

SECTION 10. EMPLOYEE COMPENSATION

(As amended December 10, 2002, March 4, 2003, April 8, 2003, January 18, 2005, February 15, 2005, July 12, 2005, February 14, 2006, June 27, 2006, December 11, 2007, October 21, 2008, March 9, 2010, July 12, 2011, July 23, 2013, June 30, 2015, July 17, 2018, October 6, 2020 and January 17, 2023)

10-1. Definitions.

- (a) ***Advanced multilingual skills:*** Those skills required for written and oral communication and comprehension in a language other than English.
- (b) ***Basic multilingual skills:*** Those skills primarily required for signing or for oral communication and comprehension, such as those used in conversation with clients and citizens, in a language other than English.
- (c) ***Control point:*** A point established at 90 percent of the salary range that is used to control an employee's progression through the pay range associated with an MLS class or a PLS rank. An employee's base salary may advance within the salary range beyond the control point only if the employee's performance is ranked as "Highly Successful Performance" or "Exceptional Performance". The control point is calculated by using the following formula:

$$\begin{aligned} & \text{Salary range maximum} - \text{Salary range minimum} = \text{Salary range dollars} \\ & \text{Salary range dollars multiplied by } 0.9 + \text{Salary range minimum} = \text{Control} \\ & \text{point.} \end{aligned}$$
- (d) ***Excess compensatory time:*** Compensatory time hours earned by an employee that exceed the maximum number of hours that the employee may carry over from one leave year to the next.
- (e) ***General emergency pay:*** Additional pay or compensatory time earned by an employee at the regular hourly rate if the employee is required to work during a period of general emergency. General emergency pay is given to the employee in addition to regular pay for the normal hours worked during the declared emergency period.
- (f) ***General wage adjustment:*** An across-the-board pay increase of the same amount or the same percentage given to each employee in a particular group.
- (g) ***Multilingual pay differential:*** Additional compensation given by the County to a County government employee who:
 - (1) has been designated to fill a general department need for specific language skills or occupies a position that has been designated to provide multilingual services;
 - (2) is certified by OHR as having basic or advanced multilingual skills; and

- (3) provides multilingual services in the course of the employee's County government employment.
- (h) ***On-call:*** The status of an employee who may be contacted and offered the opportunity to perform overtime work or provide telephone assistance.
- (i) ***Overtime compensation threshold:*** The point after which the County must compensate an employee for performing overtime work.
- (j) ***Overtime work:*** Duties performed by an employee outside of a normal workday of at least 8 hours or a normal workweek of at least 40 hours.
- (k) ***Pay status:*** Time during which an employee is paid for performing work, using paid leave, or both.
- (l) ***Performance-based pay:*** Additional pay awarded to an eligible employee based on the employee's annual performance rating. There are 2 types of performance-based pay awards:
 - (1) an addition to base salary award, which is a salary increase added to an employee's base salary; and
 - (2) a lump-sum award, which is a pay award distributed as a single payment that is not added to base salary.
- (m) ***Shift-pay differential:*** Extra pay given to an employee who works a shift that begins at a specified time of day or during a specified time period during the day.
- (n) ***Special pay differential:*** Extra pay given to an employee for performing specified duties that require or involve additional education, training, effort, risk, or responsibility.
- (o) ***Stand-by pay:*** The compensation given to an eligible employee assigned to stand-by status.
- (p) ***Stand-by status:*** The condition of an employee who has been officially designated by the employing department to remain ready to perform work when contacted and asked to do so.
- (q) ***Timecard:*** An electronic document on which an employee records time worked and leave taken for a particular pay period.
- (r) ***Timesheet:*** A paper document on which an employee records time worked and leave taken for a particular pay period.
- (s) ***Work status:*** Time during which an employee is paid only for performing work.

10-2. General compensation policy. The County must provide a total compensation system designed to recruit and retain a high quality workforce. The CAO must periodically compare the compensation of County employees with the appropriate labor market and other area compensation systems to maintain a standard of comparability.

10-3. Uniform salary plan.

- (a) The uniform salary plan consists of salary schedules authorized in Code Section 33-11(b) for:
 - (1) employees represented by certified employee organizations;
 - (2) minimum wage/seasonal employees;
 - (3) sworn police managers in the Police Leadership Service (PLS);
 - (4) uniformed fire/rescue managers;
 - (5) sworn deputy sheriff managers;
 - (6) uniformed correctional managers;
 - (7) medical doctors;
 - (8) employees in positions in the Management Leadership Service (MLS);
and
 - (9) a General salary schedule (GSS) for all other employees.
- (b) The Council must approve the uniform salary plan and any amendments adopted by Council resolution.
- (c) The CAO must issue approved salary schedules for employee groups with salary rates or a salary range for each pay grade or pay band.
- (d) The CAO must assign an occupational class to an appropriate pay grade or pay band on an approved salary schedule in the uniform salary plan.
- (e) The salary rate or range for each pay grade or pay band on an approved salary schedule must remain in effect until a change to the salary schedule is approved by the County Council.
- (f) The CAO must base a recommendation to amend a salary schedule on the factors outlined in Section 33-11 of the County Code.
- (g) The CAO must ensure that all occupational classes that require comparable experience and have comparable duties, responsibilities, and authority are paid

comparable salaries that reflect the relative value of the services performed, except for occupational classes on the following salary schedules:

- (1) police bargaining unit;
 - (2) fire/rescue bargaining unit;
 - (3) deputy sheriffs in the OPT bargaining unit;
 - (4) minimum wage/seasonal;
 - (5) sworn police managers;
 - (6) uniformed fire/rescue managers;
 - (7) sworn deputy sheriff managers;
 - (8) uniformed correctional managers;
 - (9) medical doctors; and
 - (10) Management Leadership Service.
- (h) Collective bargaining agreements may supersede the comparable pay for comparable work standard for some salary schedules.

10-4. Payroll policies.

- (a) ***Pay period.*** The CAO must pay employees for work performed in a two-week pay period.
- (b) ***Work year.*** The CAO must compute salaries under the County pay schedules on the basis that one work year is equal to 52 weeks which could consist of:
 - (1) 2,184 or 2,496 hours for uniformed fire/rescue employees; or
 - (2) 2,184 hours for certain police executives; or
 - (3) 2,080 hours for all other employees.
- (c) ***Payroll deductions.*** The CAO must determine appropriate deductions from an employee's pay under Federal, State, or County statutes and regulations.
- (d) ***Recovery of overpayment or employee debt.***
 - (1) ***Recovery of overpayment to employee.***

- (A) If the County overpays an employee, the CAO may deduct money from the employee's pay to recover the overpayment. The CAO must give the employee notice and an opportunity to respond before deducting the amount of the overpayment from the employee's pay.
 - (B) An employee will not be required to repay the portion of overpayments which has extended beyond a 3-year period.
 - (C) An employee who is overpaid by the County has a duty to promptly notify the department director of the overpayment.
 - (D) A department director may take disciplinary action against an employee who knew about the overpayment but failed to notify the department director.
- (2) ***Recovery of employee debt to County.*** The CAO may set off a debt that an employee or former employee owes to the County and deduct the amount owed from unpaid salary, accrued annual leave or compensatory time owed to the employee. The CAO must give the employee or former employee written notice of the deduction and an opportunity to respond.
- (3) ***Employee's right to appeal the County's recovery of an overpayment or debt.*** An employee may file a grievance under Section 34 of these Regulations over a deduction to recover an overpayment or a debt from the employee.
- (e) ***Payroll certification.***
- (1) A department director must not place a person in a merit system position or on the payroll of a County department or office, authorize the payment of salary or wages, authorize a change in salary or wages, or authorize the removal of any person from a payroll unless the act is consistent with the Personnel Regulations and is approved in writing by the CAO or the OHR Director.
 - (2) A department director must give the CAO or OHR Director all time, attendance, and payroll records requested.
 - (3) The CAO may require the OHR Director to certify that:
 - (A) a merit system employee whose name appears on a payroll was appointed under the provisions of the Charter of Montgomery County and the Personnel Regulations and performed service during the period for which compensation is claimed; and
 - (B) the employee's salary or compensation is at the appropriate rate indicated in official employee records.

- (f) ***Effective date of a salary change.*** The effective date of a salary change is the beginning of the pay period in which the change was made, unless the CAO specifies a different date.
- (g) ***Direct deposit.*** An employee must, as a condition of employment, agree to have the County deposit the employee's biweekly pay directly in the employee's account at a bank, credit union, or other comparable government-regulated financial institution. If an employee is delayed in providing the County with direct deposit information, the County will deposit the employee's bi-weekly pay on a payroll card until such time as the employee provides direct deposit information.

10-5. Salary-setting policies.

- (a) ***General.*** A department director must ensure that an employee's base salary does not exceed the pay rate or range for the pay grade or pay band assigned to the employee's class, unless the department director:
 - (1) demoted the employee because of reduction-in-force or disability under Section 10-5(d); or
 - (2) reclassified or reallocated the employee's position to a lower pay grade or pay band under Section 10-5(f).
- (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;
 - (C) the names of other incumbents in the same 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 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 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) 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.
- (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 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.
- (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 offer of employment at the lower salary, then the department should consider the next candidate on the hiring list.
- (8) The OHR Director will approve or deny the department director's request.
- (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.
- (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 Chief Administrative Officer's designee. 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. An Assistant Chief Administrative Officer or the Deputy Chief Administrative Officer, as designee, will approve or deny the OHR Director's request.

(c) *Salary on promotion.*

(1) *Compensation for a regular (non-temporary) promotion.*

- (A) A department director must ensure that an employee's base salary following promotion is not less than the minimum or more than the maximum salary for the new pay grade or pay band.
- (B) A department director must give a merit system employee who is promoted at least a 5 percent increase in base salary, except as provided in (C) below.
- (C) A department director must not give a salary increase upon promotion to an employee who took a voluntary demotion in the past but did not lose salary, unless:
 - (i) a salary increase is necessary to restore the employee to the salary that the employee would have had if the employee had not been demoted; or
 - (ii) the employee is promoted to a higher-graded position than the position from which the employee was demoted.
- (D) In addition to the non-discretionary 5 percent increase provided for in (B) above, a department director may approve an additional increase in base salary of up to 5 percent for a single promotion, or a total increase not to exceed 10 percent.
- (E) In addition to the maximum 10 percent increase in base salary for a single promotion that a department director may approve under (D) above, a department director may recommend and the OHR Director may approve an additional increase in base salary of 5 percent for a single promotion, or a total increase not to exceed 15 percent.
- (F) A department director should consider the following factors when recommending to the OHR Director an additional 5 percent salary increase for a single promotion under (E) above, which would constitute a total increase of 15 percent:
 - (i) whether the employee being promoted received an "Exceptional" overall performance rating prior to the promotion; or

- (ii) whether the position that the employee is being promoted to is a difficult position for which to recruit and retain employees.
- (G) A department director's recommendation to the OHR Director for a maximum increase of 15 percent in base salary for a single promotion must:
 - (i) document that the promotional increase requested is consistent with the department's pay practices and policies;
 - (ii) provide justification for the request.
- (H) In extraordinary circumstances, the department director may recommend and the OHR Director may approve a total increase of not to exceed 20 percent of base salary. Extraordinary circumstances means:
 - (i) a promotion of at least 3 grades; or
 - (ii) a promotion to a supervisory position after which the employee's salary would be less than that of the employees supervised.
- (I) The CAO may approve a total increase in base salary greater than 20% in extraordinary circumstances (as defined in section 10-5(c)(1)(H)) based upon the factors identified in section 10-5(b) where a promotion arises from a competitive promotion that was open to the general public and at least one non-County employee was either in the highest rating category or was interviewed for the vacancy.

(2) *Compensation for a temporary promotion.*

- (A) A department director who temporarily promotes an employee for more than 10 consecutive calendar days must give the employee a pay increase retroactive to the first day the employee was temporarily promoted. The amount of the pay increase must be consistent with subsection (1) above.
- (B) An employee working under a Position and Career Education (PACE) contract is not considered temporarily promoted and therefore is not entitled to a pay increase.
- (C) A non-MLS or PLS employee who is temporarily promoted to an MLS or a PLS position:
 - (i) is not eligible for performance-based pay under MLS

or PLS guidelines; and

- (ii) remains eligible to earn compensation, such as overtime pay, compensatory time and holiday premium pay, for which an MLS employee is ineligible.
- (D) An employee in a position that is not on the general salary schedule who is temporarily promoted to a position on the general salary schedule:
- (i) is not eligible for performance-based pay under the program for general salary schedule positions; but
 - (ii) remains eligible to earn other types of compensation for which the employee was eligible before the temporary promotion.
- (E) An employee who is temporarily promoted to a position with a higher grade, salary band, or salary range, remains eligible to receive compensation such as overtime pay, compensatory time, or holiday premium pay that is authorized for the position from which the employee was promoted.

(d) ***Salary on demotion.***

- (1) ***Voluntary demotion.*** A department director may allow an employee who has had a voluntary demotion to keep the employee's prior base salary after a voluntary demotion as long as the employee's salary is:
- (A) not increased;
 - (B) not less than the minimum or more than the maximum salary of the new pay grade or pay band; and
 - (C) not decreased by more than 20 percent of base salary unless the employee's current salary must be decreased by more than 20 percent to reach the maximum salary of the new grade.
- (2) In a voluntary demotion, when the employee's prior base salary is above the maximum salary of the new pay grade or pay band, the employee's salary must equal the maximum salary of the new pay grade or pay band.
- (3) ***Disciplinary demotion or demotion resulting from unsatisfactory performance.*** If an employee is demoted for cause or for unsatisfactory performance, the department director must reduce the employee's salary by:

- (A) no more than 20 percent of base salary; or
 - (B) more than 20 percent, if necessary to bring the employee's salary to the maximum salary of the new pay grade or pay band.
- (4) ***Demotion resulting from reduction-in-force or disability.***
- (A) If a General salary schedule (GSS), MLS or a PLS employee is demoted as a result of reduction-in-force to a class that is non-bargaining unit, the department director must allow the employee to retain the salary received at the time of the demotion. If the demoted employee's salary exceeds the maximum for the new pay grade or pay band, the department director must allow the employee to retain the salary for 2 years after the demotion.
 - (B) A department director must not approve a salary increase for an employee whose base salary exceeds the maximum salary for the pay grade. At the end of the 2-year salary retention period, the department director must reduce the employee's base salary to the maximum for the pay grade of the employee's position.
 - (C) If an employee in a non-bargaining unit position is demoted as a result of disability, then the employee retains his or her salary indefinitely, even if the salary is above the maximum of the grade.
 - (D) If the CAO reclassifies a demoted employee's position upward during the 2-year period following the demotion, the department director must not increase the employee's salary unless a salary increase is needed to bring the employee's salary to the minimum salary of the new pay grade or pay band.
- (e) ***Salary on reassignment during the promotional probationary period.*** If the promoted employee has a less than satisfactory annual or interim performance rating relating to the duties of the new position during the promotional probationary period, then the department director must reassign the promoted employee to a position at the employee's former pay grade and must reduce the employee's salary after the reassignment by the amount of the promotional increase.
- (f) ***Salary on reclassification or reallocation.***
- (1) The reclassification or reallocation of a position to a higher or lower pay grade or pay band is not a promotion or a demotion.
 - (2) A department director must not increase the salary of an employee whose position is reclassified or reallocated to a higher pay grade or pay band, except as indicated in Section 12-2(c) of these Regulations, or to ensure

that the employee's salary is at the minimum for the new pay grade or pay band.

- (3) A department director must ensure that an employee whose position is reclassified or reallocated to a lower pay grade:
 - (A) retains the salary the employee received the day before the effective date of the reclassification or reallocation; and
 - (B) receives the same general wage adjustment given to other employees in the same occupational class and salary schedule regardless of whether or not the employee's salary exceeds the maximum salary for the pay grade or pay band assigned to the position.
- (4) A department director must ensure that the salary of a position that was reclassified downward reverts to the salary range for the pay grade or pay band reassigned to the position after the employee who occupied the position at the time of the downward reclassification leaves the position.

(g) *Salary during a within-grade salary reduction.*

- (1) A department director may reduce an employee's bi-weekly salary by giving the employee a within-grade salary reduction outlined in Section 33-3(d).
- (2) The department director must give the employee written notice of the amount of the reduction and the number of pay periods covered by the reduction.

10-6. Overtime policy.

- (a) The assignment of overtime work is an exercise of management discretion reserved to supervisors. An employee is not entitled to overtime work assignments, unless such a right is expressly stated in a regulation or written agreement.
- (b) A department director:
 - (1) may require an employee to perform overtime work;
 - (2) must authorize an overtime assignment before the employee is given the assignment or performs the work, and may delegate to subordinate supervisors the authority to assign overtime work;
 - (3) must keep overtime work to a minimum and approve overtime work when the department's workload cannot be accomplished without it;

- (4) must ensure that expenditures for overtime are kept within budget limitations, unless compensatory time is used to compensate employees for overtime work; and
- (5) must exclude an MLS employee from receiving overtime pay or compensatory time.
- (c) A supervisor may assign overtime work to an employee who does or does not volunteer for the overtime assignment, but the supervisor should attempt to equally distribute the overtime work assignments among the employees who are qualified to perform the work.
- (d) Except in an emergency, a supervisor should make every effort to schedule overtime work assignments in advance and no later than the end of the workday before the day of the overtime assignment.
- (e) An employee who fails to perform an overtime assignment may be subject to disciplinary action.
- (f) An employee must not file a grievance under these Regulations to enforce Federal or State wage and hour statutes that are enforceable by filing a claim with the appropriate Federal or State agency.

10-7. Overtime compensation.

- (a) ***Overtime compensation threshold.*** A department director must compensate an employee with overtime pay or compensatory time if the employee’s total hours in a pay status during a workday or workweek exceed the overtime compensation threshold.
- (b) ***Applicable overtime compensation thresholds.*** The applicable overtime compensation thresholds for County positions are reflected in the table below:

Normal Overtime Compensation Thresholds for County Employees			
Type of position	Threshold during regular workday	Threshold during regular workweek	Threshold if employee must work on holiday, in general emergency, or on employee’s day off
Non-exempt employee	8-12 hours, depending on number of hours in normal workday	40 hours	40 hours
Exempt employee, grade 24 or below	8-12 hours, depending on number of hours in normal workday	40 hours	40 hours

Police officer at rank of sergeant or below	8-10 hours, depending on number of hours in normal workday	40 hours	40 hours
Firefighter/rescuer at rank of captain or below	number of hours in regular workday for full-time employee	48 hours or number of hours in regular workweek for full-time employee	48 hours or number of hours in regular workweek for full-time employee
Deputy Sheriff at rank of lieutenant or below	8-12 hours, depending on number of hours in normal workday	40 hours	40 hours
Correctional officer at the rank of correctional shift commander (lieutenant) or below	8-12 hours, depending on number of hours in normal workday	40 hours	40 hours
Exempt employee, grade 25 or above	8-12 hours, depending on number of hours in normal workday	40 hours, such employees should be compensated for the hours worked above 40 hours per week by altering the employee's regularly scheduled workweek on an hour for hour basis within the pay period when the excess hours were worked or if that is not possible the employee should be granted compensatory time on an hour for hour basis.	40 hours
Police officer at rank of lieutenant or above	13-15 hours, depending on number of hours in normal workday	40 hours	40 hours
Firefighter/rescuer at rank of battalion chief or above	number of hours in regular workday for full-time employee, plus 5 hours	53 hours or number of hours in regular work-week for full-time employee plus 5 hours	48 hours or number of hours in regular workweek for full-time employee
Deputy sheriff at the rank of captain or above	13-17 hours, depending on number of hours in normal workday	40 hours	40 hours

(c) *Normal overtime pay rates*

- (1) *For a bargaining unit employee.* The County must compensate a bargaining unit employee for overtime work at the rate stated in the

appropriate labor agreement.

- (2) ***For a non-exempt unrepresented employee.*** The County must compensate a non-exempt employee who is not in a bargaining unit position at the rate of time and a half the employee's regular hourly salary for each hour in a pay status beyond the overtime threshold. The regular hourly salary must include pay differentials that apply to the overtime hours worked.
- (3) ***For an exempt employee.*** When an exempt employee is eligible for overtime compensation under these Regulations, the County must compensate the employee as follows:
 - (A) an exempt employee at grades 24 and under must be compensated at the rate of time and a half the employee's regular hourly salary for each hour in a pay status greater than the overtime threshold; and
 - (B) an exempt employee at grades 25 and higher must be compensated on an hour for hour basis for every hour in a pay status greater than the overtime threshold.

(d) Exception to normal overtime pay rates.

- (1) If the overtime work is scheduled, the County must not compensate the employee at the overtime rate except when the employee was in a work status greater than 8 hours of the employee's regularly scheduled workday.
- (2) If an employee has an unscheduled absence the day after having worked an overtime work assignment, then the County must compensate the employee at the regular (straight time) pay rate for the number of hours of the unscheduled absence, except when the FLSA requires such employee to receive overtime compensation at the time and half rate. A scheduled absence, for the purpose of this section, is leave that is:
 - (A) requested and approved during the employee's work period preceding the day of the requested time off; or
 - (B) requested while the employee is working on the day after the overtime work assignment was completed, and was approved subject to workload requirements as determined by the employee's supervisor.
- (3) If an employee is in a public safety class that is not on the general salary schedule, a department director must compensate the employee as follows:
 - (A) as stipulated in the appropriate labor agreement if the employee is in a public safety class that is in a bargaining unit;

- (B) an exempt employee in pay grades 24 and under who is:
 - (i) a police officer at the rank of sergeant or below;
 - (ii) a firefighter/rescuer at the rank of lieutenant or captain or below;
 - (iii) a deputy sheriff at the rank of lieutenant or below; or
 - (iv) a correctional officer at the rank of correctional shift commander (lieutenant) or below; and
 - (C) an exempt employee in pay grades 25 and higher who is:
 - (i) a police officer at the rank of lieutenant or above;
 - (ii) a firefighter/rescuer at the rank of battalion chief or above;
 - (iii) a deputy sheriff at the rank of captain or above; or
 - (iv) a correctional officer at the rank of correctional unit commander (captain) or above.
- (e) ***Rounding of overtime.***
- (1) An employee who submits an electronic timesheet must total overtime work for each workweek and record it on the time sheet without rounding.
- (f) ***Form of overtime compensation.*** A department director must provide compensation to employees for eligible overtime work performed. A director must provide overtime compensation at the specified rate in the form of overtime pay or compensatory time earned at the overtime rate.
- (1) A department director must pay a non-exempt employee overtime pay for completed overtime work except when:
 - (A) the employee requests to receive compensatory time in lieu of pay and the supervisor approves the request; or
 - (B) the department director determines that the cost of overtime pay cannot be accommodated within the department's existing budget appropriations and the FLSA does not require the department director to give overtime pay.
 - (2) A department director must compensate an exempt employee for overtime work that is eligible for overtime compensation. The employee must be compensated with compensatory time at the appropriate overtime rate

instead of with overtime pay unless the department director determines that:

- (A) the cost of overtime pay can be accommodated within the department's existing budget appropriations; and
- (B) the amount of overtime work needed is so great that the employee would not be able to use the compensatory time earned during the current leave year.

10-8. Compensatory time.

- (a) ***Payment of compensatory time.*** The County must pay an employee for compensatory time at the employee's pay rate at the time that the compensatory time is used or paid off.
- (b) ***Use of compensatory time.***
 - (1) An employee must apply, in advance, to use compensatory time unless the employee could not anticipate the need to use the compensatory time.
 - (2) An employee must not use compensatory time until it is credited by the payroll system and approved for use by the employee's supervisor.
 - (3) A department director should ensure that an employee schedules and has the opportunity to use the employee's accrued compensatory time.
 - (4) A department director may:
 - (A) restrict an employee's use of compensatory time during certain periods of the year;
 - (B) require the use of compensatory time in amounts of 8 hours or more.
- (c) ***Limits on accrual of compensatory time.***
 - (1) ***Compensatory time carryover.*** The CAO must allow an employee to carry over either a maximum of 80 hours of compensatory time to the next leave year or a prorated amount of compensatory time if the employee's regular work schedule consists of more than 80 hours per pay period.
 - (2) ***Excess compensatory time.***
 - (A) An employee's unused compensatory time that exceeds 80 hours at the end of the leave year is excess compensatory time, unless the employee's regular work schedule consists of more than 80 hours per pay period. For a work schedule of more than 80 hours per pay

period, the hours in excess of the prorated maximum carryover amount are considered excess compensatory time.

- (B) The CAO must not allow an employee to carry over excess compensatory time to the next leave year unless an exception is granted under subsection (c)(3) or (c)(4).
- (3) ***Limits on accrual for a non-exempt employee.*** The CAO must pay a non-exempt employee for excess compensatory time hours at the end of the leave year unless the employee gives written notice to the OHR Director that the employee wants to carry over the excess compensatory time for one year.
- (4) ***Limits on accrual for an exempt employee.***
 - (A) The CAO must convert an exempt employee's excess compensatory time to sick leave at the beginning of the next leave year, unless the CAO grants an exception under Section 10-8(c)(4)(B).
 - (B) The CAO may allow an exempt employee to carry over some or all of the employee's excess compensatory time to the next leave year if the employee did not use the excess compensatory time because of special circumstances or workload demands. The employee must use the excess by the end of the next leave year.
- (d) ***Disposition of compensatory time at separation.***
 - (1) ***At separation of a non-exempt employee.*** The County must pay a non-exempt employee who leaves County employment for all unused compensatory time.
 - (2) ***At separation of an exempt employee.*** If an exempt employee leaves County employment, the County must:
 - (A) pay the employee for up to 80 hours of unused compensatory time or a larger prorated amount if the employee's regular work schedule includes more than 80 hours per pay period; and
 - (B) convert the hours for which an employee is not paid unused compensatory time to sick leave.
 - (3) ***At death of an employee.*** If an employee dies, the County must pay the employee's beneficiary or estate for all unused compensatory time.
- (e) ***Withholding or adjustment of accumulated compensatory time.***

- (1) If an employee is indebted to the County, the County may deduct the amount due from the employee's accumulated compensatory time, after giving the employee written notice of the deduction and an opportunity to respond.
 - (2) If the employee objects to the deduction, the employee may file a grievance under Section 34 of these Regulations.
- (f) *Disciplinary deduction of accrued compensatory time.***
- (1) Under Section 33-3(c) of these Regulations, a department director may deduct up to 80 hours of compensatory time from an exempt employee's accumulated compensatory time for disciplinary reasons. An employee may file a grievance over such disciplinary action and the deducted amount under Section 34 of these Regulations.
 - (2) The FLSA prohibits a department director from taking accumulated compensatory time from a non-exempt employee for disciplinary reasons.
- (g) *Use of compensatory time as FMLA leave.***
- (1) An employee must not use compensatory time as FMLA leave.
 - (2) A supervisor must not designate compensatory time as FMLA leave.
- (h) *Use, carryover, and disposition of compensatory time by an MLS employee.***
- (1) An MLS employee may not earn compensatory time, but may keep, use, and carry over the compensatory time that the employee had accrued at the time the employee became an MLS member.
 - (2) The County must pay an MLS employee for up to 80 hours of compensatory time when the employee leaves County employment.
 - (3) An MLS employee is subject to the provisions of these Regulations on the use, carryover, and disposition of compensatory time by exempt employees.

10-9. Pay differentials. The CAO may authorize a pay differential if the County Council approves the differential.

- (a) *Shift pay differentials.***
- (1) The CAO may establish shift pay differentials for evening work and determine the amount paid for the differential.

- (2) A department director must pay a shift pay differential to an employee who begins the employee's assigned shift during a period covered by the differential.
 - (3) An employee is not eligible for shift pay differential for hours of leave or for short periods of additional work that do not constitute a shift.
 - (4) A department director must not pay a shift pay differential to an MLS employee.
- (b) ***Special pay differentials.*** A department director must pay a special pay differential to an employee who:
- (1) is appointed, transferred, promoted, or demoted to a position associated with a special pay differential; and
 - (2) performs the duties associated with the differential.
- (c) ***Multilingual pay differentials.***
- (1) ***Eligibility for multilingual pay.*** To be eligible to receive a multilingual pay differential, an employee must be fluent in English and:
 - (A) be certified by OHR as having basic or advanced multilingual skills;
 - (B) be assigned to a position designated for a multilingual pay differential or be an employee designated to fill a general department need for specific language skills; and
 - (C) actually provide or be available to provide multilingual services in the course of the employee's County government employment.
 - (2) ***Role of department director***
 - (A) When recruiting to fill a vacant position by initial appointment or promotion, a department director may include a specific language skill as a qualification or a preferred qualification if the OHR and OMB Directors have approved the department director's request for a multilingual designation of the position or the occupational class or occupational series that includes the position.
 - (B) If a position is designated as requiring multilingual skills and the incumbent employee does not have the required multilingual skills, the department director must:
 - (i) exempt the position from the requirement until the incumbent employee leaves the position; or

- (ii) transfer the employee to an equivalent position that does not require multilingual skills, with the same salary, benefits, and working conditions.
- (C) A department director should review the approval of a multilingual pay differential if:
 - (i) a certified multilingual employee is promoted, demoted, or transferred to a different position; or
 - (ii) the performance evaluation of a certified multilingual employee indicates that the employee did not use, or seldom used, the multilingual skills during the rating period.
- (D) A department director should periodically review the multilingual pay differentials approved for employees within a department, division, or work unit after:
 - (i) a program change or reorganization occurred that affected the County's need for multilingual skills;
 - (ii) a change in client characteristics that indicates that the identified language skill may no longer be needed; or
 - (iii) the performance evaluations of employees who are certified in a particular language indicate that the employees did not use, or seldom used, the multilingual skills during the rating period.

(3) *OHR certification of multilingual employees.*

- (A) To have an employee's language skills certified, a department director must provide the following information on the language certification form and submit it to OHR:
 - (i) the language skill needed;
 - (ii) the level of proficiency needed (basic or advanced); and
 - (iii) the name of the employee whose language skills need to be certified.
- (B) After receiving a completed language certification form from a department, the OHR Director must:
 - (i) schedule the employee for a language test;

- (ii) conduct the examination;
 - (iii) notify the employee and department of the examination results and the effective date of the certification if the employee passed the language examination; and
 - (iv) add the name of the newly-certified employee to the Countywide Interpreter List, unless the department director has requested that the employee's name not be included on the List and the OHR Director has approved such request.
- (C) If the employee fails the examination, the employee may submit a request to be retested within 6 months of the date of the initial examination date. If the employee has not passed the examination within 6 months of the initial examination, the department must submit a new language certification form for the employee to be tested again.

(4) *Countywide Interpreter List.*

- (A) The OHR Director must maintain a list of County employees who have been certified as having multilingual skills and make the list available to all County departments on the County internet website. The list must include the following information;
- (i) employee's name and department;
 - (ii) employee's work phone number and e-mail address;
 - (iii) language in which the employee is certified; and
 - (iv) employee's level of proficiency.
- (B) The OHR Director may approve a request from a department director that a certified employee's name not be included on the Countywide Interpreter List if the demand for the employee's certified multilingual skills within the department and the nature of the employee's job duties would make the employee unavailable for interpreter assignments in other departments.
- (C) A department director must advise the OHR Director promptly when:
- (i) a certified employee leaves County employment or the designated position; or

- (ii) a certified employee will be unavailable for interpreter assignments for an extended period of time for any reason.
 - (D) An employee whose name is on the Countywide Interpreter List must:
 - (i) make a reasonable effort to provide interpreter services at the request of other departments; and
 - (ii) must obtain the approval of the employee's supervisor before accepting assignments from other departments.
 - (E) A department manager who requests the services of an employee on the List from another department must:
 - (i) give reasonable notice to the certified employee of the need for interpreter services;
 - (ii) not subject the employee to hazardous conditions or place the employee in potentially dangerous situations; and
 - (iii) if required, provide the employee with transportation to the location where the interpreter services are needed or reimburse the employee for travel and other appropriate expenses.
- (5) ***Payment and amount of multilingual pay differentials.***
- (A) The County must pay a higher multilingual pay differential to an employee who is certified at the advanced level than an employee certified at the basic level.
 - (B) The amount of multilingual pay differentials for unrepresented employees is determined by the CAO and approved by the Council. The amount of the differentials for bargaining unit employees is determined through collective bargaining and is subject to Council approval.
 - (C) The County must pay the multilingual pay differential to a certified employee only for the hours worked and not for hours of paid leave or holidays.
 - (D) The County must not pay more than one multilingual pay differential to an employee even if the employee is certified in more than one language.
 - (E) The County must not pay a multilingual pay differential to an employee who leaves the position designated for the differential,

except when the employee is transferred or reassigned to another position for which the same multilingual skills are approved.

- (F) If a department uses an employee on the Countywide Interpreter List from another department to provide interpreter services for 4 or more hours in a pay period, the department director of the using department must reimburse the employing department at the employee's hourly salary rate for the hours the employee spent providing interpreter services for the using department.
- (6) ***Performance evaluation of employee receiving multilingual pay.*** The supervisor of an employee who receives multilingual pay must:
- (A) include the use of multilingual skills as a performance expectation of the employee's performance plan; and
 - (B) rate the employee's performance in using the multilingual skills.
- (7) ***Renewal of an employee's multilingual certification.***
- (A) An employee must periodically renew the employee's multilingual certification if the employee wishes to continue to receive the pay differential associated with the certification.
 - (B) The OHR Director must:
 - (i) establish the period after which a certified employee must renew the multilingual certification by passing another certification examination;
 - (ii) notify the employee, in writing, of the requirement to renew the employee's multilingual certification;
 - (iii) schedule and administer the examination.
 - (C) An employee who fails the multilingual recertification examination to renew the multilingual certification must take and pass the recertification examination within 3 months of the first renewal examination or the employee will lose the certification and the multilingual pay differential. The OHR Director may grant an extension for up to one month for extenuating circumstances.
- (8) ***Stopping a multilingual pay differential.***
- (A) A department director must ensure that the County stops paying the multilingual differential to a certified employee who:

- (i) transfers to, or assumes, a position for which the multilingual skills are not approved;
 - (ii) was certified to provide multilingual services that are no longer needed;
 - (iii) is no longer needed by a department to provide a specific language skill;
 - (iv) is no longer able to provide the multilingual services;
 - (v) no longer wishes to provide the multilingual services;
 - (vi) refuses or fails to provide requested multilingual services in a satisfactory manner; or
 - (vii) fails to renew the multilingual certification as required.
- (B) The department director must notify the certified employee and the OHR and OMB Directors of a decision to stop paying a multilingual differential to a certified employee and the reasons for stopping the differential.
- (C) If multilingual skills are a requirement for a designated position and the incumbent employee no longer wishes to provide the multilingual skills, the department director must determine if the employee's request can be accommodated by means such as transferring the employee or relying on the multilingual skills of other employees. If the director determines that the request cannot be accommodated, the department director may deny the employee's request.
- (D) If an employee refuses or fails to provide requested multilingual services in a satisfactory manner, this should be reflected in the employee's performance evaluation and may be grounds for disciplinary action including removing the employee from the designated position.
- (9) ***Appeal of decisions on multilingual pay.*** The following decisions on multilingual pay are not grievable matters:
- (A) eligibility of languages or positions for multilingual designation;
 - (B) the content of language proficiency examinations;
 - (C) the certification or non-certification of an employee's eligibility for multilingual pay; and

- (D) stopping the payment of a multilingual pay differential under subsection (8).
- (d) ***Disposition of pay differentials.***
- (1) A department director must not pay a shift pay differential to an employee who is transferred, promoted, or demoted away from a shift associated with a shift pay differential to a shift not associated with a shift pay differential.
 - (2) A department director must not pay a special pay differential to an employee who is transferred, promoted, or demoted from a position associated with a special pay differential to a position not associated with the differential.
 - (3) The County has discontinued the practice of approving educational salary differentials for employees who earn degrees or complete educational credits. However, an employee with an educational salary differential approved before July 31, 1978, may keep the differential until the employee leaves County employment.

10-10. Performance-based pay.

- (a) ***Performance-based pay for MLS or PLS employees.*** An MLS or PLS employee is not eligible to receive service increments but may receive performance-based pay as described in this subsection.
 - (1) ***Eligibility for general wage adjustment.***
 - (A) ***Career employee.*** An MLS or PLS employee with merit system status who receives a performance rating of *Below Expectations*, *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 or PLS employee is eligible for the general wage adjustment provided to permanent employees.
 - (2) ***Eligibility for performance-based pay.***
 - (A) ***Career employee.*** An MLS or PLS 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 of 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.

Eligibility for Performance-Based Pay for MLS and PLS Employees*			
Overall performance rating:	If employee’s salary is below 90 percent of pay band	If employee’s salary is at or above 90 percent of pay band	If employee’s salary is at top of pay band
Exceptional Performance	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 6 percent of base salary.	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 4 percent of base salary.	Employee is eligible for a lump-sum award not to exceed 4 percent of base salary. **
Highly Successful Performance	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 4 percent of base salary.	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 3.5 percent of base salary.	Employee is eligible for a lump-sum award not to exceed 3.5 percent of base salary.
Successful Performance	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 3.5 percent of base salary.	Employee is eligible for a lump-sum award not to exceed 2 percent of base salary.	Employee is eligible for a lump-sum award not to exceed 2 percent of base salary.
Below Expectations	Employee is not eligible for performance-based pay.	Employee is not eligible for performance-based pay.	Employee is not eligible for performance-based pay.
Does Not Meet Expectations	Employee is not eligible for performance-based pay.	Employee is not eligible for performance-based pay.	Employee is not eligible for performance-based pay.

* An MLS or PLS employee receives the general wage adjustment granted to other non-bargaining unit employees unless the employee’s overall performance rating was *Does Not Meet Expectations*.

**With approval by the CAO, the Executive Director of Montgomery County Employee Retirement Plans is eligible to receive a lump-sum award that exceeds 4 percent of base salary but does not exceed 25 percent of base salary for exceptional performance.

- (ii) An MLS or PLS employee does not automatically receive a performance-based pay award of any particular type or amount.

(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.

(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>Below Expectations</i>	No additional pay
<i>Does Not Meet Expectations</i>	No additional pay

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

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

(1) ***Role of department director.***

(A) ***For MLS and PLS Employees.***

- (i) A department director must recommend the individual award amount for an MLS or PLS 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 10-10(a)(2)(C)(i).
- (ii) A department director must notify OHR prior to the first pay period of the fiscal year if a General wage adjustment will be denied to an MLS or PLS employee, 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 employee's right to appeal the denial to the MSPB and the time limit for filing an appeal.

(B) ***For General salary schedule employees.*** The department director must submit to the OHR Director:

- (i) for each employee who is eligible to receive a performance-based pay award, a copy of the employee's performance appraisal stating that the employee received an overall rating of *Exceptional Performance* or *Highly Successful Performance* and is eligible to receive performance-based pay under these Regulations; and
- (ii) a statement that the department follows the provisions of Section 11 of these Regulations for all general salary schedule employees.

(C) ***For MLS, PLS 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 and PLS 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 and PLS 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 awards of the same percentage of base pay, regardless of their employing departments.
 - (D) The approval of performance-based pay awards is subject to availability of funds and appropriation by the County Council.
- (3) ***Role of Office of Management and Budget (OMB) and Office of Human Resources (OHR).***
- (A) OMB must recommend funding for compensation increases granted under the performance-based pay system based on actual experience and estimates of the amount of required performance-based pay.
 - (B) In no case will employees' performance-based pay be limited by available appropriation. Any insufficiency of appropriation must be addressed through:
 - (i) an executive transfer;
 - (ii) a request for a supplemental appropriation; or
 - (iii) any other means used to ensure adequate funding for employees' performance-based pay.
 - (C) Performance-based pay must be allocated based on performance, not department size or other non-performance criteria. Funds dedicated to this purpose must be identified in the recommended operating budget in a non-departmental account for performance-based pay. OMB must not move the funds appropriated by the County Council for MLS and PLS performance-based pay out of the non-departmental account unless the spending conditions in the appropriation resolution

for each fiscal year expressly authorize moving the funds to the individual departments after that department's performance evaluations and pay awards decisions 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 and PLS employees and employees in positions on the general salary schedule;
 - (ii) training and technical support to departments implementing the MLS and PLS 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 and PLS 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 and PLS employees must be awarded on a fiscal year basis and a compensation increase awarded to an MLS or PLS 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 employees who received an overall performance rating of *Exceptional Performance* or *Highly Successful Performance*.

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

- (A) An MLS or PLS employee may not grieve or appeal a recommendation by a department director or a decision by the CAO or director of a legislative branch office to grant or not grant a performance-based pay award, the type of award granted, or the amount of award granted.
- (B) An MLS or PLS employee who is denied a general wage

adjustment may file a grievance under Section 34 of these Regulations.

- (C) 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.

10-11. Stand-by pay.

- (a) If a department director requires an employee to remain ready during off-duty hours to perform unscheduled and unanticipated work, the County must pay stand-by compensation to the employee at the higher of the following rates:
 - (1) 15 percent of an employee's regular hourly salary; or
 - (2) \$4.00 per hour.
- (b) A department director must pay an employee stand-by pay for the entire period that the employee is in stand-by status until:
 - (1) the employee is contacted to perform unscheduled work and has reported to work or has started to perform the work remotely by working on a laptop computer or other device;
 - (2) the employee's next regularly scheduled work period; or
 - (3) the employee is contacted and relieved from stand-by status.
- (c) An employee is eligible to receive stand-by pay compensation if the employee's supervisor notifies the employee to remain available for work during a specified period of time beyond the employee's assigned work hours.
- (d) A department director must not pay stand-by compensation to an employee who is in call-back, overtime, or regular pay status.
- (e) An MLS or PLS employee is not eligible to receive stand-by pay.
- (f) A supervisor who places an employee in stand-by status should tell the employee:
 - (1) the reason for the stand-by status;
 - (2) the location where the employee must report if called into work; and
 - (3) the approximate duration of the stand-by status.
- (g) To cancel stand-by status, the supervisor or other designated department representative must contact the employee and tell the employee that the

employee's stand-by status has been canceled.

- (h) An employee in stand-by status must be ready to perform work if contacted and must provide the supervisor or other designated department representative with a telephone number or pager number through which the employee can be promptly contacted.
- (i) An employee in stand-by status must not go so far away from the worksite that the employee's response time is unreasonably increased if the employee is called back to work. This may not apply if the employee can perform the work remotely by working on a laptop computer or other device.
- (j) An employee in stand-by status is responsible for:
 - (1) ensuring that the device by which the employee will be contacted is turned on and in good working order; and
 - (2) promptly providing the supervisor or other designated department representative with an alternative point of communication if the employee can not be contacted on the primary device.

10-12. On-call status. An employee who is on call:

- (a) is not required to remain ready and available to perform work;
- (b) is not required to remain at or close to a County work site;
- (c) may use on-call time to engage in activities unrelated to the employee's job; and
- (d) must be compensated under the overtime pay provisions in this section only if:
 - (1) the employee is contacted by a supervisor or designee; and
 - (2) actually performs the overtime work.

10-13. Call-back pay.

- (a) ***Minimum of 3 hours of call-back pay.*** If a department director requires an employee to return to work to perform an unanticipated and unscheduled work assignment, usually of an emergency nature, the County must pay the employee for a minimum of 3 hours on each occasion when the employee performs a call-back assignment, regardless of how long the call-back assignment lasts.
- (b) ***Form of compensation for call-back assignment.*** The County should compensate an employee who performs a call-back work assignment with call-back pay and not with compensatory time, except when the department director determines that compensatory time must be used due to budget limitations.

- (c) ***Call-back pay rate.*** The County must pay an employee for all time worked on a call-back assignment at a rate equal to time and a half the employee's regular hourly rate.
- (d) ***MLS employees not eligible for call-back pay.*** An employee assigned to an MLS position is not eligible to earn call-back pay.

10-14. Compensation of employees during a declared general emergency.

- (a) For a declared general emergency period, the County must:
 - (1) compensate an essential employee who worked during the general emergency period with the following:
 - (A) the employee's regular pay for the total number of hours worked during the general emergency period; plus
 - (B) general emergency pay at the regular hourly rate for the total number of hours worked during the general emergency period;
 - (2) compensate a non-essential employee whose supervisor requires such employee to work during the general emergency period with the following:
 - (A) the employee's regular pay for the hours worked during the general emergency period; plus
 - (B) general emergency pay at the regular hourly rate for the total number of hours such employee was required to work during the general emergency period;
 - (3) compensate an essential employee or a non-essential employee whose supervisor requires the employee to work during a general emergency period that occurs on the employee's scheduled day off with the following:
 - (A) the employee's regular pay at the overtime rate or compensatory time at the overtime rate, as outlined in Section 10-7(f), for the total number of hours worked during the general emergency period; plus
 - (B) general emergency pay or compensatory time at the regular hourly rate for the total number of hours worked during the general emergency period;
 - (4) compensate an essential employee, or a non-essential employee whose supervisor requires the employee to work, for work performed beyond the normal workday of at least 8 hours with:

- (A) additional pay at the overtime rate or compensatory time at the overtime rate, as outlined in Section 10-7(f), for the total number of hours worked during the general emergency period that exceed the employee's normal workday; plus
 - (B) general emergency pay at the regular hourly rate for the hours worked during the general emergency period that exceed the normal workday;
- (5) place a non-essential employee who is not required to work during the general emergency period on administrative leave for the period of the employee's work schedule that coincides with the general emergency period;
 - (6) compensate a non-essential employee who works during the general emergency period, even though the employee's supervisor did not require the employee to work, with regular pay for the hours worked that coincide with the general emergency period; and
 - (7) change an employee's paid leave to administrative leave if the employee had scheduled the use of paid leave, such as annual leave, sick leave, PTO, or compensatory time, during the general emergency period.
- (b) An employee on a regular day off during a declared general emergency period is not eligible to receive administrative leave or an alternate day off.
 - (c) An essential or non-essential employee in an MLS position who works during a declared general emergency period is not eligible to earn general emergency pay.

10-15. Compensation of employees during a declared liberal leave period or local emergency.

- (a) For a declared liberal leave period, the County must compensate employees who work with regular pay.
- (b) During a local emergency at one or more work locations, the County must compensate an employee who works with regular pay.

10-16. Special within-grade pay increase.

- (a) A department director may, with the written approval of the OHR Director, increase the base salary of a merit system employee to:
 - (1) keep an employee in an occupational class or series to which it is difficult to attract or retain employees; or
 - (2) resolve a pay inequity affecting an employee.

- (b) A department director or the OHR Director must not approve a within-grade increase for a newly-hired employee or for an employee whose salary is at the maximum of the pay grade.
- (c) The OHR director must review the following information to determine whether to approve a special within-grade pay increase:
 - (1) the salaries of other department employees in the same occupational class and in other occupational classes that may be affected by the increase; and
 - (2) if the within-grade pay increase is used to keep an employee in an occupational class to which it is difficult to attract new or retain existing employees by analyzing the following metrics:
 - (A) the turnover rate, number of vacant positions; and length of time it took to fill vacant positions in the occupational class;
 - (B) the number of qualified applicants in the local labor pool; and
 - (C) salaries paid to members of the occupational class by local employers in the private and public sectors.
- (d) The director must certify to the OHR Director that:
 - (1) the employee's job performance is satisfactory; and
 - (2) the increase will not create pay inequities among other employees.
- (e) The OHR Director may not approve a special within grade pay increase that is greater than 10 percent except in extraordinary cases.
- (f) An employee who receives a special within-grade pay increase may also receive a service increment and a general wage adjustment if the employee is eligible under these Regulations.

10-17. Recruitment and retention incentives.

- (a) A department director, with the written approval of the OHR Director, may give a recruitment or retention incentive in the form of one lump-sum payment to:
 - (1) a candidate for a County position in an occupational class for which it is difficult to recruit qualified applicants due to labor market conditions; or
 - (2) an employee in a position in an occupational class for which it is difficult to retain experienced employees.

- (b) A department director may give a recruitment or retention incentive to an applicant or employee only when the OHR Director has determined that the applicable occupational class is eligible for such incentive.
- (c) Before recommending a retention incentive, a department director must consider the following:
 - (1) whether one employee, some employees, or all employees in the occupational class should be given the retention incentive;
 - (2) the effect on employees who do not receive the incentive if such incentive is not given to each employee in the occupational class; and
 - (3) whether the employee should be given a permanent pay increase through a special within-grade pay increase under Section 10-14 or a temporary pay increase under this subsection.
- (d) The OHR Director must determine which occupational classes are eligible for the incentive by reviewing the following indicators:
 - (1) the turnover rate, number of vacant positions; and length of time it took to fill vacant positions in the occupational class;
 - (2) the number of qualified applicants in the local labor pool; and
 - (3) the salaries paid to individuals in the occupational class employed by local employers in the private and public sectors.
- (e) A department director, with the OHR Director's approval:
 - (1) may award a recruitment or retention incentive of up to 10 percent of the employee's base salary, if the applicant or employee agrees to the terms described in subsection (f) below;
 - (2) may pay the incentive in one or more lump-sum payments over a 2-year period;
 - (3) must pay the incentive as lump sum payments and not as an addition to base salary;
 - (4) must not pay an incentive to an applicant until after the applicant accepts and actually begins County employment; and
 - (5) must not pay more than 10 percent of the employee's base salary in incentive pay over a 5-year period, except under extraordinary circumstances.

- (f) Under extraordinary circumstances, the CAO may approve more than 10 percent of the employee's base salary in incentive pay over a 5-year period.
- (g) An applicant or employee who receives a recruitment or retention incentive must agree to remain a County employee for at least 2 years after receiving the first incentive payment and must agree to repay a prorated amount of the total incentive if the employee separates from the County before the end of the 2-year period. The employee will not have to repay the recruitment or retention incentive if the employee dies or the County terminates the individual's employment. The OHR Director may waive repayment in other extenuating circumstances.

10-18. Court time compensation. The County must compensate an employee assigned to a facility that is open 24-hours a day 7 days per week as follows, if the employee is required by the employer to attend court or a Motor Vehicle Administration (MVA) hearing on the employee's day off or during times that are not the employee's regularly scheduled work hours:

- (a) the employee must be compensated for at least 3 hours at 1½ times the employee's regular hourly rate, regardless of the actual time spent in court or an MVA hearing;
- (b) if the employee works longer than 3 hours, the employee must be compensated for the total number of hours spent in court or in an MVA hearing at a rate equal to one and a half times the employee's regular hourly rate; and
- (c) if the employee is required to appear in court 2 or more times within the initial 3-hour period, then the employee is not eligible to receive additional court time compensation for a second or subsequent appearance unless such appearances occurred 3 hours after the time of the employee's initial court appearance.

10-19. Automotive Service Excellence (ASE) incentive pay.

- (a) ***Purpose of ASE incentive pay program.*** The purpose of the ASE incentive pay program is to encourage all eligible employees in the Division of Fleet Management Services, Department of General Services, and the Fire and Rescue Service to increase their knowledge and application of the latest technology in vehicle maintenance by compensating such employees for obtaining ASE certifications, recertifications, and master certifications.
- (b) ***Eligibility for ASE incentive pay.*** An employee who works for the Division of Fleet Management Services, Department of General Services, or the Fire and Rescue Service is eligible to receive the ASE incentive pay if:
 - (1) the employee takes and passes an ASE administered examination and obtains either a certification or recertification that is relevant to the employee's job duties or the employee obtains a master certification by obtaining the required number of certifications;

- (2) the employee:
 - (A) is directly responsible for maintaining or supervising employees who maintain County vehicles and equipment;
 - (B) trains or supports employees who maintain County vehicles and equipment;
 - (C) inspects County vehicles and equipment; or
 - (D) provides technical expertise, quality assurance, or warranty administration for County vehicles and equipment; and
- (3) the employee’s job performance and job-related conduct are satisfactory.

(c) **Amount of ASE certification pay.** The County may compensate an eligible employee with ASE certification pay according to the following table:

ASE Certification	Amount of Incentive	Limitation on incentive
Certification or recertification for which employee must take valid examination and receive a passing score	\$100 per year for each year that certification is valid	Employee may receive incentive for no more than 20 certifications per year
Master certification for obtaining required number of certifications (no additional examination is required)	\$1,000 per year for each year that master certification is valid	Employee may receive incentive for no more than 2 master certifications per year
Total certifications or recertifications and master certifications	---	Employee may receive no more than \$4,000 annually in ASE certification pay

10-20. Rewarding Excellence Bonus Incentive Awards Program/Gain Sharing Program.

The CAO should establish a gain sharing program to reward employees for making suggestions that improve efficiency, increase productivity, reduce costs, or streamline operations. Under this program, if the employees’ suggestion is adopted, the employees would receive a portion of the cost savings. An employee cannot grieve or appeal any decision by the Review Panel or the Chief Administrative Officer relating to the Rewarding Excellence Bonus Incentive Awards Program.

10-21. Line of Duty Funeral Expenses. In the event an employee’s death is caused by or directly related to performing the employee’s job duties, then the County will pay up to \$10,000 to cover the employee’s funeral expenses.

10-22. Severance pay.

(a) *Severance pay for a probationary employee whose employment is terminated.*

- (1) A department director who terminates a probationary employee must ensure that the employee receives severance pay as follows:
 - (A) three weeks if the employee’s probationary period lasted more than 12 months;
 - (B) two weeks if the employee’s probationary period lasted for at least nine months;
 - (C) one week if the employee’s probationary period lasted for at least three months; or
 - (D) notwithstanding the foregoing provisions, no severance pay under these Regulations in the following instances:
 - (i) the employee’s probationary period lasted for less than three months; or
 - (ii) the department director terminated the employee for materially falsifying information on his/her employment application, a document associated with the employment application or for committing gross misconduct, such as a violation of the County Charter, Code, regulations, or procedures, State or Federal laws, or a conviction for a criminal offense.
- (2) An employee who is eligible to receive severance pay under Section (a)(1)(A), (B) or (C) above is not eligible to receive severance pay under the Retirement Savings Plan or the Guaranteed Retirement Income Plan.

(b) Severance pay for Merit System Employees in the Retirement Savings Plan or Guaranteed Retirement Income Plan.

- (1) Under COMCOR 33.140.01, *Severance Pay for Certain Retirement Savings Plan Participants*, the County must pay severance pay as shown in the table below to an eligible employee who participates in the Retirement Savings Plan or the Guaranteed Retirement Income Plan:

<i>Severance Pay for Merit System Employees in the RSP or GRIP Retirement Savings Plans</i>	
Years of service completed:	Severance benefit:
0 to 1	None
over one to 5	6 weeks of employee’s final earnings
over 5 to 7	8 weeks of employee’s final earnings
over 7 to 9	10 weeks of employee’s final earnings
over 9	12 weeks of employee’s final earnings

- (2) The employee is eligible for severance pay if the employee:
 - (A) was not terminated during the probationary period;
 - (B) lost the employee’s job through affirmative administrative action of the County;
 - (C) was not dismissed for cause; and
 - (D) did not resign, retire, or otherwise voluntarily leave County service.

- (3) The County must calculate the employee’s final earnings based on the employee’s regular weekly earnings, not including overtime, as of the last day of active service.

Editor’s note – The subjects covered in this section of the Personnel Regulations are addressed for bargaining unit employees in the current collective bargaining agreements as indicated below:

Bargaining unit	Articles of current agreements with references to compensation
Firefighter/Rescuer	13, Rate/Type of Compensation 14, Overtime 15, Call-back Pay 17, Special Duty Differentials 18, Snow Emergency/General Emergency Pay Appendix I, II, III, and IV, Salary Schedules Appendix V, Agreements for Candidates for Paramedic Positions Appendix VI, MOU on Compensation for Working Out of Class 19, Wages 21, Travel 22, Prevailing Rights 48, Job Sharing Program 49, Compensatory Time

<p>OPT/SLT</p>	<p>5, Wages, Salary and Employee Compensation 7, Accelerated Within Grade Advancement 9, Working Conditions 31, Maintenance of Standards 32, Tools and Uniforms 41, Retirement 44, Define Contribution Plan 50, Legal Defense and Representation</p> <p>Appendix I, OPT Unit, Sheriffs Appendix II, OPT Unit, Dept. of Health and Human Services Appendix III, SLT Unit, Dept. of Police Crossing Guards Appendix VI, OPT/SLT Units, DPW&T Appendix VII A, B, and C, Salary Schedules</p>												
<p>Police</p>	<table border="0"> <tr> <td>5, Tech Pay</td> <td>29, Physical Fitness Awards</td> </tr> <tr> <td>6, Clothing Allowance</td> <td>30, Uniforms and Equipment</td> </tr> <tr> <td>10, Court Time</td> <td>33, Labor-Management Relations Committee</td> </tr> <tr> <td>15, Hours and Working Conditions</td> <td>36, Wages</td> </tr> <tr> <td>21, Compensatory Time</td> <td>41, Shift Differential</td> </tr> <tr> <td>23, Maintenance of Standards/ Retention of Benefits and Conditions</td> <td>55, Job Sharing Program</td> </tr> </table>	5, Tech Pay	29, Physical Fitness Awards	6, Clothing Allowance	30, Uniforms and Equipment	10, Court Time	33, Labor-Management Relations Committee	15, Hours and Working Conditions	36, Wages	21, Compensatory Time	41, Shift Differential	23, Maintenance of Standards/ Retention of Benefits and Conditions	55, Job Sharing Program
5, Tech Pay	29, Physical Fitness Awards												
6, Clothing Allowance	30, Uniforms and Equipment												
10, Court Time	33, Labor-Management Relations Committee												
15, Hours and Working Conditions	36, Wages												
21, Compensatory Time	41, Shift Differential												
23, Maintenance of Standards/ Retention of Benefits and Conditions	55, Job Sharing Program												