



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

Montgomery County Regulation on

PERSONNEL REGULATIONS

Issued by: County Executive
Regulation No. 25-19

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

Supersedes: Executive Regulation 12-00AM (in part)

Council Review: Method (1) under Code Section 2A-15
Register Vol. 36 No. 7

Effective Date:

Comment Deadline: 7/12/19

Summary: This regulation amends the personnel regulations to include the newly created Office of Labor Relations.

Staff contact: Silvia Kinch, Chief, Division of Human Resources, OCA
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Address: Office of the County Attorney
Executive Office Building
101 Monroe Street, Third Floor
Rockville, Maryland 20850

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

COMCOR 33.07.01 PERSONNEL REGULATIONS

33.07.01.01 Definitions

1-47 OLR: The Office of Labor Relations.

[1-47] 1-48 Overall rating:



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

[1-48] 1-49 Paid time off (PTO):

33.07.01.04 Records

4-6. Access to employee records.

(a) Official personnel file, department operating record, and supervisory file. A non-medical employee record is confidential and is available on a need-to-know basis to:

(1) the employee's department director, a person who supervises the work of the individual, or another person who is authorized by the Maryland Public Information Act to inspect the record;

(2) the CAO or designee;

(3) the OHR Director and staff;

(4) the County Attorney and staff; [and]

(5) members and staff of the Merit System Protection Board (MSPB)[.];

(6) [A] a department head or designee who is considering offering the employee a position[.]; and

(7) the OLR Chief and staff.

(b) Medical record.

(1) An applicant's or employee's medical record is confidential.

(2) Access to all genetic information, as defined in Section 27-18 of the County Code, is restricted to the Employee Medical Examiner and supporting medical staff.

(3) If an evaluation of an individual's medical or physical condition is reasonably necessary to determine if reasonable accommodation is available for the individual or if the individual is employable, eligible for continued employment, or eligible for a benefit for which the employee has applied, the Manager of Occupational Medical Services or designee may provide or make available an employee's relevant non-



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

psychological medical records (with the exception of genetic information) to the following persons only, and only if the persons are participating in one of the above-referenced decision making processes:

- (A) the CAO or designee;
- (B) the OHR Director and designated staff;
- (C) the County Attorney and designated staff;
- (D) members and designated staff of the MSPB;
- (E) the Disability Review Panel;
- (F) the Disability Arbitration Board or Police Disability Arbitration Board; [and]
- (G) Workers' Compensation administrators[.]; and
- (h) the OLR Chief and designated staff.

(4) If an applicant or employee has filed a grievance, filed an appeal to the MSPB, applied for a disability retirement, filed a claim for Workers' Compensation benefits, or otherwise filed a claim or complaint against the County in which the employee has made an issue of the employee's physical or medical condition, the Manager of Occupational Medical

Services or designee may provide or make available an employee's relevant non-psychological medical records (with the exception of genetic information) to the following persons only, and only if the persons are participating in the litigation or consideration of the claim or complaint:

- (A) the CAO or designee;
- (B) the OHR Director and designated staff;
- (C) the County Attorney and designated staff;
- (D) members and designated staff of the MSPB;



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

(E) the Disability Review Panel;

(F) the Disability Arbitration Board or Police Disability Arbitration Board; [and]

(G) County Workers' Compensation administrators, when relevant to a Workers' Compensation claim[.]; and

(h) the OLR Chief and designated staff.

(5) The Employee Medical Examiner or designee may disclose relevant, limited medical information to department first-aid and safety personnel if an immediate disclosure is necessary to provide for the emergency health care of an employee.

(6) An employee's or applicant's psychological records are confidential. If an evaluation of an individual's mental health is reasonably necessary to determine if reasonable accommodation is available for the individual or if the individual is employable or eligible for continued employment, the Manager of Occupational Medical Services or designee may provide or make available an employee's psychological records (with the exception of genetic information) to the following persons only, and only if the persons are participating in one of the above-referenced decision making processes:

(A) the CAO or a selected designee;

(B) the OHR Director and select designated staff; [and]

(C) the County Attorney and select designated staff[.]; and

(D) the OLR Chief and select designated staff.

(7) If an employee has filed a grievance, filed an appeal to the MSPB, applied for a disability retirement, filed a claim for Workers' Compensation benefits, or otherwise filed a claim or complaint against the County in which the employee has made an issue of the employee's mental health, the Manager of Occupational Medical Services or designee may provide or make available an employee's relevant psychological records (with the exception of records of genetic information) to the following persons only, and only if the persons are participating in the litigation or consideration of the claim or complaint:

(A) the CAO or a selected designee;



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

(B) the OHR Director and select designated staff;

(C) the County Attorney and select designated staff;

(D) members and designated staff of the MSPB;

(E) members and designated staff of the Disability Review Panel;

(F) members and designated staff of the Disability Arbitration Board or Police Disability Arbitration Board; [and]

(G) County Workers' Compensation administrators, when relevant to a Workers' Compensation claim[.]; and

(H) the OLR Chief and select designated staff.

33.07.01.14 Employee Development

14-1. OHR-administered training. The OHR Director administers a centralized employee development and tuition assistance program for County employees to facilitate their professional and personal development.

* * *

(b) Centralized employee development.

* * *

(2) Many employee development and training needs are generic and can be accommodated effectively and efficiently through a centralized program administered by OHR. The following are examples of employee development and training provided through the centralized program developed and administered by OHR:

(G) labor relations classes (in conjunction with the Office of Labor Relations);

* * *



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

33.07.01.34 Grievances

34-1. Definitions.

* * *

(b) CAO's designee: For the purposes of this section, an OLR staff member [of the Labor/Employee Relations Team] or other individual designated by the CAO.

34-3. Policy on grievances.

* * *

(g) Use of official time to prepare and present a grievance.

* * *

(4) If an employee's supervisor denies the employee's request for more than 4 hours of official time to prepare a grievance, the employee may appeal the supervisor's denial to the [OHR Director] OLR Chief. The decision of the [OHR Director] OLR Chief is final.

* * *

(i) Confidentiality of documents and meetings associated with a grievance.

* * *

(2) The department director, OHR Director, OLR Chief, or CAO, as appropriate depending on the step of the grievance procedure, must ensure that only the following individuals are allowed to review the documents listed in (1)[without the grievant's written authorization], unless grievant has disclosed the grievance to others not listed below:

- (A) the grievant;
- (B) the grievant's representative; and



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

(C) individuals who are directly involved in responding to the grievance or resolving it.

(3) Only the following may attend a grievance meeting or other grievance proceeding without the consent of the grievant:

(A) the grievant;

(B) the grievant's representative;

(C) individuals designated by the CAO, OHR Director, OLR Chief, or department director who are directly involved in responding to the grievance or resolving it;

(D) individuals designated by the CAO, OHR Director, OLR Chief, department director, or County Attorney to represent individuals who are directly involved in responding to the grievance or resolving it; and

(E) witnesses.

(4) The [OHR Director] OLR Chief must keep grievance files in [OHR] OLR at least 2 years and then send them to the County Records Center for storage.

(5) Despite the confidentiality requirements of this subsection, if the [OHR Director] OLR Chief finds that a grievance filed by a bargaining unit employee is covered by the employee's collective bargaining agreement, the [OHR Director] OLR Chief must notify the certified representative for the bargaining unit of the employee's name and the subject of the grievance.

(j) Disclosure of facts. Each party to a grievance must provide [timely full] disclosure of facts known by or available to that party directly relating to the grievance, unless that information may [must not] be withheld [disclosed] under any other applicable law, regulation, or policy. The [OHR Director] OLR Chief must resolve disputes that arise under this subsection.

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34-6. Matters that are not grievable.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

(a) The following matters are not grievable:

(1) a position classification;

(2) performance ratings, except [in cases of failure to follow established procedures] as provided for in 11-10;

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(b) An employee may appeal a decision that a matter is not grievable to the MSPB. An employee who wishes to appeal must file the appeal within 10 working days after the employee receives the [OHR Director's] OLR Chief's decision.

34-7. Investigation of complaints of harassment or retaliation for filing a grievance.

(a) An employee may file a complaint with the [OHR Director] OLR Chief if the employee was harassed or retaliated against by a supervisor or coworker for filing a grievance. The employee must include a written description of the harassment or retaliation.

(b) The [OHR Director] OLR Chief must investigate the complaint and give the employee a written report of findings within 30 calendar days after the [OHR Director] OLR Chief receives the complaint.

(c) The employee may file an appeal with the MSPB if the [OHR Director] OLR Chief denies the complaint. The employee must file the appeal within 10 working days after the employee receives the [OHR Director's] OLR Chief's decision.

34-8. Alternative dispute resolution (ADR).

(a) Forms of ADR. The forms of ADR that are described below are available to the parties to a grievance.

(1) Mediation. In mediation, a neutral party who has been trained as a mediator is designated by the [OHR Director] OLR Chief to help the parties resolve a workplace dispute.

(2) Settlement conference. At a settlement conference, the parties to a dispute present information and arguments to a 3-person committee consisting of representatives of management, the employee,



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

and [OHR] OLR. After listening to the parties' presentations, the committee makes a recommendation to the parties to resolve the dispute.

(3) Peer resolution panel. In this form of ADR, a panel of no more than 3 trained Montgomery County employees is chosen by the grievant and the [OHR Director] OLR Chief. The grievant picks the 1st panel member, the [OHR Director] OLR Chief picks the 2nd member, and both pick the 3rd. The panel members may use one or more of the following to develop a recommendation to resolve the grievance:

- (A) interviewing witnesses and reviewing documents;
- (B) deciding if a policy or practice was applied correctly, fairly, and consistently;
- (C) hearing brief presentations by the parties to the grievance; and
- (D) issuing a non-binding advisory decision sustaining the grievance, denying the grievance, or modifying the action that is the subject of the grievance.

(b) Ground rules for using ADR.

(1) In any form of ADR, each party to a dispute must voluntarily agree to participate. The [OHR Director] OLR Chief must determine if the County will participate.

* * *

34-9. Grievance procedure.

(a) Time limit for filing a grievance.

(1) A grievance may be dismissed by the [OHR Director] OLR Chief if it is not filed within 30 calendar days after:

- (A) the date on which the employee knew or should have known of the occurrence or action on which the grievance is based; or
- (B) the date on which the employee received notice, if notice of an action is specifically required by these Regulations.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

(2) If a grievant does not file the grievance at the next step of the grievance procedure within the time limits specified in the procedure, the [OHR Director] OLR Chief may consider the grievance resolved on the basis of the most recent response and may end the consideration of the grievance.

* * *

(6) The [OHR Director] OLR Chief may extend the time limits stated in the grievance procedure for compelling reasons. The [OHR Director] OLR Chief must give the parties prompt notice of an extension.

(b) Technical and procedural review of grievances.

(1) An employee must submit a written grievance on the [OHR] OLR- approved grievance form (Appendix Q) and must provide the information requested on the form.

(2) The [OHR Director] OLR Chief may return the grievance to the employee if the employee does not complete the grievance form or provide the information requested on the form.

(3) [The] OLR staff [of the Labor/Employee Relations Team] is available to help employees complete the grievance form. In performing this function, OLR staff must not act as a grievant's representative or advocate.

(4) As instructed by the grievance form, an employee should send a copy of the grievance to [OHR's Labor/Employee Relations Team] OLR when the employee files the grievance at the first step of the grievance procedure.

(5) The [OHR Director] OLR Chief must review the grievance and decide if the grievance:

(A) presents an issue that is grievable under 33.07.01.34, 34- 4;

(B) was timely filed; and

(C) otherwise complies with this section.

(6) If the grievance does not satisfy the requirements of 34-9(b)(5) the OLR Chief must dismiss the grievance.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

[(6)] (7) The department that the grievance was filed against should not respond to the grievance if [OHR] OLR advises the department that the issue is not grievable or the grievance is not timely filed.

[(7)] (8) A department director may use Appendix R to respond to the grievance.

[(8)] (9) The [OHR Director] OLR Chief or CAO may reconsider issues of timeliness or grievability at any stage of the grievance process.

(c) Consolidated grievances.

(1) The [OHR Director] OLR Chief may consolidate 2 or more grievances and process them together to save time.

(2) [OHR] OLR must give written notice to the employee or employees who filed the grievances that the grievances have been consolidated and will be processed together.

(3) If the employee gives written notice to the [OHR Director] OLR Chief that the employee objects to the consolidation of the employee's grievance with other grievances, the [OHR Director] OLR Chief must process the employee's grievance separately.

(4) If a consolidated grievance includes grievances from more than one department, the [OHR Director] OLR Chief may designate one department director to respond to the consolidated grievance at Step 2 of the grievance procedure.

* * *

(e) Steps of the grievance procedure. The following table shows the 3 steps of the grievance procedure, the applicable time limits, and the responsibilities of the parties at each step.

STEPS OF THE GRIEVANCE PROCEDURE		
Step	Individual	Responsibility of individual*
1	Employee	Present job-related problem informally to immediate supervisor.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

		If unable to resolve the problem, submit a written grievance on appropriate grievance form to immediate supervisor within 30 calendar days.
		If the grievance is based on an action taken or not taken by [OHR] <u>OLR</u> , submit the written grievance to the [OHR Director] <u>OLR Chief</u> .
	Department Director	Give the employee a written response within 15 working days after the written grievance is received.
2	Employee	If not satisfied with the department director's response, may file the grievance with the CAO by submitting it to [the Labor/Employee Relations Team of OHR] <u>OLR</u> within 10 calendar days after receiving the department's response.
	CAO's Designee	Must meet with the employee, employee's representative, and department director's designee within 30 calendar days to attempt to resolve the grievance.
	Employee and Dept. Director	Present information, arguments, and documents to the CAO's designee to support their positions
	CAO's Designee	If unable to resolve the grievance, must provide the CAO with a report that includes background information, issue, the position and arguments of each party, a summary of relevant facts, and a recommended disposition.
	CAO	Must give the employee and department a written decision within 45 calendar days after the Step 2 meeting.
3	Employee	If not satisfied with the CAO's response, may submit an appeal to the MSPB within 10 working days (10 calendar days for a uniformed fire/rescue employee) after the CAO's decision is received.
	MSPB	Must review the employee's appeal under Section 35 of these Regulations
* At each step of the grievance procedure, the parties to a grievance should consider ADR methods to resolve the dispute.		

(f) Request for a transcript of the Step 2 meeting.

(1) An employee may request a verbatim transcript of the Step 2 meeting by submitting a written request for a transcript to the [OHR Director] OLR Chief at least 10 calendar days before the date of the Step 2 meeting.

(2) The employee must agree to pay ½ of the cost of obtaining the transcript.

(3) The [OHR Director] OLR Chief must give a copy of the transcript to each party to the



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

grievance or each party's representative.

(g) Step 2 meeting.

(1) If the [OHR Director] OLR Chief issues the decision on the grievance at the Step 1 level, the CAO must appoint a designee who is not a subordinate of the [OHR Director] OLR Chief to conduct the Step 2 meeting.

* * *

33.07.01.35 Merit System Protection Board Appeals, Hearings and Investigations

* * *

35-8. Notification, response and submission of record in appeal.

(a) The MSPB must promptly notify the CAO, County Attorney, OHR Director, OLR Chief, and department director in writing that a County merit system employee filed an appeal and provide the County Attorney and [OHR Director] OLR Chief with a copy of the appeal.

(b) The MSPB must promptly notify the CAO, County Attorney, OHR Director, OLR Chief, Fire Chief, and Local Fire and Rescue Department in writing that a volunteer firefighter or rescuer filed an appeal and provide the County Attorney, the [OHR Director] OLR Chief and the head of the Local Fire and Rescue Department with a copy of the appeal.

(c) An appellant must respond to an MSPB request for documentation in support of an appeal within 15 working days. The MSPB may grant an extension of time for reasons that the MSPB considers good cause.

(d) The [OHR Director] OLR Chief and County Attorney must respond to an appeal filed by a County merit system employee within 30 calendar days and forward a copy of the action or decision appealed and all relevant reports, papers, and documents to the MSPB. The MSPB may grant an extension of time for reasons that the MSPB considers good cause.

(e) The [OHR Director] OLR Chief and County Attorney must respond to an appeal filed by a volunteer firefighter or rescuer challenging an action taken by the Fire Chief within 30 calendar days and forward a copy of the action or decision appealed and all relevant reports, papers, and documents to the MSPB.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

In all other appeals filed by a volunteer firefighter or rescuer, the Local Fire and Rescue Department must respond within 30 calendar days and forward a copy of the action or decision appealed and all relevant reports, papers, and documents to the MSPB. The MSPB may grant an extension of time for reasons that the MSPB considers good cause.

* * *

35-10. Appellant’s right to review; right to hearing.

* * *

(c) The appealing party, the County Attorney, and the [OHR Director] OLR Chief must be served with a written notice of the time, date, and place of the prehearing conference.

* * *

35-16. MSPB decisions.

* * *

(b) The MSPB must:

- (1) issue written decisions that set forth findings of fact and conclusions of law;
- (2) include a statement of each party’s appeal rights and the time limit for filing an appeal;
- (3) send a copy of each decision to:
 - (A) the appellant or appellant’s counsel of record;
 - (B) the CAO;
 - (C) the County Attorney;
 - (D) the OHR Director;



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

(E) the OLR Chief;

[(E)] (F) the department director; and/or

[(F)] (G) the Fire Chief and the local fire and rescue department in a case where the appellant is a volunteer firefighter or rescuer.

- (c) An MSPB decision is final and binding unless appealed to a court of competent jurisdiction;
- (d) A court of competent jurisdiction may enforce an MSPB decision.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

APPENDIX Q: COUNTY GRIEVANCE FORM



Montgomery County, Office of [Human Resources] Labor Relations

Grievance Form for County Grievance Procedure

FILING INSTRUCTIONS – For more information about the County Grievance Procedure, contact the [Labor/Employee Relations Team] Office of Labor Relations [on 240-777-5114], review Section 34 of the County Personnel Regulations, or go to http://montgomerycountymd.gov/ohr/resources/files/regulation/MCPR2001_Section_34.doc.

1. Complete this form and give a copy, along with any supporting documentation, to your supervisor. Failure to provide your supervisor with a copy of your grievance may delay the process. Send one copy and any attachments to the Office of [Human Resources, Labor/Employee] Labor Relations [Team], 101 Monroe, Street, Rockville, Md. 20850.
2. Do/Will you have representation? If so, please provide name: _____
mailing address: _____ phone no.: _____
3. Would you be interested in Alternative Dispute Resolution? Yes ___ No ___

Failure to provide complete information may delay the processing of your grievance.

FILING INFORMATION: (Please Print Clearly)

Employee's Name: _____ Position Title: _____ Grade: _____
 Department/Division/Section: _____ Immediate Supervisor: _____
 Home Address: _____
 Phone: Home: _____ Work: _____ E-mail address: _____

GRIEVANCE STATEMENT You must cite the specific written policy, regulation, or treatment in which you believe a violation or inequity occurred. Please attach additional information if more space is needed. Failure to provide complete information may delay the processing your grievance.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

RELIEF REQUESTED

Employee's Signature: _____ Date: _____

DEPARTMENT/SUPERVISOR INFORMATION In order to respond to the employee's grievance, please complete the Grievance Response Form, which can be obtained from [OHR, Labor Relations Team] the Office of Labor Relations or online at the OHR Resource Library.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

APPENDIX R: COUNTY GRIEVANCE FORM



Montgomery County, Office of [Human Resources] Labor Relations

DEPARTMENT/SUPERVISOR GRIEVANCE RESPONSE FORM

You are required to complete this form because an employee you supervise has filed a grievance. For more information about the County Grievance Procedure contact the [Labor/Employee Relations Team on 240-777-5114] Office of Labor Relations, review Section 34 of the Montgomery County Personnel Regulations, or go to the following website:
<http://www.montgomerycountymd.gov/content/ohr/ResourceLibrary/files/MCPR0134.pdf>

SUPERVISOR'S RESPONSE: _____ Date Received _____

Supervisor's Name and Signature _____ Date _____

RESOLVED: Yes **No** (If not resolved, employee has ten calendar days upon receipt of response to appeal to next step.)

DEPARTMENT/AGENCY HEAD'S RESPONSE: _____ Date Received _____

Department Agency Head's Name and Signature _____ Date _____

Employee's Signature _____ Date _____

RESOLVED: Yes **No** (If not resolved, employee has ten calendar days upon receipt of response to appeal to next step.)



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

[OHR DIRECTOR'S] OLR CHIEF'S RESPONSE: _____ Date Received _____

[OHR Director's] OLR Chief's Signature _____ Date _____

Employee's Signature _____ Date _____

RESOLVED: Yes **No** (If not resolved, employee has ten calendar days upon receipt of response to appeal to next step.)

CHIEF ADMINISTRATIVE OFFICER'S RESPONSE: _____ Date Received _____

Chief Administrative Officer's Signature _____ Date _____

RESOLVED: Yes **No**

A grievance may be appealed to the Merit System Protection Board within 10 working days of receipt of the Chief Administrative Officer's response.

Approved:

Marc Elrich, County Executive

Date

APPROVED AS TO FORM AND LEGALITY

OFFICE OF THE COUNTY ATTORNEY

BY: *[Signature]*

DATE: 6/19/19