

MEMORANDUM

March 23, 2010

TO: Management and Fiscal Policy/Public Safety Committee  
FROM: Justina J. Ferber, Legislative Analyst  
SUBJECT: Update –MC Employee Tuition Assistance Program

**Background**

On September 14 and October 26, 2009, the MFP Committee discussed issues related to the Montgomery County Employee Tuition Assistance Program with the offices of the County Attorney, Human Resources, and Inspector General. The Committee was advised that there is coordination among the offices and each would be reporting on specific aspects of the Tuition Assistance Program (TAP) in early 2010. This meeting will include a report from each office.

**Briefings**

- **Inspector General Tom Dagley** will brief the committees on his March report – *Review of Montgomery County Government Tuition Assistance Program*. His report is at ©1-29. His 3 main findings are:
  - ❖ *Finding 1:* The lack of management oversight of the TAP and inadequate internal controls enabled 216 County employees to purchase semi-automatic pistols and semi-automatic rifles for personal use which appears to have been subsidized with County funds.
  - ❖ *Finding 2:* Proper management oversight and controls for police officer timesheets had not been established to ensure that police officers recorded work hours on their timesheets in accordance with TAP requirements and overall County policies.
  - ❖ *Finding 3:* County departments and the Ethics Commission had not taken sufficient action to ensure employees and vendors participating in the TAP were in compliance with County ethics, personnel and procurement regulations and that the County obtained TAP services at competitive prices.
  
- **Office of Human Resources Director Joe Adler** will brief the committees on changes in internal controls and oversight of the TAP by OHR. A memo from Mr. Adler outlining the changes implemented by OHR is at ©30-31. His memo includes the following information:

- ❖ The County negotiated changes in the United Food and Commercial Workers Local 1994, Municipal and County Government Employees Organization (MCGEO), collective bargaining agreement, which serves as a template for the other bargaining units, to ensure tighter program controls and accountability. As a result of these changes, the County lifted the suspension of the TAP for members of MCGEO as of December 15, 2009.
  - ❖ The County continues the suspension of TAP funds for members of the Fraternal Order of Police (FOP) Lodge No. 35, Inc, who have filed a grievance contesting this action.
  - ❖ The County is currently in discussions with the Montgomery County Career Fire Fighters Association of the International Association of Fire Fighters (IAFF), Local No.1664, to resume the program with additional safeguards.
  - ❖ The County is revising personnel policies and procedures for unrepresented employees to be completed in FY11 based on recommendations from the Office of Inspector General report and the County's Internal Auditor's findings.
  - ❖ The County Executive's proposed FY 2011 budget calls for a one year suspension of the TAP due to budget constraints.
- **Acting County Attorney Marc Hansen** will brief the committees on the examination of the TAP by the County Attorney's office. If questions arise regarding specific personnel issues or litigation, a request will be made to discuss those issues in closed session.

Also attached are materials requested at the October 26, 2009, MFP Committee meeting which were received in November 2009.

- Attachments:
- Inspector General's March 2010 Report - *Review of Montgomery County Government Tuition Assistance Program* ©1
  - OHR Director Adler Memo of March 19, 2010 re Tuition Assistance Program ©30
  - OHR Director Adler Memo of December 15, 2009, TAP agreement w/ MCGEO ©32
  - OHR Director Adler Memo of November 23, 2009 Tuition Assistance Program - ©37
    - Data by bargaining unit
    - Personnel Regulations
    - TAP Provision in each bargaining contract

Review Report

**Office of Inspector General**

Montgomery County Government Tuition Assistance Program

March 2010



Office of Inspector General  
Montgomery County, Maryland

**Office of Inspector General  
Review Report  
Montgomery County Government Tuition Assistance Program  
March 2010**

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## Background Information and Conclusions

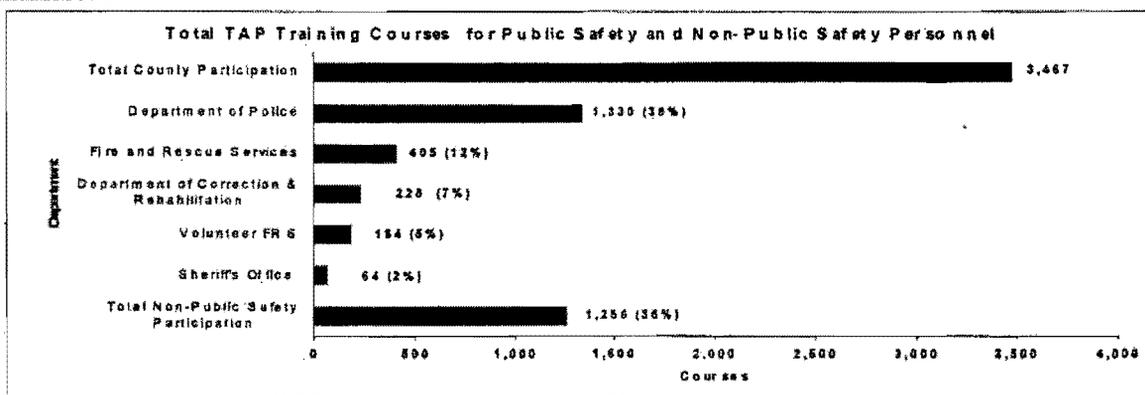
The primary goals of the Office of Inspector General (OIG) include: reviewing the effectiveness and efficiency of County government; preventing and detecting fraud, waste and abuse; and ensuring legal, fiscal, and ethical accountability by those responsible for managing resources and programs funded by Council appropriations. In this regard, our review of Montgomery County Government's (MCG) Tuition Assistance Program (TAP) focused on TAP policies, procedures and processes. As an additional consideration, processes related to the application for secondary employment<sup>1</sup> by MCG employees and the handling of these applications by the County Ethics Commission for TAP participants were also examined during our review. Our review did not include an evaluation of specific training courses paid with TAP funds.

TAP provides monetary assistance for County employees to attend classes/training for degree and non-degree educational objectives that relate to the employee's current job or career objective. The Program has two components: the Employee Training Assistance Program (ETAP) and the Job Improvement Tuition Assistance Program (JITAP). ETAP funds education or training to obtain a certificate, an associate's degree, a baccalaureate degree, or a graduate degree. JITAP funds credit courses, non-credit courses, or seminars, and only covers the cost of tuition and other direct or compulsory costs such as matriculation and registration.

In July 2009, the OIG began receiving allegations from MCG employees and others that TAP funds, administered by the Executive Branch Office of Human Resources (OHR), were being wasted, and policies and procedures governing TAP were being abused.

From fiscal year 2007 through September 4, 2009, the County spent approximately \$2,396,414 on 3,467 training courses for approximately 1,465 employees. During that period, 959 public safety<sup>2</sup> employees were approved for approximately 2,211 training courses, and 506 non-public safety personnel were approved for approximately 1,256 training courses. (See Exhibit 1).

### Exhibit 1

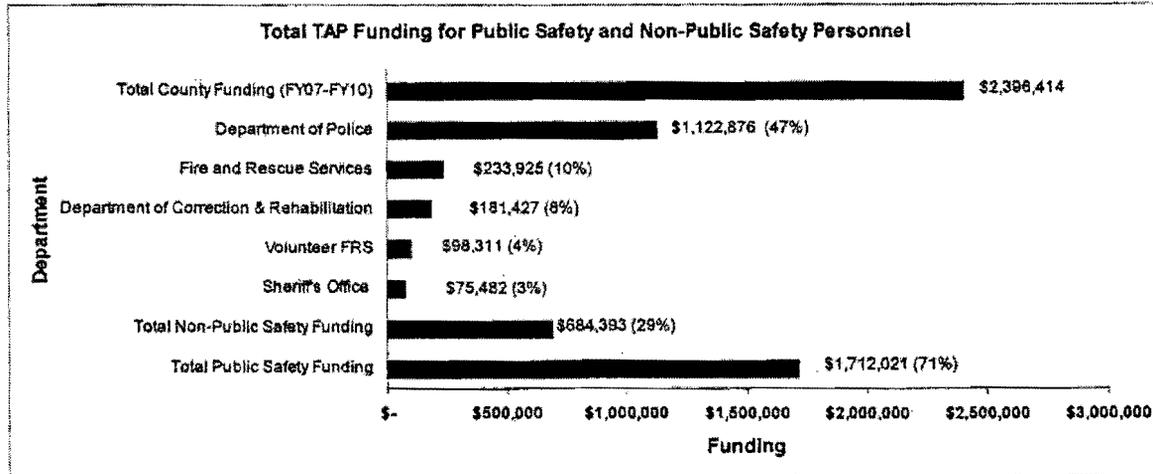


<sup>1</sup> The County Ethics Commission administers the application, approval and disapproval of all employment outside of County service by employees (known as secondary employment).

<sup>2</sup> Public Safety departments include: Department of Police; Fire and Rescue Services; Department of Correction & Rehabilitation; Volunteer Fire and Rescue Services; and Sheriff's Office.

The OIG identified approximately 596 Department of Police employees who participated in TAP (41 percent of the total County employees who utilized tuition assistance) at a cost of \$1,122,876, or 47 percent of the total TAP dollars spent during this time period. (See Exhibit 2).

**Exhibit 2**



**Conclusions**

MCG management is responsible for establishing and maintaining effective oversight and internal controls for TAP. The results of our review include three findings and recommendations that address deficiencies with management oversight, inadequate internal controls and insufficient action by County departments and the Ethics Commission to ensure employees and vendors participating in TAP were in compliance with County ethics, personnel and procurement regulations. This report also includes "Ideas to Explore" that are TAP and ethics-related practices of other local governments. The practices are included for Montgomery County officials to consider in their responsibilities for taking appropriate steps to protect TAP dollars from fraud, waste, and abuse.

In addition to corrective actions needed by management, we believe the Council should consider the results of our TAP review to determine if the County's ethics law should be amended or additional legislative oversight is needed to help establish and maintain fiscal, legal, and ethical accountability in TAP-related activities.

**Prior Audit or Review Activity**

During our review, management advised us that County policies, procedures and internal controls related to TAP and related secondary employment processes have never been audited or independently reviewed.

## Findings and Recommendations

### Finding 1

The lack of management oversight of TAP and inadequate internal controls enabled 216 County employees to purchase semi-automatic pistols and semi-automatic rifles for personal use which appears to have been subsidized with County funds.

#### Analysis

From fiscal year 2007 through September 4, 2009, the County spent approximately \$2,396,414 on 3,467 training courses for approximately 1,465 employees. As a result of the County's use of different processes for employees to utilize TAP funds and the absence of audits and independent reviews, TAP lacked the internal controls needed to ensure the propriety of all expenditures.

For example, in fiscal year 2009, the County budgeted \$775,350 for TAP, and spent approximately \$1,017,772. The Department of Police (DOP) spent \$499,187 (49 percent) of the County's training dollars funded through TAP. DOP employees accessed TAP funds throughout the fiscal year while non-DOP employees were limited to TAP funds on a first-come, first-served basis until the total budgeted TAP funds were depleted. According to OHR staff, the County was obligated to approve and fund tuition assistance requests on behalf of DOP employees throughout the fiscal year regardless of available funding in the TAP budget. In addition, as a result of the collective bargaining process, DOP employees were authorized to submit TAP applications directly to OHR without the knowledge and approval of each employee's supervisor. As a result, DOP applications were approved by OHR staff that did not always have sufficient subject matter knowledge or expertise to properly assess and approve training courses.

During fiscal year 2007 through September 4, 2009, two County vendors, Applied Sciences for Public Safety, LLC (ASPS) and Global Law Enforcement Advisory Group, LLC (Global) provided training classes to public safety employees through JITAP and were paid approximately \$482,584 with TAP funds. ASPS and Global provided County employees who attended certain firearms training classes the opportunity to purchase semi-automatic pistols (pistol) and semi-automatic rifles (rifle) at significantly reduced prices at the completion of the training courses. The County paid approximately \$326,752 to ASPS and Global for these firearm training classes. A local federally-licensed firearms dealer handled the registration and transfer of ownership of the pistols and rifles that were purchased.

As an example of the firearms training courses funded by TAP, ASPS provided a "Corrections Officer Carrying Concealed" course that was restricted to correctional officers on August 21-22, 2008 and November 8-10, 2008 in Laytonsville and Frederick, Maryland. The course advertisement stated that, upon successful completion of the course, each participant would qualify to purchase a Glock 9mm pistol for "only \$99." The course advertisement stated "tuition reimbursement paid by your agency" and "5 hours of in-service MPTC credit<sup>3</sup>." Approximately

<sup>3</sup> The Maryland Department of Police and Correctional Training Commission (PCTC) is the governing body for the certification of in-service training courses for Maryland correctional and police personnel and authorizes the number of credit hours for certified training classes for continued professional development and training. The

35 County correctional officers attended these training classes at a cost of \$1,495 per employee. Approximately 34 correctional officers who attended the classes purchased a pistol. The firearms dealer purchased the pistols at an average cost of approximately \$425 per pistol.<sup>4</sup> The dealer charged ASPS an average retail price of approximately \$522 per pistol. The OIG determined through discussions with Department of Correction and Rehabilitation management that County correctional officers are not authorized to carry a pistol as part of their duties and responsibilities.

The OIG found there were approximately 172 County public safety employees who attended ASPS and Global training classes and purchased a pistol for personal use (see Firearms Illustration 1 on page 18).<sup>5</sup> These employees submitted a "Handgun Application/Purchase" to the Maryland State Police for the registration of a pistol within approximately two days of completing the training courses. The County paid approximately \$256,352 in tuition for these classes with TAP funds that resulted in the purchase of the pistols for personal use. The total retail cost for the pistols purchased was approximately \$89,345 or 35 percent of the costs of tuition paid with TAP funds.

In addition, ASPS offered a "Police Shootout" training class on October 1-3, 2008 and October 8-10, 2008 that was attended by 41 County police officers and three deputy sheriffs. The OIG determined that each individual who participated in this course was eligible to purchase a rifle for \$350 at the end of this course for personal use (see Firearm Illustration 2 on page 18).<sup>6</sup> The wholesale price for each rifle was \$645 and the retail price was \$715. All 41 police officers and three deputy sheriffs who participated in this course purchased a rifle. The tuition cost for each employee was \$1,600 and was paid with TAP funds. The County paid approximately \$70,400 in tuition for these classes with TAP funds that resulted in the purchase of rifles for personal use. The total retail cost for these rifles was approximately \$31,460 or 45 percent of the costs of tuition paid with TAP funds.

The OIG also determined that, of the 216 County employees who purchased firearms, seven employees purchased both a pistol and a rifle by attending ASPS training classes.

The OIG did not identify any pistols or rifles purchased by Fire and Rescue Services (FRS) employees. However, information was provided to the OIG that ASPS was planning to offer a Fire Rescue Threat Awareness and Police Weapons familiarization training course to FRS employees through TAP where attendees could purchase a Glock pistol for \$99.

According to OHR representatives, an audit or independent review of TAP internal controls had never been conducted. In addition, we were advised OHR did not have defined performance measures for TAP.

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"Corrections Officer Carrying Concealed" training course offered by ASPS was not a PCTC-approved course. The ASPS declaration of "in-service MPTC credit" for this course was misleading. Additionally, the OIG was advised that no courses offered by ASPS were PCTC-approved for in-service credit.

<sup>4</sup> There were several different makes, models and calibers of pistols available for purchase. As such, the wholesale and retail prices for each pistol varied.

<sup>5</sup> Individuals who purchased pistols were from the DOP, Department of Correction and Rehabilitation, and Sheriff's Office.

<sup>6</sup> The OIG identified the rifle as a Rock River Arms, model LAR-15, semi-automatic rifle, caliber .223 or 5.56mm.

**Recommendation**

We recommend the Chief Administrative Officer (CAO) and the Director of Human Resources (Director) review TAP policies and procedures to identify methods to strengthen management oversight and internal controls to ensure that all County funds are protected from fraud, waste and abuse. We also recommend that the CAO and Director satisfy management’s regulatory requirements by retroactively identifying and reporting to the County Attorney and Council’s Audit Committee all significant abuse that occurred or is likely to have occurred with taxpayer dollars associated with TAP.

**Finding 2**

Proper management oversight and controls for police officer timesheets had not been established to ensure that police officers recorded work hours on their timesheets in accordance with TAP requirements and overall County policies.

**Analysis**

Montgomery County Personnel Regulations, Section 14-1 (c) paragraph 11, entitled “Employee Development,” states: *“An employee receiving tuition assistance must participate in the educational activity during the employee’s off duty hours, on a flexible work schedule or on approved leave, other than administrative or professional improvement leave.”* In addition, when an employee submits a tuition assistance application, either manually or electronically, employees certify on their applications that TAP course work/training will be taken during off-duty hours.

From a total of 3,467 applications, the OIG reviewed 75 randomly selected TAP files (which included 60 police officer files) and compared employee timesheet entries to the date(s) of TAP training. Our analysis determined that 30 of the 60 police officers (50 percent) were not in compliance with existing County policies and procedures governing leave associated with TAP. During the date(s) and times the 30 officers attended training, the time recorded on their timesheets was “regular work schedule,” “administrative-uncontested temporary disability leave” or “professional improvement leave.” Based on our analysis and discussions with DOP staff, we found that police officers frequently recorded TAP training time as regular work hours or other pay codes on their timesheets. However, the 30 police officers certified on the tuition assistance application(s) submitted to OHR that the coursework/training classes would be taken during off-duty hours. In addition, all timesheets reviewed for these police officers contained an employee signature that affirmed that their timesheets were true and accurate to the best of their knowledge and were approved by a supervisor.

Based on our analysis of 75 TAP files and related employee timesheet entries for the date(s) of training, approximately \$21,115 in questioned payroll costs representing 637 work hours were paid to TAP participants.

### Recommendation

We recommend that the CAO, working with the Chief of Police and Director of Finance (Director), conduct a comprehensive review of timesheets for police officers who attended approximately 1,330 TAP courses at a cost of approximately \$1.1 million in fiscal years 2007 through 2009 to identify and reconcile all inaccurate TAP-related work hour and timesheet entries. We also recommend that the CAO and Director review a sample of other TAP files and employee timesheets to determine the significance of any other inaccurate work hour and timesheet entries that may exist for approximately 2,137 other TAP courses at a cost of approximately \$1.2 million in fiscal years 2007 through 2009. Further, we recommend that the preliminary results of each review be reported to the Council and Executive no later than April 30, 2010.

### Finding 3

County departments and the Ethics Commission had not taken sufficient action to ensure employees and vendors participating in TAP were in compliance with County ethics, personnel and procurement regulations and that the County obtained TAP services at competitive prices.

### Analysis

From fiscal year 2007 through September 4, 2009, approximately 432 vendors provided County employees with various forms of training that were funded through OHR's TAP. Based on a review of Maryland's Department of Assessments and Taxation public documents, the OIG identified 10 County police officers and one County deputy sheriff<sup>7</sup> who had an economic interest<sup>8</sup> in one or more of nine JITAP vendors included in our review (See Appendix A). The County paid these vendors approximately \$638,884 (27 percent of total TAP dollars) during this time period (see Exhibit 4).

During our review, we identified three County processes that were vulnerable to potential conflicts of interest or other ethical breaches involving TAP activities and funding.

- The approval of TAP applications by employee departments or, depending on an employee's collective bargaining agreement, by OHR did not always have sufficient internal controls to protect County funds from waste and abuse. For example, as detailed in Finding 1, TAP applications for 34 correctional officers were approved to attend specific JITAP-funded training classes at a tuition cost of \$1,495 per officer. The process used to approve these TAP applications and the \$1,495 cost allowed each officer to purchase a pistol for personal use at a significantly reduced price (i.e. "only \$99") and appears to have enabled the TAP vendor to subsidize with County funds the \$522 average retail cost paid to the firearms dealer.

<sup>7</sup> Maryland Department of Assessments and Taxation records disclosed that the deputy sheriff had an economic interest in two of the vendors; the deputy sheriff is referred to as Employee B in Appendix A. Sheriff's Office employees are State employees who are funded by the County.

<sup>8</sup> According to the County Public Ethics Law, Section 19A-4 (j) which states: "*Interest or economic interest means any source of income or any other legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly, severally, directly or indirectly.*"

- The Ethics Commission had processes in place to fulfill its major responsibilities as required by the current ethics law. However, we found that the Commission's approval processes for employee secondary employment were not designed to effectively guard against improper influence, or the appearance of improper influence, regarding County TAP business administered by OHR. For example, three employees included in Appendix A disclosed on their secondary employment application approved by the Commission that they were the owners of their respective companies (Apex Security, LLC; I Drive Smart, Inc.; and Signal 13 Law Enforcement Training, LLC). County ethics regulations prohibit employees from having an economic interest in any business subject to the authority of, or doing business with the County agency or department for which they work (COMCOR 19A.06.02.04). The ethics law also prohibits employees from being employed by, or owning more than one percent of any business that negotiates or contracts with the County agency with which the public employee is affiliated (19A-12, Restrictions on other employment and business ownership).

When we discussed these issues with the Ethics Commission and other County officials, we were advised that the employees identified did not have an economic interest in an outside employer that was doing business with the MCG Police Department (in contrast to OHR, the personnel agency for all MCG employees). Therefore, the Commission concluded that no violation of the ethics law existed. We believe this situation has and will continue to expose County taxpayer dollars to waste and abuse until more comprehensive guidelines and monitoring are put in place.

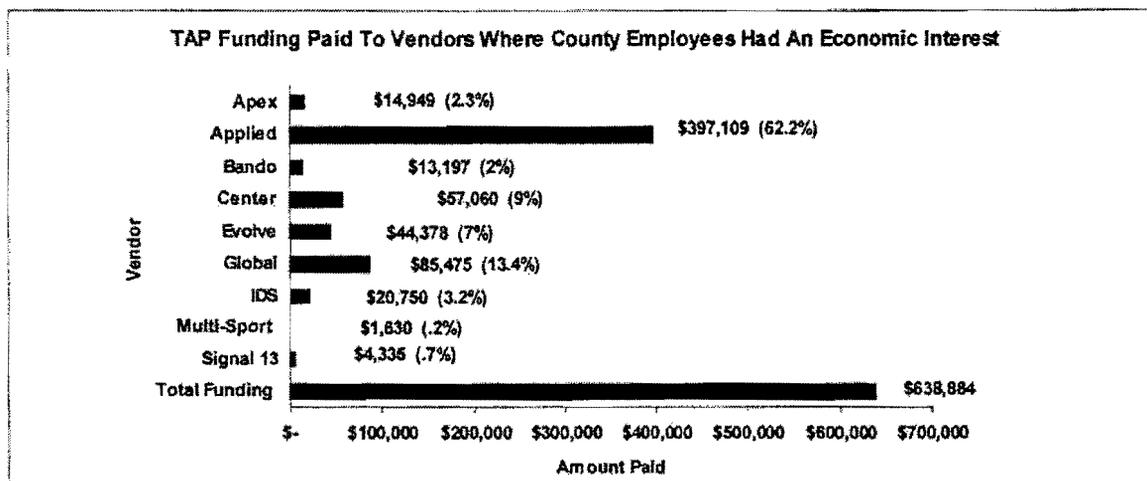
- County payments made by the Department of Finance to JITAP vendors were based on invoices submitted to and approved by OHR. However, for the JITAP vendors included in our review, we found that their approval by OHR as a County vendor was not based on the County's informal or formal solicitation processes to ensure the efficient use of taxpayer dollars. For example, Exhibit 3 lists all County payments approved by OHR to ASPS, a JITAP vendor, from June 2008 through June 2009.

**Exhibit 3 - MCG Payments to ASPS – June 2008 through June 2009**

<b>Fiscal Year</b>	<b>Payment Date</b>	<b>Amount Paid</b>
2008	6/10/2008	\$31,100
2008	6/25/2008	\$35,134
2009	8/22/2008	\$28,405
2009	9/4/2008	\$13,455
2009	10/9/2008	\$22,425
2009	10/27/2008	\$35,200
2009	10/27/2008	\$38,400
2009	11/19/2008	\$59,800
2009	12/5/2008	\$41,860
2009	4/8/2009	\$25,185
2009	6/16/2009	\$37,400
2009	6/22/2009	\$35,880
<b>Total</b>		<b>\$404,244</b>

Although ASPS was approved by OHR as a JITAP vendor and received approximately \$404,244 in County funds<sup>9</sup>, we were advised that ASPS was never required to comply with Procurement’s informal or formal solicitation procedures for goods or services of \$5,000 or more. According to Procurement, all tuition payments were listed in Procurement’s PMMD-148, “Payment Method for Selected Procurements,” dated September 28, 2009, as purchases that were not subject to County procurement regulations. We were advised that this long-standing practice was based on a County decision to classify all tuition payments as an “employee benefit.” Procurement staff indicated that they did not have any records directly related to procuring TAP-related services, nor had Procurement assisted OHR in procuring services provided by ASPS or any other TAP vendors.

**Exhibit 4**



Source: Department of Human Resources<sup>10</sup>

With regard to the prevention of potential conflicts of interest or other ethical breaches, we were advised that OHR and Procurement had no processes in place to determine if a JITAP vendor who received County funds was owned or operated by a County employee, or whether a County employee who owned a JITAP vendor company had been approved by the Ethics Commission for secondary employment. Further, we were advised that when Procurement staff had a question about a contract possibly involving a County employee, they were advised to contact the Ethics Commission. When we discussed these issues with the Ethics Commission, we found that there was little or no collaboration and communication between OHR, County departments, and the Ethics Commission to prevent or detect potential conflicts of interest by TAP participants and vendors.

In other situations, it appeared the County paid JITAP vendors significant tuition differences for employees who attended the same training class, depending on whether an employee had already used a portion of their fiscal year training dollar allotment by attending other training. For

<sup>9</sup> The Department of Finance provided this information to the OIG as a part of a County vendor expenditure data request.

<sup>10</sup> The Director of Human Resources provided this information and data to the OIG.

example, Apex Security, LLC (Apex) submitted an invoice dated June 4, 2009 to OHR for \$8,589 that contained the names of 14 employees who attended executive protection training on May 28, 2009. On the vendor invoice approved by OHR for payment, Apex charged the County \$650 for 11 employees, \$452 for two employees, and \$535 for one employee.

For TAP to be an effective program for County employees and to protect County funds from potential fraud, waste and abuse, detailed guidance on the roles and responsibilities of OHR, Procurement, Finance, and the Ethics Commission is needed. In our discussions with County personnel, it became apparent that individual County agencies were focused on their respective administrative TAP duties with limited cross-agency collaboration on fiscal, legal, and ethical matters.

**Recommendation**

We recommend that the CAO take the actions necessary to improve TAP oversight by working with County departments and the Ethics Commission to ensure TAP participants and vendors are in compliance with County ethics, personnel and procurement regulations, and that the County obtains TAP training services at competitive prices in accordance with Procurement regulations. In addition, we recommend increased collaboration and communication between OHR, County departments and the Ethics Commission to protect County funds from waste and abuse.

## Ideas to Explore

As part of our research to identify best practices, the OIG reviewed TAP and ethics program practices of other local governments. We recommend the Council and Executive consider the practices of other local governments, including those described below<sup>11</sup>, to help strengthen management oversight and internal controls for TAP and ensure TAP funds are protected from fraud, waste and abuse.

Anne Arundel County, Maryland requires an "Educational Planning Statement" which is a statement of the applicant's educational goal; the number of courses remaining to achieve the goal, and an approximate time frame within which the employee expects to complete the required classes. This form is required to be resubmitted if there is a significant change in educational goals. Additionally, Anne Arundel County requires that all TAP applicants: "read and agree to the TAP policy prior to receiving a financial benefit and provide evidence of satisfactory completion of the class(es) by submitting a copy of the grade report within thirty (30) days of course completion or upon immediate receipt of this information."

Fairfax County, Virginia requires that all coursework be administered by an institution accredited by the Southern Association of Colleges and Schools, the State Board of Education, or a similarly recognized accrediting agency. Fairfax County also requires an employee to provide evidence of satisfactory completion of the class(es) by submitting a copy of the grade report within ninety (90) days of course completion or upon immediate receipt of this information.

With regard to practices that focus on ethics, conflicts of interest, and secondary employment, the following examples were noted.

Frederick County, Maryland prohibits employees from holding or acquiring an interest in, or being employed by, a business entity that has or is negotiating a contract of \$1,000 or more with the county or is regulated by the employee's agency except as exempted by its Ethics Commission.

Carroll County, Maryland prohibits County officials and employees from holding or acquiring a financial interest in, or being employed by, a business entity that has or is negotiating a contract with the county or is regulated by the employee's agency, except as otherwise exempted by the Ethics Commission.

Fairfax County, Virginia, prohibits employees from having a personal interest in any contract with the county.

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<sup>11</sup> This information was obtained through research conducted primarily on the Internet. We recommend the requirements, prohibitions, and other practices be studied in greater detail by contacting the appropriate local government representative.

## **Scope, Objectives, and Methodology**

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Under the authority of Montgomery County Code §2-151, we conducted a review of the MCG TAP. We performed the review in accordance with the principles and standards for offices of inspectors general published by the Association of Inspectors General (AIG), the President's Council on Integrity and Efficiency, and other professional organizations. AIG general standards include staff qualifications, independence, and due professional care. AIG qualitative standards include quality control, planning, data collection and analysis, evidence, timeliness, fraud and other illegal acts, and confidentiality.

In July 2009, the OIG began examining TAP policies and procedures, including how OHR processed and approved TAP applications from MCG employees. Our four broad objectives were to determine if: 1) TAP policies and procedures were adequately and effectively managed, and whether processes and key controls were aligned and operating accordingly; 2) certain service providers of TAP were properly organized, licensed, and registered, if appropriate, for their knowledge and expertise; 3) TAP participant documentation was accurate, timely, and supported the disbursement of County funds, and whether County payments to service providers were accurate and in accordance with contractual terms, if appropriate; and, 4) internal controls for TAP were adequate to safeguard against the potential for fraud, waste and abuse.

To accomplish our objectives, we met with representatives of the County Attorney, OHR, Ethics Commission, Department of Police, County Sheriff, and others as deemed necessary. In addition, we requested from the CAO and subsequently reviewed all MCG policies and procedures relevant to TAP. We also assessed the adequacy of the County Ethics Commission's administration of the secondary employment application and approval process with respect to TAP activities and expenditures. The OIG took into consideration investigations that were being conducted by the County Attorney and other County departments. During our field work, we were advised of an audit of TAP by the Executive Branch's Office of Internal Audit. As of February 15, 2010, no information regarding the results of the investigations or audit had been publicly released.

### **Field Work and Management Response**

We conducted our fieldwork from July 2009 through February 2010. On January 19, 2010, preliminary results were discussed with Executive management and County Attorney office representatives at an exit conference. At this conference, we advised management that additional findings regarding the use of TAP funds to purchase firearms for personal use were likely. On January 22, 2010, certain preliminary results were discussed with members of the County Ethics Commission. On February 4, 2010, we discussed the additional information regarding firearm purchases with an Assistant Chief Administrative Officer. In addition, the review results were discussed with the County Sheriff. A final draft report was sent to the CAO on February 18 requesting a response no later than March 5. We also provided a copy of the final draft report to the Chair of the Ethics Commission and the County Sheriff. On March 4, management advised that a written response may be delayed until the week of March 8. Upon receipt of the management response, it will be incorporated into the final report. The written response from the Chair, Ethics Commission, dated March 1, 2010, is included in Appendix B.

**Appendix A**  
**Tuition Assistance Program Review**  
**Summary of Montgomery County Employees with an Economic Interest in TAP Vendors**  
**FY 2007 through FY 2010 (September 4, 2009)**

	<b>Employee</b>	<b>Name of Vendor</b>	<b>Amount Paid to Vendor by County</b>	<b>Number of Participants</b>	<b>Description of Findings</b>
1	Employee A	Apex Security, LLC	\$14,949	16	<ul style="list-style-type: none"> <li>• 16 County police officers submitted a total of 20 TAP applications for funding for training courses offered by Apex.</li> <li>• The Articles of Organization filed by Apex on May 17, 2008, with the State of Maryland (referred to as the State hereafter), listed Employee A, a County police officer, as the resident agent<sup>12</sup>.</li> <li>• On the renewal application for secondary employment with the Ethics Commission dated July 25, 2008, Employee A answered "yes" to the question, "Is the employer, owner, manager, or immediate supervisor a Montgomery County Police Department employee?" He stated the duties to be performed included "Manage Company. Act as a surveillance officer – surveillance activity (notify proper authorities if necessary)." Additionally, he listed his position with Apex as "owner." There was no indication that the Ethics Commission performed any follow-up inquiries to ensure Employee A was in compliance with Montgomery County ethics regulations.</li> <li>• On August 20, 2008, a Trade Name Application was filed by Apex with the State and listed Employee A as the owner. The application listed the description of the business as "security consulting, executive protection."</li> </ul>

<sup>12</sup> Resident agent, as defined by the Maryland Department of Assessments and Taxation, is another entity or individual designated to accept service of process for the business.

	Employee	Name of Vendor	Amount Paid to Vendor by County	Number of Participants	Description of Findings
2	Employee B	Applied Sciences for Public Safety, LLC	\$397,109 <sup>13</sup>	267	<ul style="list-style-type: none"> <li>• 203 County police officers, 35 employees from the Department of Correction and Rehabilitation and 29 deputy sheriffs submitted a total of 279 TAP applications for training courses offered by Applied.</li> <li>• The Articles of Organization filed by Applied with the State on February 25, 2008, listed the address of the principal office of the company as being co-owned by Employee B, a deputy sheriff. The principal use of this property was listed as residential.</li> <li>• On October 3, 2008, Employee B submitted a secondary employment request to the Chief Deputy Sheriff and was approved to work for Applied as an instructor, range safety, role player and demonstrator.</li> </ul>
3	Employee C	Bando Systems, LLC	\$13,197	9	<ul style="list-style-type: none"> <li>• Nine County police officers submitted one TAP application each for training courses offered by Bando.</li> <li>• On April 16, 2007, Employee C, a County police officer, filed a secondary employment application with the Ethics Commission stating that he would be a "teacher of Bando (Burmese self-defense system), to law enforcement, military, security and other interested groups/individuals. Teach principles of armed and unarmed combat as well as nutrition and sports conditioning."</li> <li>• The Articles of Amendment filed by Bando with the State on February 12, 2009, listed Employee C as being an equal partner for Bando with two other individuals, who were not Montgomery County employees.</li> <li>• All nine police officers received their training after February 12, 2009.</li> </ul>
4	Employee B	The Center for Public Safety and Research, LLC	\$57,060	42	<ul style="list-style-type: none"> <li>• 41 County police officers and one deputy sheriff submitted one TAP application each for training courses offered by Center.</li> <li>• Employee B, a deputy sheriff, did not file a secondary employment application for Center with the Sheriff's Department.</li> <li>• The Articles of Organization filed by Center with the State on May 21, 2007 listed a resident agent who is not a County employee.</li> </ul>

<sup>13</sup> The source of this data was provided by the Director of Human Resources for TAP payments to this vendor.

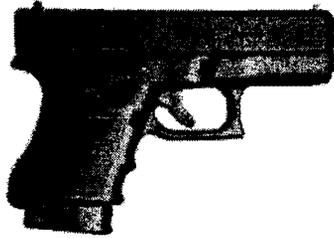
	Employee	Name of Vendor	Amount Paid to Vendor by County	Number of Participants	Description of Findings
					<ul style="list-style-type: none"> <li>State records identified the post office address of Center as the same address as the principal office location for Applied Sciences for Public Safety, LLC. This property is co-owned by Employee B. The principle use of this property was listed as residential.</li> </ul>
5	Employee D	Evolve Academy of Martial Arts, LLC	\$44,378	21	<ul style="list-style-type: none"> <li>16 County police officers, four employees from the Department of Correction and Rehabilitation and one deputy sheriff submitted a total of 33 TAP applications for training courses offered by Evolve.</li> <li>The Articles of Organization filed by Evolve with the State listed a resident agent who is not a County employee.</li> <li>According to the Internet web page for Evolve, Employee D, a County police officer, is listed as an instructor for Evolve.</li> <li>Employee D did not file a secondary employment application with the Ethics Commission to work for Evolve.</li> </ul>
6	Employee E  Employee F	Global Law Enforcement Advisory Group, LLC	\$85,475	80	<ul style="list-style-type: none"> <li>69 County police officers and 11 deputy sheriffs submitted a total of 87 TAP applications for training courses offered by Global.</li> <li>The Articles of Organization filed by Global with the State on November 24, 2003, identified Employee E and Employee F, both County police officers, as two of the four "members" of Global.</li> <li>State records identified the post office address for Global as being owned by Employee E. The principal use of this property was listed as residential.</li> <li>Employee E disclosed on his application for secondary employment with the Ethics Commission dated January 28, 2004 that the duties he would perform for Global would include "Training/writing – general consulting services." Employee E answered "no" on the secondary employment application to the question, "Is the employer, owner, manager, or immediate supervisor a Montgomery County Police Department employee?"</li> <li>Employee F disclosed on his application for secondary employment with the Ethics Commission dated February 12, 2005 that the duties he would perform for Global would be "Training/writing – general consulting services."</li> </ul>



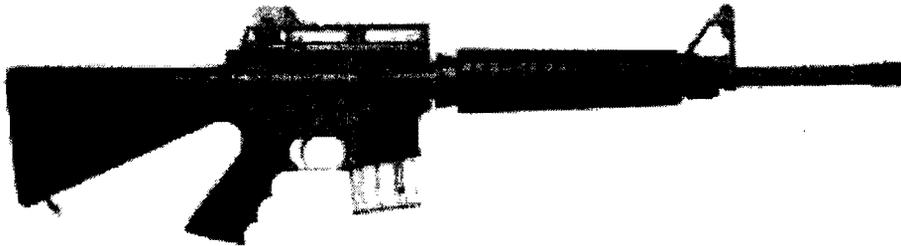
	Employee	Name of Vendor	Amount Paid to Vendor by County	Number of Participants	Description of Findings
					<ul style="list-style-type: none"> <li>State records identified the owner of the principal office of the corporation as Employee G. The principal use of this property was listed as residential.</li> </ul>
8	Employee I	Multi-Sport/Brigadoon Group, LLC	\$1,630	1	<ul style="list-style-type: none"> <li>One County police officer submitted one TAP application for a training course offered by Multi-Sport.</li> <li>The Articles of Organization filed by Multi-Sport on January 27, 2003 with the State identified Employee I, a County police officer, as the resident agent.</li> <li>An Articles of Amendment was filed by Multi-Sport on April 5, 2005 and listed Employee I as the "authorized person" to execute the amendment.</li> <li>State records identified Employee I as the owner of the "mail to address" for Multi-Sport. The principal use of this property was listed as residential.</li> <li>Employee I did not file a secondary employment application with the Ethics Commission for Multi-Sport.</li> </ul>
9	Employee J  Employee K	Signal 13 Law Enforcement Training, LLC	\$4,335	22	<ul style="list-style-type: none"> <li>22 County police officers submitted a total of 49 TAP applications for courses offered by Signal 13.</li> <li>The Articles of Organization filed by Signal 13 on October 27, 2008 with the State listed Employee J, a County police officer, as the resident agent and authorized person of Signal 13.</li> <li>State records identified the owner of Signal 13's address as Employee J. The principal use of this property was listed as residential.</li> <li>Employee J submitted a Signal 13 invoice, under his signature, to the TAP coordinator for payment.</li> <li>Employee J and Employee K, both County police officers, are identified as "co-owner/instructor" of Signal 13 on a County training attendance certificate, under their signatures. The certificate was issued to a police officer who attended a training course offered by Signal 13.</li> <li>Employee K filed a secondary employment application with the Ethics Commission in 2008 where he listed himself as an owner of Signal 13. There was no indication that the Ethics Commission performed any follow-up</li> </ul>

	<b>Employee</b>	<b>Name of Vendor</b>	<b>Amount Paid to Vendor by County</b>	<b>Number of Participants</b>	<b>Description of Findings</b>
					inquiries to ensure Employee K was in compliance with Montgomery County ethics regulations. <ul style="list-style-type: none"> <li>• Employee J and Employee K are listed as “co-founders” for Signal 13 on their Internet website.</li> </ul>
	<b>Totals</b>		<b>\$638,884</b>	<b>537</b>	

## Firearm Illustrations<sup>15</sup>



**Illustration 1:** Glock model 30; 45 caliber, semi-automatic pistol<sup>16</sup>.



**Illustration 2:** Rock River Arms, model LAR-15, semi-automatic rifle; caliber .223 or 5.56mm<sup>17</sup>.

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<sup>15</sup> Per the Bureau of Alcohol, Tobacco, Firearms and Explosives, a semi-automatic pistol/rifle is defined as: *“Any repeating pistol/rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.”*

<sup>16</sup> The Glock model 30, 45 caliber model was the most popular pistol purchased by County employees who attended TAP funded training courses.

<sup>17</sup> The Rock River Arms, model LAR-15 .223 and 5.56 caliber rifles were the only rifles purchased by County employees who attended TAP funded training courses.



## MONTGOMERY COUNTY ETHICS COMMISSION

Stuart D. Rick  
Chair

Nina A. Weisbrath  
Vice Chair

March 1, 2010

Mr. Thomas Dagley  
Inspector General  
51 Monroe Street, Suite 802  
Rockville, MD 20850

Dear Mr. Dagley:

Thank you for affording the Montgomery County Ethics Commission this opportunity to provide a formal response to the findings and recommendations in the draft report of your office's review of the Montgomery County Government's Tuition Assistance Program (TAP). The report concludes that in administering the secondary employment approval process, the Commission was deficient in ensuring that employees and vendors participating in TAP were in compliance with County ethics regulations. For the reasons that follow, the Commission respectfully disagrees with that conclusion.

As noted in the report, TAP provides monetary assistance for county employees to attend training classes. The TAP is administered by the County Executive Branch Office of Human Resources (OHR). The TAP connection to the secondary employment approval process administered by the Commission is, at most, tangential. The connection drawn in the report is that some county police officers may have owned companies that provided training paid for under TAP. The report cites a lack of follow-up by the Commission to these police officers' answers to the question, "Is the employer, owner, manager, or immediate supervisor a Montgomery County Police Department employee," which was in their original or renewal applications for secondary employment with those companies.

The application question at issue collects information pertinent to the provisions in County directives that generally prohibit a public employee (1) from having an economic interest in any business subject to the authority of, or doing business with, that employee's agency,<sup>1</sup> and (2) from working for a person or entity in which an economic

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<sup>1</sup> Montgomery County Code § 19A-12(b)(1); COMCOR 19A.06.02.04.4 (ethics commission outside employment regulation); COMCOR 19A.06.01.05(J) (police department executive regulation); MCPD Function Code 355 § V(J); and FOP contract art. 27(D)(10).

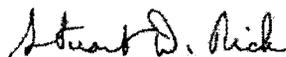
interest is held by that employee's supervisor or subordinate.<sup>2</sup> The police officers did not have an economic interest in an outside employer that was subject to the authority of, or doing business with, the Montgomery County Police Department (MCPD) because the MCPD does not administer TAP. Furthermore, there is not any finding in the report that in their secondary employment, these police officers were employing other county employees who supervised them or who were their supervisors in the MCPD. Thus, the report cites no actual violation of regulations administered by the Ethics Commission.

It is hard to understand, therefore, how any follow-up by the Commission would have ensured compliance with the County ethics regulations and why the Office of Inspector General found this to be a deficiency that warranted inclusion in a report about TAP. Despite our best efforts to obtain an explanation from the Office of Inspector General as to why it is holding the Ethics Commission accountable for TAP, the Office of Inspector General has not provided one to us.

The Commission certainly shares the Inspector General office's concerns about the apparent use of TAP funds to subsidize the purchase of firearms for personal use and the recording of TAP training time as regular work hours, as detailed in the report. However, those issues are not related to the secondary employment approval process administered by the Commission.

Thank you again for this opportunity to provide a formal response.

For the Commission:



Stuart D. Rick  
Chairman

cc: Timothy Firestine, CAO  
Raymond Kight, County Sheriff  
Kathleen Boucher, ACAO

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<sup>2</sup> COMCOR 19A.06.02.04.3 (ethics commission outside employment regulation); COMCOR 19A.06.01.05(R) (police department executive regulation); MCPD Function Code 355 § V(R); and FOP contract art. 27(D)(18).



## OFFICE OF THE COUNTY EXECUTIVE

Isiah Leggett  
County Executive

Timothy L. Firestine  
Chief Administrative Officer

March 8, 2010

TO: Thomas J. Dagley, Inspector General

FROM: Timothy L. Firestine, Chief Administrative Officer

SUBJECT: Inspector General's Final Draft Report: Montgomery County Government Tuition Assistance Program

This memorandum is the management response to the Final Draft Report issued by the Office of Inspector General entitled *Montgomery County Government Tuition Assistance Program*. We appreciate the opportunity to comment on this report and note that it supplements extensive work that we initiated last fall immediately upon learning from Sheriff Raymond Kight about his concerns that Tuition Assistance Program (TAP) funds were being used to subsidize the purchase of discounted firearms, including:

- (i) The hiring of an independent investigator by the County Attorney's Office which resulted in the filing of a lawsuit against Applied Sciences for Public Safety, LLC (ASPS) and Aaron Kenneth Bailey (Bailey) on March 3, 2010 to recover \$400,800 in TAP funds that were obtained fraudulently by ASPS and Bailey by claiming to provide County employees with training related to their public safety positions when, in fact, they used a portion of that public money to subsidize the employees' purchase of firearms and related equipment for personal use;
- (ii) An internal investigation by the Police Department to review timesheets for all police officers who attended TAP training courses in fiscal years 2007, 2008, and 2009. When the internal investigation is complete, appropriate measures will be taken, in collaboration with the Office of Human Resources (OHR), the County Attorney, and the Finance Department to address any violations of law or policy. Where employees have violated timesheet rules, OHR will make a payroll adjustment to deduct leave. OHR and the Finance Department are also working together to review a sample of non-police County employee timesheets in order to determine if there were any similar payroll errors for employees who were approved for TAP training;

- (iii) A review by OHR of policies and procedures governing the TAP program which has resulted in a number of changes (discussed below) that will make it more difficult for this type of fraud to occur in the future; and
- (iv) An audit of the TAP program conducted by the County's internal auditor which is still underway.

**1. OIG Report process violates County Law**

In a memorandum to me dated February 18, 2010, you requested that I provide a response to this Final Draft Report by Friday, March 5<sup>th</sup>. Although an Assistant Chief Administrative Officer asked you on Thursday, March 4<sup>th</sup> if the management response could be delayed until Monday, March 8<sup>th</sup>, you never answered that question and preemptively issued your report on the morning of Friday, March 5<sup>th</sup> – *i.e.*, before the deadline you had given for a management response -- to all Councilmembers, the Council Staff Director, the Chairman of the Ethics Commission, the County Sheriff, and me. Not only does your early release of the report indicate a common lack of courtesy, it is inconsistent with the law under which you operate.

Section 2-151(k)(2) of the County Code provides a chronological process that the Inspector General must follow when issuing a report. Before releasing a report to anyone, each "affected agency" must first be given "a reasonable opportunity to respond to the Inspector General's final draft." Before releasing a report to the public, the Inspector General must then give the County's elected officials a "reasonable opportunity to review the report." The law clearly contemplates that a management response for each affected agency will be included in the report that is given to the County's elected officials. The purpose of this process is clear. The Executive and Councilmembers need an opportunity to understand the full nature of the matters raised in a report in order to respond to public inquiry after the report is made public. These elected officials cannot be fully informed without also having an opportunity to review the management response of each affected agency.

Your preemptive early release of a report to the individuals listed above without our management response was a violation of the requirement set out in §2-151(k)(2) that management be provided a reasonable opportunity to respond to the "final draft" of a report before it is issued to anyone. And unless you intend to provide additional time for Executive and Council review of the report you have already issued after appending this response, the Executive and Council will not be afforded "a reasonable opportunity to review the report" as was intended by §2-151(k)(2).

**2. OIG Report – Finding 1/Recommendation 1**

*The lack of management oversight of TAP and inadequate internal controls enabled 216 County employees to purchase semi-automatic pistols and semi-automatic rifles for personal use which appears to have been subsidized with County funds.*

*We recommend the Chief Administrative Officer (CAO) and the Director of Human Resources (Director) review TAP policies and procedures to identify methods to strengthen management oversight and internal controls to ensure that all County funds are protected from fraud, waste and abuse. We also recommend that the CAO and Director satisfy management's regulatory requirements by retroactively identifying and reporting to the County Attorney and Council's Audit Committee all significant abuse that occurred or is likely to have occurred with taxpayer dollars associated with TAP.*

### **Management Response**

The County believes that Applied Sciences for Public Safety, LLC (ASPS) and Aaron Kenneth Bailey (Bailey) defrauded the County out of tuition assistance funds by claiming to provide County employees with training related to their public safety positions when, in fact, they used a portion of that public money to subsidize the employees' purchase of firearms and related equipment for personal use. The County filed a lawsuit against ASPS and Bailey on March 3, 2010, seeking \$400,800 in compensatory damages and \$500,000 in punitive damages. Lack of management oversight did not cause this alleged fraud. It was caused by deceitful actions of ASPS and Bailey. The OIG report fails to acknowledge this fact in any way.

However, the County has taken steps to make it more difficult for this type of fraud to occur in the future. In FY10, the Office of Human Resources (OHR) strengthened its internal controls and management oversight of the tuition assistance program by establishing a second level of management review for all applications and creating an annual internal review process for all FY10 applications. In addition, the County's internal auditor is in the process of conducting an internal audit of the tuition assistance program files for FY06-FY10. OHR management is currently working with the CountyStat Office to develop an evaluation strategy and performance measures for TAP to implement in FY11. OHR has also negotiated changes in the MCGEO collective bargaining agreement, which serves as a template for the other bargaining units to ensure tighter program controls and accountability. The Office of the County Attorney conducted an investigation of the tuition assistance program focusing on recovering funds which have been obtained in a fraudulent manner.

### **3. OIG Report - Finding 1 - Analysis**

*Department of Police (DOP) employees accessed TAP funds throughout the fiscal year while non-DOP employees were limited to TAP funds on a first-come, first-served basis until the total budgeted TAP funds were depleted. According to OHR staff, the County was obligated to approve and fund tuition assistance requests on behalf of DOP employees throughout the fiscal year regardless of available funding in the TAP budget.*

### **Management Response**

Under the collective bargaining agreement with the Fraternal Order of Police (FOP), the County is obligated to approve and fund, regardless of available funding in the TAP

budget, all tuition assistance requests submitted by FOP members based on an arbitration decision issued by Joseph M. Sharnoff on June 15, 1992. Mr. Sharnoff opined that all FOP members were entitled, under the FOP's collective bargaining agreement, to a specific amount of tuition assistance funds whether or not there are sufficient funds available to meet the requests of police officers in the bargaining unit. The Arbitrator ruled that County's refusal to reimburse FOP members for tuition assistance funds violated Article 39 of the collective bargaining agreement.<sup>1</sup> This arbitration ruling does not apply to civilian or management employees in the Department of Police (DOP) who are not FOP members.

#### 4. **OIG Report – Finding 2/Recommendation 2**

*Proper management oversight and controls for police officer time sheets had not been established to ensure that police officers recorded work hours on their time sheets in accordance with TAP requirements and overall County policies.*

*We recommend that the CAO, working with the Chief of Police and Director of Finance (Director), conduct a comprehensive review of time sheets for police officers who attended approximately 1,330 TAP courses at a cost of approximately \$1.1 million in fiscal years 2007 through 2009 to identify and reconcile all inaccurate TAP-related work hour and timesheet entries. We also recommend that the CAO and Director review a sample of other TAP files and employee timesheets to determine the significance of any other inaccurate work hour and timesheet entries that may exist for approximately 2,137 other TAP courses at a cost of approximately \$1.2 million in fiscal years 2007 through 2009. Further, we recommend that the preliminary results of each review be reported to the Council and Executive no later than April 30, 2010.*

#### **Management Response**

The Police Department is conducting a review of timesheets for all police officers who attended TAP training in fiscal years 2007, 2008, and 2009. This review has been a part of the administrative investigation being conducted by the Department's Internal Affairs Division, begun last year. Once the administrative investigation is completed, appropriate measures will be taken, in collaboration with OHR, the County Attorney, and the Finance Department to address any violations of law or policy. Where employees have violated timesheet rules, OHR will make a payroll adjustment to deduct leave. OHR and the Finance Department will also work together to review a sample of non-police County employee timesheets for those employees who were approved for TAP training during the period noted, in order to identify any similar payroll errors. We will keep the OIG apprised of the progress of that review. Any payroll errors will also be addressed in coordination with the County Attorney.

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<sup>1</sup> The Office of the County Attorney advises that, notwithstanding Sharnoff's 1992 Opinion, tuition assistance available to members of the FOP under Article 39 would be limited to the amount of OHR's operating budget or any specific limitation imposed by the Council in OHR's budget.

## 5. **OIG Report – Finding 3/Recommendation 3**

*County departments and the Ethics Commission had not taken sufficient action to ensure employees and vendors participating in TAP were in compliance with County ethics, personnel and procurement regulations and that the County obtained TAP services at competitive prices.*

*We recommend that the CAO take the actions necessary to improve TAP oversight by working with County departments and the Ethics Commission to ensure TAP participants and vendors are in compliance with County ethics, personnel and procurement regulations, and that the County obtains TAP training services at competitive prices in accordance with Procurement regulations. In addition, we recommend increased collaboration and communication between OHR, County departments and the Ethics Commission to protect County funds from waste and abuse.*

### **Management Response**

With regard to the report's conclusion that County employees did not comply with County ethics laws, we concur with the comments of Ethics Commission Chair Stuart Rick. The police officers referenced in the report did not have an economic interest in an outside employer that was subject to the authority, or doing business with, the Police Department because the Police Department does not administer TAP. Furthermore, there is no finding in the report that, in their secondary employment, these police officers were employing other County employees who supervised them or who were their supervisors in the Police Department. Thus, the report, despite its implication to the contrary, cites no violation of regulations administered by the Ethics Commission.

With regard to the report's conclusion that the County did not comply with County procurement law, we disagree. TAP is an *employee-initiated* County program, which OHR has administered for over thirty years and has always been considered an employee benefit. TAP vendors are individually selected by each employee who submits a TAP application, depending on their current job or career educational goals. The TAP is available to help pay the costs of education and training selected by County employees to take during their off-duty hours. In essence, TAP is a type of compensation to employees and the employee decides whether to access this fringe benefit. TAP funds that are used for a degree program are taxable income to the employee. TAP funds that are used for non-degree programs that are job-related are a non-taxable fringe benefit to the employee. Hence, the TAP Program is far removed from the County's Procurement system, which governs the acquisition of service, goods, and construction, by the County.

## 6. **OIG Report Finding 3 – Analysis**

*In other situations, it appeared the County paid JITAP vendors significant tuition differences for employees who attended the same training class, depending on whether an*

*employee had already used a portion of their fiscal year training dollar allotment by attending other training. For example, Apex Security, LLC (Apex) submitted an invoice dated June 4, 2009 to OHR for \$8,589 that contained the names of 14 employees who attended executive protection training on May 28, 2009. On the vendor invoice approved by OHR for payment, Apex charged the County \$650 for 11 employees, \$452 for two employees, and \$535 for one employee.*

### **Management Response**

OHR systematically reviews all invoices against the employee's Tuition Assistance Application and the OHR Tuition Assistance Access Database (maintained electronically) to verify the accuracy of the invoice prior to payment. In the Apex Security, LLC example, the invoices were cross checked against approved applications and the TAP Access database to ensure proper distribution of funds. In the Apex Security, LLC example, the invoice charged different dollar amounts to three different employees because those three employees had previously been authorized tuition assistance funds in the same fiscal year and were authorized for a lower dollar amount than the other 11 individuals who had not received tuition assistance funds in the same fiscal year. Many times, employees submit multiple applications for different classes in the same fiscal year and that is the reason why some employees receive different amounts of tuition assistance funding for the same courses identified by the Office of the Inspector General's Report. The TAP funds disbursed did not exceed the annual limit for each employee.

### **7. OIG Report – Ideas to Explore**

Page 10 of the OIG report outlines a number of ideas regarding tuition assistance programs in other jurisdictions that the OIG believes the County should explore.

### **Management Response**

We look forward to participating in any discussions relating to ways in which the TAP program can be improved. However, it is important to keep in mind that some of the ideas identified in the OIG report would require changes to County law or collective bargaining agreements.

TLF:kb

**Office of Inspector General Staff  
(March 2010)**

Thomas J. Dagley, Inspector General  
Christopher Giusti, Deputy Inspector General  
Gary G. Weishaar, Assistant Inspector General

**Contact us at:**

Inspector General  
51 Monroe Street  
Suite 802  
Rockville, Maryland 20850  
240-777-8240

**[ig@montgomerycountymd.gov](mailto:ig@montgomerycountymd.gov)**

Confidential OIG Fraud Hotline: 1-800-971-6059 Website:

**<http://www.montgomerycountymd.gov/ig>**



OFFICE OF HUMAN RESOURCES

Isiah Leggett  
*County Executive*

Joseph Adler  
*Director*

MEMORANDUM

March 19, 2010

TO: Duchy Trachtenberg, Chair  
Management and Fiscal Policy Committee

Phil Andrews, Chair  
Public Safety Committee

FROM: Joseph Adler, Director  
Office of Human Resources

SUBJECT: MCG Tuition Assistance Program

In FY10, the Office of Human Resources (OHR) management has strengthened its internal controls and management oversight of the tuition assistance program (TAP) in the following ways to ensure that all County funds are protected from fraud, waste, and abuse.

- Reviewed all policies, procedures, and forms governing the TAP program which resulted in a number of changes (discussed below) to strengthen the management oversight of the program.
- Established a second level of management review for all applications.
- Created an annual internal review process for all FY10 applications.
- Worked with the CountyStat Office during this fiscal year to develop an evaluation strategy and performance measures for Tuition Assistance to implement in FY11.
- Created an electronic database of course descriptions for FY2008-2009 courses.
- Developed a revised process for obtaining course certificates of completion and grade reports from participants in the County's Tuition Assistance Program.
- Supported the Police Department's internal investigation to review timesheets for all police officers who attended TAP training courses in fiscal years 2007, 2008, and 2009. OHR and the Finance Department are also working together to review a sample of non-police County

employee timesheets in order to determine if there are any similar payroll errors for employees who are approved for TAP training.

- Conducted an internal audit of the tuition assistance program files for FY06-FY10. The audit was recently performed by the County's internal auditor and results are pending.
- Revising the County's personnel policies and procedures for unrepresented employees to be completed in FY11 based on recommendations from the Office of Inspector General (OIG) Report and the County's Internal Auditor's findings.
- Negotiated changes in the United Food and Commercial Workers Local 1994, Municipal and County Government Employees Organization (MCGEO) collective bargaining agreement, which serves as a template for the other bargaining units, to ensure tighter program controls and accountability. As a result of these changes, the County lifted the suspension of the TAP for members of MCGEO, Local 1994 as of December 15, 2009. These changes include:
  - Departmental Director signature on all Tuition Assistance Forms;
  - Itemized bill with all costs broken down to include tuition and all fees required at time of submission of application;
  - All course work must be held in the U.S.A.;
  - No funding of courses which are primarily recreational or utilize a specific faith based method as a primary approach to problem solving or treatment;
  - Approved Tuition Assistance funds are for tuition only. Compulsory fees such as registration, lab, library, or technology fees are not covered.

The County continues the suspension of Tuition Assistance funds for members of Fraternal Order of Police (FOP) Lodge No. 35, Inc, who have filed a grievance contesting this action. The County is currently in discussions with the Montgomery County Career Fire Fighters Association of the International Association of Fire Fighters (IAFF), Local No.1664 to resume the program with additional safeguards.

We look forward to participating in discussions relating to ways the TAP can continue to be improved. As previously noted, in the County's response to the Office of Inspector General report, some identified changes would require revisions to County law, personnel regulations, or collective bargaining agreements.

As you may be aware, the County Executive's proposed FY 2011 budget calls for a one year suspension of TAP due to budget constraints.

If you have any additional questions, please contact me at 240-777-5100.



OFFICE OF HUMAN RESOURCES

Isiah Leggett  
County Executive

Joseph Adler  
Director

MEMORANDUM

December 15, 2009

TO: Executive Branch Department and Office Directors

FROM: Joseph Adler, Director  
Office of Human Resources

SUBJECT: Tuition Reimbursement Program

Local 1994 UFCW, MCGEO and the County have agreed to several changes to the administration of the Tuition Assistance Program for the remainder of FY 10. As a result, the County will lift the suspension on Tuesday, December 15, 2009 and begin to process TAP applications from County employees who are members of Local 1994. Listed below are the agreed upon changes and modifications:

The County may approve tuition assistance for unit member development related to the unit member's current job functions or ~~those of another County position~~ **career ladder in the same job series or profession.**

~~The Employer may approve tuition assistance for tuition and compulsory fees such as matriculation, registration, laboratory, and library fees.~~

**Employee must receive approval from the Department Director prior to submitting tuition assistance request to the Office of Human Resources for review.**

**The County may approve tuition assistance towards education and training to obtain a professionally recognized certificate, i.e., Associate degree, Bachelor's degree, or Graduate degree.**

**Colleges and Universities attended with tuition assistance funds must be accredited by a recognized accrediting agency.**

**All other short term training programs must relate to the employee's current job or career ladder in the same job series or profession.**

**The County may approve tuition assistance for tuition payments only. The Employer will not approve tuition assistance for compulsory fees such as matriculation, registration, laboratory, and library fees.**

The County will not approve tuition assistance for books, supplies, or extra fees such as late registration and parking.

**All classes approved for tuition assistance must be held in the United States.**

**The County will not reimburse for courses which are primarily recreational, or utilize a specific faith-based method as a primary approach to problem solving or treatment.**

Tuition assistance is available on a first-come first-served basis until all authorized funding has been obligated.

Employees receiving tuition assistance must attend the activities for which they are receiving tuition assistance during their off duty hours.

An employee who received tuition assistance must complete the training with a passing grade, or the employee must reimburse the County for the amount of the County's tuition assistance.

**An employee who is not approved for tuition assistance may file a grievance only if the denial by the employer was arbitrary and capricious. Actions taken by the employer to be in compliance with the first come first served basis may not be grieved.**

Please note that this revised process is for MCGEO members only. The program is still suspended for all other represented and non-represented employees. Additionally, the revised application flow will require a signature, and a justification for approval by the department director.

Attached you will a copy of the application form and a revised list of conditions for granting employee request for tuition assistance.

Please contact me at 240-777-5010 if you have any questions.

cc: Timothy Firestine, CAO

Attachment



# Tuition Assistance Application

## MCGEO Bargaining Unit

APPLICATION FOR FY2010 (Check one): FALL 2009\_\_\_ WINTER\_\_\_ SPRING\_\_\_ 2010

Name (Last, First, Middle)	Social Security #	Home Phone	Cell Phone
Pay Grade	Job Title	Office Phone Number	Fax Number
Department	Division	Work Mailing Address Location	Have you previously had tuition assistance? yes___ no___

Is your position included in one of the following Bargaining Units, please check the appropriate one.  
Office, Professional & Technical (MCGEO/OPT)  
Service, Labor & Trades (MCGEO/SLT)

(Limit \$1730 FT/ \$865 PT)\_\_\_

### COURSE(S) REQUESTED

Course #	Course Title	# of Credits	Tuition Cost
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
NAME OF SCHOOL _____		TOTAL Tuition	\$ _____

Course Registration Date: \_\_\_\_\_ Course Starting Date: \_\_\_\_\_ Ending Date: \_\_\_\_\_

Course(s) must be taken during off-duty hours.

### EDUCATIONAL OBJECTIVE:

Please complete the one category that best describes your educational objectives:

1. Course(s) Leading to Degree

DEGREE OBTAINING : CERT  AA  BA/BS  MA/MS  PHD  Other \_\_\_\_\_

MAJOR: \_\_\_\_\_ ANTICIPATED GRADUATION DATE: \_\_\_\_\_  
(Example: Business Administration)

Please write a justification below explaining how the above degree is related to your present job functions or career ladder in the same job series or profession or career. (If more space is needed, please attach justification)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Individual Course not leading to Degree (NON-DEGREE):

Please write a justification below explaining how the course(s) above are related to your present job functions or career ladder in the same job series or profession or career. (If more space is needed, please attach justification)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## TUITION ASSISTANCE PROGRAM CONDITIONS

Employees interested in participating in Montgomery County Tuition Assistance Program should carefully review the Montgomery County Government Employees Organization (MCGEO) collective bargaining agreement for detailed guidance. The following items are particularly important and should be read carefully by all participants.

1. The program exists to provide financial assistance to regular Full time/Part time employees for courses which are related to unit member's current job functions or career ladder in the same job series or profession
2. Approved Tuition Assistance funds are for **tuition only**.
3. Tuition assistance benefits are limited to the costs required to pay for tuition and up to the allowable limit for full-time and part-time employees, *which are not being met by any other educational benefits or scholarship*.
4. Tuition Assistance **does not** cover compulsory fees such as matriculation, registration, laboratory, library, and technology fees. The program also does not cover books, supplies, or extra fees such as late registration or parking.
5. All approved course work must be held in the U.S.A.
6. Tuition Assistance Program **will not fund courses** which are primarily recreational, or utilize a specific faith based method as a primary approach to problem solving or treatment.
7. All approved tuition assistance course(s) must be **taken during employee's off-duty hours**.
8. All approved tuition assistance course work must be completed with a passing grade or certificate of completion or the employee must reimburse the county.
9. Employees are required to submit the following information along with their application for processing by the Office of Human Resources.
  - A copy of **Course Description** from the Educational Institution;
  - Itemized bill with all costs broken down to include tuition and all fees;
  - A justification explaining how the course is related to their current job or career ladder in the same job series or profession;
  - A copy of grade report or certification of completion from previous course(s) paid by the Montgomery County Government Tuition Assistance Program, if applicable; and
  - If an employee is taking annual leave or flexing his/her work schedule, the employee's supervisor and Director must indicate approval on the Tuition Assistance application.
10. As a condition of the program, employees who participate in this program agree to remain with the County for at least one year after course completion. Should they leave, voluntarily or involuntarily, the amount of money received during the twelve months prior to separation must be returned to the County.

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### EMPLOYEE CERTIFICATION:

I CERTIFY THAT I HAVE READ AND UNDERSTAND THE ABOVE AND THE TUITION ASSISTANCE PROGRAM POLICY AND ACCEPT ALL THE CONDITIONS FOR PARTICIPATION IN THIS PROGRAM.

Employee Signature \_\_\_\_\_ Date \_\_\_\_\_

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**DEPARTMENTAL INFORMATION AND RECOMMENDATIONS:** All MCGEO members' tuition assistance applications require the approval of immediate supervisor and department Director prior to submitting to the Office of Human Resources, Training and Organizational Development Team. Please certify the requested information on the employee by checking the appropriate box.

**IMMEDIATE SUPERVISOR/DIVISION CHIEF**

1. Employee is Full-time merit employee \_\_\_\_\_ Part-time merit employee \_\_\_\_\_ Other \_\_\_\_\_ (Please define)

2. Employee Has Permanent Status \_\_\_\_\_ Does Not Have Permanent Status \_\_\_\_\_

3. Employee's Educational Objective (please check the appropriate statement):

- Degree is related to MCGEO member current job functions or career ladder in the same job series or profession (Please see attached course description from the employee)  
Yes \_\_\_ NO \_\_\_
- This is an individual course(s) not leading to a degree which is related to MCGEO member current job functions or career ladder in the same series or profession (Please see attached course description from the employee)  
Yes \_\_\_ NO \_\_\_

4. Employee is attending course work during his/her off-duty hours. Yes \_\_\_ No \_\_\_

5. Employee work performance is in good standing. Yes \_\_\_ No \_\_\_

**Recommended by IMMEDIATE SUPERVISOR/DIVISION CHIEF:**

**RECOMMENDATION:** APPROVAL \_\_\_\_\_ DISAPPROVAL \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Immediate Supervisor or Division Chief \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

**DEPARTMENT DIRECTOR**

1. Employee's Educational Objective:

- The degree is related to MCGEO member current job functions or career ladder in the same job series or profession Yes \_\_\_ No \_\_\_
- I reviewed the attached course description and concur that this individual course(s) not leading to a degree is related to MCGEO member current job functions and career ladder in the same series or profession  
Yes \_\_\_ No \_\_\_

2. Employee is attending course work during his/her off-duty hours. Yes \_\_\_ No \_\_\_

3. Employee work performance is in good standing. Yes \_\_\_ No \_\_\_

**DEPARTMENT DIRECTOR RECOMMENDATION:** APPROVAL \_\_\_\_\_ DISAPPROVAL \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Department Director \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

**OFFICE OF HUMAN RESOURCES ACTION**

Previous tuition assistance received under tuition assistance by applicant during the fiscal year for which this application is made.

\$ \_\_\_\_\_ Application Approved for \$ \_\_\_\_\_, Application Disapproved \_\_\_\_\_

THIS COURSE(S) IS \_\_\_\_\_ IS NOT \_\_\_\_\_ related to MCGEO member's current job functions or career ladder in the same job series or profession.

Coordinator's Signature and Date

OHR Management Signature and Date



OFFICE OF HUMAN RESOURCES  
MEMORANDUM

Isiah Leggett  
County Executive

Joseph Adler  
Director

November 23, 2009

TO: Duchy Trachtenberg, Chair  
Management and Fiscal Policy Committee

FROM: Joseph Adler, Director  
Office of Human Resources

SUBJECT: Tuition Assistance Program

As a follow-up to the October 26, 2009 MFP Committee Meeting, attached is the following information requested by Committee members:

- Data, grouped by bargaining unit, on degrees and certifications earned and attempted by employees (See Attachment A).
- Written description of the tuition assistance provisions in each bargaining unit contract, including supervisor approvals and funding limitations (See Attachment B).
- OHR is currently working with County Stat staff to develop a process for evaluating the effectiveness of the Tuition Assistance Program. We will develop the process and performance measures this fiscal year (FY10) and implement in Fiscal Year (FY11).
- Course descriptions for all courses, seminars, or any other career programs taken by employees in the Tuition Assistance program not leading to a degree or certificate program.

As discussed at the October, 2009 MFP Committee Meeting, OHR maintains an individual tuition assistance file for all employees' participating in the program. For coursework not leading to a degree or certificate program, OHR requires the employee to submit a copy of the course description for review. The Office of Human Resources has developed an electronic database of all course descriptions for course work not leading to a degree. Employees in degree or certificate programs are not currently required to submit a course description with their Tuition Assistance Application and these courses are not included in the electronic database (Attachment C).

If you have any questions or need additional information, please contact me at 240-777-5100.

**MFP Committee October 26, 2009 Committee Meeting Follow-Up**  
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Attachment C: Course Descriptions for FY08 and FY09: Tuition Assistance Approved Courses, Seminars, and Conferences <i>PREVIOUSLY DISTRIBUTED</i>	<del>23</del> NOT INCLUDED

**Attachment A: Tuition Assistance Graduation Report for FY05 through  
FY10 by Bargaining Unit**

**Tuition Assistance Graduation Report for FY05 through FY10 by Bargaining Unit**

<b>Degrees</b>		
<i>Bargaining Unit</i>	<i># of employees who earned a degree</i>	<i># of employees working toward a degree</i>
FOP	28	21
MCFFC	11	15
MCGEO	49	78
Unrepresented	35	27
<b>Grand Total</b>	<b>123</b>	<b>141</b>
<b>Certificates</b>		
<i>Bargaining Unit</i>	<i># of employees who obtained a certificate</i>	<i># of employees working toward a certificate program</i>
FOP	1	0
MCFFC	0	1
MCGEO	16	5
Unrepresented	5	2
<b>Grand Total</b>	<b>22</b>	<b>8</b>

Note: The total numbers have increased since October 26, 2009. Participants self reported the #'s above.

Table 1: Montgomery County Tuition Assistance Program Signature Requirements, Obligations, and Availability of Funds by Collective Bargaining Unit

Attachment B

Written description of the Tuition Assistance Program provisions in each bargaining unit contract

Table 1: Montgomery County Tuition Assistance Program Signature Requirements, Obligations, and Availability of Funds by Collective Bargaining Unit				
Bargaining Unit	Supervisor Signature is required	Obligations (Remain Employed/Proof of Certificate of Completion or Grade)		Availability of Funds
FOP	NO	2yrs	Yes	Entitled to receive tuition assistance through out the fiscal year
LAFF	NO	1yr	Yes	First-come, first served basis
MCGEO	Yes	1yr	Yes	First-come, first served basis
UNREPRESENTED	Yes	1yr	Yes	First-come, first served basis
VOLUNTEER FIRE RESCUE	Yes	1yr	Yes	First-come, first served basis

ATTACHMENT B:

Montgomery County Personnel Regulations, 2001 (as amended October 21, 2008)

M CPR, 2001

SECTION 14. EMPLOYEE DEVELOPMENT

- (B) supervisory development classes;
  - (C) customer service classes;
  - (D) professional development classes;
  - (E) human resources management classes;
  - (F) performance management classes;
  - (G) labor relations classes;
  - (H) skill development classes (examples: writing and communication);
  - (I) core mandatory classes (examples: sexual harassment prevention, and employee performance and conduct);
  - (J) information technology classes (examples: desk-top computer software, internet and web software, and core business systems); and,
  - (K) self-directed study (examples: computer lab, and the audio and video loan library).
- (c) *Employee tuition assistance.*
- (1) The OHR-administered tuition assistance fund is available to help pay the costs of education or training selected by:
    - (A) County employees; and
    - (B) employees of the State's Attorney's Office (but not the State's Attorney).
  - (2) The OHR Director must:
    - (A) administer the County's tuition assistance program and fund; and
    - (B) authorize payment of tuition assistance only for eligible employee educational expenses, up to the following for each request:
      - (i) 100 percent of the cost of the training; or
      - (ii) for a full-time employee, the maximum amount authorized per employee each fiscal year; or

- (iii) for a part-time employee, 50 percent of the maximum amount authorized for a full-time employee.
- (3) The total amount of funding available annually for tuition assistance is proposed by the County Executive and appropriated by the County Council.
- (4) The OHR Director must establish the amount of annual tuition assistance for an employee who is not a member of a bargaining unit. Funding for represented employees is determined through collective bargaining with the designated employee representatives.
- (5) Employee tuition assistance is available to employees with merit system status on a first-come, first-served basis until all funding for the fiscal year has been obligated. Once the tuition assistance funds are depleted for the fiscal year, tuition assistance is not available until the next year.
- (6) The OHR Director may approve the use of OHR-administered tuition assistance to pay for training or education directly related to:
  - (A) the employee's current County work or normal career progression; or
  - (B) a field of study that will prepare the employee to make a career change within the County.
- (7) The OHR Director may approve the use of OHR-administered tuition assistance funds for training or education offered by a public or private:
  - (A) vocational or business school;
  - (B) college or university;
  - (C) professional, scientific, or technical institute; or
  - (D) organization or component of an organization, including a government agency or business, that offers courses or training.
- (8) The following are acceptable educational objectives that an employee may pursue with tuition assistance funding, if the training or education meets the requirements of (6) and (7) above:
  - (A) education or training to obtain a certificate, associate degree, baccalaureate degree, or graduate degree; or

- (B) a credit course, non-credit course, or seminar.
- (9) Only the cost of tuition and other direct or compulsory costs of the course such as matriculation, registration, laboratory, and library services are covered by tuition assistance.
- (10) The following do not qualify for tuition assistance:
- (A) credit courses taken on an audit (i.e., no grade) basis;
  - (B) books, supplies, and application fees, or extra fees such as late registration or library book returns, parking, travel, food, lodging, and other costs incidental to the credit courses;
  - (C) if the tuition assistance benefit would duplicate benefits received for the same educational activity under other programs such as scholarships, veterans benefits, and the Maryland State Fire Association;
  - (D) courses in which credit is obtained solely by taking an examination; and
  - (E) examination fees.
- (11) An employee receiving tuition assistance must participate in the educational activity:
- (A) during the employee's off-duty hours;
  - (B) on a flexible work schedule; or
  - (C) on approved leave, other than administrative leave or PIL.
- (12) If an employee does not complete the course work successfully, the employee must reimburse the County in full for all tuition assistance paid by the County for that activity.
- (13) An employee who receives tuition assistance must agree to remain a County employee for at least one year after completing the course. If the employee does not remain employed by the County for the entire one-year period, the employee must repay a prorated amount of the tuition assistance. The tuition assistance does not have to be repaid if the employee dies or retires on a County disability retirement. The OHR Director may waive repayment of tuition assistance in other extenuating circumstances.

- (14) The OHR Director may approve tuition assistance for a probationary employee. The OHR Director must not give tuition assistance to the employee until the employee:
- (A) pays the tuition and compulsory fees;
  - (B) attains merit system status; and
  - (C) provides evidence of successful course completion.

**14-2. Department employee development.**

(a) *Policy and objectives of department employee development.*

- (1) A department director may approve employee developmental activities only when the primary purpose of the training is to provide professional development related to the employee's current position or normal career progression within the department.
- (2) A department director may approve the use of department funds to pay for an employee's college tuition only when the department director determines that the employee's additional education will benefit the effective and efficient operation of the department. An employee may obtain funds from the County's employee tuition assistance program under Section 14-1(c) for courses that will primarily benefit the employee.
- (3) A department has a critical role in identifying and facilitating the specific developmental training needs of its employees that cannot be fully addressed by the employee development programs administered by OHR. Needs that cannot be fully addressed by OHR-administered programs include training necessary for:
  - (A) occupations unique to the department;
  - (B) state licensing requirements; and
  - (C) department specific initiatives.
- (4) A department's familiarity with its employees enables it to determine the specific types of training that employees need to accomplish their essential job functions.

**ATTACHMENT B:**

Collective Bargaining Agreement: Montgomery County Career Fire  
Fighters Association, International Association of Fire Fighters, Local  
1664- Article 54: Tuition Assistance

**disability retirement benefits under the Montgomery County Employees'  
Retirement System.**

**ARTICLE 52 – PARAMEDIC CERTIFICATION AGREEMENT**

Employees in the bargaining unit who voluntarily transfer or who are promoted to a paramedic position will be required to sign a paramedic certification agreement consistent with Appendix IV-A. In addition, employees who as a condition of hire were required to sign a paramedic certification agreement will remain subject to the provisions of said agreement as specified in Appendix IV-B or IV-C while in the bargaining unit. The provisions of the paramedic certification agreement for bargaining unit employees are grievable and arbitrable pursuant to the procedures contained in Article 38 of this Agreement.

**ARTICLE 53 - RESIGNATION**

**Section 53.1 Definition**

Resignation: An employee's voluntary act to leave County employment.

**Section 53.2 Notice of-Resignation**

An employee should submit a written resignation 2 weeks before the effective date of the resignation. In unusual circumstances, an employee may submit an oral resignation.

**Section 53.3 Withdrawal of Resignation**

- A. An employee may withdraw a resignation within 5 calendar days from the date the employee submitted the resignation.
- B. The department head may approve or deny a written request to withdraw a resignation that is submitted more than 5 calendar days from the date the employee submitted the resignation.

**Section 53.4 Appeal of Resignation**

A bargaining unit employee may appeal a resignation that the employee believes was involuntary or coerced by filing a grievance under Article 38 of the Agreement.

**ARTICLE 54 – TUITION ASSISTANCE**

**Section 54.1**

The Employer-administered tuition assistance fund is available to bargaining unit employees to help pay the costs of education or training.

**Section 54.2**

Employee tuition assistance is available to bargaining unit employees on a first-come, first-served basis. Once the tuition assistance funds are depleted for the fiscal year, tuition assistance is not available until the next year.  
Section 54.3

The Employer may approve the use of Employer-administered tuition assistance to pay for training or education directly related to:

- A. the employee's current County work or normal career progression; or
- B. a field of study that will prepare the employee to make a career change within the County government.

#### Section 54.4

Employees may, with the Employer's approval, use the Employer-administered tuition assistance funds for training or education offered by a public or private:

- A. vocational or business school;
- B. college or university;
- C. professional, scientific, or technical institute; or
- D. organization or component of an organization, including a government agency or business, that offers courses or training.

#### Section 54.5

The following are acceptable educational objectives that an employee may pursue with tuition assistance funding, if the training or education meets the requirements of (3) and (4) above:

- A. education or training to obtain a certificate, associate degree, baccalaureate degree, or graduate degree; or
- B. a credit course, non-credit course or seminar.

#### Section 54.6

Only the cost of tuition and other direct or compulsory costs of the course such as matriculation, registration, laboratory, and library services are covered by tuition assistance.

#### Section 54.7

The following do not qualify for tuition assistance:

- A. credit courses taken on an audit (i.e., no grade) basis;
- B. books, supplies, and application fees, or extra fees such as late registration or library book returns, parking, travel, food, lodging, and other costs incidental to the credit courses;
- C. if the tuition assistance benefit would duplicate benefits received for the same educational activity under other programs such as scholarships, veterans' benefits, and educational benefits provided under the Maryland State Fireman's Association.

#### Section 54.8

An employee receiving tuition assistance must participate in the educational activity:

- A. during the employee's off-duty hours;
- B. on approved leave, other than administrative leave or Professional Improvement Leave.

#### Section 54.9

If an employee does not complete the course work successfully, the employee must reimburse the County in full for all tuition assistance paid by the County for that activity.

#### Section 54.10

An employee who received tuition assistance must agree to remain a County employee for at least one year after completing the course. If the employee does not remain employed by the County for the entire one-year period, the employee must repay a prorated amount of the tuition assistance. The tuition assistance does not have to be repaid if the employee dies or retires on a County disability retirement. The Employer may waive repayment of tuition assistance in other extenuating circumstances.

#### Section 54.11

The County will increase the maximum annual allowance payable to a bargaining unit employee under the Employee Assistance Program to **\$1,630** for FY 2009, **\$1,730** for FY 2010, and **\$1,830** for FY 2011.

## ATTACHMENT B:

### Collective Bargaining Agreement: Fraternal Order of Police, Lodge 35 (FOP) – Article 39 Tuition Assistance

duty restrictions, if any, and their anticipated duration.

#### Article 38 Severability

If any term or provision of this Agreement is, at any time during the life of this Agreement, determined by a court of competent jurisdiction to be in conflict with any applicable law, constitution, statute, or ordinance, such term or provision shall continue in effect only to the extent permitted by law. If any term or provision is so held to be invalid or unenforceable (or if the parties agree that it is), such invalidity or unenforceability shall not affect or impair any other term or provision of this Agreement.

#### Article 39 Tuition Assistance

*Section A.* All members of the bargaining unit shall be entitled to receive tuition assistance at the level provided by the Montgomery County Tuition Assistance Program in effect when they apply. The County represents that it will maintain the program during the life of this Agreement.

1. The Employer must approve tuition assistance for unit member development related to the unit member's current job functions or those of another County position.
2. The Employer must approve tuition assistance for tuition and compulsory fees such as matriculation, registration, laboratory, and library fees.
3. The Employer must not approve tuition assistance for books, supplies, or extra fees such as late registration and parking.
4. A unit member receiving tuition assistance must attend the activities for which they are receiving tuition assistance during the unit member's off duty hours.
5. A unit member who received tuition assistance must complete the training with a passing grade, or the employee must reimburse the County for the amount of the County's tuition assistance.

*Section B. Amount and Qualification.* The level of tuition assistance for bargaining unit employees will be as follows: \$1,530 effective July 1, 2007; \$1,630 effective July 1, 2008, and \$1,730 effective July 1, 2009.

*Section C.* The employee must remain employed for at least two years after the completion of any course(s) funded in whole or in part by the county, or pay back to the county a pro-rated portion of the funds received.

#### Article 40 Dependent Care

Employees in the bargaining unit shall be eligible to participate in a salary reduction dependent care assistance plan as provided for in §33-19, *Day Care As an Alternative Fringe Benefit*, of the Montgomery County Code, 1984, as amended.

#### Article 41 Shift Differential

*Section A. Amount.* Officers shall receive one dollar and twenty-four cents (\$1.24) for each hour worked on a work shift that begins on or after 12:00 noon and prior to 7:59 p.m., and one dollar and sixty-five cents (\$1.65) for each hour worked on a shift that begins on or after 8:00 p.m. and before 5:59 a.m. The hourly pay differential shall increase to one dollar and twenty-eight cents (\$1.28) and one dollar and seventy cents (\$1.70) respectively, effective the first full pay period following July 1, 2008. The hourly pay differential shall increase to one dollar and thirty-three cents (\$1.33) and one dollar and seventy-five cents (\$1.75) respectively, effective the first full pay period following July 1, 2009.

**ATTACHMENT B:**  
**Collective Bargaining Agreement: Municipal and County Government**  
**Employees Organization/United Food and Commercial Workers Union,**  
**Local 1994 (MCGEO) – 21.10 Tuition Assistance:**

**21.10 Tuition Assistance**

The County will increase the maximum annual allowance payable under the Employee Tuition Assistance Program to \$1530 for FY 2008, to \$1630 for FY 2009, and \$1730 for FY 2010. The employee must remain employed for at least 2 years after completion of any course funded in whole or part by the County, or pay back the County a pro-rated portion of the funds received.

- (a) The Employer may approve tuition assistance for unit member development related to the unit member's current job functions or those of another County position.
- (b) The Employer may approve tuition assistance for tuition and compulsory fees such as matriculation, registration, laboratory, and library fees.
- (c) The Employer will not approve tuition assistance for books, supplies, or extra fees such as late registration and parking.
- (d) Tuition assistance is available on a first-come first-served basis until all authorized funding has been obligated.
- (e) Employees receiving tuition assistance must attend the activities for which they are receiving tuition assistance during their off duty hours.
- (f) An employee who received tuition assistance must complete the training with a passing grade, or the employee must reimburse the County for the amount of the County's tuition assistance.

**21.11 Long-term Care**

Implement a new long term care program no sooner than 1/1/2002, 100 percent employee-paid through an interagency RFP.

**21.12 Dental Care**

Class I, II, and III annual maximums shall be increased to \$2,000.

**21.13 Vision Care**

A new discount card program through a national network will be offered to those who retire after 1/1/2002.

**21.14**

- (a) If the County adopts a drug re-importation program (the adoption of which is subject to Council approval), bargaining unit employees are eligible to participate in the program.
- (b) The parties agree to jointly establish an interagency labor/management study committee that will review the feasibility of creating an interagency, multi-employer Health Benefits Board of Trustees to assume the administration of the participating agencies' health insurance funds/programs. The joint study committee will also consider all reasonable issues regarding the subject of health benefits cost containment. Membership on the joint study committee will be

ATTACHMENT B:

Memorandum of Agreement between Montgomery County and  
MCGEO for licensure for Therapists and Social Worker III's



OFFICE OF HUMAN RESOURCES

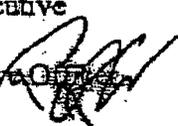
Douglas M. Duncan  
County Executive

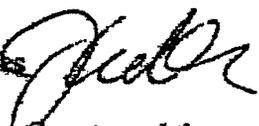
Joseph Adler  
Director

MEMORANDUM

October 16, 2006

TO: Douglas M. Duncan, County Executive

VIA: Bruce Romer, Chief Administrative Officer 

FROM: Joseph Adler, Director, Office of Human Resources 

SUBJECT: Memorandum of Agreement between Montgomery County and the  
Municipal and County Government Employees Organization, UFCW,  
Local 1994

I have attached for review the memorandum of agreement reached by the  
Montgomery County Government and the Municipal and County Government  
Employees Organization, UFCW, Local 1994. This memorandum of agreement was  
reached as a result of bargaining over the licensure requirements implemented by the  
State of Maryland for therapists and social worker III's. The agreement addresses: tuition  
assistance, books and materials necessary to complete the appropriate exam, and  
establishes a time line for the affected employees to meet certain requirements or find an  
alternative position within the County which may include transfer or demotion. The  
MOA will be effective as of the date of your signature.

Thank you.

Attachment

JA: sam



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MEMORANDUM OF AGREEMENT  
BETWEEN  
THE MONTGOMERY COUNTY GOVERNMENT  
AND THE  
MUNICIPAL AND COUNTY GOVERNMENT EMPLOYEES ORGANIZATION  
UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 1994,

REGARDING UNLICENSED THERAPISTS AND WHERE NOTED SOCIAL WORKER IIIs

As a result of licensing requirements as set by law for the positions of Therapists and Social Worker IIIs, employed with the Department of Health and Human Services (DHHS) Montgomery County Government (Employer), the Montgomery County Government (Employer) and the Municipal and County Government Employees Organization, UFCW Local 1994 (Union) hereby agree to the following terms and conditions with respect to these positions:

1. The employer shall have the responsibility of identifying the unlicensed employees and that said list will be provided to the Union.
2. That the employer shall have the responsibility to assess the current "status" of all unlicensed Therapists within Montgomery County specifically those who are currently pursuing licensure; those that have already pursued and completed licensure since the completion of the classification study; those who have decided not to pursue licensure.
  - a. That in order to determine the status the Union recognizes the need to meet with all employees individually and that the Union is entitled to be present at each "status verification" meeting conducted by the Employer.
3.
  - a. The County where feasible will explore the possibility of payment for onsite classes if 8 or more students/unlicensed Therapists are in need of the course and petition the employer for the same.
  - b. For the duration of this agreement, therapists who are obtaining licensure are eligible for two (2) times the bargained rate (\$1430) per contract year for up to a maximum of \$15,400. Employees will be eligible for retroactive application of this provision for the past two years from the effective date of this agreement for no more than four courses taken. Proof of the licensure related coursework would have to be submitted in order to receive payment.
  - c. The County will share equally with each employee the costs for their books and materials associated with a County sponsored course and the County will pay the entire cost of one exam fee.

d. The County will make every effort, within the current HHS workforce, to provide the necessary individual/group supervision to therapists undergoing the supervisory component of the licensure process.

e. The relationship between the Board and Licensee are the sole responsibility of the Licensee. The Employer when justified will submit a "good faith" letter/letter of recommendation to the Board on behalf of unlicensed Therapists in order to assist with the application process.

(4) a. The County will offer to reimburse/pay on a one time basis, the renewal fee for any employee who obtained their license while employed by the County as a Therapist upon proof of payment.

5. The County agrees that employees interested in discontinued service retirement may submit their case to the County for consideration on a case by case basis.

6. Within 45 days of the date of this agreement, an individual development plan will be prepared for each non-licensed or insufficiently licensed Therapist and Social Worker that outlines the time frame and steps necessary to obtain appropriate licensure. The individual development plans will become part of the employee's Performance Planning and Evaluation Form.

7. Appropriate notice and information shall be given to all staff regarding licensure.

8. With respect to whether certain employees in the Therapist II class should be reclassified to a different class, the parties agree to address this issue in a side letter for the four positions which have been identified in Behavioral Health and Crisis Services where the employees are engaged exclusively in administrative duties.

9. All non-licensed or insufficiently licensed Therapists or Social Workers, who wish to retain their current position, must actively pursue licensure. "Actively pursue" is defined as follows:

a. Those employees who have not already done so must confer with the State Licensing Board within 30 days to determine the necessary degree and credits to obtain licensure.

b. Employees who lack specific coursework towards completion of an acceptable Master's Degree must be enrolled in a degree program at an accredited college or university by Fall semester 2006.

c. Each employee who lacks specific coursework towards completion of an acceptable master's Degree must register for and successfully complete 6 credits semester hours each calendar year. Employees should make every effort to take the courses during off-duty hours, unless other wise agreed to.

d. If an employee fails to successfully complete a course, fails or receives an incomplete, the deficit in credit hours must be made up no later than the following school year in addition to the 6 credit hours normally required that school year.

e. Upon completion of an acceptable Master's Degree program, each employee must document and complete the required period of supervised clinical training.

f. Within 1 month of completion of the required period of supervised clinical training, the employee must apply to take the required State licensure examination at the next available opportunity. An employee who fails the required State licensure examination must reapply and retake the examination at the next available opportunity. An employee who fails the examination three times will not be able to continue in the position of Therapist or Social Worker, and every effort will be made to find the employee alternate County employment, including transfer or voluntary demotion.

g. Within 1 month of the date of notification of passage of the required State licensure examination, the employee must submit the necessary paperwork and fees to obtain the license.

h. The employee is responsible for all costs, including registration fees, books, supplies, tuition, licensure fee, or other related expenses unless provided otherwise in this agreement.

i. For those Employees failing to meet the above requirements, the County will make reasonable attempts to assist the employee in finding an alternative position within the county which may include transfer or demotion. If alternative placement assistance fails or is not possible, the employee may be separated from service for failing to meet the appropriate job requirements.

j. All unlicensed and insufficiently licensed Therapists must obtain licensure no later than January 31, 2010.

Signed this 4<sup>th</sup> day of October 2006

  
Gino Renne  
President, UFCW Local 1994 MCGEO

  
Doug Dunean  
County Executive  
Montgomery County Government

## ATTACHMENT B:

Memorandum of Agreement between Montgomery County and FOP  
for employees below the rank of sergeant hired before January 1, 2006

### MEMORANDUM OF AGREEMENT

As the result of the exercise of an Employer right under Section 33-80 (b) of the Montgomery County Code, as amended, Montgomery County, Maryland (Employer) and the Fraternal Order of Police, Lodge 35, Inc. (FOP) have engaged in collective bargaining over the effect on employees of the Employer's exercise of these rights in connection with a re-deployment of bargaining unit employees and hereby agree as follows:

*Section A. Temporary Promotions/Assignment to Higher Classified Job* - Police Officers (POI, POII, or POIII) and Master Police Officers who are temporarily assigned or promoted to the higher classified job of sergeant for more than one full work week (4 or 5 consecutive work days depending on schedule) up to 2 consecutive work weeks, shall receive a 5% increase in their rate of pay retroactive to the first day the unit members assumed the higher position, up to 2 consecutive work weeks. In the event the employee works more than 2 consecutive work weeks, (i.e. 8, 9, or 10 consecutive work days depending upon schedule) compensation will be in accordance with Article 44 *Section C.* of the parties' collective bargaining agreement.

[Eligibility is consistent with established practice under Article 44 Section C of the Collective Bargaining Agreement, e.g., absence of the sergeant and assumption of supervisory duties by an officer below the rank of sergeant.]

*Section B. Tuition Assistance* - for all bargaining unit employees below the rank of sergeant hired before January 1, 2006 the Employer will pay tuition and compulsory fees such as registration, matriculation, laboratory fees for up to six college credits per contract year based upon the University of Maryland tuition/fee schedule until the employee earns 120 college credit hours. The employee may use the value of the tuition of six University of Maryland college credits for any combination of college credits or job related training courses per existing practice under Article 39, Tuition Assistance of the parties' collective bargaining agreement.

The payment of tuition under this section shall be in lieu of any other payment for tuition provided in the parties' collective bargaining agreement. All other conditions pertaining to tuition assistance enumerated in Article 39, Tuition Assistance, of the parties' collective bargaining agreement shall apply to employees receiving tuition assistance under this section.

#### *Section C. Transfers*

1. The transfer or reassignment of an MPO which is related to the reduction of MPO positions shall be made first through voluntary requests pursuant to Article 15 § K and § T.1. If there are no volunteers from within the district, the vacancy shall be filled pursuant to Article 15 § T.2 (FSB transfer list), and then through a countywide search for

a volunteer. If a volunteer from another district is found, that MPO will be permanently assigned to the district.

- a. In the event that there are no volunteers to fill an MPO vacancy on the midnight shift, any involuntary transfer shall be made from within the district pursuant to Article 15 § K. In the event that the district with the vacancy has no MPOs on a patrol shift who are not assigned to the midnight shift, the Employer may involuntarily transfer an MPO from a patrol shift assignment in another district, based upon inverse order of seniority within the bargaining unit. However, an MPO who has received a departure date from the midnight shift will not be involuntarily transferred to the midnight shift in a district other than where he/she is assigned if there are other MPOs on any patrol shifts who have either no departure date or an earlier departure date from a midnight shift.
  - b. All other involuntary inter-district MPO transfers for patrol shifts shall be made on the basis of inverse seniority from patrol shifts, except that an MPO who was involuntarily transferred from one district to another, may not be transferred an additional time from one district to another, if there are other MPOs who have either no transfer date from an involuntary inter-district transfer or an earlier transfer date from an involuntary inter-district transfer.
2. For purposes of this section, an involuntary transfer is defined as an aggregate of six months served involuntarily. The intent of this section is to ensure that all MPOs have had the same opportunity to be selected for an involuntary assignment before an MPO is subjected to such consideration for a second time.
  3. If, pursuant to the inverse seniority rotation, an MPO is subject to an involuntary inter-district transfer and the resulting vacancy would result in an additional involuntary transfer of another officer, the MPO will be bypassed for the selection. The bypassed MPO will remain at the top of the rotation and shall remain eligible for the next involuntary transfer assignment that arises.
  4. If an involuntary transfer is made inter-district and the resulting vacancy is back filled by another officer's voluntary transfer to the shift, when the initial MPO's involuntary transfer ends, both officers (the original MPO and the officer voluntarily backfilling) will return to their original district and shift or district hours (day, evening, or midnight) unless: a vacancy exists on the shift or district enabling the backfill officer to remain on the shift or the involuntarily transferred MPO does not choose to return to the original district or shift.

Section D. Duration - this agreement shall become effective on June 8, 2006 and terminate on June 30, 2007.

IN WITNESS WHEREOF, the parties hereto have caused their names to be subscribed hereto by their duly authorized officers and representatives this 8th day of June 2006.

FRATERNAL ORDER OF POLICE  
LODGE 35, INC.

MONTGOMERY COUNTY,  
MARYLAND

By: Walter E. Bader  
Walter E. Bader  
President

By: Douglas M. Duncan  
Douglas M. Duncan  
County Executive

Kirk J. Holub  
Kirk J. Holub  
Vice President

J. Thomas Manger  
J. Thomas Manger  
Chief of Police

*Subject to ratification*

APPROVED AS TO FORM AND LEGALITY:  
OFFICE OF THE COUNTY ATTORNEY  
BY Sherryl V. Buwell  
DATE June 8, 2006

ATTACHMENT B:

Memorandum of Understanding between County and MCVFRA to  
give Tuition Assistance Benefit

MEMORANDUM OF UNDERSTANDING  
TUITION ASSISTANCE

This Memorandum of Understanding is made this \_\_\_\_\_ day of \_\_\_\_\_ by and between the Montgomery County Fire Chief, Thomas W. Carr, Jr. and the Montgomery County Volunteer Fire and Rescue Association ("MCVFRA"), the authorized Local Fire and Rescue Department ("LFRD") representative (collectively, the Parties).

The Parties agree the following procedures will govern the tuition assistance benefit outlined in the Montgomery County Code, Section 21-21(g):

1. The Office of Human Resources ("OHR")-administered tuition assistance fund is available to help pay the costs of education or training selected by Active Volunteers.
2. An Active Volunteer is a LFRD volunteer: a) who qualified and earned fifty points in the previous calendar year under the Length of Service Award Program outlined in the Montgomery County Code, Section 21-21; and b) who is currently functioning as an Active Volunteer as certified on the tuition assistance application by the president of the applicable local fire and rescue department and the Montgomery County Fire Chief or his/her designee.
3. The OHR Director must:
  - (A) administer the County's tuition assistance program and fund; and
  - (B) authorize payment of tuition assistance only for eligible educational expenses, up to the following for each request:
    - (i) 100 percent of the cost of the training; or
    - (ii) The amount of annual tuition assistance for an Active Volunteer for Fiscal Year 2006 is \$1330. The maximum amount authorized per active volunteer each fiscal year shall be the same as the maximum amount authorized per unrepresented employee each fiscal year unless otherwise negotiated (see item #15).
4. The total amount of funding available annually for tuition assistance for Active Volunteers is proposed by the County Executive and appropriated by the County Council.
5. Tuition assistance is available to Active Volunteers on a first-come, first-served basis until all funding for the fiscal year has been obligated. Once the tuition assistance funds are depleted for the fiscal year, tuition assistance is not available until the next year.
6. The OHR Director may only approve the use of OHR-administered tuition assistance to pay for training or education which is directly related to a field of study that

will prepare the Active Volunteer for a career within County government and/or better assist an LFRD, including advancement in rank or position.

7. The OHR Director may approve the use of OHR-administered tuition assistance to pay for training or education offered by a public or private:

- (A) vocational or business school;
- (B) college or university;
- (C) professional, scientific, or technical institute; or
- (D) organization or component of an organization, including a government agency or business, that offers courses or training.

8. The following are acceptable educational objectives that an Active Volunteer may pursue with tuition assistance funding, if the training or education meets the requirements of (6) and (7) above:

- (A) education or training to obtain a certificate, associate degree, baccalaureate degree, or graduate degree; or
- (B) a credit course, non-credit course, or seminar.

9. Only the cost of tuition and other direct or compulsory costs of the course such as matriculation, registration, laboratory, and library services are covered by tuition assistance.

10. The following do not qualify for tuition assistance:

- (A) credit courses taken on an audit (i.e., no grade) basis;
- (B) books, supplies, and application fees, or extra fees such as late registration or library book returns, parking, travel, food, lodging, and other costs incidental to the credit courses;
- (C) if the tuition assistance benefit would duplicate benefits received for the same educational activity under other programs such as scholarships, veterans benefits, and the Maryland State Fire Association.

11. An Active Volunteer receiving tuition assistance must participate in the educational activity during the active volunteer's off-duty hours.

12. If the Active Volunteer does not successfully complete the course work, the active volunteer must reimburse the County in full for all tuition assistance paid by the County for that activity.

13. In consideration for receiving this tuition assistance, an Active Volunteer must agree to remain an Active LFRD Volunteer for at least one year after completing the course for which benefits were received. If the Active Volunteer does not remain an Active Volunteer for the entire one-year period, the Active Volunteer must repay a prorated amount of the tuition assistance, provided however the obligation to repay is

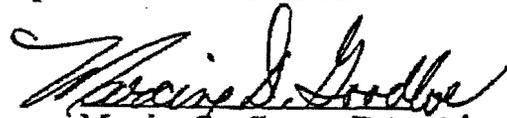
extinguished upon the death of the Active Volunteer. The OHR Director may waive repayment of tuition assistance in other extenuating circumstances.

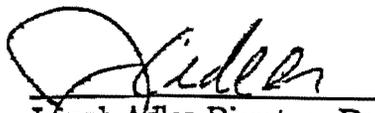
14. For the purpose of administering tuition assistance, the Montgomery County Fire and Rescue Service will provide the OHR Director with the certified list of Active Volunteers who earned fifty points under the Length of Service Award Program outlined in the Montgomery County Code, Section 21-21, no later than April 15<sup>th</sup> of each year.

15. The above agreement shall remain in effect unless otherwise negotiated per Montgomery County Code, Section 21-6.

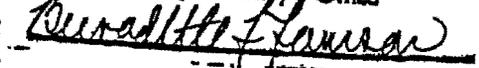
16. The above agreement is made without precedent and will not be admissible as evidence in any future proceeding except to enforce the provisions contained herein.

 <sup>bntc</sup> 5/9/06  
Thomas W. Carr, Jr. Date  
Montgomery County  
Fire Chief

  
Marcine Goodloe Date 4/26/06  
MCVFRA  
President

 4/28/06  
Joseph Adler, Director Date  
Office of Human Resources

APPROVED AS TO FORM AND LEGALITY.  
Montgomery County Attorney's Office

By:   
5/8/06

ATTACHMENT B:

Copy of the Side Letter for IAFF, Tuition Assistance, 12/12/2007

**Union Proposal  
Side Letter - Tuition Assistance  
December 12, 2007**

**Side Letter - Tuition Assistance**

The County and Union agree that there is no requirement for an immediate supervisor, Departmental representative or Division Chief's signature on a bargaining unit employee's Tuition Assistance Application. Once completed by the bargaining unit employee, the Tuition Assistance Application can be sent directly to the Office of Human Resources for action.

*Saw Miller  
12/27/07*

*OB  
12/27/2007*