

SECTION 16. ANNUAL LEAVE

(As amended July 12, 2005, October 21, 2008, July 12, 2011, June 30, 2015 and July 17, 2018)

16-1. Definition.

Annual leave: Paid leave earned by an eligible employee that may be used for vacations another personal reasons.

16-2. Eligibility for annual leave.

- (a) full-time or part-time employee as defined in Section 1 of these Regulations earns annual leave, except for an MLS employee who is granted PTO.
- (b) The OHR Director must credit a former temporary employee with up to 60 hours of annual leave prorated to the time spent as a temporary employee if the employee:
 - (1) had previously filled a temporary position; and
 - (2) was appointed, without a break in service, to a full-time or part-time position.

16-3. Accrual rates for annual leave.

- (a) A full-time employee who works 40 regularly scheduled hours per week or who works 12-hour shifts earns annual leave at the following rates:
 - (1) 120 hours per year through the completion of the first 3 years of service;
 - (2) 160 hours per year from the beginning of the 4th year through the end of the 15th year of service; and
 - (3) 208 hours per year from the beginning of the 16th year of service.
- (b) An employee who works more than or less than 40 regularly scheduled hours per week earns a prorated amount of annual leave.

16-4. Change in annual leave accrual rate.

- (a) An annual leave accrual rate change is effective on the first day of the pay period in which the employee completes 3 years or 15 years of County service, except when the employee has used more than 4 consecutive weeks of LWOP as described in Section 23-8(a)(2).

- (b) The initial employment date for the purpose of annual leave accrual and the maximum annual leave carryover limit is the date on which the employee was first employed in a merit system career position.
- (c) An employee in a merit system career position who separates from County service and later returns to County service in the same or different merit system career position is entitled to the same annual leave accrual rate that the employee enjoyed previously based on years of service.

16-5. Adjustment of annual leave balance for uniformed fire/rescue employees.

If a uniformed fire/rescue employee is assigned to a work schedule that requires a different number of hours of work annually from the previous work schedule, the fire/rescue employee’s leave balance must be adjusted by a prorated amount consistent with the new work schedule.

16-6. Scheduling use of annual leave.

- (a) Except in emergencies, an employee must ask to use accrued annual leave in advance.
- (b) A supervisor may approve or deny a request to use annual leave based on workload and other considerations.
- (c) A supervisor should make an effort to give each employee the opportunity to use earned annual leave and should give favorable consideration to an employee’s request for leave to care for children during unscheduled changes in school hours.
- (d) A supervisor should approve or deny an employee’s annual leave request within 5 business days after the supervisor receives the request, unless there are extenuating circumstances that prevent the supervisor from approving the request during that time period.

16-7. Maximum annual leave accumulation. The table below shows the maximum annual leave hours that an employee may carry over to the next leave year. These limits do not apply to accumulated annual leave balances during the leave year. A uniformed fire/rescue employee may carry over a prorated amount of annual leave.

Maximum Amount of Annual Leave that May Be Carried Over to the Next Leave Year		
Type of position	Initial employment date	Carryover limit
Full- or part- time position	before January 1, 1957	560
Full- or part- time position	January 1, 1957 through June 30, 1972	320
Full- or part- time position	after June 30, 1972	240

MLS or PLS position	any initial employment date	320
Full- or part-time position occupied by former State/County employee	any initial employment date	400

16-8. Disposition of annual leave in excess of maximum allowable accumulation.

- (a) If an employee has accumulated annual leave in excess of the authorized maximum at the end of the leave year, the employee may elect to:
- (1) transfer 100 percent of the excess leave to the employee's accumulated sick leave;
 - (2) be paid for up to 50 percent of the excess leave at the employee's rate of pay at the end of the year and transfer the remaining excess leave to the employee's accumulated sick leave; or
 - (3) carry over the excess leave for one additional leave year, with the approval of the employee's department director, if the employee was not able to use the leave because:
 - (A) of special circumstances or workload demands; or
 - (B) a supervisor denied the employee's request to use the excess leave.
- (b) An employee who carries over annual leave in excess of the maximum annual leave accumulation for an additional year must forfeit the excess annual leave to sick leave at the end of the year.
- (c) The annual leave in excess of the authorized maximum that is subject to option (a)(2) must be determined by subtracting the annual leave used in the current leave year from the annual leave earned in the current leave year. It does not include annual leave above the carryover limit specified in Section 16-7 that has been carried over from previous years.
- (d) The CAO must determine annually, based on budget limitations and the availability of funds in each operating department, a single annual leave cash out threshold for all eligible employees in all departments. This threshold must be one of the following:
- (1) up to 50 percent of excess annual leave;
 - (2) up to a specified amount of excess annual leave but less than 50 percent; or
 - (3) no amount of excess annual leave.

16-9. Disposition of accumulated annual leave at separation from County service or death.

- (a) The County must pay an employee who separates from County service a lump sum payment for the total accrued annual leave as of the date of separation, less any indebtedness to the County government. The payment must be made at the employee's current rate of pay.
- (b) If an employee dies, the County must pay the employee's designated beneficiary a lump-sum payment for the total accrued annual leave as of the date of death, less any debt owed to the County government. If the employee does not name a beneficiary for annual leave, the County must pay:
 - (1) the beneficiary named under the employee's retirement plan; or
 - (2) the employee's estate, if the employee did not name a beneficiary the retirement plan.

16-10. Transfer of annual leave to another agency. An individual who resigns from one County-funded agency to accept employment with another County-funded agency without a break in service may transfer accumulated annual leave to the new employing agency. This transfer of annual leave is subject to limitations the County-funded agency may have and requires a signed agreement of reciprocity between the two agencies. OHR must maintain copies of active reciprocal agreements between County-funded agencies and make them available to employees upon request.

16-11. Use of annual leave for Family and Medical Leave Act (FMLA) purposes. A supervisor must allow an employee to use accrued annual leave for FMLA purposes under Section 19 of these Regulations, the Montgomery County Employee Benefits Equity Act, and other sections of these Regulations, as appropriate.

16-12. Paid time off (PTO) and annual leave. PTO is a type of leave granted to MLS employees who are members of the Retirement Savings Plan or the Guaranteed Retirement Income Plan.

- (a) ***Crediting and accumulation of PTO.*** An employee who is granted PTO:
 - (1) does not earn annual leave;
 - (2) must be credited with:
 - (A) 140 PTO hours at the beginning of the leave year if a full-time employee;
 - (B) 140 PTO hours at the beginning of the 14th pay period of the leave year if a full-time employee;

- (C) a prorated number of PTO hours at the beginning of the leave year and at the beginning of the 14th pay period, if a part-time employee; and
- (3) may accumulate PTO without limit;
- (b) ***Prorating of PTO.***
 - (1) A part-time employee receives a prorated amount of the PTO that a fulltime employee receives.
 - (2) An employee who becomes an MLS employee after the first or 14th pay period of the leave year is entitled to be credited with a prorated portion of PTO hours.
- (c) ***Use of PTO.*** PTO may be used for the same reasons as annual leave.
- (d) ***Conversion of annual leave to PTO for certain MLS employees.***
 - (1) For an MLS employee who belongs to the Retirement Savings Plan, the CAO must:
 - (A) credit the employee with one hour of PTO for each hour of accrued annual leave;
 - (B) take away all accrued annual leave; and
 - (C) credit the employee with a prorated amount of PTO for the remainder of the current leave year.
 - (2) The CAO must convert the annual leave of an MLS employee who belongs to the Retirement Savings Plan to PTO within 90 calendar days after these Regulations take effect.
 - (3) If an MLS employee who receives PTO leaves the MLS position and is promoted, demoted, or reassigned to a non-MLS merit system position, the CAO must:
 - (A) allow the employee to retain and use the unused PTO hours that the employee had accumulated before the current leave year and a prorated share of the unused PTO hours for the current leave year; and
 - (B) allow the employee to earn annual leave from the effective date of the employee's promotion, demotion, or reassignment to a non-MLS position.

(e) ***Disposition of PTO at separation or death.***

- (1) Upon separation from the County, an employee must be paid for:
 - (A) a prorated portion of the PTO hours granted for the final year of employment; and
 - (B) no more than a total of 600 PTO hours, including the prorated hours from the final year of employment.
- (2) If an employee dies, the County must pay the employee's designated beneficiary a lump-sum payment for up to 600 hours of accrued PTO as of the date of death, less any indebtedness to the County government. If the employee does not name a beneficiary for PTO, the County must pay:
 - (A) the beneficiary named under the employee's retirement plan; or
 - (B) the employee's estate, if the employee did not name a beneficiary under the retirement plan.
- (3) If an employee who has unused PTO and annual leave separates from County employment or dies, the County must pay the employee or the employee's beneficiary or estate for up to 600 hours of unused PTO and annual leave combined.

16-13. Transfer of annual leave between spouses for childcare.

- (a) An employee who is married to another County employee may transfer annual leave to the employee's spouse to enable the spouse to use the leave to care for a child or children. The employee, the employee's spouse, or both must have legal responsibility for the care of the child or children.
- (b) The spouse must use the leave to care for:
 - (1) a child or children under the age of 13; or
 - (2) an older child with a medically certified disability that makes the child incapable of self care.
- (c) The employee must complete an *Annual Leave Transfer* form (Appendix N) and submit the form to the Payroll Section of the Department of Finance. The employee's spouse must sign the form to indicate that he or she has agreed to accept the transferred leave and the spouse's supervisor must sign the form indicating that the employee's spouse is eligible to use the transferred leave under the terms of this subsection of these Regulations.

- (d) An employee may transfer leave to the employee’s spouse only in increments of 40 hours.

16-14. Appeal of annual leave or PTO decision. An employee with merit system status who is adversely affected by an alleged improper, inequitable, or unfair application of the County’s regulations and policies on annual leave or PTO may file a grievance under Section 34 of these Regulations.

Editor’s note – The subjects covered in this section of the Personnel Regulations are addressed for bargaining unit employees in the current collective bargaining agreements as indicated below:

Bargaining unit	Articles of current agreements with references to annual leave
Firefighter/Rescuer	2, Organizational Security 6, Annual Leave 8, Parental Leave 9, Administrative Leave 10, Disability Leave 11, Family Medical leave 16, Holidays 19, Wages 48, Job Sharing Program
OPT/SLT	5, Wages, Salary and Employee Compensation 13, Work Schedules, Attendance, Hours of Work 14, Annual Leave 16, Leave Without Pay 17, Disability Leave 18, Parental Leave 20, Holiday Leave 28, Disciplinary Actions 36, Union Activities 45, Family and Medical Leave

Police	2, Administrative Leave 16, Parental Leave 17, Disability Leave and Injury on the Job 18, Annual Leave 19, Sick leave and Sick Leave Donor Procedure 20, Leave Without Pay 43, Discipline 50, Reduction-in-Force and Furlough 55, Job Sharing Program 59, Family Medical Leave Act 63, Childcare
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