



# OFFICE OF THE COUNTY SHERIFF

Montgomery County, Maryland

*Darren M. Popkin, Sheriff*



## GENERAL ORDERS/PERSONNEL PROCEDURES

<u>Subject:</u>	<u>Number:</u>	<u>Effective Date:</u>
Leave Policy	2.11	11/02/20

**Policy:** It is the policy of the Sheriff's Office to grant leave to employees whenever possible. However, it may not be possible to grant all leave requests due to minimum staffing and workload requirements. The Sheriff's Office leave policy is governed by Montgomery County Personnel Regulations (MCPR), and where appropriate, the negotiated Collective Bargaining Agreement (CBA) between the Montgomery County Government and the Municipal and County Government Employees Organization (MCGEO), the Addendum to the CBA negotiated with the Sheriff, and applicable Federal law.

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### **I. Annual/Compensatory Leave**

- A. Annual and compensatory leave are paid leave earned by an eligible employee that may be used for vacations and other personal use.
  - (1) Full time employees with less than three (3) years of county service earn annual leave at the rate of one hundred twenty (120) hours per leave year.
  - (2) Full time employees with three (3) years, but less than fifteen (15) years of county service, earn annual leave at the rate of one hundred sixty (160) hours per leave year.
  - (3) Full time employees with fifteen (15) years or more of county service earn annual leave at the rate of two hundred eight (208) hours per leave year.
- B. Part time employees earn a pro-rata amount of annual leave based on a schedule established by the chief administrative officer.

C. Seniority

- (1) For civilian employees, probationary sworn law enforcement employees or deputies the rank of Lieutenant or above, seniority will be determined as follows:
  - (a) Length of service (seniority), excluding purchased credited service under the Employer's Retirement System, Chapter 33, Article III of the Montgomery County Code shall be calculated based on total County service, except in cases when breaks in service of two (2) or more years occur. In such cases, service prior to the break in service shall not be counted.
  - (b) In the event that there is a tie between two (2) or more employees regarding the calculated seniority, the tie will be broken based on the sum of the last four (4) digits of each affected employee's social security number, with the employee having the higher sum of the four (4) digits being deemed the more senior.
- (2) For non-probationary deputies below the rank of Lieutenant, seniority will be determined as follows:
  - (a) Length of service (seniority) shall be calculated based upon time in rank as a sworn Montgomery County Deputy Sheriff.
  - (b) In the event that there is a tie between or among two (2) or more such employees regarding their calculated seniority, the tie will first be broken on the basis of their Sheriff's Office hire dates.
  - (c) If the above does not resolve the tie, the tie will be broken on the basis of the deputies' class standing in the law enforcement academy class from which they graduated.

D. Scheduling of Annual Leave

- (1) The leave year begins with the first full payroll period of a calendar year and ends with the payroll period in which December 31st falls.
- (2) The number of employees granted annual or compensatory leave during any specific period will be determined on a section by section basis depending upon staffing needs, workload requirements, and negotiated agreements.
- (3) The leave calendar for selecting blocks of vacation leave will be made available on or about December 15<sup>th</sup> so that selections can be made for the period January through December. The Sheriff's Office tentative schedule for unit employees, including the weekend schedule for Sergeants, will be established prior to their selection of vacation preferences.
- (4) Leave will be granted in forty (40) hour blocks (no split weeks).

- (5) The Sheriff's Office will permit up to a maximum of *eight (8)* deputies in the Court and Transport section to schedule annual or compensatory leave time off for each day of the Monday through Friday day shifts, except where the Sheriff reasonably determines that unusual circumstances make it necessary for the performance of the operations of the Sheriff's Office that less such leave be permitted.
- (6) The Sheriff's Office will permit deputies assigned to the Domestic Violence Section to request, as part of the annual tentative leave calendar selection process, forty (40) hour blocks of annual leave which span more than one work week, provided that such blocks are composed of contiguously-scheduled work days.
- (7) Leave requests of less than forty (40) hour blocks will not be granted more than thirty (30) days in advance, unless unusual circumstances occur.
- (8) Employees must submit a written request for leave. The supervisor will keep the original leave request and provide the employee a copy.
- (9) Employees may request leave on a seniority basis for up to the number of hours of annual leave that they earn for the year.
- (10) Requests for leave during the summer months of May 15 through September 15 will be limited to a two (2) week maximum to allow most employees a summer vacation.
- (11) Once all employees have been given the initial opportunity to request leave, additional leave may be requested on a first come basis.
- (12) Scheduled Annual or Compensatory leave in forty (40) hour blocks must be taken in full, unless canceled, in its entirety, at least two (2) full weeks prior to leave.

## II. **Personal Leave**

- A. Personal leave is paid leave granted to an eligible employee at the beginning of the leave year. Personal leave:
  - (1) Must be used in the leave year which it is granted; and
  - (2) Cannot be carried over to the next leave year.
- B. Requests to use personal leave days must be scheduled and authorized in the same manner as annual leave.

### III. Sick Leave

- A. Sick leave is earned, paid leave granted to eligible employees for periods of absence because of:
  - (1) Personal illness or injury;
  - (2) Medical quarantine;
  - (3) Medical, dental, optical, or psychological examinations and treatments; or
  - (4) Any temporary disability caused or contributed to by pregnancy, miscarriage, or childbirth.
- B. An employee may also use sick leave for any of the above conditions affecting their immediate family and for the purpose of attending to immediate family at the time of birth or adoption of a child.
  - (1) Immediate family is defined in this directive as parent, stepparent, spouse, domestic partner of the same or opposite sex, brother or sister, child or stepchild, spouse's or domestic partner's parent, grandparent, or legal guardian.
  - (2) In addition, the Sheriff may approve the designation as "immediate family" of an individual residing within the employee's household who is related by blood or affinity and whose close association with the employee is the equivalent of a family relationship.
- C. Employees requesting the use of unscheduled sick leave must:
  - (1) Have accrued sick leave available for use.
    - (a) Employees who do not have accrued sick leave must report for their assigned shift or they will be held in a non-pay status such as leave without pay (LWOP), if granted, or absent without leave (AWOL).
      - (i) Supervisors who receive a request for the use of unscheduled sick leave must query the leave balance of the employee in MCtime prior to the approval or denial of the leave.
      - (ii) If the supervisor is unable to view the balance, they must advise the employee that they can only approve accrued sick leave to cover the period of unscheduled absence. If there is insufficient leave to cover the absence, the employee will be held as AWOL for that period.

- (2) Be in a pay status more than the regularly scheduled workweek of forty (40) hours before they can earn overtime. Employees who are in a non-pay status such as LWOP or AWOL must have any overtime hours converted to straight time up to the point they reach forty (40) hours in the workweek. Pre-scheduled overtime is the only exception to this regulation.
  - (3) Request leave directly from a higher-ranking supervisor at least one-half (1/2) hour before their scheduled reporting time. A supervisor is someone the rank of Sergeant or above, or Office Supervisor for clerical personnel.
    - (a) Whenever a supervisor is not available for a sick leave call, the employee is permitted to leave a message with a person designated by the supervisor to receive such calls.
    - (b) Requesting leave from a supervisor by voicemail message is not allowed.
    - (c) Employees requesting sick leave during a night or weekend shift must speak to the duty Commander or weekend shift Sergeant.
  - (4) Advise the supervisor whether they are requesting personal sick leave or family sick leave. Family sick leave may be approved provided the time used is not for a period of more than the amount of sick leave earned in any calendar year. A full time employee earns one hundred twenty (120) hours sick leave per year.
  - (5) Contact the supervisor each consecutive day they use sick leave, unless the illness is protracted. If incapacitated, someone else may call for them.
- D. Sick leave requests for routine medical appointments must be submitted prior to the day of appointment.
- E. Sick leave will only be granted for the actual time needed for the appointment and travel to and from the appointment. Deputies are expected to be at their duty assignment prior to and after the medical appointment unless excused by their supervisor.
- F. Supervisors may require an employee to provide medical certification from a licensed physician any time misuse or abuse is suspected. Employees must be given prior notice as to this requirement to provide certification for future absences. The period for which medical certification is required will be at the discretion of the supervisor.
- G. Supervisors may require medical certification from a licensed physician in the event an employee's absence is in excess of five (5) consecutive workdays. This is to include absences for family sick leave.

- (1) The certification must confirm the illness and the deputy's inability to report to work or to perform part or all of the duties and responsibilities of his position; and
  - (2) The dates of treatment.
- H. A doctor's certification may be required at any time when using sick leave. Employees using ten (10) or more days of sick leave, not incidents, during a one (1) year period, may be required to submit medical certification from a licensed physician.
- (1) The Chief Deputy or their designee will notify the employee in writing of this requirement. The medical certification will then be a continuing requirement until notified otherwise.
  - (2) The certification must state that the employee or family member was unable to work due to illness or injury.
  - (3) If the employee is using family sick leave, the doctor's certification must name the family member who was ill.
  - (4) The doctor's certification must be submitted to the employee's supervisor prior to the end of the pay period in which the sick leave was used.
  - (5) Failure to submit the doctor's certification will result in the employee being placed on an absent without leave pay status for the day or days of the requested sick leave.
  - (6) Exceptions to this policy will be judged on an individual basis by the Sheriff or Chief Deputy.

#### **IV. Parental Leave**

- A. Parental leave is an eligible employee's use of accrued paid leave, unpaid leave, or compensatory time granted at the time of the birth or adoption of a child. An eligible employee is one who has completed the probationary period and has merit system status.
- B. A full-time employee may use up to seven hundred twenty (720) hours of parental leave during a twenty four (24)-month period.
- C. A part-time employee who works less than **forty** (40) regularly scheduled hours per week is entitled to use a prorated amount of parental leave.
- D. Parental leave must begin within twelve (12) months of the birth of the child or placement with the employee for adoption.

- E. If the employee does not use the entire amount within the twelve (12) month period following the birth or placement of the child, the balance will remain available to the employee and may be used for a subsequent birth or adoption within the original twenty four (24) month period.
- F. An employee may use up to seven hundred twenty (720) hours of parental leave on a continuing basis.
- G. With the approval of the Sheriff or Chief Deputy, parental leave may be used:
  - (1) Under a method involving a reduced workday or workweek;
  - (2) On an intermittent basis; or
  - (3) Any combination thereof.
- H. Parental leave may be used in addition to any other leave taken.
- I. Use of parental leave is subject to a thirty (30) day advance notice requirement.
- J. Sick leave donations may not be used to cover absences occurring under parental leave.

## V. **Family and Medical Leave**

- A. Family and medical leave is paid or unpaid leave granted to eligible employees for the purposes stated in the federal Family and Medical Leave Act (FMLA) of 1993.
- B. An employee who has been employed by the County for at least twelve (12) months, and who has been in a work status for at least 1040 hours in the preceding twelve (12) months, must be allowed to use twelve (12) work weeks per leave year of any combination of annual leave, sick leave, disability leave, parental leave, and leave without pay for any one or more of the following reasons:
  - (1) To care for the employee's newborn or newly adopted child or to care for a foster child newly placed with the employee;
  - (2) To obtain prenatal care for the employee or to arrange for the adoption or foster care placement of a child with the employee;
  - (3) To care for, or arrange care for, any of the following with a serious health condition: the employee's spouse, minor child, adult son or daughter incapable of self care, or parent; or
  - (4) Because of the employee's serious health condition that makes the employee unable to perform the functions of the employee's position.
- C. Conditions on the use, limitations, and recording of family and medical leave are listed in MCPR Section 19 and Article 45 of the CBA.

## **VI. Extended Military Leave**

- A. Employees who are deployed for Military service are provided guidance for compensation, benefits and leave usage in the Montgomery County Personnel Regulations (*MCPR*), Section 22 Military Leave.
- B. The Sheriff's Office has established the following protocol for employees who are deployed or on temporary military assignment for a period of time exceeding 90 days:
  - (1) The Chief Deputy or their designee will be the employee's primary point of contact during deployment.
  - (2) The Montgomery County Office of Human Resources is the point of contact for employees of the Montgomery County Sheriff's Office who have any questions regarding compensation or benefits.
  - (3) Prior to the date of deployment, the Chief Deputy or their designee will conduct an exit interview with the deployed employee.
  - (4) All weapons issued by the Sheriff's Office will be turned in to the Property Custodian prior to the date of deployment. All other issued equipment may be maintained by the employee.
  - (5) Upon the employee's return from deployment, an interview will be conducted between the employee and the Chief Deputy or their designee to discuss any issues or needs the employee may have as a result of their deployment.
  - (6) Upon the employee's return from deployment, the training coordinator will schedule in-service, firearms or other required training for the employee.
  - (7) The employee will retain their access to the Montgomery County email system during the period of their deployment in order to maintain an open line of communication with the Sheriff's Office during deployment. To the extent possible, the deployed employee should be notified of significant news or events related to the Sheriff's Office including promotions or promotional opportunities.

## **VII. Leave Without Pay**

- A. Leave without pay (LWOP) is an approved absence during which time the employee is in a non-pay status.
  - (1) LWOP is a privilege that may be granted to an employee at the discretion of the Sheriff, Chief Deputy or their designee.
    - (a) LWOP may be approved at the request of an employee; or
    - (b) An employee may be placed on LWOP.

- (2) However, an employee must be allowed to use LWOP for:
    - (a) FMLA leave.
    - (b) Parental leave.
    - (c) Military leave.
    - (d) Political leave.
  - (3) The Sheriff or Chief Deputy may approve an employee's request to use LWOP for another purpose after considering the employee's reason for requesting LWOP and Office staffing needs and workload requirements.
- B. Requests for LWOP must:
- (1) Be submitted in writing in advance; and
  - (2) Show the employee's reason for requesting the leave.
  - (3) In emergency situations, LWOP may be granted without advance application.
- C. LWOP may be approved for a period of one year or less. If an employee uses more than 12 consecutive months of LWOP, the Sheriff may:
- (1) Terminate the employee's employment; or
  - (2) Take action consistent with State or Federal law such as the Americans with Disabilities Act, FMLA, or the Uniformed Services Employment and Reemployment Rights Act (USERRA).
- D. Use of LWOP will have the following effect:
- (1) If an employee is granted leave without pay for a period in excess of four (4) consecutive weeks, the date the employee would have been eligible for merit system status or a higher leave accrual rate must be deferred and reassigned to a later date.
  - (2) The length of time the date is deferred must be equal to the period of time the employee was on approved LWOP.
  - (3) The increment date is reassigned for any period equal to LWOP taken when the period of LWOP exceeds 10 workdays.

- E. The following benefits may be affected by an employee's LWOP use:
  - (1) Credited service for retirement;
  - (2) Health insurance coverage and payment of premiums; and
  - (3) Salary reduction taken under any tax shelter benefit such as the deferred compensation plan or dependent care assistance program.
- F. If an employee is suspended, the Sheriff must treat the period of suspension the same as a period of leave without pay for the purpose of the employee's benefits, except that the Department Director must reassign an employee's service increment date if it occurs during a suspension for a period exceeding 10 working days.
- G. The Sheriff may place an employee on leave without pay if the employee is unable to perform the essential functions of the employee's position due to a medical condition and light duty or reasonable accommodation opportunities have been exhausted or are not available.
- H. Absent Without Official Leave (AWOL)

An employee who fails to report for duty as scheduled or who leaves the work site prior to the end of the scheduled workday without the approval of a supervisor, will be:

  - (1) Considered absent without leave;
  - (2) Placed in a non-pay status for the period in question; and
  - (3) Subject to appropriate disciplinary action or termination.

### **VIII. Other Leave**

The following types of leave are addressed in the MCPR and CBA:

- A. Administrative Leave - MCPR Section 21 and Article 19 of the CBA.
- B. Disability Leave – MCPR Section 18 and Article 17 of the CBA.
- C. Holiday Leave – MCPR Section 24 and Article 20 of the CBA.
- D. Military Leave – MCPR Section 22 and Article 16 and 19 of the CBA.

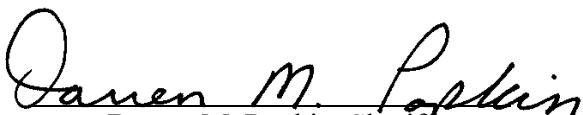
**IX. Leave Balance Carryover**

- A. *Annual Leave and Compensatory Leave balances may be carried over into the next calendar year, pursuant to the provisions set forth in the Montgomery County Personnel Regulations.*
- (1) *MCPR Section 16-8 (Annual Leave)*
- (2) *MCPR Section 10-8 (Compensatory Leave)*
- B. *In addition to making the request through the automated system on the Montgomery County Government website, employees must submit a memorandum to the Sheriff justifying the request to carry over the excess leave into the following calendar year.*

**X. Cancellation**

This written directive cancels and replaces General Orders/Personnel Procedures 2.11, effective date **11/10/14**.

AUTHORITY:

  
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Darren M. Popkin, Sheriff  
11/02/2020