

Resolution No.: 15-1338
Introduced: February 14, 2006
Adopted: February 14, 2006

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of Executive Regulation 21-04AMII, Amendments to Montgomery County Personnel Regulations on Performance-based Pay for Unrepresented Employees

Background

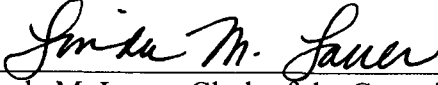
1. On March 31, 2005, the County Council received Executive Regulation 21-04, Amendments to Montgomery County Personnel Regulations on Performance-based Pay for Unrepresented Employees, from the County Executive.
2. Executive Regulation 21-04 is processed under Method 1, and is not adopted until the County Council approves it.
3. The Management and Fiscal Policy Committee reviewed Executive Regulation 21-04 on July 7, 2005, and recommended certain amendments.
4. On December 8, 2005, the Council received amended Executive Regulation 21-04AM, Amendments to Montgomery County Personnel Regulations on Performance-based Pay for Unrepresented Employees, from the County Executive.
5. The Management and Fiscal Policy Committee reviewed Executive Regulation 21-04AM on January 23, 2006, and recommended certain additional amendments.
4. The Executive reissued the subject regulation incorporating the Committee's recommended amendments, and re-numbered it Executive Regulation 21-04AMII to indicate that it was amended after transmittal to the Council.

Action

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

Executive Regulation 21-04AMII, Amendments to Montgomery County Personnel Regulations Performance-based Pay for Unrepresented Employees, is approved.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council



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Subject Amendments to Montgomery County Personnel Regulations on Performance-based Pay for Unrepresented Employees	Number 21-04AMII
Originating Department Office of Human Resources	Effective Date February 14, 2006

Amendments to Montgomery County Personnel Regulations on Performance-based Pay for Unrepresented Employees

Executive Regulation No. 21-04AMII

Issued by: County Executive

Supersedes: None

Authority: Montgomery County Code, 1994, §33-7(b)

Council review: Method 1

Montgomery County Register Volume 22, Issue 11

Comment deadline: November 30, 2005

Effective date: February 14, 2006

Summary: This regulation amends MCPR Section 10, *Employee Compensation*, and Section 11, *Performance Planning and Evaluation*, to provide lump-sum performance-based pay awards for employees in positions on the general salary schedule who receive annual overall performance ratings of "Exceptional Performance" or "Highly Successful Performance". The regulation was amended to add the following: in Section 10, rounding of overtime was eliminated for employees who submit electronic time sheets; in Section 12, *Service Increments*, 20-year longevity/performance increments were provided for employees in positions on the general salary schedule with 20 years of service who receive overall performance ratings of Exceptional or Highly Successful for 2 consecutive years; and Section 16-13, *Appeal of annual leave or PTO decision*, was renumbered.

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

Staff contact: Carol Rollins, 240-777-5052, or carol.rollins@montgomerycountymd.gov

This is a clean copy of the regulation that shows how it will appear after the amendments are incorporated. Use the key below when reading this regulation:

Boldface

* * *

Heading or defined term.

Existing language unchanged by executive regulation.



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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 *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.
 - (B) **Probationary employee.** A probationary MLS employee is eligible for the general wage adjustment provided to permanent employees.
- (2) **Eligibility for performance-based pay.**
 - (A) **Career employee.** An MLS employee with merit system status is eligible to receive performance-based pay. In order to receive a compensation adjustment, an employee must have a performance evaluation on record for the previous fiscal year.
 - (B) **Probationary employee.** A probationary employee with less than 6 months service is not eligible 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. However, the salary of an employee who receives an addition to base salary award must not exceed the maximum of the assigned pay band.



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be eligible to receive a lump-sum performance-based pay award as described in this subsection.

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

(A) **Career employee.** An employee with merit system status in a position assigned to the general salary schedule is eligible to receive performance-based pay if the employee:

- (i) has an annual performance rating on record for the previous rating period;
- (ii) satisfies the criteria stated in subsection (2) below; and
- (iii) is not eligible to receive a 20-year longevity/performance increment under Section 12-9.

(B) **Probationary employee.** A probationary employee is not eligible 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-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>Does Not Meet Expectations</i>	No additional pay



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- (ii) a statement that the department follows the provisions of Section 11 of these Regulations for all general salary schedule employees.
- (C) **For MLS and general salary schedule employees.** A department director must not supplement the amount of a performance-based pay award with funds from the department budget.
- (2) **Approval of performance-based pay awards.**
 - (A) For Executive branch MLS positions, the CAO must review each recommendation for an award and determine the amount of each performance-based pay award. The CAO has final discretionary authority to approve performance-based pay awards for MLS employees in the executive branch.
 - (B) For legislative branch positions included in MLS, the director or designee of each legislative branch office will have final discretionary authority to approve performance-based pay awards.
 - (C) For general salary schedule employees, the CAO must:
 - (i) determine annually for each upcoming budget year, based on budget limitations and the availability of funds, if performance-based pay awards must be reduced or eliminated; and
 - (ii) ensure that employees in positions on the general salary schedule who receive the same overall performance ratings during the fiscal year receive performance-based pay



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department's performance evaluations and decisions on pay awards are completed.

- (D) Benefit calculations based on regular salary will not include the value of lump-sum awards.
- (E) OHR must provide:
 - (i) performance evaluation procedures for MLS employees and employees in positions on the general salary schedule;
 - (ii) training and technical support to departments implementing the MLS performance evaluation process and the performance evaluation process in Section 11 of these Regulations for employees in positions on the general salary schedule; and
 - (iii) technical guidance and support to implement performance-based pay.
- (F) For MLS employees, OHR must report to the CAO and County Council annually the distribution by EEO categories of performance ratings and pay changes.
- (4) **Effective date of compensation awards.**
 - (A) Performance-based pay for MLS employees must be awarded on a fiscal year basis and a compensation increase awarded to an MLS employee under the performance-based pay system must be effective at the beginning of the first full pay period after July 1st of each year.
 - (B) A performance-based pay award for an employee on the general salary schedule must be effective at the beginning of the first full pay period following the end of the review period for which the



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- (4) ensure that department supervisors use a performance planning and evaluation form that is consistent with the format of the *Performance Planning and Evaluation Form* included in Appendix G to these Regulations, although the department may make minor variations in the design of the form to address automation requirements without prior OHR approval; and
- (5) ensure that a copy of each completed performance evaluation for a department employee is sent to the OHR Director.

* * *

11-9. Performance-based pay. An employee whose position is on the general salary schedule and who receives an annual overall performance rating of *Exceptional Performance* or *Highly Successful Performance* may receive performance-based pay under Section 10-10 of these Regulations.

11-10. Appeals of performance ratings. * * *

* * *

SECTION 12. SERVICE INCREMENTS

* * *

12-9. Twenty-year longevity/performance increment:

- (a) A 20-year longevity/performance increment is a one-time increase to an employee's base salary.
- (b) A department director must award a 20-year longevity/performance increment of 1 percent of base salary to an employee in a position on the general salary schedule if the employee's salary is at the top of the pay range and the employee:
 - (1) has 20 years of actual County service; and



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(2) after the end of the review period, for an eligible employee with an *Exceptional or Highly Successful* annual overall rating for a review period that ends after June 30, 2006.

12-10. Appeal of reassignment of increment date or delay of service increment.

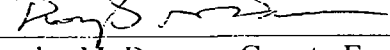
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SECTION 16. ANNUAL LEAVE

* * *

16-14. Appeal of annual leave, or PTO decision. * * *

Approved: 
Douglas M. Duncan, County Executive

1/27/06
Date

APPROVED AS TO FORM AND LEGALITY.

OFFICE OF THE COUNTY ATTORNEY

BY David Stevenson

DATE January 24, 2006



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SECTION 10. EMPLOYEE COMPENSATION

10-1. Definitions.

* * *

(h) **Performance-based pay:** [A type of compensation that replaces service increments for MLS employees, makes general wage adjustments to employees conditional on overall performance ratings of [{"Successful Performance"}] Successful Performance or higher, and allows department directors to recommend pay awards in relationship to employee performance] Additional pay awarded to an eligible employee based on the employee's annual performance rating. [Performance-based] There are 2 types of performance-based pay awards [of the following types may be given]:

- (1) [{"Addition to base salary award: A}] an addition to base salary award, which is a salary increase added to an employee's base salary[.] [However, an employee's base salary may not exceed the maximum of the assigned pay band.]; and
- (2) [{"Lump-sum award: A}] a lump-sum award, which is a pay award distributed as a [one-time] single payment that is not added to base salary. [An employee at the top of a pay band is eligible for a lump-sum award.] [Benefit calculations based on regular salary will not include the value of lump-sum awards.]

* * *

10-7. Overtime compensation.

* * *



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rating of [{"Does Not Meet Expectations"}] Does Not Meet Expectations for the prior review period does not receive the general wage adjustment for the current fiscal year.

(B) **Probationary employee.** A probationary MLS employee is eligible for the general wage adjustment provided to permanent employees.

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

(A) **Career employee.** An MLS employee with merit system status [{"in a position assigned to the MLS salary schedule}] is eligible to receive performance-based pay. In order to receive a compensation adjustment, an employee must have a performance evaluation on record for the previous fiscal year.

(B) **Probationary employee.** A probationary employee with less than 6 months service [{"will}] is not [{"be}] eligible for performance-based pay. [{"However, a probationary employee is eligible for a general wage adjustment provided to permanent employees.}]

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

(i) An employee with a performance rating of [{"Successful Performance", "Highly Successful Performance", or "Exceptional Performance"}] Successful Performance, Highly Successful Performance, or Exceptional Performance is eligible to receive performance-based pay as indicated in the table below. However, the salary of an employee who receives an addition to base salary award [{"may}] must not exceed the maximum of the assigned pay band.



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- (ii) An MLS employee does not automatically receive a performance-based pay award of any particular type or amount.
- [[(iii) The CAO has final discretionary authority to approve performance-based pay awards for MLS employees in the executive branch.
- (iv) The director or designee of each legislative branch office has final discretionary authority to approve performance-based pay awards for MLS employees of the legislative branch office.
- (v) The approval of performance-based pay for an MLS employee in either branch is subject to availability of funds and appropriation by the County Council.]]

[[10-11.]]

(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 [[if the employee's department director]] [[follows the provisions of]] [[ensures that all department employees on the general salary schedule receive performance evaluations under Section 11 of these Regulations]] [[for unrepresented employees]].

[[(a)]] (1) **Eligibility for performance-based pay.**

[[(1)]] (A) [[Employee with merit system status]] **Career employee.** An employee with merit system status in a position assigned to the general salary schedule is eligible to receive performance-based pay if the employee:



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[(C)]

(B) An employee may receive only one lump-sum award in a fiscal year.

[(b) Administration of performance-based pay.

(1) Role of department director.

(A) For each employee who is eligible to receive a performance-based pay award, the department director must submit to the OHR Director a copy of the employee's performance appraisal stating that:

(i) the employee received an overall rating of "Exceptional Performance" or "Highly Successful Performance" and is eligible to receive performance-based pay; and

(ii) the department follows the provisions of Section 11 of these Regulations for non-bargaining unit employees.

(B) A department director must not supplement the amount of a performance-based pay award with funds from the department budget.

(C) The annual implementation of performance-based pay awards for employees in positions on the general salary schedule is subject to the CAO's approval of funding.

(2) Role of OMB.

(A) OMB must establish a non-departmental account for performance-based pay awards for employees in positions on the general salary schedule. OMB is authorized to move the funds appropriated by the County Council for performance-based pay to individual



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(B) training and technical support to departments in implementing the performance-based pay award program for employees in positions on the general salary schedule.

(c) **Appeals of performance-based pay decisions.**

- (1) An employee in a position on the general salary schedule may not grieve or appeal a decision by the CAO on the amount of the performance-based pay award assigned to a particular overall performance rating.
- (2) An employee may not grieve or appeal a failure to receive a performance-based pay award if the grievance is based on a dispute over an overall performance rating.]]

[[b]]

(c) **Administration of performance-based pay.**

- (1) **[[Administration within the executive branch]] Role of department director.**

(A) **For MLS Employees.**

- (i) A department director must recommend the individual award amount for an MLS employee in the department and must recommend individual award amounts that are consistent with, and do not exceed, the award amounts in the table in Section [[10-11]]10-10(a)(2)(C)(i) above.
- (ii) A department director must notify OHR prior to the first pay period of the fiscal year if a general wage adjustment for an MLS employee will be denied, based on the pending overall performance rating given the employee. The department director must give the employee written notice of the denial and include in the notice information about the



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must give the employee written notice of the denial and include in the notice information about the employee's right to appeal the denial to the MSPB and the time limit for filing an appeal.]]

(2) Approval of performance-based pay awards.

(A) For Executive branch MLS positions, the CAO must review each recommendation for an award and determine the amount of each performance-based pay award. The CAO has final discretionary authority to approve performance-based pay awards for MLS employees in the executive branch.

[[2)] (B) [[Administration within the legislative branch.]] For legislative branch positions included in MLS, the director or designee of each legislative branch office will have final discretionary authority to approve performance-based pay awards [[for MLS employees of the legislative branch office]]. [[The approval of awards is subject to availability of funds and appropriation by the County Council.]]

(C) For general salary schedule employees, the CAO must:
(i) determine annually for each upcoming budget year, based on budget limitations and the availability of funds, if performance-based pay awards must be reduced or eliminated; and
(ii) ensure that employees in positions on the general salary schedule who receive the same overall performance ratings during the fiscal year receive performance-based pay awards of the same percentage of base pay, regardless of their employing departments.



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(D) Benefit calculations based on regular salary will not include the value of lump-sum awards.

[(4)] (E) **[[OHR.]]** OHR must provide:

[(A)] (i) performance evaluation procedures for MLS employees and employees in positions on the general salary schedule;

[(B)] (ii) training and technical support to departments implementing the MLS performance evaluation process and the performance evaluation process in Section 11 of these Regulations for employees in positions on the general salary schedule; and

[(C)] (iii) technical guidance and support to implement performance-based pay.

[(c)] (F) **[[Monitoring and auditing.]]** For MLS employees, OHR must report to the CAO and County Council annually the distribution by EEO categories of performance ratings and pay changes **[[for MLS employees]].**

[(d)] (4) **Effective date of compensation awards.**

(A) **[[A]]** Performance-based pay for MLS employees must be awarded on a fiscal year basis and a compensation increase awarded to an MLS employee under the performance-based pay system must be effective at the beginning of the first full pay period after July 1st of each year.

(B) A performance-based pay award for an employee on the general salary schedule must be effective at the beginning of the first full pay period following the end of the review period for which the employee received an overall rating of *Exceptional Performance* or



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[10-13.]

10-14. Call-back pay. * * *

[10-14.]

10-15. Compensation of employees during a declared general emergency. * * *

[10-15.]

10-16. Compensation of employees during a declared liberal leave period or local emergency. * * *

[10-16.]

10-17. Special within-grade pay increase. * * *

[10-17.]

10-18. Recruitment and retention incentives. * * *]]

* * *

SECTION 11. PERFORMANCE PLANNING AND EVALUATION

* * *

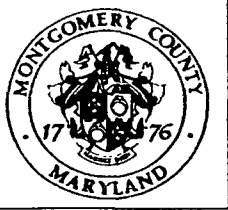
11-3. Responsibility for performance planning and evaluation.

* * *

(b) Each department director must:

* * *

- (3) ensure that the department's internal performance management directive or program is consistent with these Regulations and the appropriate collective bargaining agreement; [[and]]
- (4) ensure that department supervisors use a performance planning and evaluation form that is consistent with the format of the *Performance Planning and Evaluation Form* included in Appendix G to these Regulations, although the department may make minor variations in the



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- (d) A department director must not give an employee a lump-sum award and a 20-year longevity/performance increment for the same annual overall rating.
- (e) A department director must submit to the OHR Director a written statement that:
 - (1) identifies each department employee who meets the requirements for a 20-year longevity/performance increment; and
 - (2) states the basis for awarding the increment.
- (f) A 20-year longevity/performance increment under this Section must be based on 2 consecutive annual overall ratings for review periods that end after June 30, 2005, except for the first year of implementation. After the first year of implementation, the effective date of all longevity/performance increments must be the beginning of the first pay period after the review period ends.
- (g) During the first year of implementation (July 1, 2006, through June 30, 2007), an employee in a position on the general salary schedule who has, or reaches, 20 years of actual service and who is at the top of the salary schedule is eligible to receive a 20-year longevity/performance increment if the employee receives an *Exceptional* or *Highly Successful* annual overall rating for a review period that ends between June 30, 2005, and June 30, 2007.
- (h) The effective date for a 20-year longevity/performance increment approved during the first year of implementation must be the beginning of the first pay period after:
 - (1) July 1, 2006, for an eligible employee with an *Exceptional* or *Highly Successful* annual overall rating for a review period that ends on or before June 30, 2006; and
 - (2) after the end of the review period, for an eligible employee with an *Exceptional* or *Highly Successful* annual overall rating for a review period that ends after June 30, 2006.