

MEMORANDUM

January 20, 2011

TO: Government Operations and Fiscal Policy Committee

FROM: Justina J. Ferber, Legislative Analyst

SUBJECT: Executive Regulation 11-10, Amendments to Montgomery County Personnel Regulations, Employee Training and Tuition Assistance

The Government Operations and Fiscal Policy (GO) Committee will consider the Executive's proposed amendments to the Montgomery County Personnel Regulations (MCPR) to amend Section 14 of the 2001 Personnel Regulations to improve the administration of the employee development and tuition assistance program by providing increased accountability and better safeguards. The regulation adds language to:

- 1) ensure that tuition assistance applies to training or education related to the employee's current job function or career ladder in the same job series or profession;
- 2) ensure training is offered by an accredited provider;
- 3) disallow use of tuition assistance funds for 1) providers that offer credit by examination courses, 2) courses taken outside the US, for courses that are primarily recreational, 3) courses that utilize a faith-based approach to problem solving or treatment, 4) courses from an educational institution not accredited by an accrediting agency recognized by the U.S. Secretary of Education;
- 4) require the employee to complete the course with a passing grade or reimburse the County and to submit final grades to OHR;
- 5) require participation on the employee's off-duty hours or on approved leave other than Administrative Leave or Professional Improvement Leave;
- 6) require written approval from a department director prior to submission to OHR; and
- 7) clarify that denial of assistance because all funds have been allocated is not grievable.

The Executive's transmittal memorandum notes that the regulation was advertised in the August 2010 issue of the *Montgomery County Register* and the Merit System Protection Board (MSPB) reviewed the regulation and provided comments. A fiscal impact statement indicating no fiscal impact is also included at ©2. Funding for the tuition assistance program is limited to funds budgeted for this purpose.

There are several issues which present concerns:

Will employees be able to use tuition assistance to make a career change? The amendment to 14-1(c)(6) at ©5 limits tuition assistance to training or education directly related to the employee's current job functions or career ladder. This is inconsistent with current Personnel Regulation 14-1(3)(B)(ii) at ©14 that states that employee development activities funded by the County must be directly related to a field of study that will prepare the employee to make a career change within the County. It has been a goal of the County to encourage employees in nonprofessional positions to seek to develop their education and training and transition into professional positions in County government. The new language would not allow an employee to use tuition assistance in seeking to change careers or positions in County government.

- Is it really the intent of County government to take away the opportunity to use tuition assistance to make a career change within the County?

What is an accredited provider? The amendment under 14-1(c)(7) limits tuition assistance funds for training or education offered by an accredited (as determined by an accrediting agency recognized by the U.S. Secretary of Education) college or university; professional, scientific, or technical institutes; or organization or component of an organization, including a government agency or business that offers courses or training.

- What exactly does accredited by an accrediting agency recognized by the U.S. Secretary of Education mean and does it require more than filling out forms?
- Is this language too broad to remedy issues that have arisen in the past?
- Does a comprehensive list of providers exist?

Is the Executive branch satisfied that these amendments remedy all the tuition assistance flaws that have arisen over the last 18 months?

- How do these amendments address the problem of discounted merchandise offered by providers or any other enticements that providers might utilize?

Staff Recommendation: Staff recommends the GO Committee discuss the above issues and not recommend approval of the amended regulation until the Committee is satisfied that the above issues have been addressed.

OHR Materials: OHR is providing some materials for the GO Committee discussion. They will be distributed as an addendum to this packet once they are received.

Staff Note: A written update of the tuition assistance program was transmitted to the GO, then (MFP) Committee on November 2, 2010. The GO Committee will review the tuition assistance program when it evaluates the OHR operating budget in April.

This packet contains:

	<u>circle #</u>
Transmittal Memorandum	1
Fiscal Impact Statement	2
Regulation 11-10, bracketed and underlined	4
Regulation 11-10, clean copy	9
Section 14 of existing personnel regulations	14

Exec REG



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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

September 30, 2010

RECEIVED
MONTGOMERY COUNTY
COUNCIL
2010 SEP 30 PM 4:59

TO: Nancy Floreen, President
Montgomery County Council

FROM: Isiah Leggett, County Executive

METHOD 1

SUBJECT: Executive Regulation No. 11-10, Employee Training and Tuition Assistance

I am submitting Executive Regulation No. 11-10 for the Council's review and approval. This regulation amends Section 14 of the 2001 Montgomery County Personnel Regulations to improve the administration of the employee development and tuition assistance program by providing increased accountability and better safeguards.

Executive Regulation No. 11-10 was advertised in the August 2010 issue of the *Montgomery County Register*. The proposed regulation has been reviewed by the Merit System Protection Board and the Board has no objections. At the Board's suggestion, we added the following language to Section 14-1(c)(10), which deals with matters that do not qualify for tuition assistance:

- (H) courses for a degree from an educational institution not accredited by an accrediting agency recognized by the U.S. Secretary of Education.

Should you have any questions about Executive Regulation No. 11-10, please contact Stuart Weisberg, the Labor Relations Advisor in the Office of Human Resources, at (240) 777-5154.

IL:sw

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OFFICE OF MANAGEMENT AND BUDGET

COPY

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

September 27, 2010

TO: Joseph F. Beach, Director, Office of Management and Budget
VIA: Alex Espinosa, Management and Budget Manager
VIA: John Cuff, Management and Budget Specialist
FROM: Lori O'Brien, Management and Budget Specialist
SUBJECT: Executive Regulation 11-10, Employee Training and Tuition Assistance

REGULATION SUMMARY

The proposed regulation amends Section 14 of the 2001 Montgomery County Personnel Regulations to improve the administration of the employee training and tuition assistance program by providing increased accountability and more safeguards.

The regulation adds language that ensures that the tuition assistance applies to training or education related to the employee's current job function or career ladder in the same job series or profession and that the training is offered by an accredited educational provider. It also adds language disallowing use of tuition assistance funds for providers that offer credit by examination courses (where credit is given solely by taking an examination), for courses taken outside the United States, for courses that are primarily recreational, or for courses that utilize a specific faith-based approach to problem solving or treatment. The person taking the course must complete the course with a passing grade or reimburse the County for the tuition assistance provided.

The proposed regulation also requires written approval from a department director prior to submission to Office of Human Resources (OHR) and clarifies that a grievance following the denial of tuition assistance may be filed (alleging capricious and arbitrary action by the County), but that denial of assistance because all funds have been allocated is not grievable.

FISCAL AND ECONOMIC SUMMARY

The proposed regulation has no fiscal or economic impact. Funding for tuition assistance is limited to funds budgeted for this purpose. In addition, per recipient funding levels are limited through collectively bargained agreements. These regulations are not intended to provide assistance beyond what is provided in the budget or the collective bargaining agreements, but is intended to make more efficient use of the funds that are provided. In addition, the legislation has no significant economic impact; it affects very few people and the assistance payments are small relative to the Montgomery County economy as a whole.

Office of the Director

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The following contributed to and concurred with this analysis: Lori O'Brien, Office of Management and Budget, Stuart Weisberg, Office of Human Resources, and Michael Coveyou, Department of Finance.

LOB:df

- c: Kathleen Boucher, Assistant Chief Administrative Officer
- Lynn Frost, Offices of the County Executive
- Joseph Adler, Director, Office of Human Resources
- Jennifer Barrett, Director, Department of Finance
- Michael Coveyou, Department of Finance
- Stuart Weisberg, Office of Human Resources
- Lori O'Brien, Office of Management and Budget
- John Cuff, Office of Management and Budget

OMB REVIEW

Fiscal Impact Statement approved 
OMB Director

Fiscal Impact Statement not approved, OMB will contact department to remedy.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

COPY

Subject	Employee Training and Tuition Assistance	Number 11-10
Originating Department	Office of Human Resources	Effective Date

Employee Training and Tuition Assistance

Executive Regulation No. 11-10

Issued by: County Executive

Supersedes: Executive Regulations No. 12-00AM II, in part,
and No. 26-07AM

Authority: Montgomery County Code, 2004, §33-7(b)
Council review: Method 1

Montgomery County Register Volume 27, Issue 8
Comment deadline: August 31, 2010

Effective date: _____

Summary: This regulation amends Section 14 of the 2001 Montgomery County Personnel Regulations to improve the administration of the employee development and tuition assistance program by providing increased accountability and more safeguards.

Address for comments Office of Human Resources, Executive Office Building, 7th Floor
101 Monroe Street, Rockville, Maryland 20850

Staff contact: Stuart Weisberg, 240-777-5154, or stuart.weisberg@montgomerycountymd.gov

Please use the key below when reading this regulation:

- | | |
|------------------------------|---|
| Boldface | <i>Heading or defined term.</i> |
| <u>Underlining</u> | <i>Added to existing regulation by proposed regulation.</i> |
| [Single boldface brackets] | <i>Deleted from existing regulation by proposed regulation.</i> |
| <u>Double underlining</u> | <i>Added by amendment.</i> |
| [[Double boldface brackets]] | <i>Deleted from existing or proposed regulation by amendment.</i> |
| * * * | <i>Existing language unchanged by executive regulation.</i> |

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MONTGOMERY COUNTY EXECUTIVE REGULATION

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COPY

Subject Employee Training and Tuition Assistance	Number 11-10
Originating Department Office of Human Resources	Effective Date

SECTION 14. EMPLOYEE DEVELOPMENT

14-1. **OHR-administered training.** The OHR Director administers a centralized employee development and tuition assistance program for County employees to facilitate their professional and personal development.

* * *

(c) *Employee tuition assistance.*

* * *

(6) The OHR Director may approve the use of OHR-administered tuition assistance to pay for training or education directly related to the employee's current job functions or career ladder in the same job series or profession.

[(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 an accredited (as determined by an accrediting agency recognized by the U.S. Secretary of Education) [a public or private]:

(A) vocational or business school;

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- (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.

* * *

- (9) Only the cost of tuition [and other direct or compulsory costs of the course such as matriculation, registration, laboratory, and library services are] is 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) credit by examination courses (courses in which credit is obtained solely by taking an examination);) [and]
 - (E) examination fees[.];

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- (F) courses taken outside the United States;
- (G) courses which are primarily recreational, or utilize a specific faith-based method as a primary approach to problem solving or treatment;
- (H) courses for a degree from an educational institution not accredited by an accrediting agency recognized by the U.S. Secretary of Education.

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

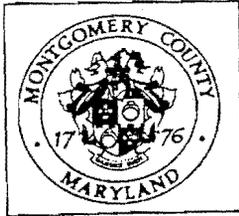
- (A) during the employee's off-duty hours; or
- (B) [on a flexible work schedule; or]
- [(C)] on approved leave, other than administrative leave or Professional Improvement Leave (PIL).

(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 the activity.]

An employee receiving tuition assistance must complete the course(s) with a passing grade. Otherwise, the employee must reimburse the County for the amount of the County's tuition assistance. Final grades must be provided to OHR upon completion of the course.

* * *

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MONTGOMERY COUNTY EXECUTIVE REGULATION

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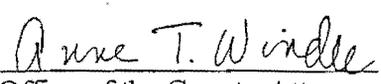
Subject Employee Training and Tuition Assistance	Number 11-10
Originating Department Office of Human Resources	Effective Date

- (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.
- (15) An employee must receive written approval from a department director prior to submitting a tuition assistance request to OHR for review.
- (16) Subject to (17) below, an employee whose request for tuition assistance is not approved may file a grievance under Section 34. The employee must show that the action was arbitrary and capricious.
- (17) The denial by OHR of an employee request for tuition assistance on the basis that all tuition assistance funds for the year have been allocated is not grievable.

* * *

Approved: 
Isfah Leggett, County Executive

9/29/10
Date

Approved as to form and legality:

Office of the County Attorney

9/24/10
Date

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MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject	Employee Training and Tuition Assistance	Number	11-10
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Employee Training and Tuition Assistance

Executive Regulation No. 11-10

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and No. 26-07AM, in part

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Existing language unchanged by executive regulation.

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Subject Employee Training and Tuition Assistance	Number 11-10
Originating Department Office of Human Resources	Effective Date

SECTION 14. EMPLOYEE DEVELOPMENT

14-1. **OHR-administered training.** The OHR Director administers a centralized employee development and tuition assistance program for County employees to facilitate their professional and personal development.

* * *

(c) *Employee tuition assistance.*

* * *

(6) The OHR Director may approve the use of OHR-administered tuition assistance to pay for training or education directly related to the employee's current job functions or career ladder in the same job series or profession.

(7) The OHR Director may approve the use of OHR-administered tuition assistance funds for training or education offered by an accredited (as determined by an accrediting agency recognized by the U.S. Secretary of Education):

- (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.

* * *

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Subject Employee Training and Tuition Assistance	Number 11-10
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- (9) Only the cost of tuition is 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) credit by examination courses (courses in which credit is obtained solely by taking an examination);
 - (E) examination fees;
 - (F) courses taken outside the United States;
 - (G) courses which are primarily recreational, or utilize a specific faith-based method as a primary approach to problem solving or treatment;
 - (H) courses for a degree from an educational institution not accredited by an accrediting agency recognized by the U.S. Secretary of Education.
- (11) An employee receiving tuition assistance must participate in the educational activity:

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- (A) during the employee's off-duty hours; or
 - (B) on approved leave, other than administrative leave or Professional Improvement Leave (PIL).
- (12) An employee receiving tuition assistance must complete the course(s) with a passing grade. Otherwise, the employee must reimburse the County for the amount of the County's tuition assistance. Final grades must be provided to OHR upon completion of the course.

* * *

- (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;
 - (B) attains merit system status; and
 - (C) provides evidence of successful course completion.
- (15) An employee must receive written approval from a department director prior to submitting a tuition assistance request to OHR for review.
- (16) Subject to (17) below, an employee whose request for tuition assistance is not approved may file a grievance under Section 34. The employee must show that the action was arbitrary and capricious.

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MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject Employee Training and Tuition Assistance	Number 11-10
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(17) The denial by OHR of an employee request for tuition assistance on the basis that all tuition assistance funds for the year have been allocated is not grievable.

* * *

Approved: Isiah Leggett
Isiah Leggett, County Executive

9/29/10
Date

Approved as to form and legality:
Aune T. Wixell 9/27/10
Office of the County Attorney Date

SECTION 14. EMPLOYEE DEVELOPMENT

(As amended October 21, 2008)

14-1. OHR-administered training. The OHR Director administers a centralized employee development and tuition assistance program for County employees to facilitate their professional and personal development.

(a) ***Policy and objectives of OHR-administered training.***

- (1) The objective of the County's employee development program is to enhance the delivery of services to County residents, visitors, and organizations by providing employees with the training necessary to continually improve their job performance and enhance their career potential.
- (2) The CAO, through the OHR Director and department directors, must ensure that employee development opportunities are provided in an equitable manner.
- (3) Employee development activities funded by the County must:
 - (A) be provided by organizations whose primary purpose is educational;
 - (B) be directly related to:
 - (i) the employee's current County work or normal career progression; or
 - (ii) a field of study that will prepare the employee to make a career change within the County; and
 - (C) allow the employee to:
 - (i) obtain education or training towards a certificate, associate degree, baccalaureate degree, or graduate degree; or
 - (ii) take a credit or non-credit course.
- (4) Employees and supervisors are jointly responsible for employee development.