



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

| | |
|--|----------------|
| Subject Employee Compensation and Employee Drug and Alcohol Testing | Number 26-19 |
| Originating Department Office of Human Resources | Effective Date |

Montgomery County Regulations on:
 Employee Compensation and Employee Drug and Alcohol Testing
 Issued by: County Executive
 Regulation Number:
 COMCOR No. 33.07.01
 Supersedes: Executive Regulation 16-13, in part
 Authority: Montgomery County Code, 2004, §33-7(b)
 Council review: Method (1)
Montgomery County Register Volume 36, Issue 8
 Comment deadline: August 31, 2019
 Effective date:
 Sunset Date: None

Summary: This regulation Section 10 of the Personnel Regulations to incorporate changes for salary-setting policies for applicants and employees to be in compliance with the salary equity provisions of Montgomery County Code 33-25. In addition, the OHR Director is required to follow similar procedures for salary-setting for candidates above the mid-point. This regulation also amends Section 32 of the Personnel Regulations to reduce the time which employees are given to request a drug test following a positive drug test.

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

Staff contact: Darryl Gorman, 240-777-5026, or darryl.gorman@montgomerycountymd.gov

Please use the key below when reading this regulation:

| | |
|------------------------------|---|
| Boldface | <i>Heading or defined term.</i> |
| <u>Underlining</u> | <i>Added to existing regulation by proposed regulation.</i> |
| [Single boldface brackets] | <i>Deleted from existing regulation by proposed regulation.</i> |
| <u>Double underlining</u> | <i>Added by amendment.</i> |
| [[Double boldface brackets]] | <i>Deleted from existing or proposed regulation by amendment.</i> |

SECTION 10. EMPLOYEE COMPENSATION

* * *

10-5. Salary-setting policies.

* * *

- (b) ***Salary on appointment and reappointment for employees on the General Salary Schedule and Management Leadership Service Salary Schedule.*** A department director must set the base salary of a newly appointed or reappointed employee within the applicable pay grade or pay band under these Regulations and guidance established by the OHR Director and CAO.
- (1) Departments and agencies have the authority to negotiate and determine salaries for candidates equal to or less than the midpoint of the salary range or pay band.
 - (2) A department director may submit a request to the OHR Director for approval to hire a candidate at a salary that is above the midpoint of the salary range or pay band. The director should include in the memorandum:
 - (A) the reason the candidate should be hired above the midpoint of the salary range;
 - (B) a copy of the candidate's resume; and
 - [(C) proof of the candidate's prior or current salary (i.e. most recent pay slip, W-2, 1099 or other wage documentation); and]
 - [(D)](C) the names of other incumbents with similar years of relevant experience in the same job class in the department with their salaries.
 - (3) OHR will review the information submitted by the department director to compare the candidate's proposed salary to the salaries of existing employees in the same job class within the department in order to determine if the proposed salary will create a pay inequity.
 - (4) The candidate's knowledge, skills and abilities will be reviewed in comparison with those same requirements in the official job class specification. Consideration will also be given to the department's "preferred criteria" documented in the recruitment posting in the review and approval process of the candidate's proposed salary.
 - [(5) If the candidate submits documentation of his/her current salary (pay advice/stub, W-2 or 1099, and the department is requesting a salary that may be higher than the department's incumbents in the same class, then the department's proposed salary for the candidate may be approved, even if the candidate has less experience, education, etc. than existing employees in the same class.

(6) If there is evidence of recruitment and retention issues for the position (i.e. the existing candidate pool is minimal) and if the candidate's proposed salary will give the candidate a higher salary than the salaries of existing employees, then the proposed salary may be approved even if the candidate has less experience, education, etc. than existing employees.]

(5) No County employee may ask a candidate to provide information or documentation about the candidate's current or past salary, however a candidate may voluntarily provide said information.

[(7)](6) If there is evidence that the candidate has specialized or unique skills, certifications, licensing, and/or experience and the evidence is used to support a higher salary than the salaries of existing employees, those factors must be reflective of the official job class specifications or the department's preferred criteria for the current recruitment, and then the proposed salary may be approved even if the candidate has less experience and education than existing employees.

[(8)](7) If there is no evidence of recruitment and retention issues, the candidate's specialized or unique skills, certifications, licensing, and/or experience, or of the candidate's higher salary in a former position, and the proposed salary of the candidate will create an inequity with existing employees, then the proposed salary should be denied and the candidate's salary should be set at or lower than the salaries of existing employees. If the candidate does not accept the County's offer of employment at the [lower] proposed salary, then the department should consider the next candidate on the hiring list.

[(9)](8) The OHR Director will approve or deny the department director's request.

[(10)](9) A department director may appeal the OHR Director's denial of a department's request to hire a candidate at a salary that is above the midpoint of the salary range or pay band to the CAO.

[(11)](10) The department director cannot communicate the requested salary to the candidate prior to approval, in writing, from the OHR Director.

(11) In cases where OHR seeks approval to hire a candidate at a salary that is above the midpoint of the salary range or pay band, the request requires approval by the Assistant Chief Administrative Officer. The OHR Director must submit the same supporting information required under Section 10-5(b)(2) with OHR's analysis of the factors identified in subsections (b)(3) through (b)(8) of the Section 10-5. The Assistant Chief Administrative Officer will approve or deny the OHR Director's request.

* * *

SECTION 32. EMPLOYEE DRUG AND ALCOHOL USE AND DRUG AND ALCOHOL TESTING

* * *

32-3. Prevention of Prohibited Drug Use and Alcohol Misuse by County Employees

under County Regulations.

* * *

(h) Drug and alcohol testing of job applicants and employees.

* * *

(20) Rights of job applicants and employees subject to drug or alcohol testing.

* * *

- (C) (i) If the MRO has verified a drug test result as positive or as a refusal to test because of adulteration or substitution, the MRO must notify the applicant or employee of the applicant's or employee's right to have a test conducted on the split specimen, as appropriate, by a different laboratory at the employee's expense.
- (ii) The MRO must tell a DOT covered applicant or employee how to request the split specimen test and give him or her at least 72 hours to request the test. Applicants or employees not covered by U.S. DOT regulations are given [10] 5 calendar days to request the test.

Approved:

Marc Elrich, County Executive

Date

Approved as to form and legality:



Office of the County Attorney

7/23/19
Date