

Resolution No.:	<u>18-716</u>
Introduced:	<u>February 14, 2017</u>
Adopted:	<u>February 14, 2017</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: County Council

SUBJECT: Approval of Executive Regulation 11-16AM, MCPR Amendments on Sick Leave Donations

Background

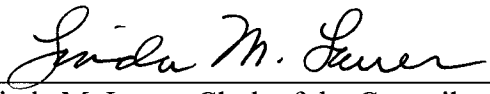
1. On September 19, 2016, the Council received Executive Regulation 11-16 to amend Sections 17 and 20 of the County Personnel Regulations. Among other changes, the Regulation would allow an employee to use sick leave donations to care for a parent with a serious health condition and allow sick leave donations to be used as parental leave.
2. The Council reviewed the regulation under Method (1). Under Method (1), the regulation is not adopted until the Council approves it. If the Council approves the regulation, the regulation takes effect upon adoption of the resolution approving it or on a later date specified in the regulation.
3. On October 13, the Government Operations and Fiscal Policy Committee reviewed Executive Regulation 11-16 and requested the Executive make several amendments.
4. The Executive incorporated recommendations made by the Government Operations and Fiscal Policy Committee into the Regulation and transmitted Executive Regulation 11-16AM to the Council on January 12, 2017.
5. On February 9, 2017, the Government Operations and Fiscal Policy Committee reviewed Executive Regulation 11-16AM and recommended approval of the regulation.

Action

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

Executive Regulation 11-16AM, MCPR Amendments on Sick Leave Donations, is approved.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject	MCPR Amendments on Sick Leave Donations	Number	11-16 AM
Originating Department	Office of Human Resources	Effective Date	February 14, 2017

MCPR Amendments on Sick Leave Donations

Executive Regulation No. 11-16 AM
COMCOR No. 33.07.01

Issued by: County Executive

Supersedes: Executive Regulation 12-00AMII, in part

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

Montgomery County Register Volume 33 Issue 7
Comment deadline: July 31, 2016

Effective date: February 14, 2017

Summary: This regulation amends MCPR Sections 17 and 20 to allow sick leave donations to be used to care for a parent with a serious health condition; to allow an employee to use a maximum of 120 hours of sick leave donations as parental leave to bond with or care for the employee's newborn child, newly adopted child, or newly placed foster child; to provide that an employee is not entitled to accrue annual or sick leave while using donated sick leave; and to change the eligibility requirement for parental leave from merit system status to after an employee has been employed by the County in a merit system position for at least 6 consecutive months.

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.
Existing language unchanged by executive regulation.



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SECTION 17. SICK LEAVE

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17-10. Sick Leave Donor Program. The Sick Leave Donor Program allows County employees to give additional sick leave, annual leave, or PTO to eligible employees who have exhausted all types of accrued leave.

(a) *Employee eligibility to receive sick leave, annual leave, or PTO donations.*

(1) An employee is eligible to receive a sick leave, annual leave or PTO donation after the employee:

- (A) has been employed by the County in a merit system position for at least 6 consecutive months;
- (B) has an extended illness or injury, which may include pregnancy, childbirth, or recovery from childbirth, that causes the employee to be unable to work for more than 7 consecutive calendar days or to care for the employee's spouse, domestic partner, child, or parent who has a serious health condition; and
- (C) has requested leave and received approval for the period for which sick leave or PTO donations are sought because of the extended illness or injury;
- (D) has used all accrued annual leave, sick leave, personal leave, and compensatory time or all accrued PTO, personal leave, and compensatory time if the employee receives PTO instead of annual and sick leave; and
- (E) has submitted the following to the department director (or another has submitted the following on the employee's behalf):

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(iii) a completed *Medical Certification Form for Sick Leave or PTO Donations* (Appendix M) or a written statement from the employee's health care provider stating:

(a) that the employee cannot perform the essential functions of the employee's position because of the employee's serious health condition, which may include pregnancy, childbirth or recovery from childbirth; and

(b) the estimated date when the employee will be able to return to work.

* * *

(d) Use of sick leave, annual leave, or PTO donations.

- (1) If an employee who earns sick leave receives a leave donation from an employee who receives PTO, the donated PTO will be credited as sick leave. If an employee who receives PTO receives a leave donation from an employee who earns sick leave, the donated sick leave will be credited as PTO.
- (2) An employee must have the approval of the employee's supervisor to use donated sick leave or PTO.
- (3) An employee who receives a sick leave or PTO donation must use it for an absence caused by the extended illness or injury for which the leave was donated.
- (4) An employee who earns sick and annual leave instead of PTO does not earn or accrue sick and annual leave while the employee is using donated sick leave. An employee who uses donated PTO will continue to be credited with PTO as required under Section 16-12(a) and (b) of these Regulations.
- (5) An employee may receive sick leave or PTO donations when the employee is



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- unable to work due to pregnancy, childbirth, or recovery from childbirth.
- (6) An employee may use up to 120 hours of sick leave or PTO donations as parental leave to bond with or care for the employee's newborn child, newly adopted child, or newly placed foster child.
- (7) An employee may apply for additional sick leave or PTO for the same extended illness or injury before an earlier donation has been exhausted.
- (8) An employee must not use donated sick leave, annual leave, or PTO:
- (A) for a medical or dental appointment that is unrelated to the extended illness or injury for which the leave was donated; or
 - (B) to care for a family member other than the employee's spouse, domestic partner, child, or parent who has a serious health condition.
- (9) Donated sick leave or PTO that is used by an employee is credited service that counts towards vesting and retirement eligibility. An employee must not use sick leave or PTO that is donated by another employee, but not used by the recipient, to obtain credit towards retirement.
- (10) If an employee dies while receiving leave donations, the County must not:
- (A) include donated sick leave in the lump sum sick leave death benefit described in Section 17-13; or
 - (B) pay an employee's beneficiary or estate for donated PTO under Section 16-12(c).
- (11) If an employee resigns or is separated from County employment, the County must not pay the employee for donated PTO.

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SECTION 20. PARENTAL LEAVE

20-1. Definition.

Parental leave: An eligible employee's use of accrued paid leave, compensatory time, unpaid leave, or a limited number of hours of donated sick leave, granted at the time of the birth, adoption, or foster placement of a child.

20-2. Eligibility for parental leave.

- (a) A department director must allow a full-time or part-time employee to use parental leave after the employee has been employed by the County in a merit system position for at least 6 consecutive months.
- (b) An employee who is the parent of a newborn child, newly adopted child, or newly placed foster child is eligible for parental leave. Grandparents, aunts and uncles, and other relatives are not eligible for parental leave.
- (c) In extenuating circumstances, the department director or the employee may submit a written request to the OHR Director to waive the requirement that an employee has been employed by the County in a merit system position for at least 6 consecutive months. Extenuating circumstances under this section generally relate to employment with the County and may include an employee:
 - (1) having been a County merit status employee in the past or having previously worked for the County in a temporary position; or
 - (2) how close the employee is to meeting the 6-month requirement.

20-3. Amount of parental leave.

- (a) A full-time employee may use up to 720 hours of parental leave during a 24-month



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period.

- (b) A full-time employee who works more than 40 regularly scheduled hours per week is entitled to use a prorated amount of parental leave.
- (c) A part-time employee who works less than 40 regularly scheduled hours per week is entitled to use a prorated amount of parental leave.

20-4. Use of parental leave.

- (a) An employee may use any combination of sick leave, annual leave, compensatory time, personal leave or leave without pay as parental leave.
- (b) An employee may use parental leave to care for the employee's newborn child, newly adopted child, or newly placed foster child. A spouse or domestic partner may use parental leave to attend to the child's mother or other children in the family at the time of the birth, adoption, or foster placement of a child.
- (c) Parental leave must be used within 12 months of the birth of the child, placement of the child with the employee for adoption, or foster placement of the child. If the employee does not use the entire amount of parental leave within the 12-month period following the birth or placement of the child, the balance will remain available to the employee and may be used for a subsequent birth, adoption, or foster placement within the original 24-month period.

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20-6 Use of sick leave as parental leave.

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- (b) An employee may not use more than 120 hours of donated sick leave or



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donated PTO for an absence taken as parental leave.

Approved:

Isiah Leggett
Isiah Leggett, County Executive

Jan 9, 2017
Date

Approved as to form and legality:

Anne T. Winfree *12/29/16*
Office of the County Attorney Date