranch FD	Coconino	Bob	Thorpe	R	House	Flagstaff	(freshman)				
Forest Lakes Estates FD	Coconino										
Gisela FD	Gila										
Heber-Overgaard FD	Navajo										
Hellsgate FD	Gila										
Highlands FD	Coconino										
Houston Mesa FD	Gila										
Joseph City FD (pt.)	Navajo										
Junipine FD	Coconino										
Kaibab Estates West FD	Coconino										
Linden FD (pt.)	Navajo										
Lockett Ranch FD	Coconino										
MC Laws Road FD	Navajo										
Montezuma-Rimrock FD	Yavapai										
Mormon Lake FD	Coconino										
Pine-Strawberry FD	Gila										
Pinewood FD	Coconino										
Pleasant Valley FD	Gila										
Ponderosa FD	Coconino										
Round Valley Ox Bow FD	Gila										
Sedona FD	Coconino, Yavapai										
Sherwood Forest Est FD	Coconino										
Summit FD (pt.)	Coconino										
The Woods FD	Coconino										
Tonto Basin FD (pt.)	Gila										
Tusayan FD	Coconino										
Verde Valley FD (pt.)	Yavapai										
Westwood Estates FD	Coconino										
Whispering Pines FD	Gila										
White Mountain Lakes FD	Navajo										
Woodruff FD	Navajo										

* Comments and Priority Vote indicate legislator's voting record on last session's AFDA Priority Bills and past support for fire district issues

Arizona Fire District Association
51st Arizona Legislature - 1st Regular Session

FIRE DISTRICT LD-7	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Alpine FD	Apache	Jack	Jackson Jr.	D	Senate	Window Rock	SUPPORTS Fire	4-0	19.3%	53.8%	26.9%
Concho FD	Apache										
Ganado FD	Apache	Albert	Hale	D	House	St. Michael	SUPPORTS Fire	4-0			
Greenhaven FD	Coconino										
Greer FD	Apache	Jamescita	Peshlakai	D	House	Carmern	(freshman)				
Joseph City FD (pt.)	Navajo										
Lakeside FD	Navajo										
Linden FD (pt.)	Navajo										
Nutriosio FD	Apache										
Pinetop FD	Navajo										
Puerco FD	Apache										
Show Low FD	Navajo										
Summit FD (pt.)	Coconino										
Sun Valley VFD	Navajo										
Vernon FD	Apache										
FIRE DISTRICT LD-8	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Canyon FD	Gila	Barbara	McGuire	D	Senate	Kearny	(freshman)		28.5%	38.1%	33.4%
Dudleyville FD	Pinal										
Eloy FD (pt.)	Pinal	Frank	Pratt	R	House	Casa Grande	SUPPORTS Fire / previous fire bill sponsor	4-0			
Mammoth FD	Pinal										
Oracle FD	Pinal	TJ	Shope	R	House	Coolidge	(freshman)				
Queen Valley FD	Pinal										
San Manuel FD	Pinal										
Tri-City FD	Gila										
FIRE DISTRICT LD-9	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Hidden Valley FD (pt.)	Pima	Steve	Farley	D	Senate	Tucson	SUPPORTS Fire	3-0-1(NV)	332.0%	37.0%	29.9%
Mountain Vista FD	Pima										
Northwest FD (pt.)	Pima										
Sabino Vista FD	Pima	Ethan	Orr	R	House	Tucson	(freshman)				
Tucson CC Estates FD	Pima										
		Victoria	Steele	D	House	Tucson	(freshman)				
FIRE DISTRICT LD-10	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Hidden Valley FD (pt.)	Pima	David	Bradley	D	Senate	Tucson	(freshman)		33.5%	37.0%	29.5%
Tanque Verde FD	Pima										
		Bruce	Wheeler	D	House	Tucson	Minority Whip - Solid fire service SUPPORT; former Tucson Councilman	3-1-1(NV)			
		Stephanie	Mach	D	House	Tucson	(freshman)				

* Comments and Priority Vote indicate legislator's voting record on last session's AFDA Priority Bills and past support for fire district issues

Arizona Fire District Association
51st Arizona Legislature - 1st Regular Session

FIRE DISTRICT LD-11	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE			
Arizona City FD	Pinal	Al	Melvin	R	Senate	Tucson	Contrary to vote record - NOT a supporter / NOT a fire labor supporter	3-1	38.9%	27.9%	33.2%	
Avra Valley FD	Pima, Pinal											
Colonia Verde FD	Pima											
Eloy FD (pt.)	Pinal	Steve	Smith	R	House	Maricopa	Issue specific support - NO on H2184 fire tax relief	3-1				
Golder Ranch FD	Pima, Pinal											
Maricopa VFD	Pinal	Adam	Kwasman	R	House	Tucson	(freshman)					
Mt Lemmon VFD	Pima											
Northwest FD (pt.)	Pima											
Picture Rocks FD	Pima											
Stanfield FD	Pinal											
Three Points FD (pt.)	Pima											
Thunderbird FD	Pinal											
FIRE DISTRICT LD-12	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE			
									Rep %	Dem %	Other %	
Gilbert County Island FD (pt.)	Maricopa	Andy	Biggs	R	Senate	Gilbert	Senate Majority Leader; Supports some fire issues / county island fire district advocate - NO on H2184 fire	2-2	47.0%	20.6%	32.4%	
		Eddie	Farnsworth	R	House	Gilbert	Issue specific support - NO on H2184 fire tax relief	3-1				
		Warren	Peterson	R	House	Gilbert	(freshman)					
FIRE DISTRICT LD-13	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE			
									Rep %	Dem %	Other %	
Aguila FD	Maricopa	Don	Shooter	R	Senate	Yuma	SUPPORTS Fire	4-0	41.2%	25.3%	33.6%	
Buckeye Valley VFD (pt.)	Maricopa											
Circle City-Morristown FD	Maricopa	Steve	Montenegro	R	House	Litchfield Park	Issue specific support - NO on H2184 fire tax relief	3-1				
Harquahala Valley VFD	Maricopa											
Martinez Lake FD	Yuma	Darin	Mitchell	R	House	Avondale	(freshman)					
Tonopah Valley FD	Maricopa											
Wickenburg Rural FD (pt.)	Maricopa											
Wittman VFD	Maricopa											

* Comments and Priority Vote indicate legislator's voting record on last session's AFDA Priority Bills and past support for fire district issues

Arizona Fire District Association
51st Arizona Legislature - 1st Regular Session

FIRE DISTRICT LD-14	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
7X FD	Cochise	Gail	Griffin	R	Senate	Sierra Vista	Issue specific support - NO on H2184 fire tax relief	3-1	39.0%	29.7%	31.3%
Babocomari FD	Cochise										
Bowie FD	Cochise	David	Gowan	R	House	Sierra Vista	SUPPORTS Fire	4-0			
Central-Jackson Heights FD	Graham										
Corona de Tucson FD	Pima	David	Stevens	R	House	Sierra Vista	SUPPORTS Fire / previous fire bill sponsor - NO on H2184 fire tax relief	3-1			
Duncan FD	Greenlee										
Elfrida FD	Cochise										
Fort Thomas FD	Graham										
Fry FD	Cochise										
Mescal J6 FD	Cochise, Pinal										
Naco FD	Cochise										
Palominas FD	Cochise										
PBW FD	Cochise										
Pima Rural FD	Graham										
Pirtleville FD	Cochise										
Pomerene FD	Cochise										
Safford Rural FD	Graham										
San Jose FD	Cochise										
San Simon FD	Cochise										
Sonoita Elgin FD (pt.)	Pima										
St David FD	Cochise										
Sunnyside FD	Cochise										
Sunsites-Pearce FD	Cochise										
Whetstone FD	Cochise										
FIRE DISTRICT LD-15	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
(NONE)	Maricopa	Nancy	Barto	R	Senate	Phoenix	SUPPORTS Fire - Health Committee Chair	4-0	42.8%	23.5%	33.8%
		Heather	Carter	R	House	Cave Creek	SUPPORTS Fire / past <u>Priority Bill Sponsor</u> - Health Committee Chair	4-0			
		John	Allen	R	House	Scottsdale	(freshman)				
FIRE DISTRICT LD-16	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Apache Junction FD (pt.)	Maricopa	Rich	Crandall	R	Senate	Mesa	SUPPORTS Fire	3-1-1(NV)	38.7%	23.6%	37.7%
Apache Junction FD (pt.)	Pinal	Doug	Coleman	R	House	Apache Junction	Former AJ city council and long-term Mayor; knows fire issues and SUPPORTS				
		Kelly	Townsend	R	House	Mesa	(freshman)				

* Comments and Priority Vote indicate legislator's voting record on last session's AFDA Priority Bills and past support for fire district issues

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FIRE DISTRICT LD-17	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Chandler County Island FD (pt.)	Maricopa	Steve	Yarborough	R	Senate	Chandler	SUPPORTS Fire - Finance Committee Chair	4-0	Rep %	Dem %	Other %
Gilbert County Island FD (pt.)	Maricopa										
Sun Lakes FD	Maricopa	JD	Mesnard	R	House	Chandler	Issue specific support - NO on H2184 fire tax relief	3-1	39.3%	25.4%	35.3%
		Tom	Forese	R	House	Chandler	Issue specific support - NO on H2184 fire tax relief	3-1			
FIRE DISTRICT LD-18	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Chandler County Island FD (pt.)	Maricopa	John	McComish	R	Senate	Phoenix	SUPPORTS Fire - knows fire issues; past fire bill sponsor	4-0	Rep %	Dem %	Other %
Tempe County Island FD (pt.)	Maricopa										
		Bob	Robson	R	House	Chandler	SUPPORTS Fire - former Chandler city council, knows fire issues; past fire bill sponsor - 911 bill sponsor; fire issue advocate - Rules Chair	4-0	36.9%	29.3%	33.7%
		Jeff	Dial	R	House	Chandler	SUPPORTS Fire / past <u>Priority Bill Sponsor</u>	4-0			
FIRE DISTRICT LD-19	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Laveen Meadows FD (pt.)	Maricopa	Anna	Tovar	D	Senate	Tolleson	Senate Minority Whip ; SUPPORTS Fire	4-0	Rep %	Dem %	Other %
		Mark	Cardenas	D	House	Phoenix	(freshman)		19.8%	39.9%	40.2%
		Lupe Chavira	Contreras	D	House	Avondale	(freshman)				
FIRE DISTRICT LD-20	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
(NONE)	Maricopa	Kimberly	Yee	R	Senate	Phoenix	Issue specific support - NO on H2184 fire tax relief	3-1	Rep %	Dem %	Other %
		Carl	Seel	R	House	Phoenix	Contrary to voting record off and on support; NOT a fire labor supporter	4-0	36.8%	28.8%	34.4%
		Paul	Boyer	R	House	Phoenix	(freshman)				
FIRE DISTRICT LD-21	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Sun City FD	Maricopa	Rick	Murphy	R	Senate	Peoria	SUPPORTS Fire / past <u>Priority Bill Sponsor</u> ; NOT a fire labor supporter	4-0	Rep %	Dem %	Other %
		Debbie	Lesko	R	House	Glendale	SUPPORTS Fire most issues - NO on H2184 fire tax relief	3-1	37.7%	28.9%	33.4%
		Rick	Gray	R	House	Sun City	Majority Whip - SUPPORTS Fire	4-0			

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FIRE DISTRICT LD-22	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Sun City West VFD	Maricopa	Judy	Burges	R	Senate	Sun City West	Issue specific support - NO on H2184 fire tax relief - Government Committee Chair	3-1	Rep %	Dem %	Other %
		Phil	Lovas	R	House	Peoria	Appointed near session end - unknown position on fire		44.9%	23.0%	32.1%
		David	Livingston	R	House	Peoria	(freshman)				
FIRE DISTRICT LD-23	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Goldfield Ranch FD	Maricopa	Michelle	Reagan	R	Senate	Scottsdale	SUPPORTS Fire - knows fire issues; past fire bill sponsor	4-0	Rep %	Dem %	Other %
Rio Verde FD	Maricopa										
Scottsdale County Island FD	Maricopa	John	Kavangh	R	House	Fountain Hills	Issue specific support - NO on H2184 fire tax relief	3-1	45.2%	21.7%	33.1%
Tonto Basin FD (pt.)	Maricopa	Michelle	Ugenti	R	House	Scottsdale	Issue specific support - NO on H2184 fire tax relief - Government Committee Chair	3-1			
FIRE DISTRICT LD-24	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
(NONE)	Maricopa	Katie	Hobbs	D	Senate	Phoenix	SUPPORTS Fire	4-0	Rep %	Dem %	Other %
		Chad	Campbell	D	House	Phoenix	House Minority Leader ; SUPPORTS Fire - issue advocate to caucus	4-0	24.8%	39.1%	36.1%
		Lela	Alston	D	House	Phoenix	SUPPORTS Fire	4-0			
FIRE DISTRICT LD-25	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
(NONE)	Maricopa	Bob	Worsely	R	Senate	Mesa	(freshman)		Rep %	Dem %	Other %
		Justin	Olson	R	House	Mesa	SUPPORTS Fire	3-1-1(NV)	45.9%	22.7%	31.4%
		Justin	Pierce	R	House	Mesa	Issue specific support - NO on H2184 fire tax relief	3-1			
FIRE DISTRICT LD-26	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Tempe County Island FD (pt.)	Maricopa	Ed	Ablser	D	Senate	Tempe	NO general support for fire - rarely votes fire issues	1-0-3(NV)	Rep %	Dem %	Other %
		Andrew	Sherwood	D	House	Mesa	(freshman)		25.8%	33.0%	41.1%
		Juan	Mendez	D	House	Tempe	(freshman)				

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FIRE DISTRCT LD-27	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Laveen Meadows FD (pt.)	Maricopa	Leah	Landrum Taylor	D	Senate	Phoenix	Senate Minority Leader ; SUPPORTS Fire	4-0	14.6%	47.8%	37.6%
		Ruben	Gallego	D	House	Phoenix	Asst. Minority Leader - SUPPORTS Fire	4-0			
		Catherine	Miranda	D	House	Phoenix	SUPPORTS Fire	4-0			
FIRE DISTRCT LD-28	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
Clearwater Hills FD	Maricopa	Adam	Driggs	R	Senate	Phoenix	Majority Whip - SUPPORTS Fire / past <u>Priority Bill Sponsor</u> - past bill sponsor / fire issue advocate	4-0	40.2%	29.2%	30.6%
		Kate	Brophy McGee	R	House	Phoenix	SUPPORTS Fire	4-0			
		Eric	Meyer	D	House	Paradise Valley	SUPPORTS Fire - former ER physician, knows EMS issues	4-0			
FIRE DISTRCT LD-29	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
(NONE)	Maricopa	Steve	Gallardo	D	Senate	Tolleson	SUPPORTS Fire	3-1-1(NV)	21.5%	39.5%	39.0%
		Martin	Quezada	D	House	Phoenix	Appointed near session end - unknown position on fire				
		Lyndia	Hernandez	D	House	Phoenix	(freshman)				
FIRE DISTRCT LD-30	COUNTY	First	Last	Party	Chamber	Hometown	Comments	Priority Vote	DISTRICT COMPOSITE		
(NONE)	Maricopa	Robert	Meza	D	Senate	Phoenix	SUPPORTS Fire	4-0	24.0%	38.6%	37.4%
		Debbie	McCune Davis	D	House	Phoenix	SUPPORTS Fire	4-0			
		Jonathon	Larkin	D	House	Glendale	(freshman)				

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CHAPTER 16
MISCELLANEOUS INFORMATION

PROCEDURE for A.R.S. § [48-262\(I\)](#)
BOUNDARY CHANGE

1. Receive **WRITTEN REQUEST** from property owner to amend the district boundaries to include his or her land. This request should have the following attached:

Exhibit A. Legal description of the property.

Exhibit B. Map showing that the property is **CONTIGUOUS** to the boundaries of the district.

{See Chapter 4 page 7 “Guidelines for A.R.S. § [42-17257](#)”}

2. **DETERMINE** if the inclusion of the property will benefit both the district AND the property owner. If the answer is YES, then proceed to the next steps.

If the property is located in an incorporated city or town, in addition to the other requirements prescribed in this subsection, the governing body of the fire district or sanitary district may approve the boundary change only if the governing body of the affected city or town by ordinance or resolution has approved the inclusion of the property in the district.

3. **PLACE ON AGENDA** of district board meeting for discussion and action. **Pass resolution (order) to include the property within the boundaries of the district.**

4. **RECORD the following with your county recorder:**

A. Resolution (order) to include the property within the boundaries of the district.

B. Written request from property owner.

C. Legal description of property.

D. Map showing property is adjacent to district. {See Chapter 4, page 7, entitled “Guidelines for A.R.S. § [42-17257](#)”}

5. **ATTACH the items in step 4 to minutes of meeting. It is important to maintain these documents in your district records.**

6. **SUBMIT - The items in step 4 to the following:**

A. Your county board of supervisors

B. Your county assessor

- C. Your county treasurer
{See Chapter 4, page 7, entitled “Guidelines for A.R.S. § [42-17257](#)”}
- D. Arizona Department of Revenue
Attention: Flo Villaverde
GIS Section
1600 West Monroe – 8th Floor
Phoenix, AZ 85077
Telephone: (602) 716-6814
- E. Changes to the district’s boundaries are required to be precleared by the U.S. Department of Justice, Civil Rights Division, Voting License Section, prior to the district’s next election. Please consult your district’s attorney for more specific information on how to obtain this preclearance. Below is a sample Preclearance Letter for your use.

You can make submissions to the U.S. Department of Justice online at the following website: <http://wd.usdoj.gov/crt/voting/sec 5/evs/> or you can submit a hard copy using the format listed below.

Language in red type indicates instructions or areas where specific information should be inserted.

(USE DISTRICT LETTERHEAD)

(Date)

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
United States Department of Justice
950 Pennsylvania Avenue, N. W.
Washington, D.C. 20006

Re: Submission under Section 5 of the Voting Rights Act, Boundary Changes, (insert name of district),
Yavapai County, Arizona

If your submission is for an election coming up in under 60 days and the change you are submitting will affect who the voters will be, at this point in the letter insert **“EXPEDITED CONSIDERATION REQUESTED”**.

Pursuant to [28 C.F.R. § 51.34](#), (insert expedited only if necessary) consideration of this submission is requested. Expedited consideration is requested because of a regular district election for board members and the need to include voters in areas annexed to the district in that election.

Be sure to assign exhibit letters to each attachment included with the letter. For example, the Order of Establishment would be Exhibit A and so on.

A. COPY OF ENACTMENT

A COPY OF THE Order of Establishment of (insert name of district) as approved by the Yavapai County Board of Supervisors, dated (insert date of establishment), and containing the legal description of the district upon establishment is attached as Exhibit A. Also attached are (insert name of district) Orders of Annexation, each of which contains a legal description, as Exhibit B (or Exhibit B through whatever letters are needed depending upon the number of annexations).

B. COPY OF EXISTING STATUTE

A COPY OF Arizona Revised Statutes (insert appropriate statute depending upon type of district and Exhibit letter). This statute authorizes a (list type of district) district to annex properties adjacent to the district’s existing boundaries upon receiving a request for annexation from the property owner(s).

C. EXPLANATION OF CHANGES

The change resulting from the above-referenced annexation(s) is an increase in the boundaries of the (insert name of district). The district is located entirely within the (insert name of voting precinct) voting precinct(s).

D. PERSON MAKING THE SUBMISSION

List name, title and address of person making submission. Be sure to include a telephone number, fax number and email address.

E. SUBMITTING AUTHORITY

Insert name of district.

F. PARTY RESPONSIBLE FOR CHANGE

The submitting authority is (insert name of district) and the jurisdiction responsible for the change is (insert name of district)

G. AUTHORITY FOR MAKING CHANGE

(Insert type of district) districts are authorized by Arizona Revised Statutes (insert statutory reference) to increase their boundaries through annexation actions.

H. DATE OF ADOPTION

The attached Orders of Annexation were approved by the district board on (insert date of approval).

I. EFFECTIVE DATE

Boundary changes to (insert type of district) districts in Arizona are effective 30 days following approval of the boundary change by the district board.

J. ENFORCEMENT OF CHANGE

Not applicable.

K. SCOPE OF CHANGE

This change affects only (insert the name of district).

L. REASONS FOR THE CHANGE

Insert brief description of the reason for the change.

M. ANTICIPATED EFFECT ON MEMBERS OF RACIAL OR LANGUAGE MINORITY GROUPS

The boundary changes will have no discriminatory effect. The district currently provides (insert type of services provided) to citizens residing within the boundaries of the district, without regard to race or language and will provide service to any properties that are annexed into the district.

Ideally, you should include in this section the name and phone number of a minority contact person within the district who is aware of the change.

N. PAST OR PENDING LITIGATION

Insert information regarding past or pending litigation, or a statement to the effect that is no past or pending litigation.

O. PRECLEARANCE OF PRIOR PRACTICE

Prior practice for the (insert name of district) is not subject to the preclearance requirement as the district has not previously submitted boundary changes (or, if boundary changes have been previously submitted, list the dates on which they were submitted to USDOJ)

If you have any questions regarding this submission or if you require any additional information, please contact me at (insert phone number) as soon as possible.

Sincerely,

(Name and title of person making the submission)

Enclosures:

Exhibit A - Order of Establishment (insert name of district)
Exhibit B - Annexation Order
Exhibit C - Map of District
Exhibit D - Copy of Statute
Exhibit E - Census Information

7. **REPORT** the boundary change information in your annual report.
8. **On or before November 1** of the year preceding the year in which assessments or taxes are to be levied, the governing body of the fire district shall file with the Arizona Department of Revenue and the appropriate county assessor information prescribed by the director of the Arizona Department of Revenue as to any change in boundaries of the taxing district. {See Chapter 4, page 7, entitled “Guidelines for A.R.S. § [42-17257](#)”} *Failure to comply can make a difference as to when you start receiving Tax Money. It is possible to get an extension of the November 1st deadline by making a request for extension to the Department of Revenue no later than December 31st. They can grant extension to February 15th of the year in which taxes are to be levied. This can be helpful if you receive a boundary change request after November 1st that you know you can have processed prior to February 15th*

SAMPLE CHECKLIST FOR FIRE DISTRICT ANNEXATION – MULTIPLE PARCELS



1. Prepare a boundary change impact statement. A sample is available on the Yavapai County website at <http://www.co.yavapai.az.us/Content.aspx?id=18752> or you can contact Special

Districts Coordinator Ana Wayman-Trujillo at ana.waymantrujillo@co.yavapai.az.us to request a blank form. The impact statement must include a written legal description and map, and with that information you can obtain assessed value information from the Assessor's Office. Please contact Sharlett Smith at 928-771-3220 or sharlett.smith@co.yavapai.az.us for a list of property owners and assessed value within the proposed annexation area.

2. When the boundary change impact statement is complete, place it on the fire district's board of directors' agenda for the board to officially receive the impact statement and set a date for a hearing on the impact statement. The hearing on the impact statement must be held not less than 20 nor more than 30 days from the date that the district board officially receives the statement.
3. **Following official receipt of the impact statement by the district board, do the following:**
 - As required by state statute, send a copy of the impact statement to the County Board of Supervisors. If at all possible, please send it electronically to Special Districts Coordinator Ana Wayman-Trujillo at ana.waymantrujillo@co.yavapai.az.us . If it is not possible to send it electronically, then please mail it to Ana Wayman-Trujillo at Yavapai County Special Districts, 1015 Fair Street, Prescott, AZ 86305. The statement will be reviewed for accuracy in the legal description and assessed value amount listed and the district will be notified of any problems. (The district will be charged for the review. If the impact statement can be sent electronically the cost to the district will be less than if a paper copy is sent.) **The district will also be provided with the minimum number of property owner signatures required for annexation.** That number remains fixed.
 - Mail a written notice of the hearing on the impact statement to each owner of taxable property within the boundaries of the proposed annexation. The notice should include a statement indicating that an impact statement for annexation has been received, the legal description and map of the proposed annexation, and it should include information regarding the day, hour and place of the hearing. The notice must be mailed by first class mail.
 - Post notice of the hearing at three (3) public places within the proposed annexation area.
 - Publish notice of the hearing twice in a newspaper of general circulation in the proposed annexation area. (If the newspaper is a daily newspaper, notice must published at least 10 days before the hearing; the statute does not prescribe a time frame if it is not a daily newspaper but merely states that it must be "...at least twice at any time before the date of the hearing...")
4. **At the hearing on the impact statement** the district's board of directors is required to consider any comments from the County regarding the impact statement and to hear those who appear to speak in favor of or against the proposed annexation. If no one is present to speak for or against but letters have been received, the district board should be made aware of the content of the letters. The board of directors may make changes to the impact statement if deemed necessary. The board may rule as follows:
 - Approve the impact statement and authorize circulation of petitions.
 - Not approve the impact statement and not authorize circulation of petitions. If this is the board's ruling, the statute states that "...a subsequent request for a similar change may be refilled with the governing body after six months from the date of such denial."

5. If the board of directors approves the impact statement and authorizes circulation of petitions, the proponents of the annexation have one year from the date of the board's approval in which to circulate petitions and file them with the district.
6. A blank petition form may be obtained by contacting Special Districts Coordinator Ana Trujillo at ana.waymantrujillo@co.yavapai.az.us . Information regarding how petitions should be signed is available at <http://www.co.yavapai.az.us/WorkArea/showcontent.aspx?id=18422> or by contacting Ana Wayman-Trujillo at the above email address. **Petitions that are circulated must, at all times, contain a legal description and detailed, accurate map of the proposed annexation area.**
7. **When signed petitions are filed with the fire district, do the following:**
 - Have the district's board of directors officially "receive" the petitions at a board meeting and set hearing to consider establishment not less than 10 nor more than 30 days from the date on which the board officially receives the petitions.
 - Send the original petitions to the Yavapai County Clerk of the Board of Supervisors, 1015 Fair Street, Prescott, AZ 86305. The sooner this is done, the better; especially if a lot of parcels are involved. **The petitions that are filed with the County must have the required attachments (legal description and map) or they will be invalidated.** The County will verify the petitions and notify the district as to the results and will return your original petitions to you. (The district will be charged for the verification process.)
8. **At the hearing on establishment**, if the petitions contain at least the minimum number of signatures as fixed by the County and those persons who signed own more than one-half of the total assessed valuation in the proposed annexation area, the district board is required to approve the annexation. The boundary change becomes effective 30 days after the board's action to approve the annexation. It is recommended that the hearing be tape-recorded in the event that a legal challenge to the establishment is filed within the 30-day delayed effective period.
9. **If the board's action is to approve the annexation, do the following:**
 - Have signed and record with the County Recorder an "order of boundary change or annexation." This document may be in the form of a district resolution or some other form but must include the legal description and map showing the area being annexed.
 - Send a copy of the recorded resolution or order to Special Districts Coordinator Ana Wayman-Trujillo at 1015 Fair Street, Prescott, AZ 86305. A copy will be provided to the County Elections Department to ensure that voters in the newly-annexed area are provided ballots for future district elections.
 - Send a copy of the recorded resolution or order to Property Examiner Flo Villaverde at the Arizona Department of Revenue, CVP/GIS Section, Property Tax Division – GIS, 1600 West Monroe Street, Phoenix, AZ 85007-2612 and request taxing authority for the newly-annexed area.
 - Send a copy of the recorded resolution to Chief, Voting Section, Civil Rights Division, Room 7254 – NWB, United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. and request preclearance for future elections. There is a sample format for submitting this request at <http://www.co.yavapai.az.us/WorkArea/showcontent.aspx?id=29758>.

Sample Resolution

RESOLUTION

RESOLUTION # _____

A RESOLUTION AUTHORIZING THE AMENDMENT OF THE _____ FIRE DISTRICT'S BOUNDARIES TO INCLUDE LAND WITHIN THE _____ COUNTY AND ADJACENT TO THE BOUNDARIES OF THE _____ FIRE DISTRICT AFTER WRITTEN REQUEST BY PROPERTY OWNER IN ACCORDANCE WITH A.R.S. § 48-262(I).

WHEREAS: On *(Date)*, Mr. and/or Mrs. *{Name}* requested, in writing, that the _____ Fire District Board amend the _____ Fire District boundaries to include their property, more particularly described as set forth on the attached Exhibit A.

WHEREAS: The subject property is located within _____ County and is adjacent to the boundaries of _____ Fire District as shown on map attached as Exhibit B.

WHEREAS: The _____ Fire District Board has determined that the inclusion of the subject property within the boundaries of _____ Fire District will benefit the _____ Fire District AND the Property Owner.

NOW THEREFORE, BE IT RESOLVED that the Fire Board of the _____ Fire District hereby order the following:

The boundaries of _____ Fire District are hereby amended to include the property described as set forth on the attached Exhibit A.

ADOPTED at a meeting of the Fire Board of the _____ Fire District at a duly noticed meeting held on _____, 20__ by a majority of the Fire Board Members.

Chairperson
_____ Fire District

Attested to:

Clerk
_____ Fire District

Thanks to Donna M. Aversa, Attorney for her timely perusal, suggestions of wording and comments of the above amendment to A.R.S. § [48-262](#), "District boundary changes; procedures; notice; hearing; determinations; petitions." She was a great help in formulating the procedure.

Sample Release Form

RELEASE FORM

{Recipient} holds the _____ Fire District harmless for the {Name, or Organization/Representative} receipt of the equipment described below.

The equipment has been received with the full knowledge that it is used equipment and may no longer be serviceable in the Fire Service. The recipient of the equipment warrants that it has inspected and tested the equipment to determine that it is presently in a safe condition, and represents to the _____ Fire District that it will maintain that equipment in a safe manner.

The equipment is being received with the full understanding that it is being delivered "AS IS, WHERE IS". The recipient acknowledges that the _____ Fire District is not a dealer or merchant of said equipment, and that the recipient is relying on no representations or warranties made by the _____ Fire District in its decision to take title to or possession of said equipment. Said equipment is being accepted by recipient without any warranties, EXPRESS OR IMPLIED, ANY WARRANTY OF MERCHANTABILITY, OR ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

Recipient understands that the _____ Fire District will have no control over the use of the equipment while in possession of the recipient and, consequently, the _____ Fire District will not have any responsibility or liability for its use. The recipient agrees to indemnify the _____ Fire District for any loss or damage to person or property arising from the use of said equipment, and further warrants that recipient will provide liability insurance coverage on the equipment in the amount of not less than \$ {fill in amount or insert "N/A"}.

The _____ Fire District will not be responsible or liable for damage or injury resulting from the use, or misuse, of the equipment. The recipient agrees that it shall be solely responsible for complying with all applicable OSHA standards, if any exist, and further acknowledges that the _____ Fire District makes no warranties or representations as to whether said equipment presently meets or may in the future meet such standards as may be applicable through OSHA.

ADDITIONAL COMMENTS:

EQUIPMENT LIST:

METHOD OF RECEIPT (Circle one)

SALE or LEASE: Make check payable to: _____ Amount paid: \$

LOAN or GIFT:

DISPOSAL:

OTHER

(Describe): _____

Chief or Assistant Chief: _____
Date

RECEIVED BY/

Consent to Release: _____
Organization/Representative Date

— _____
Print Name Date

By _____
Signature Date

Board Consent: By _____; ATTEST: By _____
(Chairperson) (Clerk)

FOR OFFICE USE ONLY:

Inventory Control: Certificate issued - Yes _____ No _____

wrwdoc24\afda\release

HOLIDAYS

November 18, 1993

Arizona Fire District Association

It has come to my attention recently that some fire districts may be conducting their meetings on holidays. The Arizona courts have not yet answered the question as to whether such a meeting violates Arizona law. There is a general provision in the statute that requires that no "public offices" be opened or "any judicial business" be transacted on a legal holiday. Accordingly, I believe it prudent for the fire board to avoid meeting on official holidays. I have enclosed a list of the official holidays enumerated by statute.

Sincerely,

Boyle, Pecharich, Cline, Whittington & Stallings, P.L.L.C.

/s/ William R. Whittington

TITLE 1 GENERAL PROVISIONS

CHAPTER 3 HOLIDAYS

ARTICLE 1 IN GENERAL

1-301. Holidays enumerated

A. The following days shall be holidays:

1. Sunday of each week.
2. January 1, "New Year's Day."
3. Third Monday in January, "Martin Luther King, Jr./Civil Rights Day."
4. Third Monday in February, "Lincoln/Washington Presidents' Day."

5. Second Sunday in May, "Mothers' Day."
6. Last Monday in May, "Memorial Day."
7. Third Sunday in June, "Fathers' Day."
8. July 4, "Independence Day."
9. First Sunday in August, "American Family Day."
10. First Monday in September, "Labor Day."
11. September 17, "Constitution Commemoration Day."
12. Second Monday in October, "Columbus Day."
13. November 11, "Veterans' Day."
14. Fourth Thursday in November, "Thanksgiving Day."
15. December 25, "Christmas Day."

B. When any of the holidays enumerated in subsection A falls on a Sunday, the following Monday shall be observed as a holiday, with the exception of the holidays enumerated in subsection A, paragraphs 1, 5, 7, 9 and 11.

C. When any of the holidays enumerated in subsection A, paragraphs 2, 8, 13 and 15 falls on a Saturday, the preceding Friday shall be observed as a holiday.

D. When the holiday enumerated in subsection A, paragraph 11 falls on a day other than Sunday, the Sunday preceding September 17 shall be observed as such holiday.

1-302. Closing of offices and courts; transaction of certain judicial business

A. Public offices shall not be open, and no court of justice shall be open or any judicial business transacted on a legal holiday, except for the following purposes:

1. To give upon its request, instructions to a jury deliberating on its verdict.
2. To receive a verdict or discharge a jury.
3. For the exercise of the powers of a magistrate in a criminal action or in a proceeding of a criminal nature.

B. Injunctions, attachments, process for claim and delivery and writs of prohibition may be issued and served on any day.



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