

Resolution No.:	<u>19-1444</u>
Introduced:	<u>November 15, 2022</u>
Adopted:	<u>November 15, 2022</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President

SUBJECT: Amendment to Resolution 19-358, Authorizing the creation of non-merit staff positions in an individual Councilmember Office

Background

1. Each Councilmember has a non-merit chief of staff. On November 6, 2018, the voters approved a Charter amendment with over 55% of the vote to allow the County to hire additional non-merit aides for individual Councilmembers.
2. On February 11, 2020, the Council approved Resolution 19-358 authorizing the creation of non-merit staff positions in an individual Councilmember office and set forth guidelines for new non-merit employees. This allowed for a hybrid approach, where each Councilmember could choose whether their office would become entirely non-merit or would continue to have merit staff (excluding the Chief of Staff).
3. The Council has determined that a uniform system for all Councilmember Office employees will provide the greatest equity and efficiencies for Council staff.

Action

The County Council for Montgomery County, Maryland approves the following action:

The Council amends Resolution 19-358, authorizing the creation of non-merit staff positions in an individual Councilmember Office, by adding the following provisions:

- (7) The Council adopts the specific non-merit policies as detailed in Attachment A, which must apply to all Councilmember offices.
- (8) As part of the adoption of a uniform non-merit system for all Councilmember Office employees, the Council will seek to amend the Montgomery County Personnel Regulations to allow non-merit term positions in Councilmember offices to transfer to merit positions in County Government when a Councilmember leaves office.

This is a correct copy of Council action.



Judy Rupp, Clerk of the Council

ATTACHMENT A: POLICY FOR COUNCILMEMBER OFFICES

- (1) **Scope.** This policy must apply to all staff of individual Councilmember offices.
- (2) **Non-merit status required.** As of December 2022, all Councilmember office staff must be hired as non-merit employees. All current Councilmember staff hired as merit employees must convert to non-merit at the end their contract term (typically in December).
- (3) **Definitions.** As used in this policy, the terms *employee*, *staff*, *position*, or *job* mean a staff member of an individual Councilmember office.
- (4) **Effect.** This policy must not be construed to confer any contractual right or any employment right not otherwise granted by law.
- (5) **Employee Recruitment and Selection.** The application and recruitment procedures for merit employees are not required; a Councilmember can determine whether a job posting is necessary. If requested, the job announcement can be posted on the Council webpage and/or the Office of Human Resources (OHR) webpage and Council staff can assist in reviewing applications. OHR must review and verify that the **selected** candidate meets the minimum qualifications for the position, coordinate the medical history review, provide new employee orientation, and ensure compliance with anti-discrimination laws. Council staff will work with Councilmembers to achieve the Council Office diversity and racial equity objectives.
- (6) **Salary Schedule.** Legislative Senior Aides and Public Administration Associates must be hired under the same salary schedule (minimum and maximum salary) used for Legislative Senior Aides and Public Administration Associates under the merit system; Councilmembers must select a salary within the salary range for the position. If a Councilmember hires a non-merit employee at a salary that exceeds the mid-point of the grade, the Councilmember must document the reasons in writing for inclusion in the Council Office personnel records. In addition, a Councilmember may use a one-time lump sum recruitment incentive, if it can be accommodated in their approved office budget.
- (7) **General Wage Adjustment (GWA).** Councilmember office employees must receive the same general wage adjustment (GWA) as unrepresented merit employees.
- (8) **Performance-Based Pay Increases.** A Councilmember may:
 - (a) Provide an employee who receives a rating of *Successful Performance* or higher a pay increase equal to the service increments received by unrepresented merit employees; or
 - (b) Provide an employee with a performance-based increase using the following scale:
 - *Does Not Meet Expectations* or *Below Expectations*: Not eligible for an increase
 - *Successful Performance*: Eligible for an increase of 3.5% (or the amount of the service increment approved for unrepresented merit employees if different than 3.5%)
 - *Highly Successful Performance*: Eligible for an increase of at least 3.5%, but not to exceed 4.0% (or 0.5% higher than the amount of the service increment approved for unrepresented merit employees if different than 3.5%)

- *Exceptional Performance:* Eligible for an increase of at least 3.5%, but not to exceed 6.0% (or 2.5% higher than the amount of the service increment approved for unrepresented merit employees if different than 3.5%)

Employees at top of grade are not eligible for performance-based increases, and performance-based increases for Councilmember staff may be provided only if funding for service increments for unrepresented employees is included in the approved budget. A non-merit employee may receive only one performance-based increase each fiscal year, and all performance-based increases will take effect in December coinciding with the renewal of the employee's term contract for another year.

- (9) **Bonuses.** A Councilmember may provide an employee with a one-time lump sum bonus, separate from any performance-based increase to base pay, if an employee's most recent performance rating is *Successful* or higher and the increase can be accommodated in their office budget. The amount of the one-time lump sum bonus must not exceed 1-2% of base salary. An employee is eligible for a bonus only once per fiscal year.
- (10) **Promotion.** A Councilmember employee may be promoted to a higher grade with the Legislative Senior Aide series non-competitively if they meet the minimum qualifications for the position. Councilmembers may provide salary increases of up to 15% upon promotion.
- (11) **Terms of Employment.** Since Councilmember staff are at-will employees, it is not necessary to have a probationary period. Councilmember office staff will continue to serve under one-year contracts, but as at-will employees can be terminated at any point during the contract year. Federal, State, and County equal employment laws must apply to termination actions.
- (12) **EEO/Anti-Discrimination/ADA Protections.** The Councilmember office must comply with all applicable local, state, and federal law, including anti-discrimination laws and the Americans with Disabilities Act. The Council endeavors to hire a diverse workforce reflective of the County residents it serves.
- (13) **Additional Policies and Employee Protections.** The following provisions of the Montgomery County Personnel Regulations must apply to Councilmember staff:
 - (a) annual leave, sick leave, holiday leave, FMLA leave, parental leave, administrative leave, military leave, and personal days;
 - (b) discipline and intraoffice grievance procedures;
 - (c) ethics, including nepotism rules, and equal employment;
 - (d) employee drug and alcohol use and drug and alcohol testing;
 - (e) new hire medical exam and reasonable accommodation;
 - (f) retirement benefits;
 - (g) group insurance benefits;
 - (h) work schedules, attendance, hours of work;
 - (i) employee career development training and tuition reimbursement;
 - (j) annual performance evaluations; and
 - (k) severance pay as provided under the Retirement Savings Plan or the Guaranteed Retirement Income Plan.