

Bill No. 43-20  
Concerning: Non-merit Employees –  
Merit System Employees – Severance  
Pay - Limited  
Revised: 11/23/2020 Draft No. 3  
Introduced: September 29, 2020  
Enacted: December 8, 2020  
Executive: December 21, 2020  
Effective: March 22, 2021  
Sunset Date: None  
Ch. 41, Laws of Mont. Co. 2020

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Friedson  
Co-Sponsors: Councilmember Rice, Council President Katz, Councilmembers Glass and Navarro,  
and Council Vice President Hucker

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### AN ACT to:

- (1) prohibit severance pay for a County employee unless authorized by law;
- (2) prohibit severance pay for certain employees who violate the Ethics Law;
- (3) provide for certain exceptions; and
- (4) generally amend the law governing severance pay for County employees.

### By amending

Montgomery County Code  
Chapter 1A, Structure of County Government  
Section 1A-104

Chapter 33, Personnel and Human Resources  
Section 33-140

### By adding

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Section 33-26

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Sections 1A-104 and 33-140 are amended and Section 33-26 is added as follows:**

**1A-104. Heads of departments and principal offices; other positions designated as non-merit.**

\* \* \*

(e) *Salaries.* The Executive must design a compensation system to attract and retain highly competent senior leaders as heads of departments and principal offices, and other non-merit employees in the Executive Branch. Each of these employees must be paid a salary within a salary schedule proposed by the Executive and approved by the Council in the Operating Budget of the Montgomery County Government. The salary schedule may contain a provision permitting the Executive to exceed the salary schedule established for a position for an individual employee, subject to Council approval, if the Executive finds that it is necessary to attract or retain a senior leader for a specific position. The Council must establish a salary schedule for non-merit positions in the Legislative Branch as part of the Operating Budget of the Montgomery County Government.

(f) *Severance pay.* The Executive or a Councilmember must not authorize any payment of money or paid administrative leave to a non-merit employee in the Executive Branch or in the Legislative Branch upon separation from County employment unless the payment is expressly authorized by law. The Executive or a Councilmember must not enter into an employment agreement with a non-merit employee that provides for any type of severance pay for an employee who is terminated with or without cause. This subsection must not be interpreted to prohibit:

(1) the payout of unused leave at termination of employment;

- (2) a discontinued retirement pension authorized under Section 33-45(d) or Section 33-45(e); or
- (3) severance pay under Sections 33-139 and 33-140.

**33-140. Plan administration.**

- (a) The County Executive must establish a severance pay plan in Executive Regulations under method (2). The plan must:
- (1) prohibit severance pay for an employee who admits to or is found to have violated the Ethics Law in the 12 months prior to separation from County employment; and
- (2) qualify as a severance pay plan under Section 457 of the Internal Revenue Code.

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**33-26. Severance pay limits.**

- The Executive must not authorize any payment of money or paid administrative leave to a merit employee upon separation from County employment unless the payment is expressly authorized by law. This Section must not be interpreted to prohibit:
- (a) the payout of unused leave at termination of employment;
- (b) a discontinued retirement pension authorized under Section 33-45(d); or
- (c) severance pay under Sections 33-139 and 33-140.

**Sec. 2. Transition.**

The amendments in Section 1 must apply to any County employee who separates from County employment on or after the date this Act takes effect.

Approved:



Tom Hacker, President, County Council

12/9/2020  
Date

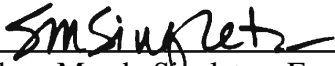
Approved:



Marc Elrich, County Executive

12/21/2020  
Date

*This is a correct copy of Council action.*



Selena Mendy Singleton, Esq., Clerk of the Council

12/21/2020  
Date