

Action

MEMORANDUM

March 4, 2010

TO: County Council

FROM: Justina J. Ferber,  Legislative Analyst

SUBJECT: Executive Regulation No. 28-09, Amendments to Montgomery County Personnel Regulations, Gain Sharing Program and Performance-Based Pay for Employees

The Management and Fiscal Policy Committee unanimously recommends the Council adopt Executive Regulation No. 28-09 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 10 of the 2001 Personnel Regulations to:

- 1) Provide that any decision by the Review Panel or the Chief Administrative Officer relating to the Rewarding Excellence Bonus Incentive Award Program ("Gain Sharing Program") cannot be grieved or appealed.
- 2) Clarify that an MLS employee with merit system status who received a performance rating of "Below Expectations" is not eligible for performance-based pay but receives the general wage adjustment awarded to other unrepresented employees.
- 3) Clarify that an employee on the general salary schedule who received a performance rating of "Below Expectations" is not eligible to receive a performance based pay award.

This amendment implements a provision contained in MCGEO collective bargaining agreement which provides any decision by the Review Panel or the Chief Administrative Officer relating to the "Gain Sharing Awards Program" cannot be grieved or appealed. The amendment also formalizes policies currently in use that a general salary schedule employee or an MLS employee with merit system status who received a performance rating of "Below Expectations" is not eligible to receive a performance based pay award.

The Executive's transmittal memorandum notes that the regulation was advertised in the January 2010 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 ©12.

The Committee discussed the Gain Sharing Program which had been negotiated with MCGEO in the previous contract term. This regulation is a component in the implementation of the program.

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

Attached is a draft resolution for Council adoption.

This packet contains:

	<u>circle #</u>
Transmittal Memorandum	1
Regulation 28-09, bracketed and underlined	2-6
Regulation 28-09, clean copy	7-11
Fiscal Impact Statement	12
Draft Resolution	13-14

EXEC REG



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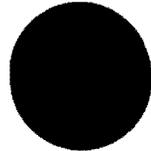
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Isiah Leggett
County Executive

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

MEMORANDUM

February 18, 2010



2010 FEB 18 PM 3:59

MONTGOMERY COUNTY
COUNCIL

Method 1

TO: Nancy Floreen, President
Montgomery County Council

FROM: Isiah Leggett, County Executive

SUBJECT: Executive Regulation No. 28-09, Gain Sharing Program and Performance-Based Pay for MLS Employees

I am submitting Executive Regulation No. 28-09 for the Council's review and approval. This regulation amends Section 10 of the 2001 Montgomery County Personnel Regulations to provide that any decision by the Review Panel or the Chief Administrative Officer relating to the Rewarding Excellence Bonus Incentive Awards Program ("Gain Sharing Program") cannot be grieved or appealed. The regulation also clarifies that an MLS employee with merit system status who receives a performance rating of "Below Expectations" is not eligible for performance-based pay but receives the general wage adjustment awarded to other unrepresented employees. In addition, the regulation makes clear that an employee on the general salary schedule who receives a performance rating of "Below Expectations" is not eligible to receive a performance-based pay award.

Executive Regulation No. 28-09 was advertised in the January 2010 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.

A fiscal impact statement for the regulation is also included.

Should you have any questions about Executive Regulation No. 28-09, please contact Stuart Weisberg, the Labor Relations Advisor in the Office of Human Resources, at (240) 777-5154.

IL:sw

Attachments

①



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Gain Sharing program and Performance-Based Pay for MLS Employees	Number 28-09
Originating Department Office of Human Resources	Effective Date

Gain Sharing Program and Performance-Based Pay for MLS Employees

Executive Regulation No. 28-09

Issued by: County Executive

Supersedes: Executive Regulation No. 23-07AM, in part

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

Council review: Method 1

Montgomery County Register Volume 27, Issue 1

Comment deadline: January 31, 2010

Effective date: _____

Summary: This regulation amends Section 10 of the 2001 Montgomery County Personnel Regulations to provide that any decision by the Review Panel or the Chief Administrative Officer relating to the Rewarding Excellence Bonus Incentive Awards Program (“Gain Sharing Program”) cannot be grieved or appealed. The regulation also clarifies that an MLS employee with merit system status who receives a performance rating of “Below Expectations” is not eligible for performance-based pay but receives the general wage adjustment awarded to other unrepresented employees. In addition, the regulation makes clear that an employee on the general salary schedule who receives a performance rating of “Below Expectations” is not eligible to receive a performance-based pay award.

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> |

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MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Gain Sharing program and Performance-Based Pay for MLS Employees	Number 28-09
Originating Department Office of Human Resources	Effective Date

SECTION 10. EMPLOYEE COMPENSATION

* * *

10-10. Performance-based pay.

(a) **Performance-based pay for MLS employees.** An MLS employee is not eligible to receive service increments, but may receive performance-based pay as described in this subsection.

(1) **Eligibility for general wage adjustment.**

(A) **Career employee.** An MLS employee with merit system status who receives a performance rating of *Below Expectations*, *Successful Performance*, *Highly Successful Performance*, or *Exceptional Performance* for the prior review period receives the general wage adjustment awarded to other unrepresented County employees during the current fiscal year. An employee with a rating of *Does Not Meet Expectations* for the prior review period does not receive the general wage adjustment for the current fiscal year.

* * *

(2) **Eligibility for performance-based pay.**

* * *

(C) **Eligibility based on performance rating.**

(i) An employee with a performance rating of *Successful Performance*, *Highly Successful Performance*, or *Exceptional Performance* is eligible to receive performance-based pay as indicated in the table below.

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MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Gain Sharing program and Performance-Based Pay for MLS Employees	Number 28-09
Originating Department Office of Human Resources	Effective Date

However, the salary of an employee who receives an addition to base salary award must not exceed the maximum of the assigned pay band.

Eligibility for Performance-Based Pay for MLS Employees*			
Overall performance rating:	If employee's salary is below 90 percent of pay band	If employee's salary is at or above 90 percent of pay band	If employee's salary is at top of pay band
Exceptional Performance	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 6 percent of base salary.	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 4 percent of base salary.	Employee is eligible for a lump-sum award not to exceed 4 percent of base salary.
Highly Successful Performance	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 4 percent of base salary.	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 3.5 percent of base salary.	Employee is eligible for a lump-sum award not to exceed 3.5 percent of base salary.
Successful Performance	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award	Employee is eligible for a lump-sum award not to exceed 2 percent of base salary.	Employee is eligible for a lump-sum award not to exceed 2 percent of base salary.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Gain Sharing program and Performance-Based Pay for MLS Employees	Number 28-09
Originating Department Office of Human Resources	Effective Date

	must not exceed 3.5 percent of base salary.		
Below Expectations	<u>Employee is not eligible for performance-based pay.</u>	<u>Employee is not eligible for performance-based pay.</u>	<u>Employee is not eligible for performance-based pay.</u>
Does Not Meet Expectations	Employee is not eligible for performance-based pay.	Employee is not eligible for performance-based pay.	Employee is not eligible for performance-based pay.
* An MLS employee receives the general wage adjustment granted to other non-bargaining unit employees unless the employee's overall performance rating was <i>Does Not Meet Expectations</i> .			

* * *

(b) **Performance-based pay for employees on the general salary schedule.** An employee whose position is on the general salary schedule may be eligible to receive a lump-sum performance-based pay award as described in this subsection.

(1) **Eligibility for performance-based pay.**

* * *

(2) **Eligibility based on performance rating.**

(A) An employee with a performance rating of *Exceptional Performance* or *Highly Successful Performance* for a review period of not less than 6 months will receive a lump-sum award as indicated in the table below unless the employee receives a twenty-

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MONTGOMERY COUNTY EXECUTIVE REGULATION

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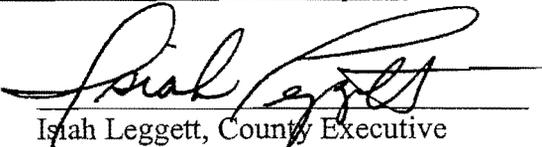
Subject Gain Sharing program and Performance-Based Pay for MLS Employees	Number 28-09
Originating Department Office of Human Resources	Effective Date

year longevity/performance increment under Section 12-9 for the same annual overall rating.

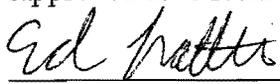
Eligibility for Performance-Based Pay for Employees on the General Salary Schedule	
Overall performance rating:	Employee receives:
<i>Exceptional Performance</i>	A lump-sum award of 2 percent of base salary
<i>Highly Successful Performance</i>	A lump-sum award of 1 percent of base salary
<i>Successful Performance</i>	No additional pay
<i>Below Expectations</i>	No additional pay
<i>Does Not Meet Expectations</i>	No additional pay

* * *

10-20. Gain Sharing Program. The CAO should establish a gain sharing program to reward employees for making suggestions that improve efficiency, increase productivity, reduce costs, or streamline operations. Under this program, if the employees' suggestion is adopted, the employees would receive a portion of the cost savings. An employee cannot grieve or appeal any decision by the Review Panel or the Chief Administrative Officer relating to the Rewarding Excellence Bonus Incentive Awards Program.

Approved: 
Isiah Leggett, County Executive

Feb 19, 2010
Date

Approved as to form and legality:
 *12/11/09*
Office of the County Attorney Date

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MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Gain Sharing program and Performance-Based Pay for MLS Employees	Number 28-09
Originating Department Office of Human Resources	Effective Date

Gain Sharing Program and Performance-Based Pay for MLS Employees

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

Council review: Method 1

Montgomery County Register Volume 27, Issue 1

Comment deadline: January 31, 2010

Effective date: _____

Summary: This regulation amends Section 10 of the 2001 Montgomery County Personnel Regulations to provide that any decision by the Review Panel or the Chief Administrative Officer relating to the Rewarding Excellence Bonus Incentive Awards Program (“Gain Sharing Program”) cannot be grieved or appealed. The regulation also clarifies that an MLS employee with merit system status who receives a performance rating of “Below Expectations” is not eligible for performance-based pay but receives the general wage adjustment awarded to other unrepresented employees. In addition, the regulation makes clear that an employee on the general salary schedule who receives a performance rating of “Below Expectations” is not eligible to receive a performance-based pay award.

Address for comments Office of Human Resources, Executive Office Building, 7th Floor
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Staff contact: Stuart Weisberg, 240-777-5051, or stuart.weisberg@montgomerycountymd.gov

Please use the key below when reading this regulation:

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Existing language unchanged by executive regulation.

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MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Gain Sharing program and Performance-Based Pay for MLS Employees	Number 28-09
Originating Department Office of Human Resources	Effective Date

SECTION 10. EMPLOYEE COMPENSATION

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(1) **Eligibility for general wage adjustment.**

(A) **Career employee.** An MLS employee with merit system status who receives a performance rating of *Below Expectations*, *Successful Performance*, *Highly Successful Performance*, or *Exceptional Performance* for the prior review period receives the general wage adjustment awarded to other unrepresented County employees during the current fiscal year. An employee with a rating of *Does Not Meet Expectations* for the prior review period does not receive the general wage adjustment for the current fiscal year.

* * *

(2) **Eligibility for performance-based pay.**

* * *

(C) Eligibility based on performance rating.

(i) An employee with a performance rating of *Successful Performance*, *Highly Successful Performance*, or *Exceptional Performance* is eligible to receive

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MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Gain Sharing program and Performance-Based Pay for MLS Employees	Number 28-09
Originating Department Office of Human Resources	Effective Date

performance-based pay as indicated in the table below.
However, the salary of an employee who receives an addition to base salary award must not exceed the maximum of the assigned pay band.

Eligibility for Performance-Based Pay for MLS Employees*			
Overall performance rating:	If employee's salary is below 90 percent of pay band	If employee's salary is at or above 90 percent of pay band	If employee's salary is at top of pay band
Exceptional Performance	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 6 percent of base salary.	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 4 percent of base salary.	Employee is eligible for a lump-sum award not to exceed 4 percent of base salary.
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Successful Performance	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base	Employee is eligible for a lump-sum award not to exceed 2 percent of base salary.	Employee is eligible for a lump-sum award not to exceed 2 percent of base salary.

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MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject Gain Sharing program and Performance-Based Pay for MLS Employees	Number 28-09
Originating Department Office of Human Resources	Effective Date

	salary and lump-sum award must not exceed 3.5 percent of base salary.		
Below Expectations	Employee is not eligible for performance-based pay.	Employee is not eligible for performance-based pay.	Employee is not eligible for performance-based pay.
Does Not Meet Expectations	Employee is not eligible for performance-based pay.	Employee is not eligible for performance-based pay.	Employee is not eligible for performance-based pay.
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* * *

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(1) **Eligibility for performance-based pay.**

* * *

(2) **Eligibility based on performance rating.**

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MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Gain Sharing program and Performance-Based Pay for MLS Employees	Number 28-09
Originating Department Office of Human Resources	Effective Date

year longevity/performance increment under Section 12-9 for the same annual overall rating.

Eligibility for Performance-Based Pay for Employees on the General Salary Schedule	
Overall performance rating:	Employee receives:
<i>Exceptional Performance</i>	A lump-sum award of 2 percent of base salary
<i>Highly Successful Performance</i>	A lump-sum award of 1 percent of base salary
<i>Successful Performance</i>	No additional pay
<i>Below Expectations</i>	No additional pay
<i>Does Not Meet Expectations</i>	No additional pay

* * *

10-20. Gain Sharing Program. The CAO should establish a gain sharing program to reward employees for making suggestions that improve efficiency, increase productivity, reduce costs, or streamline operations. Under this program, if the employees' suggestion is adopted, the employees would receive a portion of the cost savings. An employee cannot grieve or appeal any decision by the Review Panel or the Chief Administrative Officer relating to the Rewarding Excellence Bonus Incentive Awards Program.

Approved: *Isiah Leggett*
Isiah Leggett, County Executive

Feb 19, 2010
Date

Approved as to form and legality:
Ed Walters *12/11/09*
Office of the County Attorney Date

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OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

January 6, 2010

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 28-09, Gain Sharing Program and
Performance-based Pay for MLS Employees

REGULATION SUMMARY

The proposed regulation provides that any decision by the review panel or the chief administrative officer relating to the "Gain Sharing Awards Program" cannot be grieved or appealed. This "non-grievable" provision is already contained in the MCGEO collective bargaining agreement. The proposed regulation also clarifies that an MLS employee who receives a performance rating of "Below Expectations" is not eligible for performance-based pay but receives the general wage adjustment awarded to other unrepresented employees. In addition, the proposed regulation makes clear that an employee on the general salary schedule who receives a performance rating of "Below Expectations" is not eligible to receive a performance-based pay award. This regulation formalizes policies currently in use.

FISCAL AND ECONOMIC SUMMARY

The proposed regulation is formalizing policies already in place and it will have no fiscal or economic impact on the County.

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

JFB:lob

Office of the Director

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Resolution No.: _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

Subject: Approval of Executive Regulation No. 28-09, Amendments to Montgomery County Personnel Regulations, Amendments to Montgomery County Personnel Regulations, Gain Sharing Program and Performance-Based Pay for Employees

Background

1. On February 18, 2010, the County Council received Executive Regulation 28-09 to amend Section 10 of the 2001 Personnel Regulations to provide that any decision by the Review Panel or the Chief Administrative Officer relating to the Rewarding Excellence Bonus Incentive Award Program ("Gain Sharing Program") cannot be grieved or appealed.
2. Executive Regulation 28-09 also clarifies that an MLS employee with merit system status who received a performance rating of "Below Expectations" is not eligible for performance-based pay but receives the general wage adjustment awarded to other unrepresented employees and that an employee on the general salary schedule who received a performance rating of "Below Expectations" is not eligible to receive a performance based pay award.
3. Executive Regulation 28-09 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.
4. The Management and Fiscal Policy Committee reviewed Executive Regulation 28-09 on February 24, 2010 and unanimously recommended approval.

Action

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

Executive Regulation No. 28-09, to amend Section 10 of the 2001 Personnel Regulations to provide that any decision by the Review Panel or the Chief Administrative Officer relating to the Rewarding Excellence Bonus Incentive Award Program ("Gain Sharing Program") cannot be grieved or appealed and to clarify that a general salary schedule

employee or an MLS employee with merit system status who received a performance rating of "Below Expectations" is not eligible to receive a performance based pay award is approved.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council