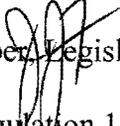


MEMORANDUM

TO: Government Operations & Fiscal Policy Committee

FROM: Justina J. Ferber,  Legislative Analyst

SUBJECT: Executive Regulation 14-12, Miscellaneous Amendments to Montgomery County Personnel Regulations

The Government Operations and Fiscal Policy (GO) Committee will consider the Executive's proposed amendments to the Montgomery County Personnel Regulations (MCPR) to amend Sections 6, 8, 32 and Appendix F. These changes affect non-union merit system employees and non-merit employees. **These amendments correct errors, omissions and typos and update certain provisions:**

More specifically, this regulation amends the following:

- Section 6-5 – Competitive rating process – to add and clarify that –

(c) The OHR director, or designee, may order applications to be re-rated or take other remedial action to remedy an oversight or error in the rating process.

Discussion: This amendment is in response to employee complaints about the application rating process and clarifies that the OHR Director has the authority to order applications to be re-rated or to take other remedial action to remedy an oversight or error in the rating process.

- Section 8-6 – Medical Examinations - to change the word “different” to “more extensive” (C) a County employee who is reassigned, transferred, demoted, or promoted to a position with a [different] more extensive medical exam protocol than the employee's previous position.

Discussion: This is updated language.

- Sections 32-8, 32-9, 32-10 and 32-11 are deleted since they were inadvertently not deleted under Regulation 9-10 adopted previously.

Discussion: Material contained in these sections was moved elsewhere in Section 32 and these sections are considered redundant and unnecessary.

Section 32-8 appears in 32-3(i)
Section 32-9 appears in 32-3(j)
Section 32-10 appears in 32-3(l)
Section 32-11 appears in 32-3(n)

- Appendix F – Guidelines on Broadband Classification of Management Leadership Service Positions – to remove non-merit positions established under the authority of Questions A as included in Management Leadership Service (MLS) and to remove individuals appointed to high-level non-merit management positions from the MLS Salary Schedule.

Discussion: The Executive is proposing to delete unnecessary language in Appendix F relating to non-merit positions established under the authority of Question A. The language in Appendix F regarding the inclusion of Question A, non-merit positions in the MLS and being assigned pay bands on the MLS Salary Schedule has not been followed. It is unclear how this language got inserted in Appendix F. Since this language in Appendix F has not been followed, it was decided that the best course of action is to remove this language through the regulatory process. It should also be noted that in the opinion of the County Attorney's Office since Section 2-2(l) of the MCPR provides that the Personnel Regulations don't apply to employees excluded from the merit system by County or Maryland State statute and since the Personnel Regulations are adopted under the authority of the merit system law (Article II of Chapter 33 of the County Code), the language about non-merit positions in Appendix F should not have been included.

The Executive's transmittal memorandum notes that the regulation was advertised in the May 2012 issue of the *Montgomery County Register* and the MSPB reviewed the regulation and has no objection. A fiscal impact statement indicating no fiscal or economic impact is also included at ©.

ACTION

Council staff proposes the Committee recommend Council adoption of Executive Regulation 14-12 as submitted.

<u>This packet contains:</u>	<u>Circle #</u>
Resolution	1
Transmittal Memorandum	3
Regulation 14-12, bracketed and underlined	4
Regulation 14-12, clean copy	13
Fiscal Impact Statement	17

Resolution No.: _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

Subject: Approval of Executive Regulation 14-12, Miscellaneous Amendments to Montgomery County Personnel Regulations

Background

1. On June 7, 2012, the County Council received Executive Regulation 14-12 to amend Sections 6, 8, 32 and Appendix F of the Personnel Regulations to correct errors, omissions and typos and update certain provisions.
2. Executive Regulation 14-12 amends the following:
 - a. Section 6-5 Competitive rating process – to add that the OHR director, or designee, may order applications to be re-rated or take other remedial action to remedy an oversight or error in the rating process;
 - b. Section 8-6 – Medical Examinations - to change the word “different” to “more extensive”;
 - c. Sections 32-8, 32-9, 32-10 and 32-11 are deleted since they were inadvertently not deleted under Regulation 9-10 adopted previously; and
 - d. Appendix F – Guidelines on Broadband Classification of Management Leadership Service Positions – to remove Non-merit positions established under the authority of Questions A as included in MLS and to remove individuals appointed to high-level non-merit management positions from the MLS Salary Schedule.
3. Executive Regulation 14-12 is processed under Method 2 and takes effect upon adoption of the Council resolution approving it or on a later date specified in the regulation.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

Executive Regulation 14-12 to amend Sections 6, 8, 32, and Appendix F of the Montgomery County Personnel Regulations to correct errors, omissions and typos and update certain personnel provisions is approved.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council



OFFICES OF THE COUNTY EXECUTIVE

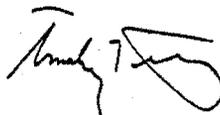
Isiah Leggett
County Executive

Timothy L. Firestine
Chief Administrative Officer

MEMORANDUM

June 6, 2012

TO: Roger Berliner, President
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Executive Regulation No. 14-12, Miscellaneous Amendments to the Montgomery County Personnel Regulations

I am submitting Executive Regulation No. 14-12 for the Council's review and approval. This regulation amends Sections 6, 8, 32, and Appendix F of the Personnel Regulations to correct errors, omissions and typos and to update certain provisions. These amendments resulted from a review of the Personnel Regulations by the Office of Human Resources.

Executive Regulation No. 14-12 was advertised in the May 2012 issue of the *Montgomery County Register*. No comments were received in response to this advertisement. The proposed regulation has been reviewed by the Merit System Protection Board and the Board has no objection.

IL:sw

Attachments

RECEIVED
MONTGOMERY COUNTY
COUNCIL

2012 JUN -7 PM 3:27



MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject Miscellaneous Amendments to the Montgomery County Personnel Regulations	Number 14-12
Originating Department Office of Human Resources	Effective Date

Miscellaneous Amendments to the Montgomery County Personnel Regulations

Executive Regulation No. 14-12

Issued by: County Executive

Supersedes: Executive Regulation No. 12-00AM II, in part
and Executive Regulation 9-10

Authority: Montgomery County Code, 2004, §33-7(b)

Council review: Method 1

Montgomery County Register Volume 29, Issue 5

Comment deadline: May 31, 2012

Summary: This regulation amends Sections 6, 8, 32, and Appendix F of the 2001 Montgomery County Personnel Regulations to correct errors, omissions and typos, delete unnecessary language, and update certain provisions. These amendments resulted from a review of the Personnel Regulations by the Office of Human Resources.

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

Heading or defined term.

Underlining

Added to existing regulation by proposed regulation.

[Single boldface brackets]

Deleted from existing regulation by proposed regulation.

Double underlining

Added by amendment.

[[Double boldface brackets]]

Deleted from existing or proposed regulation by amendment

* * *

Existing language unchanged by executive regulation



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SECTION 6. RECRUITMENT AND APPLICATION RATING PROCEDURES

* * *

6-5. Competitive rating process.

- (a) The OHR Director must establish a competitive rating process to create an eligible list for employment or promotion, unless the OHR Director determines that a non-competitive process is appropriate under Section 6-7 or 27-2(b) of these Regulations.
- (b) The OHR Director must include in the vacancy announcement in the jobs bulletin on the County Website [or in the printed Montgomery County jobs bulletin] a description of the competitive rating process and rating criteria that will be used to create the eligible list.

* * *

- (c) The OHR Director, or designee, may order applications to be re-rated or take other remedial action to remedy an oversight or error in the rating process.

* * *

SECTION 8. MEDICAL EXAMINATIONS AND REASONABLE ACCOMMODATION

* * *

8-6. Required medical examinations of applicants; actions based on results of required medical examinations.

- (a) *Medical and physical requirements for job applicants.*



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Miscellaneous Amendments to the Montgomery County Personnel Regulations	Number 14-12
Originating Department Office of Human Resources	Effective Date

* * *

(3) An applicant must undergo a medical evaluation before being placed in a County position if the applicant is:

* * *

(C) a County employee who is reassigned, transferred, demoted, or promoted to a position with a [different] more extensive medical exam protocol than the employee's previous position.

* * *

SECTION 32. EMPLOYEE DRUG AND ALCOHOL USE AND DRUG AND ALCOHOL TESTING

* * *

[Editor's note - In Executive Regulation 9-10, approved by the Council on July 12, 2011, it was the intent of the County Executive to delete Sections 32-8, 32-9, 32-10, and 32-11. Since much of the material contained in these sections was moved elsewhere in Section 32, they were considered redundant and unnecessary. However, as a result of an oversight these sections were maintained. The County Executive plans to delete these sections in the next executive regulation dealing with technical corrections to fix errors, omissions and typos.]

[32-8. Required referral, evaluation, and treatment.

(a) *Montgomery County Employee Assistance Program (EAP).*

(1) The County has contracted for Employee Assistance Program (EAP) services delivered by Sheppard-Pratt Health Plan. These EAP services



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include confidential counseling for employees and the services of a substance abuse professional (SAP) who is specifically trained and certified in the area of substance abuse and who can evaluate employees and refer them to appropriate treatment for substance abuse.

- (2) There are no fees to employees for EAP services. An employee may seek the help of EAP independently. With the approval of the employee's supervisor, the employee may use 2 hours of administrative leave to confer with an EAP counselor.
- (3) A supervisor or Occupational Medical Services staff must refer an employee who has a verified positive drug test result, engaged in prohibited alcohol use, or refused to submit to a drug or alcohol test to the EAP and ensure that the employee is evaluated by a SAP.

(b) ***Role of SAP.***

- (1) ***After prohibited drug use or refusal to take drug test.*** The SAP must determine for an employee who has refused to submit to a drug test or has a verified positive drug test result:
 - (A) what help the employee needs to resolve problems associated with prohibited drug use and what course of action should be recommended to the employee;
 - (B) if the employee has properly followed the SAP's recommendations;
 - (C) the appropriate frequency and duration of follow-up testing beyond the minimum number of follow-up tests required during the first 12 months after returning to duty; and
 - (D) if follow-up testing must include testing for alcohol.
- (2) ***After prohibited alcohol use or refusal to take alcohol test.*** The SAP must determine for an employee who has engaged in prohibited alcohol use or refused to submit to an alcohol test:



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- (A) what help, if any, the employee needs to resolve problems associated with alcohol misuse;
- (B) for each employee identified as needing help to resolve problems associated with alcohol misuse:
 - (i) if the employee properly followed any rehabilitation program prescribed by a SAP;
 - (ii) the appropriate frequency and duration of follow-up testing beyond the minimum number of follow-up tests required during the first 12 months after returning to duty; and
 - (iii) if follow-up testing must include testing for drugs.
- (c) ***Referral, evaluation, and treatment.*** The County must take the following actions with regard to an employee who has a verified positive drug test result, who violated the alcohol prohibitions, or who refused to take a drug or alcohol test:
 - (1) give the employee information about the resources available to the employee to evaluate and resolve problems associated with prohibited drug use or alcohol misuse, including the names, addresses, and telephone numbers of SAPs and counseling and treatment programs;
 - (2) ensure that the employee is evaluated by a SAP to determine whether the employee is in need of assistance in resolving problems associated with prohibited drug use or alcohol misuse;
 - (3) provide the employee with the name, telephone number, and credentials of the SAP affiliated with the County;
 - (4) ensure that a SAP does not refer the employee to the SAP's private practice from which the SAP receives payment or to a person or organization in which the SAP has a financial interest; and
 - (5) ensure that, before returning to duty to perform a safety-sensitive function, the employee has complied with the referral and evaluation provisions of



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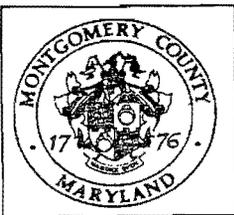
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this part and takes a return-to-duty drug test with a verified negative result, a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02, or both if the SAP determines that the employee should be tested for both drugs and alcohol.

32-9. Effects of drug abuse and alcohol misuse.

- (a) An employee who misuses alcohol or uses prohibited drugs may show it or may be an expert at masking the symptoms. The following warning signs indicate that an employee has a personal problem, but not necessarily a problem caused by drug abuse or alcohol misuse:
- (1) deteriorating performance, including inconsistent work quality and productivity, erratic pace and concentration, and increased errors;
 - (2) poor attendance and increased absenteeism, early departures, extended lunch periods, and unexplained absences;
 - (3) changes in attitude and physical appearance, including blaming others, avoiding supervisors and coworkers, inability to get along with others, deteriorating personal appearance, and poor morale among coworkers who spend time covering for the employee;
 - (4) increased accidents and injuries, careless handling of equipment or machinery, disregard for safety of others, and taking needless risks to raise productivity to make up for absences or periods of lowered productivity; and,
 - (5) increase in domestic problems, complaints about home and family problems such as separation, divorce, or behavior problems with children, or frequent financial problems.
- (b) An employee who recognizes symptoms of drug abuse or alcohol misuse in himself or herself or a coworker should not ignore or cover up the problem. An employee with a problem should contact the EAP. An employee should be supportive of a coworker who is exhibiting symptoms but refuse to cover up for the coworker. If the coworker's behavior is causing safety or another serious



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problem, the employee should discuss the problem with a supervisor or EAP counselor.

- (c) A supervisor must intervene by talking to the employee about the performance problems, explaining the consequences if performance expectations are not met, and being supportive, honest, and firm.
- (d) Supervisors and coworkers are not expected to diagnose drug abuse or alcohol misuse problems.

32-10. Education and training programs.

- (a) **Education.** The County must give employees information about the dangers of drug abuse and alcohol misuse and the resources available for treatment and rehabilitation.
- (b) **Training.**
 - (1) **For employees.** The County must ensure that all new and existing employees receive at least 60 minutes of training on the effects and consequences of prohibited drug use and alcohol misuse on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use or alcohol misuse.
 - (2) **For supervisors.** The County must ensure that supervisors who may make reasonable suspicion determinations receive at least:
 - (A) 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use; and
 - (B) 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

32-11. For further information. For further information about drug and alcohol testing, an employee may contact the staff of:

- (a) Occupational Medical Services, Office of Human Resources;



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- (b) Safety and Training Unit, Transit Services Division, DPWT;
- (c) Division Chief's Office, Fleet Management Services Division, DPWT; and
- (d) Labor/Employee Relations, Office of Human Resources.]

* * *

APPENDIX F – GUIDELINES ON BROADBAND CLASSIFICATION OF MANAGEMENT LEADERSHIP SERVICE POSITIONS

1. Management Leadership Service program elements.

(a) **Scope**

* * *

[(3) Non-merit positions established under the authority of Question A are included in MLS.]

[(4)]

(3) Although not included in MLS, Public Safety Managers are encouraged to participate in MLS training objectives.

* * *

2. Broadband classification structure.

* * *

(b) **Position classification**

* * *



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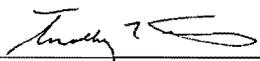
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(4) Movement to a higher management level is based on either a promotion to a vacant position in a higher management level or reclassification because of a significant change in duties.

[(5) Individuals appointed to high-level non-merit management positions will not be assigned to the classifications of Manager I, II, or III. These non-merit positions will continue to be assigned to occupational classes created specifically for non-merit appointed officials. Such classes will be assigned to pay bands on the MLS Salary Schedule.]

(c) **Job titles**

* * *

Approved: 

Isiah Leggett, County Executive

4/2/2012

Date

Approved as to form and legality:

David Stevenson April 24, 2012

Office of the County Attorney

Date



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Miscellaneous Amendments to the Montgomery County Personnel Regulations

Executive Regulation No. 14-12

Issued by: County Executive

Supersedes: Executive Regulation No. 12-00AM II, in part
and Executive Regulation 9-10

Authority: Montgomery County Code, 2004, §33-7(b)

Council review: Method 1

Montgomery County Register Volume 29, Issue 5

Comment deadline: May 31, 2012

Summary: This regulation amends Sections 6, 8, 32, and Appendix F of the 2001 Montgomery County Personnel Regulations to correct errors, omissions and typos, delete unnecessary language, and update certain provisions. These amendments resulted from a review of the Personnel Regulations by the Office of Human Resources.

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

Heading or defined term.

Underlining

Added to existing regulation by proposed regulation.

* * *

Existing language unchanged by executive regulation



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SECTION 6. RECRUITMENT AND APPLICATION RATING PROCEDURES

* * *

6-5. Competitive rating process.

- (a) The OHR Director must establish a competitive rating process to create an eligible list for employment or promotion, unless the OHR Director determines that a non-competitive process is appropriate under Section 6-7 or 27-2(b) of these Regulations.
- (b) The OHR Director must include in the vacancy announcement in the jobs bulletin on the County Website a description of the competitive rating process and rating criteria that will be used to create the eligible list.
- (c) The OHR Director, or designee, may order applications to be re-rated or take other remedial action to remedy an oversight or error in the rating process.

* * *

* * *

SECTION 8. MEDICAL EXAMINATIONS AND REASONABLE ACCOMMODATION

* * *

8-6. Required medical examinations of applicants; actions based on results of required medical examinations.

- (a) *Medical and physical requirements for job applicants.*

* * *



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(3) An applicant must undergo a medical evaluation before being placed in a County position if the applicant is:

* * *

(C) a County employee who is reassigned, transferred, demoted, or promoted to a position with a more extensive medical exam protocol than the employee's previous position.

* * *

SECTION 32. EMPLOYEE DRUG AND ALCOHOL USE AND DRUG AND ALCOHOL TESTING

* * *

APPENDIX F – GUIDELINES ON BROADBAND CLASSIFICATION OF MANAGEMENT LEADERSHIP SERVICE POSITIONS

1. Management Leadership Service program elements.

(a) Scope

* * *

(3) Although not included in MLS, Public Safety Managers are encouraged to participate in MLS training objectives.

* * *

2. Broadband classification structure.

* * *

(b) Position classification



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* * *

(4) Movement to a higher management level is based on either a promotion to a vacant position in a higher management level or reclassification because of a significant change in duties.

(c) Job titles

* * *

Approved: Isiah Leggett 4/6/2012
 Isiah Leggett, County Executive Date

Approved as to form and legality:
David Stevenson April 24, 2012
 Office of the County Attorney Date

Fiscal Impact Statement
Executive Regulation 14-12 – Miscellaneous Amendments to the
Montgomery County Personnel Regulations

1. Executive Regulation Summary

This regulation amends Sections 6, 8, and 32 of the 2001 Montgomery County Personnel Regulations to correct errors, omissions and typos and to update certain provisions.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The correction of errors, omissions and typos has no fiscal impact on the County.

The substantive change in Section 8-6(3)(C), requiring a medical evaluation for County employees reassigned, transferred, demoted, or promoted to a position with a “more extensive” medical exam protocol than the employee’s previous position will reduce the number of medical evaluations.

However, any cost savings would be negligible since the number of positions affected is low.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

See item #2 above.

4. An actuarial analysis through the entire amortization period for each regulation that would affect retiree pension or group insurance costs.

Not applicable.

5. Later actions that may affect future revenue and expenditures if the regulation authorizes future spending.

Not applicable. This regulation does not authorize future spending.

6. An estimate of the staff time needed to implement the regulation.

Not applicable.

7. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

8. An estimate of costs when an additional appropriation is needed.

Not applicable.

9. A description of any variable that could affect revenue and cost estimates.

Not applicable.

10. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

11. If a regulation is likely to have no fiscal impact, why that is the case.

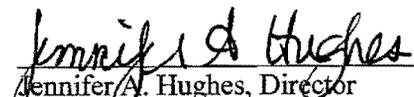
The correction of errors, omissions and typos has no fiscal impact on the County.

12. Other fiscal impacts or comments.

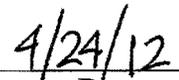
None.

13. The following contributed to and concurred with this analysis:

Stuart Weisberg, Office of Human Resources
Helen P. Vallone, Office of Management and Budget
Naeem Mia, Office of Management and Budget



Jennifer A. Hughes, Director
Office of Management and Budget



Date