



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject No Rehire Clauses in Settlement Agreements	Number 11-22
Originating Department Office of Human Resources	Effective Date

## NO REHIRE CLAUSES IN SETTLEMENT AGREEMENTS

Issued by: County Executive

Regulation No. 11-22

COMCOR No. 33.07.01

Authority: Montgomery County Code (2014) Section 33-7(b)

Supersedes: 16-13, in part

Council Review: Method (1) under Code Section 2A-15

Register Vol. 39 No. 5

Effective Date: \_\_\_\_\_

Comment Deadline: May 31, 2022

**Summary:** This regulation amends Section 34 and Section 35 of the Montgomery County Personnel Regulations to implement Council Bill 32-21 and provides appeal rights to employees who, in a dismissal action, receive a proposed settlement agreement that includes a no rehire clause.

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Rockville, Maryland 20850

**Background:** The Montgomery County Code authorizes the County Executive to promulgate personnel regulations.



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## COMCOR 33.07.01 PERSONNEL REGULATIONS

### 33.07.01.34. Grievances

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#### 34-9. Grievance procedure.

\* \* \*

#### (d) Burden of proof.

##### (1) The County has the burden of proof in a grievance on:

- (A) a recovery of an overpayment to an employee or recovery of an employee debt to the County under Section 10;
- (B) a delay of service increment under Section 12;
- (C) an involuntary or coerced resignation under Section 28;
- (D) a termination under Section 29;
- (E) a demotion or termination due to RIF under Section 30[.];
- (F) an involuntary demotion under Section 36; [and]
- (G) a disciplinary action under Section 33[.]; and
- (H) a no rehire clause contained in a dismissal settlement agreement.

##### (2) The grievant has the burden of proof in a grievance on any other issue.

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### 33.07.01.35 Merit System Protection Board Appeals, Hearings and Investigations

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## 35-2. Right of appeal to MSPB.

\* \* \*

- (h) An employee with merit system status contesting a decision by the CAO or agency head to include a no rehire clause in a proposed settlement agreement may file an appeal directly with the MSPB.

## 35-3. Appeal period.

- (a) An employee has 10 working days to file an appeal with the MSPB in writing after the employee:
- (1) receives a notice of disciplinary action over an involuntary demotion, suspension, or dismissal;
  - (2) receives a notice of termination;
  - (3) receives a written final decision on a grievance;
  - (4) resigns involuntarily; [or]
  - (5) receives a proposed settlement agreement in a dismissal matter that contains a no rehire clause; or

(6) [(5)] knows or should have known of a personnel action.

\* \* \*

## 35-4. Appeal filing requirements.

\* \* \*

- (d) Depending on the nature of the appeal, an employee or applicant must include the following documentation with the appeal:
- (1) [If]if the employee is contesting a disciplinary action, a copy of the Notice of Disciplinary Action must be provided to the Board;



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- (2) [If]if the employee is contesting a decision by the Chief Administrative Officer (CAO), a copy of the CAO's decision must be provided to the MSPB; [or]
- (3) [If]if the employee or applicant is contesting a nonselection/nonpromotion decision, a copy of the notification of nonselection/nonpromotion must be provided; or
- (4) if the employee is contesting a decision by the CAO or agency head to include a no rehire clause in a proposed settlement agreement, a copy of the proposed settlement agreement.

\_\_\_\_\_  
Marc Elrich, County Executive

\_\_\_\_\_  
Date

Approved as to form and legality:

Justin T. Nunley  
Office of the County Attorney

04/20/2022  
Date