

Bill No. 32-21  
Concerning: Personnel – Employee Settlement Agreements with No-Rehire Clause – Prohibited  
Revised: 12/13/21 Draft No. 3  
Introduced: July 20, 2021  
Enacted: January 11, 2022  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Council President Hucker

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**AN ACT** to:

- (1) prohibit the County from entering into an employee settlement agreement with a County employee in a personnel dispute that includes a “no-rehire” clause under certain circumstances;
- (2) provide the Chief Administrative Officer or agency head the authority to include a no-rehire clause under certain circumstances; and
- (3) establish a right to appeal the inclusion of a no-rehire clause.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Section 33-22

<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:*

1           **Sec. 1. Section 33-22 is added as follows:**

2   **33-22. [Reserved] County Employee Settlement Agreements; right to appeal**  
 3   **established.**

4           (a) Definitions. For purposes of this Section, the following terms have the  
 5           meanings indicated:

6           Employment dispute means any grievance ~~[[claim or lawsuit]]~~ or appeal  
 7           filed by the employee against the County where a dismissal action  
 8           under COMCOR 33.07.01.33 or 33.07.01.35, is challenged.

9           No-rehire clause: a provision prohibiting, preventing, or otherwise  
 10          restricting an employee from obtaining future employment.

11          (b) An agreement to settle an employment dispute must not contain a no-  
 12          rehire clause from County employment.

13          (c) Except as provided in subsection (b), a settlement agreement may  
 14          include a no-rehire clause if:

15           (1) the provision is mutually agreed upon to end the current  
 16           employment relationship; ~~[[or]]~~

17           (2) the employee voluntarily resigns after a formal disciplinary  
 18           action has been initiated by an agency head; or

19           (3) the Chief Administrative Officer or agency head has made a  
 20           finding that there are sufficient grounds to ~~[[terminate the~~  
 21           employment]] dismiss the employee for cause.

22          (d) [[Appeal. If an employee disagrees with the decision to include a no-  
 23          rehire clause, within ten days from the receipt of the decision, the  
 24          aggrieved employee may in writing, appeal to the County's Merit  
 25          System Protection Board.]] Appeal of No-Rehire Clause. An aggrieved  
 26          employee may file an appeal with the County's Merit System  
 27          Protection Board to challenge the decision of the Chief Administrative

28           Officer or agency head to include a no-rehire clause in a proposed  
29           settlement agreement under subsection (c)(3). The appeal must:

30           (1)   be in writing; and

31           (2)   filed within 10 working days from the employee's receipt of the  
32           proposed settlement agreement which included a no-rehire  
33           clause.

34           (e)   Burden of Proof. The County, upon appeal, has the burden of proof by a  
35           preponderance of evidence to provide a legitimate, nondiscriminatory  
36           reason for its decision.

37           **Sec. 2. Transition.**

38           This Act does not apply to any County employee settlement agreement that  
39           was executed by all parties before this Act took effect.

Approved:



01/14/2022

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Gabriel Albornoz, President, County Council

Date

Approved:

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Marc Elrich, County Executive

Date

*This is a correct copy of Council action.*

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Selena Mendy Singleton, Esq., Clerk of the Council

Date