

Action

MEMORANDUM

March 4, 2010

TO: County Council

FROM: Justina J. Ferber  Legislative Analyst

SUBJECT: Executive Regulation No. 23-09, Amendments to Montgomery County Personnel Regulations, Probationary Period for Noncompetitive Reappointments

The Management and Fiscal Policy Committee unanimously recommends the Council adopt Executive Regulation No. 23-09 as submitted.

The Management and Fiscal Policy (MFP) Committee considered the Executive's proposed amendments to the Montgomery County Personnel Regulations (MCPR) to amend Section 7 of the 2001 Personnel Regulations to clarify under what circumstances an employee who receives a noncompetitive appointment must serve a probationary period.

This amendment codifies what has been the County practice regarding noncompetitive appointments by adding the following to the regulations:

- An individual appointed to a merit system position (other than Firefighter/Rescuer Recruit, Police Office Candidate, Deputy Sheriff Candidate or Correction Officer I/Private) based on priority considerations under Section 6-10(a)(1), (2), or (3)¹ *does not serve a probationary period.*

¹ 6-10. Priority eligible list.

- (a) The OHR Director may establish a priority eligible list to provide priority consideration in the following order to an employee who:
- (1) is unable to perform the employee's job because of a disability or injury under the ADA;
 - (2) is subject to reduction-in-force;
 - (3) was granted a temporary disability retirement under the Employees' Retirement System or an initial or temporary disability benefit of any type under the Retirement Savings Plan but is no longer eligible for such a temporary disability retirement or benefit; or

- A former County employee reappointed noncompetitively under Section 7-4² to the same position that the employee held prior to separation from County service within one year of separation *does not serve a probationary period*.
- A former County employee reappointed noncompetitively under Section 7-4 to the same position that the employee held prior to separation from County service more than one year after separation *must serve a probationary period for a length of time* discussed in Section 7-2(b).³
- A former County employee reappointed noncompetitively under Section 7-4 to a position different from the position the employee held prior to separation *must serve a probationary period for a length of time* discussed in Section 7-2(b).

The Executive's transmittal memorandum notes that the regulation was advertised in the November 2009 issue of the *Montgomery County Register* and no comments were received. The Merit System Protection Board reviewed the regulation and has no objection. A fiscal impact statement indicating no fiscal impact is also included at ©8.

MFP Committee Recommendation: MFP Committee recommends Council adoption of the regulation as submitted.

Attached is a draft resolution for Council adoption.

² **7-4. Noncompetitive reappointment.**

- (a) A department director may noncompetitively reappoint a former County employee if the individual:
 - (1) is reappointed to a position at the same or lower grade level than the employee held at the time of separation;
 - (2) meets the requirements for the position;
 - (3) passes a physical examination, if required for the position;
 - (4) completed the probationary period before separation;
 - (5) was in good standing at the time of separation and is eligible for reemployment; and
 - (6) applies for reappointment within 5 years after the date of separation.
- (b) The department director must obtain the OHR Director's approval of the noncompetitive reappointment
- (c) Noncompetitive reappointment is the prerogative of management and not a right or entitlement of a former employee. A former employee may not file a grievance or appeal the denial of a non-competitive reappointment.

³ **7-2 (b) Length of probationary period.**

- (1) The probationary period is 12 months for an employee newly appointed to a full-time or part-time position, unless the employee is appointed to an OPT/SLT bargaining unit position or is a police officer or deputy sheriff.
- (2) The probationary period for an employee appointed to a full-time or part-time OPT/SLT bargaining unit position is 6 to 12 months, unless the employee is a deputy sheriff.
- (3) The probationary period for a police officer or deputy sheriff continues for 12 months after the employee has sworn status.
- (4) The promotional probationary period is 6 months for an employee newly promoted to a full-time or part-time position.

This packet contains:

circle #

Transmittal Memorandum	1
Regulation 23-09, bracketed and underlined	2-4
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Fiscal Impact Statement	8
Draft Resolution	9

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Exec Reg



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Method 1

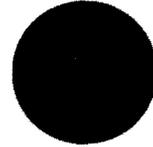
JF
ce
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Isiah Leggett
County Executive

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

MEMORANDUM

December 10, 2009



2009 DEC 10 PM 3:54

RECEIVED
MONTGOMERY COUNTY
COUNCIL

TO: Nancy Floreen, President
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Executive Regulation No. 23-09, Probationary Period for Noncompetitive Reappointments

I am submitting Executive Regulation No. 23-09 for the Council's review and approval. This regulation amends the 2001 Montgomery County Personnel Regulations to clarify under what circumstances an employee who receives a noncompetitive appointment must serve a probationary period.

Executive Regulation No. 23-09 was advertised in the November 2009 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 to it. A fiscal impact statement for the regulation is also included.

Should you have any questions about Executive Regulation No. 23-09, please contact Stuart Weisberg, the Labor Relations Advisor in the Office of Human Resources, at (240) 777-5154.

IL:sw

Attachments



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Probationary Period for Noncompetitive Reappointments	Number 23-09
Originating Department Office of Human Resources	Effective Date

Probationary Period for Noncompetitive Reappointments

Executive Regulation No. 23-09

Issued by: County Executive

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

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

Council review: Method 1

Montgomery County Register Volume 26, Issue 11

Comment deadline: November 30, 2009

Effective date: _____

Summary: This regulation amends Section 7 of the 2001 Montgomery County Personnel Regulations to clarify under what circumstances an employee who receives a noncompetitive appointment must serve a probationary period.

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

Staff contact: Stuart Weisberg, 240-777-5051, 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>



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Probationary Period for Noncompetitive Reappointments	Number 23-09
Originating Department Office of Human Resources	Effective Date

SECTION 7. APPOINTMENTS, PROBATIONARY PERIOD, AND PROMOTIONAL PROBATIONARY PERIOD

* * *

7-2. Probationary period; promotional probationary period.

(a) *Purpose of probationary period and promotional probationary period.*

* * *

(4) A County employee with merit system status who transfers to a position as a Firefighter/Rescuer Recruit, Police Officer Candidate, Deputy Sheriff Candidate, or Correctional Officer I/Private must serve a new probationary period of at least 12 months in the new position. If the employee is unable to successfully complete the new probationary period, the OHR Director must place the employee in an available vacant position for which the employee is qualified.

(5) An individual appointed to a full-time or part-time merit system position, other than a position enumerated in (a)(4) above, based on priority consideration under Section 6-10 (a) (1), (2) or (3) does not serve a probationary period.

* *

7-5. Probationary period for noncompetitive reappointment.

(a) Noncompetitive reappointment to the same position.

(1) A former County employee reappointed noncompetitively under Section 7-4 to the same position that the employee held prior to separation from County service within one year of separation does not serve a probationary period.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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(2) A former County employee reappointed noncompetitively under Section 7-4 to the same position that the employee held prior to separation from County service more than one year after separation must serve a probationary period for a length of time discussed in Section 7-2(b).

(b) Noncompetitive reappointment to a different position.

(1) A former County employee reappointed noncompetitively under Section 7-4 to a position different from the position the employee held prior to separation must serve a probationary period for a length of time discussed in Section 7-2(b) regardless of the length of the separation period.

Approved: Isiah Leggett
Isiah Leggett, County Executive

Dec 10, 2009
Date

Approved as to form and legality:
Anne T. Winda 10/21/09
Office of the County Attorney Date



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Probationary Period for Noncompetitive Reappointments	Number 23-09
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* * *

7-2. Probationary period; promotional probationary period.

(a) *Purpose of probationary period and promotional probationary period.*

* * *

(4) A County employee with merit system status who transfers to a position as a Firefighter/Rescuer Recruit, Police Officer Candidate, Deputy Sheriff Candidate, or Correctional Officer I/Private must serve a new probationary period of at least 12 months in the new position. If the employee is unable to successfully complete the new probationary period, the OHR Director must place the employee in an available vacant position for which the employee is qualified.

(5) An individual appointed to a full-time or part-time merit system position, other than a position enumerated in (a)(4) above, based on priority consideration under Section 6-10 (a) (1), (2) or (3) does not serve a probationary period.

* * *

7-5. Probationary period for noncompetitive reappointment.

(a) *Noncompetitive reappointment to the same position.*

(1) A former County employee reappointed noncompetitively under Section



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

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7-4 to the same position that the employee held prior to separation from County service within one year of separation does not serve a probationary period.

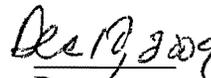
- (2) A former County employee reappointed noncompetitively under Section 7-4 to the same position that the employee held prior to separation from County service more than one year after separation must serve a probationary period for a length of time discussed in Section 7-2(b).

(b) *Noncompetitive reappointment to a different position.*

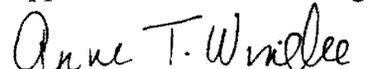
- (1) A former County employee reappointed noncompetitively under Section 7-4 to a position different from the position the employee held prior to separation must serve a probationary period for a length of time discussed in Section 7-2(b) regardless of the length of the separation period.

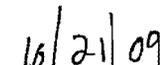
Approved:


Isiah Leggett, County Executive


Date

Approved as to form and legality:


Office of the County Attorney


Date



OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

October 22, 2009

TO: Joseph F. Beach, Director
Office of Management and Budget

VIA: Alex Espinosa, Management and Budget Manager *AE*

VIA: John Cuff, Management and Budget Specialist *JC*

FROM: Lori O'Brien, Management and Budget Specialist *LOB*

SUBJECT: Executive Regulation 23-09, Probationary Period for
Noncompetitive Reappointments

REGULATION SUMMARY

Executive Regulation 23-09 clarifies the requirements for probationary periods for non-competitive reappointments or an appointment based on priority consideration.

FISCAL AND ECONOMIC SUMMARY

There is no anticipated fiscal impact to the County. The regulation requires no additional resources to implement.

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

JFB:lob

cc: Kathleen Boucher, Assistant Chief Administrative Officer
Joseph Adler, Director, Office of Human Resources
Stuart Weisberg, Office of Human Resources
Caroline Darden, Offices of the County Executive
John Cuff, Office of Management and Budget
Lori O'Brien, Office of Management and Budget

Office of the Director

(8)

Resolution No.: _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

Subject: Approval of Executive Regulation No. 23-09, Amendments to Montgomery County Personnel Regulations, Probationary Period for Noncompetitive Reappointments

Background

1. On December 10, 2009, the County Council received Executive Regulation 23-09 to amend Section 7 of the 2001 Personnel Regulations to clarify under what circumstances an employee who receives a noncompetitive appointment must serve a probationary period.
2. Executive Regulation 23-09 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.
3. The Management and Fiscal Policy Committee reviewed Executive Regulation 23-09 on February 24, 2010 and unanimously recommended approval.

Action

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

Executive Regulation No. 23-09, to amend Section 7 of the 2001 Personnel Regulations to clarify under what circumstances an employee who receives a noncompetitive appointment must serve a probationary period is approved.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council