

Racial Equity and Social Justice (RESJ)

BILL 42-20: PUBLIC ACCOUNTABILITY AND TRANSPARENCY-AMENDMENTS

SUMMARY

The Office of Legislative Oversight (OLO) expects Bill 42-20 to have a minimal impact on racial equity and social justice among Montgomery County Government (MCG) employees and the County at large.

BACKGROUND

The County Council introduced Bill 42-20 on September 29, 2020. Bill 42-20 primarily seeks to enhance public accountability and transparency of non-merit (i.e., appointed) employees in the County by requiring them to disclose outside financial relationships.¹ It is designed to strengthen the County's Ethics Law, focusing on avoiding conflicts of interest and sustaining public trust.² If implemented, it would make the upcoming modifications to County Law:

- Require the Executive to disclose a proposed employment contract with an appointee to a non-merit position and any employment contract with an employee currently serving in a non-merit position to the Council;
 - Include the sale or promotion of certain intellectual property by a public employee as other employment;
 - Prohibit a public employee who has received compensation from an individual or organization in the previous 12 months from participating in procurement with that individual or organization;
 - Require a public employee who participates in a procurement process with an individual or organization seeking to do business with the County that compensated the public employee for services performed more than 12 months before the participation began to disclose the prior relationship to the Procurement Director;
 - Require an elected official or non-merit employee to disclose, with some exceptions, the source of each fee greater than \$1,000 received for services in a financial disclosure statement; and
 - Prohibit the Chief Administrative Officer from engaging in other employment.³
-

DEMOGRAPHIC DATA

Understanding the impact of Bill 42-20 on racial equity and social justice in the County requires understanding the demographics of the County's workforce as compared to residents. There are four major categories of MCG employees:

- **Seasonal and temporary employees** that include lifeguards, camp counselors, cashiers and front-desk staff. Seasonal employees earn the minimum wage; temporary employees can work for up to 1,040 hours annually.
- **Merit permanent employees** covered by the Merit Protection Board, including administrative support, service/maintenance, technicians, paraprofessionals, protective service workers and professionals.
- **Management Leadership Service employees** that represent the subset of permanent, merit employees that serve as managers and administrators in the Legislative and Executive Branches.

RESJ Impact Statement

- **Non-merit, appointed employees** who account for the senior-most positions in the Montgomery County government. They include department directors, senior advisors, and confidential aides.

Table 1: Montgomery County Residents and Government (MCG) Workforce by Race and Ethnicity

Race and Ethnicity	County Residents	Seasonal & Temporary Employees	Merit Permanent Employees	Management Leadership Service	Non-Merit (Appointed) Employees
White	55%	33%	48%	64%	37%
Black	21%	37%	27%	19%	9%
Latinx	20%	15%	11%	6%	6%
Asian	17%	6%	7%	6%	3%
Other/Non-Reported	11%	6%	8%	5%	46%
Total Number	1,050,688	3,014	9,381	396	89

Sources: American Community Survey, 2019; Montgomery County Personnel Management Review, 2020; and Montgomery County Office of Human Resources Unpublished Data on Non-Merit Positions, 2020

An analysis of data comparing the race and ethnicity of County residents to MCG personnel groups shows that:

- Black employees are over-represented among seasonal, temporary and merit permanent MCG employees compared to their resident population, but they are proportionately represented among MLS employees.
- White employees are under-represented among seasonal, temporary, and merit permanent MCG employees compared to their resident population, but over-represented among MLS employees.
- Latinx and especially Asian employees are under-represented among every MCG employee group compared to their resident populations.

The over-representation of Black employees among seasonal, temporary and non-managerial merit positions and the over-representation of White employees among managerial positions are consistent with the occupational segregation that characterizes the U.S. workforce.⁴ However, it's unclear whether occupational segregation by race and ethnicity characterizes non-merit, appointed positions in the County because nearly half of employees in these positions (46%) did not disclose their race or ethnicity or selected "Other." Nevertheless, the known racial and ethnic makeup of MLS employees suggests that White employees are also over-represented among the 89 non-merit positions that would most be impacted by Bill 42-20.

ANTICIPATED RESJ IMPACTS

Montgomery County Employees: Since the racial and ethnic makeup of non-merit employees remains unknown, the RESJ impact of Bill 42-20 remains undetermined. An analysis of MLS demographics, however, suggests that White employees are likely to be disproportionately impacted by the proposed amendments to County law because they likely account for a majority of non-merit employees.⁵ Yet, since non-merit employees account for less than one percent of MCG's overall workforce, the impact of Bill 42-20 on the MCG workforce as a whole is negligible.

RESJ Impact Statement

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

This RESJ impact statement and OLO's analysis relies on several sources of information, including: the American Community Survey;⁶ Montgomery County Management Personnel Management Review;⁷ Montgomery County Non-Merit Demographics;⁸ and OLO economic impact statement Bill 42-20.⁹

RECOMMENDED AMENDMENTS

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequalities are warranted in developing RESJ impact statements.¹⁰ If the goal of Bill 42-20 was to directly address racial and ethnic disparities in the Montgomery County Government workforce, OLO could offer such amendments. However, the purpose of Bill 42-20 is not to decrease racial and social inequities in County government or the County overall. As such, this RESJ impact statement does not offer recommended amendments.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration. Since the universe of positions impacted by Bill 42-20 is minuscule compared to the MCG workforce as a whole, OLO finds that it does not impact RESJ in government employment or the County overall.

¹ Bill 42-20, Ethics-Public Accountability and Transparency-Amendments, Montgomery County, MD.

² Ibid

³ Ibid

⁴ Equitable Growth, U.S. Occupational Segregation by Race, Ethnicity, and Gender, July 2020 <https://equitablegrowth.org/wp-content/uploads/2020/07/063020-occup-seg-fs.pdf>

⁵ Montgomery County Personnel Management Review, April 2020 <https://www.montgomerycountymd.gov/HR/Resources/Files/Classification/Compensation%20Documents/PMR%202020%2004072020.pdf>

⁶ American Community Survey Demographic and Housing Estimates, Montgomery County, Maryland, 2019 (1 Year Estimates) Table DP05 <https://data.census.gov/cedsci/table?q=montgomery%20county%20maryland&tid=ACSDP1Y2019.DP05&hidePreview=true>

⁷ Montgomery County Personnel Management Review, April 2020

⁸ Unpublished data from Office of Human Resources shared with OLO on October 10, 2020

⁹ Stephen Roblin, Bill 42-20 Legislative Branch- Economic Impact Statement, Office of Legislative Oversight, October 2020.

¹⁰ Montgomery County Council, Bill No. 27-19 Racial Equity and Social Justice, Montgomery County, MD.