

authority constituting the basis of a grievance as the case may be, were illegal or that a written statement as required under Section 16-171(c)(3) was not provided the employee.  
(CB-1-1976; CB-100-1979; CB-97-1982; CB-22-2000)

### **DIVISION 10. EMPLOYEE STATUS.**

#### **Sec. 16-174. Employee status upon appointment.**

(a) Probationary Status Employee. A probationary status employee shall mean any employee who is newly appointed or reappointed to a position in the classified service and who is required to complete a probationary period unless otherwise provided under this Subtitle. All probationary status employees shall be entitled to the rights and benefits specifically granted to permanent status employees under the provisions of this Subtitle except as provided under Section 16-173 with respect to appeal and grievance rights and under Section 16-188 with respect to retention rights under a separation-reduction-in-force action.

(b) Permanent Status Employee. A permanent status employee shall mean any employee who has satisfactorily completed a probationary period in accordance with personnel procedures developed pursuant to this Subtitle. All permanent status employees shall be entitled to all the rights and benefits granted under the provisions of this Subtitle to classified service employees.  
(CB-1-1976; CB-25-1995; CB-22-2000)

#### **Sec. 16-175. Employee status upon reallocation.**

When the Director of Human Resources Management reallocates an incumbered, classified service position to a higher or lower grade of work, the incumbent of the position will remain a permanent status employee in accordance with applicable personnel procedures.  
(CB-1-1976; CB-22-2000; CB-91-2003)

#### **Sec. 16-176. Employee status upon reclassification.**

Whenever an established class of work in the Classification Plan is revised through reclassification by assigning a different grade to said class, such reclassification shall be applicable to all incumbents of positions allocated to said class, as revised.  
(CB-1-1976; CB-22-2000)

#### **Sec. 16-177. Employee status upon classification.**

Whenever the Classification Plan is amended through classification by abolishing an established class of work, such classification shall abolish all positions allocated to said class. All incumbents of positions which are abolished through such classification action shall be separated from their positions in accordance with the separation-reduction-in-force procedures set forth in Section 16-188.  
(CB-1-1976; CB-22-2000)

**Sec. 16-178. Limited-term employee status.**

(a) A limited-term status employee shall mean any employee who is competitively or noncompetitively appointed, reassigned, transferred, or competitively or noncompetitively promoted to a classified service position, where said position:

(1) Has been vacated by the incumbent for an extended period of time by virtue of an approved grant of sick, administrative, or disability leave; leave without pay; or military leave without pay;

(2) Has been vacated by virtue of the separation of the incumbent from said position under adverse action proceedings initiated and taken against the incumbent, and said action is pending, on appeal, before the Personnel Board or a court of law;

(3) Has been vacated by an employee who has been reassigned, transferred, or promoted to a position where the incumbent thereof is absent from said position under the circumstances cited in subparagraphs (a)(1) or (2), above;

(4) Is one which is created exclusively for use as part of an internship program developed to provide work experience for students enrolled in, or recently graduated from, post-secondary educational institutions, or to provide citizens with experience in governmental affairs;

(5) Is one which is created exclusively for use as part of an established program for the employment of senior citizens or persons with disabilities, students, trainees, interns, and similarly situated persons, for which there are inadequate training opportunities in private industry; or,

(6) Is one which is created exclusively for use as part of a program which is implemented pursuant to a grant from, or other financial agreement with, the Federal or State government or other private funding source, where such grant or agreement does not provide sufficient funding for full employee benefits or permanent employment.

(b) Any appointment, reassignment, transfer, or promotion effectuated under the circumstances cited in Subsection (a), above, shall be deemed to be a limited-term appointment, reassignment, transfer, or promotion, as appropriate.

(c) Any employee occupying a classified service position under the terms of a limited-term appointment, as defined in Subsection (b), above, shall only be entitled to those benefits as are specifically granted under Section 16-179 to exempt status employees occupying classified service positions under the terms of a temporary/provisional or temporary/emergency appointment. Any such limited-term status employee shall be removed from the position occupied upon the effective date of the return of the incumbent to said position as provided under Section 16-187. However, if the position the limited-term status employee occupies becomes permanently vacant because the incumbent does not elect to return to or is not entitled to be reinstated in the position, then, and in such event, the limited-term status employee shall be converted to probationary status and, by virtue thereof, shall be subject to the provisions of Article IX for the purposes of determining said employee's right to be converted to permanent status; provided however, that the aforesaid probationary period shall not be applicable to any such limited-term status employee in any case where such employee had occupied the position giving rise to the limited-term appointment for a period equal to the length of the probationary period established for the class of work applicable to the position; in such event, such employee shall be converted to permanent status, as appropriate, and shall be retroactively credited for the period of the limited-term status appointment for purposes of annual and sick leave accrual under the provisions of Sections 16-220 and 16-221, respectively.

(d) Any employee occupying a classified service position under the terms of a limited-term reassignment, transfer, or competitive or noncompetitive promotion, as defined in Subsection (b), above, shall retain all the rights and benefits the employee was entitled to as a permanent status employee immediately prior to any such reassignment, transfer, or promotion. Any such limited-term status employee shall be entitled to return to said employee's former position upon the return of the incumbent to the position temporarily occupied by said limited-term status employee as provided under Section 16-187, and shall be granted all rights and benefits as if the employee had remained in the former position. In the event the employee's former position had been abolished during the period of the employee's limited-term status, then, in such event, the employee shall be entitled to return to another position of the same or a comparable grade and class of work. However, if the position the limited-term status employee occupies becomes permanently vacant because the incumbent does not elect to return to or is not entitled to be reinstated in the position, then, and in such event, the limited-term status employee may elect either to remain in the position or to return to the employee's former position. In the event that the limited-term status employee elects to remain in the position as provided in the preceding sentence, said employee shall, by virtue thereof, be converted back to permanent status.

(e) Notwithstanding any provision of this Subtitle to the contrary, a limited-term status employee appointed to a position pursuant to subparagraph (a)(4) and (5), above, shall be appointed for a period of time and shall only be entitled to receive employee benefits as specifically established in the classification plan and salary plans for the particular position.

(f) Notwithstanding any provision of this Subtitle to the contrary, a limited-term status employee appointed to a position pursuant to subparagraph (a)(6), above, shall be appointed for a period of time not to exceed the term of the grant or other financial agreement providing the funding for the position, and shall only be entitled to receive employee benefits as funded by the grant or other financial agreement.

(CB-1-1976; CB-79-1989; CB-70-1991; CB-118-1993)

#### **Sec. 16-179. Status of exempt service employees.**

(a) An exempt status employee shall mean any employee ~~who has been appointed to~~ an exempt position that is specifically defined in Section 902 of Article IX of the County Charter and as provided under this Subtitle.

(b) An exempt status employee shall only be entitled to occupy a classified service position in a permanent status through appointment.

(c) Any exempt status employee who acts in the capacity of an appointing authority shall be governed by any provision of this Subtitle which:

(1) Establishes or requires the exercise or performance of any duty, action, or obligation by an appointing authority; and

(2) Establishes a prohibition against the exercise or initiation of an action by an appointing authority.

(d) The provisions of this Subtitle, as applying to classified service employees, shall be limited in their applicability to exempt status employees as set forth below. All such provisions shall be in addition to any provision of this Subtitle which, within its terms, expressly applies to exempt status employees.

(1) Except as specifically stated otherwise, the provisions of this Subtitle shall not apply to members of boards and commissions, experts or specialists performing temporary services, employees required to be covered by the State Merit System, and elected officials.

(2) The following provisions of this Subtitle shall apply to any exempt status employee occupying a classified service position under the terms of a temporary/provisional or temporary/emergency appointment:

(A) Section 16-110, "Political Activity;" Section 16-112, "Attendance of Employees;" Section 16-114, "Work Schedules;" Section 16-126, "Pay Periods;" Section 16-127, "Salary Rate Upon Appointment;" Section 16-135, "Salary Rate Upon Reclassification;" Section 16-139, "Salary Rates for Authorized Overtime;" Section 16-142, "Gross and Net Salary Rates;" Section 16-143(a), (b), and (d), "Effective Date of Salary Rate Changes;" Section 16-176, "Employee Status Upon Classification;" Section 16-208, "Employee Health and Safety;" and Section 16-227, "Compensatory Leave."

(CB-1-1976; CB-22-2000)

**Editor's Note:**

CR-49-2003 approved the creation of an exempt status position in the Health Department for 2520G – Administrative Specialist I, G-29, Position Number 00037.

CR-58-2003 approved the creation of two exempt status positions in the Police Department for 2522G – Administrative Specialist III, G-29, Position Numbers 00304 and 03305.

**Sec. 16-180. Employee status upon returning to classified service from exempt service.**

(a) Whenever a permanent status, classified service employee is appointed to a permanent, exempt service position, including any temporary administrative appointment made by the County Executive pursuant to Section 505 of Article V of County Charter, any such employee shall be ~~entitled to return to such employee's former classified service position for a period of one (1) calendar year from the effective date of any such employee's appointment to said permanent, exempt service position.~~ Any such employee's salary rate, upon return to the employee's former position, shall be reestablished in accordance with the provisions of Section 16-131(b) as if the employee had returned to the former position following a limited-term promotion. In the event any such employee's former classified service position had been abolished during the period of such exempt status appointment, then, in such event, the employee shall be entitled to return to another position of the same or a comparable grade and class of work.

(b) Any such employee shall be considered to be on an extended period of approved leave without pay and, in the event another employee is appointed, reassigned, transferred, or promoted to the classified service position formerly occupied by any such employee, such appointment, reassignment, transfer, or promotion shall be on a limited-term basis and the employee occupying the classified service position shall be a limited-term status employee subject to the conditions of Section 16-178.

(CB-1-1976)

**Sec. 16-180.01. Transfer from Sheriff's office.**

Subject to the approval of the County Executive by Executive Order, any employees of the Sheriff of Prince George's County who are afforded initial appointments to positions for which they are qualified in the Prince George's County Department of Corrections may be granted terms and conditions of employment as though they were transferring to such positions from other positions within the classified service of Prince George's County.

(CB-159-1977)

**Sec. 16-181. Full-time and part-time employee status.**

(a) A full-time employee shall mean any employee who occupies any full-time position, as defined in Section 16-120(b)(1), and who, by virtue thereof, is entitled to an annually-rated salary and, where applicable, a standard work week as specifically set forth in Section 16-113.

(b) A part-time employee shall mean any employee who occupies any part-time position, as defined in Section 16-120(b)(2), or any full-time position, and who, by virtue thereof, is entitled to an hourly-rated salary and who normally works less than the prescribed number of hours in the standard work week otherwise applicable to the position occupied by the employee.

(CB-1-1976)

**DIVISION 11. PERFORMANCE.**

**Sec. 16-182. Performance evaluation policy.**

(a) As a means to insure that each employee's performance is evaluated on a regular basis during the employee's course of employment, the Director of Human Resources Management shall establish a performance management system that shall:

(1) Require that all appointing authorities develop and maintain performance criteria for each position under their respective jurisdictions and use such criteria to measure employee performance;

(2) Require a system of routine review of employee performance by supervisors and appointing authorities so as to provide opportunity for recognition or corrective action;

(3) Afford opportunities for employee comment on the performance criteria and the performance appraisal; and

(4) Develop procedures for carrying out the policy of this Section.

(CB-1-1976; CB-22-2000; CB-91-2003)

**Sec. 16-183. Time of performance evaluations.**

(a) An official performance evaluation shall be prepared by an appointing authority for each probationary status employee under the appointing authority's jurisdiction in advance of the expiration of each such employee's probationary period. In addition to the preparation of said official performance evaluation at the conclusion of the probationary period, each appointing authority shall also confer with each probationary status employee under the appointing authority's jurisdiction at the midpoint of each such employee's initial probationary period in order to assess such employee's performance during the preceding months and to insure that any areas of performance in need of improvement have been identified for the benefit of such employee.

(b) An employee and the employee's immediate supervisor shall meet periodically to evaluate the employee's progress in meeting performance standards.

(CB-1-1976; CB-22-2000)

**Sec. 16-184. Discussion with employee.**

The supervisor must discuss the performance evaluation with the employee prior to finalizing and allow five (5) working days for his/her comments.  
(CB-1-1976; CB-22-2000)

**Sec. 16-185. Actions based on performance evaluations.**

(a) Probationary Status Employees. Immediately prior to the completion of the required probationary period for an employee, the employee's supervisor shall conduct a performance evaluation of the employee.

(1) If the employee's overall performance is rated satisfactory or better, and the probationary period has not been extended, the employee will be converted to permanent status in accordance with the provisions of Section 16-172; or

(2) If the employee's overall performance is rated less than satisfactory, the employee will be dismissed.

(b) Permanent Status Employees. The official performance evaluation of a permanent status employee shall constitute the basis for awarding performance-related incentives or pay increases in accordance with established procedures. In addition, permanent status employees will receive retention points in accordance with Section 16-188, as follows:

(1) Employees receiving overall performance evaluations equivalent to outstanding will receive three (3) retention points;

(2) Employees receiving overall performance evaluations equivalent to more than satisfactory will receive two (2) retention points;

(3) Employees receiving overall performance evaluations equivalent to satisfactory will receive one (1) retention point;

(4) Employees receiving overall performance evaluations equivalent to less than satisfactory will receive zero (0) retention points.

(c) For all permanent status employees, an overall performance rating equivalent to less than satisfactory may subject the employee to disciplinary action in accordance with Section 16-194, including dismissal.

(CB-1-1976; CB-128-1982; CB-25-1995; CB-22-2000)

**DIVISION 12. NONDISCIPLINARY SEPARATIONS.****Sec. 16-186. Separation -- resignation.**

(a) The resignation of an employee shall be a voluntary action taken solely at the discretion of the employee, except as provided under Section 16-225(d)(3) with respect to mandatory resignations whenever an employee fails to return to the position occupied after the expiration of the period of approved leave without pay. An employee shall not be requested or coerced to resign in lieu of the taking of any authorized disciplinary action by an appointing authority against the employee whenever such disciplinary action is warranted. A written resignation signed by the employee shall be submitted at least fourteen (14) calendar days in advance of the effective date of the resignation.

(b) In the event that an employee requests the withdrawal of his resignation prior to the effective date thereof, the acceptance of such withdrawal shall be solely at the discretion of the employee's appointing authority.  
(CB-1-1976; CB-98-1982; CB-22-2000)

**Sec. 16-187. Reserved.**

**Sec. 16-188. Separation -- reduction-in-force.**

(a) A duly authorized and allocated classified service position or positions may only be abolished under one (1) of the following sets of circumstances:

(1) Where the County Executive, pursuant to Section 822 of Article VIII of County Charter, revises a department or agency work program by reducing the expenditure level of such department or agency due to an ascertained shortfall in revenue during any fiscal year and a reduction in the number of allocated positions within said department or agency is necessary in order to satisfy such reduction in the departmental or agency expenditure level;

(2) Where the Classification Plan is amended through classification action by abolishing an established class of work and, by virtue of the provisions of Section 16-177, the abolition of all positions allocated to said class of work;

(3) Where a legislative act, or an executive order issued and approved pursuant to Section 503 of Article V of County Charter, abolishes a department, agency, or office, or any division or other portion thereof, and there is no provision set forth in such legislative act or executive order governing and effectuating the transfer of employees, positions, and funds from such department, agency or office, or division or other portion thereof;

(4) Where a reduction in the compensation level of a department, agency, or office is effectuated in the County's approved, annual expense budget;

(5) Where an appointing authority requests that a position or positions under the appointing authority's jurisdiction be abolished during any fiscal year and the Director of Human Resources Management authorizes such request; or

(6) Where the County Executive, pursuant to Section 822 of Article VIII of County Charter, revises a department or agency work program by reducing or abolishing a unique service or function.

(b) Whenever a position or a group of positions is scheduled to be abolished under any one (1) of the sets of circumstances described in Subsection (a), above, the Director of Human Resources Management shall implement the following procedures prior to initiating any final action to separate any employee under a separation -- reduction-in-force action:

(1) The Director of Human Resources Management shall suspend the filling of any vacant position within the classes of work to be affected by the scheduled reduction-in-force action, and may, in his discretion, suspend all lower graded classes within all class series from the date the Director of Human Resources Management is advised of the scheduled abolition of the position or group of positions until the effective date of the separation of an employee or employees under the separation -- reduction-in-force action. Such action will not preclude the transfer to any existing vacant position of an individual who would otherwise be subject to reduction-in-force.

(2) Whenever any one (1) of the sets of circumstances cited in Subsection (a), above, with respect to the abolition of a position or a group of positions is not specific as to the class or classes of work affected and/or the number of positions to be abolished, the Director of Human

Resources Management shall request the appropriate appointing authority or appointing authorities, as the case may be, to supply the Director of Human Resources Management with a written statement setting forth each class of work to be affected by the separation -- reduction-in-force action and the number of positions to be abolished within each such class. The written statements by appointing authorities with respect to the number of positions to be abolished within their departments, agencies, or offices and the classes of work so affected, as required in the preceding sentence, shall be made at the sole discretion of such appointing authorities and shall be binding upon the Director of Human Resources Management for purposes of any separation -- reduction-in-force action taken by the Director of Human Resources Management thereafter.

(3) The Director of Human Resources Management shall develop a retention register for each class of work within which a position or a group of positions is scheduled to be abolished.

(4) With respect to any retention register developed for a single class of work, the Director of Human Resources Management shall place the names of all employees occupying positions in each such class of work within the department, agency, or office (highest organizational unit or entity) within which the position or group of positions is scheduled to be abolished into priority categories on each such register as follows:

(A) All permanent status employees shall be placed in the first priority category;

(B) All probationary status employees, all limited-term status employees, and any employee that receives an aggregate performance rating equivalent to "less than satisfactory" during the official annual performance ratings period preceding the reduction-in-force shall be placed in the second priority category; and,

(C) All exempt status employees occupying classified service positions under the terms of temporary/provisional and temporary/emergency appointments shall be placed in the third priority category.

(5) The Director of Human Resources Management shall compute a retention points score for each permanent status employee whose name appears in any class of work on a retention register. The retention points score for each such employee shall be equal to the product of the sum of the points per month granted for the total months of service in any classified service position multiplied by the quotient of the sum of the points granted for the official annual performance ratings received for the preceding three (3) years divided by the sum of the number of such official performance ratings where:

(A) Each such employee shall be granted points for each month or part thereof of classified service in any classified service position, as follows:

RETENTION POINTS	
Up to 24 months	1 point
25 to 60 months	1.5 points
61 months or more	2 points

provided, however, that no points shall be granted for any month of service in a classified service position for which an employee receives a retirement payment;

(B) Each such employee shall be granted three (3) points for any official annual performance rating equivalent to "outstanding;" two (2) points for any official performance



rating equivalent to "exceeds satisfactory;" one (1) point for any official performance rating equivalent to "satisfactory;" and a point value of zero (0) for any official performance rating equivalent to "less than satisfactory;" provided, however, that:

(i) Where any such employee, upon initial appointment, has completed the required probationary period but has yet to receive the first official performance evaluation at the time of the scheduled abolition of a position or positions giving rise to the reduction-in-force action, then, and in such event, the official probationary performance rating shall be utilized for purposes of computing the quotient of performance evaluation points, as provided above; and

(ii) Where any such employee's official performance rating for any year, or any such employee's probationary performance evaluation, where applicable, is absent from the employee's official personnel file, as certified to in writing by the Director of Human Resources Management, or where any such employee has initiated a grievance under the provisions of Section 16-200 with respect to the employee's official, probationary performance rating, where applicable, or the employee's latest, official performance rating, and said grievance is pending unresolved at the time of the scheduled abolition of a position or positions giving rise to the reduction-in-force action, then, and in such event, the Director of Human Resources Management shall exclude any such performance rating for purposes of computing the quotient of performance evaluation points, as provided above.

(6) The Director of Human Resources Management shall arrange the names of all permanent status employees within the first priority category within each class of work on any retention register in descending order with the name or names of the employee or employees with the highest retention points score placed at the top of each such priority category.

(c) Upon the development of any retention register in accordance with the procedures stipulated in Subsection (b), above, the Director of Human Resources Management shall adhere to the following retention schedule for purposes of separating employees whose names appear within each class of work on such retention register wherein a position or a group of positions has been scheduled to be abolished:

(1) All exempt status employees whose names appear in the third priority category within each such affected class of work on such retention register, as provided in paragraph (b)(4)(C), above, shall be separated from their class of work prior to the separation of any employee whose name appears in the second or first priority categories within the same class of work on such retention register. It shall be the sole discretion of the appointing authority to determine which employees in the third priority category are to be separated from their class of work.

(2) All limited-term employees, probationary status employees, and any employee receiving an aggregate official annual performance rating of "less than satisfactory" for the period preceding the reduction-in-force will appear in the second priority category within each such affected class of work on such retention register, as provided in paragraph (b)(4)(B), above, and shall be separated from their class of work prior to the separation of any employee whose name appears in the first priority category with the same class of work on any such register. It shall be the sole discretion of the appointing authority to determine which employees in the second priority category are to be separated from their class of work.

(3) All permanent status employees whose names appear in the first priority category within each such affected class of work on such retention register, as provided in paragraph (b)(4)(A), above, shall be the last category of employees to be separated from their class of work. The separation of permanent status employees shall be effectuated in inverse order to the standing of such employees within the first priority category in the same class of work on such

**Sec. 16-190. Separation -- mandatory retirement.**

No permanent status, uniformed employee occupying a classified service position allocated to a public safety class of work within the County Police or Fire Departments, and who is enrolled in the County's Police or Fire Service Pension Plans, shall continue in County employment beyond any such employee's fifty-fifth (55th) birthday. Except, at said date, the County Executive may grant permission for such employee to continue in County employment on a year-to-year basis thereafter.

(CB-1-1976; CB-22-2000)

**Sec. 16-191. Separation -- death.**

(a) Upon the receipt of a certified death certificate pertaining to any employee, the Director of Human Resources Management shall remove or cause to be removed the employee's name from all applicable personnel documents and records as of the effective date of such employee's death.

(b) All salary and other compensation any such employee is legally entitled to shall be paid to the designated beneficiary of such deceased employee. In the event there is no designated beneficiary, said salary and other compensation shall be paid to the estate of the deceased employee.

(CB-1-1976; CB-91-2003)

**DIVISION 13. DISCIPLINE.****Sec. 16-192. Disciplinary policy.**

It shall be the policy of Prince George's County to insure that all appointing authorities and supervisors discipline employees under their respective jurisdictions in a fair, reasonable, and equitable manner. In that regard, it shall be the general policy of Prince George's County to follow a pattern of progressive discipline which provides employees with notice of deficiencies and an opportunity to improve both performance and conduct problems. All appointing authorities and supervisors shall be encouraged to initiate and/or take authorized disciplinary actions against their employees whenever such disciplinary actions are warranted by virtue of violations of standards of conduct or behavior or failures to maintain satisfactory performance. The job performance and conduct of each employee impacts directly on the public's trust in government and on the County's ability to achieve its mission of service to the public. All employees are, therefore, responsible for adhering to the standards of performance and conduct.

(CB-1-1976; CB-22-2000)

**Sec. 16-193. Conduct related disciplinary actions.**

(a) Grounds. An appointing authority may initiate and take or a supervisor may initiate and, where authorized, take, any of the disciplinary actions set forth in Subsection (b), below, against any employee under their respective jurisdictions where any such employee has committed an act or acts which constitute a violation(s) or failure(s) to comply with any duty, obligation, or requirement imposing a standard of conduct or behavior on such employee by

virtue of the provisions of any criminal or civil law or statute or any rule or regulation authorized and promulgated pursuant thereto, provided any such violation(s) or act(s) of noncompliance:

(1) Bears a demonstrable relationship to the nature of the duties and responsibilities of the employee's position; and,

(2) Constitutes a willful, indifferent, or grossly negligent act or commission by such employee.

Such acts for which disciplinary action may be taken include, but are not limited to: theft of County property; knowingly giving or making false statements of a material nature in matters relative to employment; being tardy; being absent without leave; being insubordinate; and violating standards of ethics as established under the County's Code of Ethics.

(b) Authorized Actions. Whenever an employee commits an act or acts which constitutes a violation(s) or an act(s) of noncompliance of the nature described in Subsection (a), above, the employee's appointing authority shall be authorized to initiate and take or the employee's supervisor shall be authorized to initiate and, where authorized, take any of the following disciplinary actions against such employee:

(1) The appointing authority or supervisor may issue a written reprimand to the employee, provided that any such written reprimand shall state:

(A) The specific violation or act of noncompliance causing the issuance of the reprimand; and

(B) The fact that any subsequent violations or acts of noncompliance by the employee may warrant the taking of more severe disciplinary action against the employee;

(2) The appointing authority may cause the employee to forfeit annual leave days the employee has accrued in an amount not to exceed twenty (20) such accrued leave days for any one (1) violation or act of noncompliance;

(3) The appointing authority may fine the employee in an amount not to exceed five percent (5%) of the employee's base annual salary for any one (1) violation or act of noncompliance, provided that such fine, so imposed, may, at the employee's option, so long as the employee is employed by the County, be withheld from the employee's biweekly paychecks, until paid, in increments not to exceed five percent (5%) of the employee's gross biweekly wages;

(4) The appointing authority may cause the employee to be suspended;

(5) The appointing authority may reduce the employee's salary by an amount not to exceed ten percent (10%). Under no circumstances shall an employee's salary be reduced in this manner to a rate less than the entry rate of the applicable salary range;

(6) The appointing authority may cause the employee to be demoted, subject to the provisions of Section 16-148(a)(6); or

(7) The appointing authority may cause the employee to be dismissed.

(c) General Criteria. Whenever an employee commits an act or acts which constitute grounds for disciplinary action, as provided in Subsection (a), above, the employee's appointing authority or supervisor, as the case may be, shall adhere to the general criteria set forth below in deciding what type of authorized disciplinary action, if any, should be initiated and taken against such employee.

(1) Dismissal. The dismissal of an employee shall constitute the most severe type of all authorized disciplinary actions. The dismissal of an employee shall be taken only when the act or acts of the employee which constitute the grounds for disciplinary action are, in the judgment of the employee's appointing authority, serious in nature. In deciding whether any act or acts of the employee are of a sufficiently serious nature to warrant dismissal, the employee's

appointing authority shall rely upon any one (1) of the following criteria as justification for the taking of a dismissal action against an employee:

(A) Where the employee commits one of the following acts:

(i) Abandonment of the employee's position;  
(ii) Commission of a crime for which a court sentences an employee to confinement for six (6) months or more so as to prohibit the performance of the employee's normal duties;

(iii) Theft of County property;  
(iv) Falsification of County reports or documents;  
(v) Participation in an illegal strike;  
(vi) Intoxication on the job;  
(vii) Using, possessing or selling narcotic drugs on the job; or  
(viii) Possessing unauthorized weapons or explosives;

(B) Where the employee commits a series of acts which constitute a course of conduct characterized by a continued inability or unwillingness on the part of the employee to conform to the applicable standards of conduct or behavior;

(C) Where the employee commits a series of acts which have clearly caused a continuing, disruptive effect on the efficient and/or safe operations of the employee's department, agency, or office and/or the government as a whole;

(D) Where the employee commits an act or a series of acts which call into serious question the employee's trustworthiness and/or integrity in the continued performance of the employee's assigned duties and responsibilities;

(E) Where the employee commits an act or a series of acts which have had or may be reasonably expected to have, a harmful or injurious effect on the employee, other employees and/or members of the general public; or

(F) Where the employee commits an act or a series of acts which have had, or may be reasonably demonstrated to have, an appreciable effect on the general public's confidence and/or trust in the operation of the employee's department, agency, or office and/or the government as a whole.

(2) Demotion. The demotion of an employee shall constitute a conduct-related disciplinary action less severe in nature than a dismissal. Where the employee commits an act or acts which constitute justification for the dismissal of the employee under the provisions of paragraph (c)(1), (A) through (E), above, the employee may be demoted rather than dismissed where the employee's appointing authority determines that the employee's past conduct record and/or other extenuating circumstances mitigate against the taking of a dismissal action against the employee.

(3) Salary Reduction. The requirement that an employee's salary be reduced by an amount not to exceed ten percent (10%) shall constitute the type of conduct-related disciplinary action which shall generally be considered to be comparable in severity to demotion where an employee's appointing authority or supervisor, as the case may be, has determined that the employee's conduct constitutes grounds for such disciplinary action as set forth in Subsection (c)(2), above. In deciding whether an employee's salary should be reduced in lieu of demotion, the employee's appointing authority or supervisor, as the case may be, shall make the determination based upon an evaluation that there is no appropriate available vacant position to which the employee could be demoted, or that the employee's conduct will improve under continued close supervision in the same position. After an employee's appointing authority or supervisor, as the case may be, has determined that the employee's conduct constitutes grounds

for disciplinary action as set forth in Subsection (c)(2), above, the appointing authority shall be justified in causing the employee's salary by an amount not to exceed ten percent (10%).

(4) Suspension. The suspension of an employee shall constitute the type of authorized disciplinary action which shall generally be considered to be less severe in nature than a dismissal action, a demotion, or a salary reduction, yet more severe in nature than the issuance of a written reprimand to an employee. In deciding whether the act or acts of the employee which constitute the grounds for disciplinary action are of such a nature as to warrant suspension, the appointing authority shall rely upon any one (1) of the following criteria as justification for the taking of a suspension action against an employee:

(A) Where the employee has been charged with the commission of a serious crime such that a subsequent conviction thereof or a finding of wrongful conduct by the employee's appointing authority in connection therewith, would constitute grounds for the dismissal of the employee under the provisions of paragraph (c)(1)(A), (B), (C), (D), or (E), above, provided that:

(i) Any such suspension shall be based upon a finding by the employee's appointing authority that there exists reasonably clear evidence of wrongful conduct by the employee in connection with such crime;

(ii) Where the finding of clear evidence of wrongful conduct as required under subparagraph (c)(4)(A)(i), above, is predicated on an investigation or inquiry of the alleged crime by the employee's appointing authority, the employee shall be placed on administrative leave, as authorized under Section 16-222, during the period of such investigation or inquiry and prior to the effective date of any subsequent suspension resultant therefrom; and,

(iii) Any such suspension shall remain in effect until the employee's guilt or innocence with respect to such alleged crime has been determined by a trial court and, on the basis of such court determination, the employee's appointing authority shall either revoke the suspension and return the employee to a duty and pay status, including restoration of back salary and leave benefits, or proceed to dismiss the employee, whichever is warranted;

(B) Where the employee commits an act or acts which constitute justification for the dismissal of the employee under the provisions of paragraph (c)(1), (A) through (E), above, the employee may be suspended rather than dismissed where the employee's appointing authority determines that the employee's past conduct record and/or other extenuating circumstances mitigate against the taking of a dismissal action against the employee, provided that no such suspension shall exceed twenty (20) working days in duration;

(C) Where the employee's appointing authority or supervisor has issued two (2) or more related, written reprimands to the employee and where the issuance of such reprimands has not resulted in the cessation of the act or acts of the employee which constituted the grounds for the issuance of the written reprimands in the first instance, the employee may be suspended for a period not to exceed ten (10) working days, provided that the foregoing shall not be construed to prevent the employee's appointing authority from suspending the employee following the issuance of one (1) written reprimand to the employee where:

(i) The employee commits the same act or acts which resulted in the issuance of the written reprimand within a period of six (6) months following the issuance of the reprimand; and,

(ii) The act or acts committed by the employee have clearly caused a disruptive effect on the efficient and/or safe operations of the employee's department, agency, or office and/or the government as a whole;

(1) The appointing authority or supervisor may issue a written reprimand to the employee, provided that any such written reprimand shall state:

(A) The specific violation or act of nonperformance causing the issuance of the reprimand; and

(B) The fact that any subsequent violations or acts of nonperformance by the employee may warrant the taking of more severe disciplinary action against the employee;

(2) The appointing authority may cause the employee to forfeit annual leave days the employee has accrued in an amount not to exceed twenty (20) such accrued leave days;

(3) The appointing authority may fine the employee in an amount not to exceed five percent (5%) of the employee's base annual salary, provided that such fine, so imposed, may, at the employee's option, so long as the employee is employed by the County, be withheld from the employee's biweekly paychecks, until paid, in increments not to exceed five percent (5%) of the employee's gross biweekly wages;

(4) The appointing authority may cause the employee to be suspended;

(5) The appointing authority may reduce the employee's salary by an amount not to exceed ten percent (10%). Under no circumstances shall an employee's salary be reduced in this manner to a rate less than the entry rate of the applicable salary range;

(6) The appointing authority may cause the employee to be demoted, subject to the provisions of Section 16-148(a)(6);

(7) The appointing authority may cause the employee to be dismissed.

(c) General Criteria. Whenever any appointing authority or supervisor makes a determination, in accordance with the grounds set forth in Subsection (a), above, that an employee's performance has become "less than satisfactory," the employee's appointing authority or supervisor, as the case may be, shall adhere to the general criteria set forth below in deciding what type of authorized disciplinary action, if any, should be initiated and taken against such employee.

(1) Dismissal. The dismissal of an employee shall constitute the most severe of the three (3) types of performance-related, disciplinary actions authorized under Subsection (b), above. After an employee's appointing authority or supervisor has determined that the employee's performance constitutes grounds for disciplinary action, as set forth in Subsection (a), above, the employee's appointing authority shall be justified in causing the employee to be dismissed, provided that:

(A) The employee's appointing authority or supervisor, as the case may be, has made a reasonable effort to counsel the employee with respect to the employee's performance and has afforded the employee a reasonable opportunity to take remedial actions with respect thereto; and,

(B) The employee's appointing authority has made a reasonable determination that the employee will be unable, incapable and/or unwilling to perform satisfactorily in another position in a class with a lower grade; provided, however, that where the appointing authority has made a reasonable determination that the employee will be capable and able to perform satisfactorily in another position in a class with a lower grade, nothing in this subparagraph shall be construed to prevent the appointing authority from causing the employee to be dismissed notwithstanding such a determination if the appointing authority has made a reasonable effort to demote the employee and such demotion cannot be effectuated due to the unavailability of an appropriate vacant position, or due to the fact that the proposed demotion does not meet the conditions stipulated in Section 16-148(a)(6)(B).

(2) **Demotion.** The demotion of an employee shall constitute a performance-related disciplinary action less severe in nature than a dismissal. After an employee's appointing authority or supervisor has determined that the employee's performance constitutes grounds for disciplinary action, as set forth in Subsection (a), above, the employee's appointing authority shall be justified in causing the employee to be demoted, provided that:

(A) The employee's appointing authority or supervisor, as the case may be, has made a reasonable effort to counsel the employee with respect to the employee's performance and has afforded the employee a reasonable opportunity to take remedial actions with respect thereto; and,

(B) The employee's appointing authority has made a reasonable determination that the employee will be capable and able to perform satisfactorily in the position to which the employee is to be demoted.

(3) **Salary Reduction.** The requirement that an employee's salary be reduced by an amount not to exceed ten percent (10%) shall constitute the type of performance-related disciplinary action which shall generally be considered to be comparable in severity to demotion where an employee's appointing authority or supervisor, as the case may be, has determined that the employee's performance constitutes grounds for such disciplinary action. In deciding whether an employee's salary should be reduced by an amount not to exceed ten percent (10%) in lieu of demotion, the employee's appointing authority or supervisor, as the case may be, shall make the determination based upon an evaluation that there is no appropriate available vacant position to which the employee could be demoted, or that the employee's performance will improve under continued close supervision in the same position. After an employee's appointing authority or supervisor, as the case may be, has determined that the employee's performance constitutes grounds for disciplinary action as set forth in Subsection (a), above, the appointing authority shall be justified in causing the employee's salary to be reduced the equivalent of one (1) step rate, provided that:

(A) The employee's appointing authority or supervisor, as the case may be, has made a reasonable effort to counsel the employee with respect to the employee's performance and has afforded the employee a reasonable opportunity to take remedial actions with respect thereto; and

(B) The employee's appointing authority has made a reasonable determination that the employee's performance will improve to a satisfactory level in the same position.

(4) **Suspension.** The suspension of an employee shall constitute the type of authorized disciplinary action which shall generally be considered to be less severe in nature than a dismissal action, a demotion, or a salary reduction, yet more severe in nature than the issuance of a written reprimand to an employee. In deciding whether the act or acts of the employee which constitute the grounds for disciplinary action are of such a nature as to warrant suspension, the appointing authority shall rely upon any one (1) of the following criteria as justification for the taking of a suspension action against an employee:

(A) Where the employee commits an act or acts which constitute justification for the dismissal of the employee under the provisions of paragraph (c)(1), (A) and (B), above, the employee may be suspended rather than dismissed where the employee's appointing authority determines that the employee's past conduct and/or performance record and/or other extenuating circumstances mitigate against the taking of a dismissal action against the employee, provided that no such suspension shall exceed twenty (20) working days in duration;

(B) Where the employee's appointing authority or supervisor has issued two (2) or more related, written reprimands to the employee and where the issuance of such reprimands

has not resulted in the cessation of the act or acts of the employee which constituted the grounds for the issuance of the written reprimands in the first instance, the employee may be suspended for a period not to exceed ten (10) working days, provided that the foregoing shall not be construed to prevent the employee's appointing authority from suspending the employee following the issuance of one (1) written reprimand to the employee where:

(i) The employee commits the same act or acts which resulted in the issuance of the written reprimand within a period of six (6) months following the issuance of the reprimand; and

(ii) The act or acts committed by the employee have clearly caused a disruptive effect on the efficient and/or safe operations of the employee's department, agency, or office and/or the government as a whole.

(5) Forfeiture of Accrued Annual Leave. The requirement that an employee forfeit accrued annual leave days shall constitute the type of authorized disciplinary action which shall generally be considered to be comparable in severity to the suspension of an employee where an employee commits an act or acts which would justify a suspension under the provisions of paragraph (c)(4), above. In deciding whether an employee should be required to forfeit accrued annual leave days in lieu of a suspension as would otherwise be justified under the provisions of paragraph (c)(4), above, the employee's appointing authority shall make such determination based upon an evaluation of the effect the employee's absence from work would have on the operations of the appointing authority's department, agency, or office. Where the employee's appointing authority determines that the absence of an employee from work under a suspension action would cause a detrimental effect on the operations of the department, agency, or office in terms of undue losses in the efficiency of operations or a curtailment in the provisions of services to the general public, the appointing authority shall be justified in causing the employee to forfeit accrued annual leave days in an amount equal to the number of days the employee would have been otherwise suspended under, and subject to, the conditions set forth in paragraph (c)(4), above; provided, however, that no such forfeiture of accrued annual leave by an employee shall be in an amount in excess of the number of annual leave days the employee had accrued as of the effective date of any such action.

(6) Fine. The requirement that an employee pay a monetary fine shall constitute the type of authorized disciplinary action which shall generally be considered to be comparable in severity to the suspension of an employee where an employee commits an act or acts which would justify a suspension under the provisions of paragraph (c)(4), above, and may be used as an alternative to suspension or forfeiture of accrued annual leave. When a fine is imposed in lieu of suspension or forfeiture of accrued annual leave, the appointing authority shall be justified in requiring the employee to pay such fine in an amount not greater in value than the number of days the employee would have been otherwise suspended under, and subject to, the conditions set forth in paragraph (c)(4), above, or the amount of accrued annual leave the employee would have otherwise been caused to forfeit under, and subject to, the conditions set forth in paragraph (c)(3), above; provided, however, that in no case may an employee be required to pay a monetary fine in an amount in excess of five percent (5%) of said employee's base annual salary.

(7) Written Reprimand.

(A) The issuance of a written reprimand to an employee shall constitute the least severe type of all authorized disciplinary actions. An employee's appointing authority or supervisor shall be justified in issuing a written reprimand to the employee if the act or acts of the employee which constitute the grounds for disciplinary action are minor in nature.



(B) Any employee to whom a written reprimand is issued shall be entitled to respond in writing to any such reprimand within five (5) working days after the date of the issuance thereof by the employee's appointing authority or supervisor, as the case may be.

(C) Whenever an appointing authority or supervisor, as the case may be, files or causes to be filed a written reprimand or a copy thereof in an employee's official personnel file and/or in a departmental personnel file, any such written reprimand or copy thereof:

(i) Shall have appended thereto a copy of the employee's written comments in response thereto if such comments are provided in accordance with subparagraph (B), above; or, in the alternative,

(ii) Shall be signed by the employee so as to indicate that the employee received and reviewed the reprimand, provided that such signature by the employee shall not be construed as an indication that the employee concurs with the contents of the reprimand; or, in the alternative,

(iii) Shall be accompanied by a signed certification by the employee's appointing authority or supervisor, as the case may be, to the effect that the appointing authority or supervisor issued the written reprimand to the employee and that the employee did not elect to respond in writing to the reprimand or to sign the reprimand.

(CB-1-1976; CB-22-2000)

#### **Sec. 16-195. Conduct and performance-related disciplinary actions.**

(a) The following provisions shall apply to both conduct and performance-related disciplinary actions.

(1) Evaluative Factors. Prior to finally taking any of the conduct- or performance-related disciplinary actions authorized under the provisions of Sections 16-193, except under Subsection (c)(1)(A), thereof, and 16-194, respectively, an appointing authority or, where applicable, a supervisor shall insure that the following factors have been evaluated and taken into consideration:

(A) The severity of the particular disciplinary action in relation to the nature of the particular act or acts of the employee constituting the grounds for disciplinary action;

(B) Any extenuating circumstances concerning an employee which may mitigate against the taking of the particular disciplinary action against the employee;

(C) An employee's past record of conduct or performance, as the case may be; provided, however, that where an employee's performance is marginal, the employee's past conduct record may be taken into account in making a final determination to take a performance-related disciplinary action against the employee; and

(D) The consistency and uniformity of the particular disciplinary action in relation to the general disciplinary practices and policies as applied to other employees within the particular department, agency, or office under facts and circumstances which are substantially the same.

(2) Procedural Requirements. Except for an immediate suspension as authorized under Section 16-193(c)(4)(D), any disciplinary action authorized under the provisions of Sections 16-193 and 16-194 which constitutes an adverse action, as defined in Section 16-102(a)(1), shall be initiated and taken in accordance with the procedures set forth in Section 16-201 which govern the processing of adverse actions against employees and the taking of employee appeals therefrom.

(3) **Disciplinary Actions by Appointing Authorities.** Any disciplinary action authorized under Sections 16-193 and 16-194 which constitutes an adverse action shall only be finally taken against an employee by the employee's appointing authority; provided, however, that the foregoing part of this sentence shall not be construed to prevent any supervisor from effectively initiating or recommending any such action.  
(CB-1-1976; CB-107-1985; CB-22-2000)

**Sec. 16-196. Reserved.**

**Sec. 16-197. Statute of limitations on certain disciplinary records.**

(a) **Temporary Records.** For purposes of Section 16-216, the following records or documents relating to authorized disciplinary actions which may have been taken against an employee shall be considered to be temporary records or documents, and shall be maintained in the employee's official personnel file and/or in any departmental personnel file only for a period of three (3) calendar years and then removed therefrom and disposed of consistent with the applicable provisions of State law:

- (1) Any written reprimand and any written employee response in relation thereto;
- (2) Any record of an employee's suspension for any period not in excess of ten (10) working days;
- (3) Any record of an employee's forfeiture of accrued annual leave as a disciplinary action in any amount not in excess of ten (10) accrued leave days; and,
- (4) Any record of fines imposed as a disciplinary action.

(b) **Permanent Records.** For purposes of Section 16-216, the following records or documents relating to authorized disciplinary actions which may have been taken against an employee shall be considered to be permanent records and shall be retained in the employee's official personnel file and/or in any departmental personnel file in accordance with the provisions of Sections 16-216 and 16-217:

- (1) Any record of an employee's suspension for any period in excess of ten (10) working days;
- (2) Any record of any employee's forfeiture of accrued annual leave as a disciplinary action in any amount in excess of ten (10) working days;
- (3) Any record of an employee's demotion or reduction in step rate; and,
- (4) Any record of an employee's dismissal.

(CB-1-1976)

**Sec. 16-198. Hearing boards for public safety employees.**

(a) The appointing authorities of the Police, Fire, Sheriff's, and Corrections Departments shall be authorized to appoint hearing boards to hear and review conduct- or performance-related disciplinary charges against any uniformed employee occupying a public safety class of work within their respective departments, and to render recommendations to the appointing authorities as to the type of authorized disciplinary action, if any, which should be taken against any such employee. The disciplinary recommendations rendered by any such hearing board so appointed, shall be advisory in nature and the final determination as to the taking of any authorized disciplinary action in relation thereto shall rest exclusively with the appointing authorities of such departments.

(b) In any case where the rights of uniformed employees occupying public safety classes of work within the Police and Sheriff's Departments with respect to disciplinary actions and appeals therefrom are governed by the provisions of Article 27, Sections 727 through 734A of the Annotated Code of Maryland, titled "Law-Enforcement Officers' Bill of Rights," the provisions of said statute shall apply, in lieu of the provisions of this Division, in the taking of authorized disciplinary actions against such employees, and there shall be no appeals to the Personnel Board as a result of the taking of any such disciplinary actions against any such employees as would otherwise be provided under the applicable provisions of Article XIV. However, in any case where the appointing authorities of the Police and Sheriff's Departments determine that an investigation and/or an interrogation is not necessary in order to determine whether any uniformed employee occupying a public safety class of work within their respective departments has committed an act or acts which constitute grounds for disciplinary action under the provisions of Sections 16-193 and 16-194, then, and in such event, said appointing authorities may take any of the disciplinary actions authorized under Sections 16-193 and 16-194 without appointing a hearing board in advance thereof, and any employee's appeal from any such disciplinary action shall be taken in accordance with the applicable provisions of Article XIV. (CB-1-1976; CB-100-1994)

#### **DIVISION 14. GRIEVANCES, ADVERSE ACTIONS, AND APPEALS.**

##### **Sec. 16-199. Appeal policy.**

It shall be the policy of Prince George's County to insure that all employee appeals, whether as a result of an unresolved grievance or of an adverse action taken against an employee, are expeditiously considered and equitably adjudicated. All employees are encouraged to openly and freely express their views relative to conditions of their employment and, where necessary and appropriate, to exercise their appeal rights in accordance with the procedures stipulated in this Division without fear of reprisal or recrimination. In furtherance of the foregoing, it shall be wrongful for any appointing authority, supervisor, or the Director of Human Resources Management to discipline or otherwise take any retaliatory action against any employee, or to threaten any employee with any such action, on the basis of the employee's exercise of the appeal rights granted under the provisions of this Division, or for an employee's participation as a witness in any of the proceedings authorized herein. (CB-1-1976; CB-91-2003)

##### **Sec. 16-200. Procedures for resolving a grievance.**

(a) An employee shall be entitled to initiate a grievance in accordance with the following procedures:

(1) To Responsible Official.

(A) Where an employee has reason to believe that an act or acts by the employee's supervisor, appointing authority, or the Director of Human Resources Management, as the case may be, constitutes a grievance and where reasonable efforts on the part of the employee to informally resolve the grievance have been unsatisfactory, the employee shall file a written complaint with whichever of the foregoing officials was responsible for the act or acts giving rise to the grievance, setting forth in such written complaint the nature of the grievance and the relief sought by the employee; provided, however:

(i) That where the act or acts of the official giving rise to the grievance are effectuated by a written human resources action which is authorized under the provisions of this Subtitle, and where the employee receives a final copy of such written human resources action, the employee shall file the written complaint required above with the responsible official no later than five (5) working days after the employee receives the final copy of the written human resources action; and

(ii) With respect to any other act or acts of the official giving rise to the grievance, the employee shall file the written complaint required above with the responsible official within a reasonable period of time after the act or acts of the responsible official constituting the grievance becomes known to the employee; provided, however, that the failure of the employee to file the written complaint within such reasonable period of time shall constitute grounds for the denial of the relief sought by the aggrieved employee.

(B) Upon the receipt of any written complaint filed by an employee pursuant to subparagraph (a)(1)(A), above, the responsible official shall investigate or cause to be investigated the allegations set forth in said complaint and shall respond, in writing, to the employee with respect to said complaint no later than fourteen (14) calendar days after the date of receipt thereof. The written response of the responsible official shall state whether or not any remedial action will be taken with respect to the complaint and, in either event, the reasons therefor. Where the written response of the responsible official indicates that remedial action will be taken, said written response shall also state when, in terms of an approximate date, event, or circumstance, the remedy or remedies will be forthcoming.

(C) Any employee who has filed a written complaint, as required under subparagraph (a)(1)(A), above, shall be entitled to pursue the alleged grievance further, based on the circumstances set forth below, by filing a written complaint with the Director of Human Resources Management if the Director of Human Resources Management was not the responsible official with whom the employee filed the written complaint in the first instance; or, in the event that the Director of Human Resources Management was the responsible official with whom the employee filed the written complaint in the first instance, by filing a written notice of appeal with the Personnel Board. The entitlement of an employee to file a further written complaint with the Director of Human Resources Management, or to file a written notice of appeal with the Personnel Board, as provided in the preceding sentence of this subparagraph, shall be conditioned upon:

(i) The fact that the responsible official with whom the employee filed the signed written complaint required under subparagraph (a)(1)(A), above, did not respond, in writing, to the employee's complaint within fourteen (14) calendar days after the date of receipt thereof, as required under subparagraph (a)(2), above;

(ii) The fact that the employee is not satisfied with the written response of the responsible official with whom the employee filed the written complaint; or

(iii) The fact that the remedy or remedies set forth in the written response of the responsible official were not effectuated under the conditions set forth in the official's written response.

(D) The following procedures shall apply to the filing of a further written complaint with the Director of Human Resources Management, or the filing of a written notice of appeal with the Personnel Board, as provided under subparagraph (a)(1)(C), above:

(i) Any employee who intends to file a further written complaint with the Director of Human Resources Management, or a written notice of appeal with the Personnel Board, under the circumstances described in subparagraph (a)(1)(C)(i), above, shall do so no

periodically inspect any established departmental or agency personnel files in order to insure that said files are being maintained in a manner consistent with personnel procedures.

(c) In the event that an appointing authority establishes a departmental or agency personnel file regarding any employee under the appointing authority's jurisdiction, any such employee shall be promptly notified by the appointing authority of the establishment of said personnel file. Any such employee shall be entitled to inspect the employee's file during the employee's hours of work at a time mutually agreed to by the employee and the appointing authority. Any such employee shall be entitled to file a signed statement for inclusion in the employee's file under the circumstances described in Section 16-216(d)(3) as if the employee were filing a signed statement in the employee's official personnel file.

(d) Any person, other than the employee in interest, a person authorized by the employee in interest, the Director of Human Resources Management, the appointing authority, or a person acting on behalf of the Director of Human Resources Management who reviews or examines a personnel file shall be required to record his name, authority to review the personnel file, and date of review on a form which shall be maintained in the personnel file. A copy of the form shall be forwarded to the employee within five (5) business days. If any person, including the employee in interest, a person authorized by the employee in interest, the Director of Human Resources Management or appointing authority, or a person acting on behalf of the Director of Human Resources Management examines a personnel file, the date of examination, reason for examination, and identity of the person examining the file shall be recorded in one or more logs maintained by the Director of Human Resources Management. The entry into a personnel file for the purpose of filing of records is not required to be logged.

(CB-1-1976; CB-83-1996; CB-91-2003)

#### **Sec. 16-217.01. Penalties; violations.**

Any person found to have violated any provision of Subtitle 16, Division 16, shall be fined up to One Thousand Dollars (\$1,000).

(CB-83-1996; CB-22-2000)

### **DIVISION 17. LEAVE.**

#### **Sec. 16-218. Administration of the leave program.**

The Director of Human Resources Management shall be responsible for the administration of the leave program established under this Division and, in furtherance thereof, shall develop personnel procedures to insure that the leave program is uniformly administered within the various County departments, agencies, and offices.

(CB-1-1976; CB-22-2000; CB-91-2003)

#### **Sec. 16-219. Holiday leave.**

(a) Regular Holidays. The following days shall be regular holidays for employees:

- (1) New Year's Day;
- (2) Martin Luther King's Birthday;
- (3) Presidential Inauguration Day;
- (4) Washington's Birthday;

- (5) Memorial Day;
- (6) Independence Day;
- (7) Labor Day;
- (8) Columbus Day;
- (9) Veteran's Day;
- (10) Thanksgiving Day;
- (11) County Employees' Appreciation Day; and
- (12) Christmas Day.

(b) Dates of Observance. The County Executive shall, by Executive Order, establish the dates of observance for each of the regular holidays established in Subsection (a), above. The dates of observance designated by the Executive shall be within seven (7) days of the generally recognized date of observance and shall not be a Saturday or Sunday.

(c) Special Holidays. The County Executive shall be authorized, by Executive Order, to establish special holidays as full or partial nonwork days in a pay status for employees. Special holidays shall not exceed two (2) per year without approval of the Council.

(d) Employees Eligible for Holiday Leave. All full-time employees, as defined in Section 16-181(a), shall be granted holiday leave with pay on any regular or special holiday. All part-time employees, as defined in Section 16-181(b), with the exception of those part-time employees allocated to the class of School Crossing Guard, shall be granted holiday leave with pay in proportion to the number of hours worked, provided that any such employee shall have worked a minimum of forty (40) hours during the one (1) full pay period immediately preceding the pay period within which the holiday falls. Those part-time employees allocated to the class of School Crossing Guard shall be eligible for holiday leave, in an amount equivalent to the established daily reporting rate, for four (4) holidays in each leave year. The four (4) holidays for which said employees are eligible to receive holiday leave shall be selected by the appropriate appointing authority from among those holidays designated annually by the Prince George's County Board of Education. Any full-time or part-time employee on authorized, paid leave during a pay period in which a regular or special holiday occurs shall be considered on holiday leave with pay for that period.

(e) Leave Policy for Election Day. No regular or special holiday shall be observed on the same day as a primary election, general election, or special election held for County or State offices. On the aforesaid election days, a liberal annual leave policy shall be in effect. Notwithstanding the provisions of Section 16-233 to the contrary, all collective bargaining agreements proposed for approval in accordance with Section 13A-109 for terms beginning on or after July 1, 1996, shall conform to the provisions of this Subsection in effect on the date that the collective bargaining agreement is executed by the County Executive.

(f) Determination of Eligibility. An employee must be in a pay status the last regular work day before, and the first regular work day after, a regular or special holiday in order to receive holiday leave pay.

(g) Authorization for Holiday Leave. As far as is practical, a regular or special holiday shall be a nonwork day and an eligible employee shall receive the employee's authorized salary for any such day. An employee may be required to be on duty on any such day in order to maintain necessary County services. The County Executive shall be authorized to determine the County services required to be maintained on a regular or special holiday and the appointing authorities of departments, agencies, or offices so affected by such determinations shall designate those employees to perform duty on said days.

(h) Compensation for Work Performed on a Regular or Special Holiday. Special rates of pay or other forms of compensation for employees required to work on a regular or special holiday, as authorized in Subsection (f), above, shall be granted as established under the applicable salary schedules within the Salary Plan.

(CB-1-1976; CB-71-1977; CB-64-1982; CB-128-1982; CB-121-1987; CB-4-1996; CB-86-1996; CB-22-2000)

#### **Sec. 16-220. Annual leave.**

##### **(a) General.**

(1) Annual leave shall mean paid leave granted to employees for their personal use. Annual leave shall be requested by the employee and approved by the employee's appointing authority. To minimize the possibility of an employee losing earned annual leave, the appointing authority shall establish a mutually agreeable alternative leave period if the employee's original leave request has been denied by the appointing authority.

(2) Annual leave for family and medical leave purposes as established in Section 16-225.01 shall be approved by an employee's appointing authority pursuant to Section 16-225.01.

##### **(b) Annual Leave Year.**

(1) The annual leave year for employees shall be the twelve (12) month period beginning on the first day of the first full pay period of the calendar year.

##### **(c) Annual Leave Accrual.**

(1) All full-time employees, as defined in Section 16-181(a), and except as set forth in subparagraph (c)(5), below, shall earn annual leave in accordance with the following schedule:

<b>YEARS OF SERVICE</b>	<b>DAYS EARNED PER PAY PERIOD</b>	<b>HOURS EARNED PER PAY PERIOD</b>
0 through 3	.50	4
4 through 15	.75	6
16 or more	1.00	8

(2) All part-time employees, as defined in Section 16-181(b), with the exception of those part-time employees allocated to the class of School Crossing Guard, and except as set forth in subparagraph (c)(5), below, shall earn annual leave during any pay period provided that any such employee shall have worked a minimum of forty (40) hours in such pay period in accordance with the following schedule:

<b>HOURS EARNED PER PAY PERIOD</b>			
<b>HOURS WORKED PER PAY PERIOD</b>	<b>YEARS 1 THRU 3</b>	<b>YEARS 4 THRU 15</b>	<b>YEARS 16 AND OVER</b>
40 thru 49	2.0	3.0	4.0
50 thru 59	2.5	3.8	5.0
60 thru 69	3.0	4.5	6.0
70 thru 79	3.5	5.3	7.0
80	4.0	6.0	8.0

Those part-time employees allocated to the class of School Crossing Guard shall earn one (1) hour of annual leave for each twenty (20) hours reported.

(3) An employee shall not earn annual leave for any pay period during which the employee is on authorized leave without pay for more than two (2) working days during such pay period.

(4) All full-time employees with between four (4) and fifteen (15) years of service, inclusive, shall earn six (6) hours of annual leave per pay period, as specified in subparagraph (c)(1), above, with a periodic adjustment to insure that each such employee earns twenty (20) days of annual leave per leave year.

(5) For purposes of computing years of service in subparagraphs (c)(1) and (c)(2), above, credit shall not be given for any month of service in a classified service position for which an employee receives a retirement payment.

(d) Maximum Accumulation of Annual Leave.

(1) A maximum of three hundred sixty (360) hours of accumulated annual leave earned beginning with the first pay period in Fiscal Year 1996, or such other amount established in an approved Salary Plan may be carried over from one (1) leave year to the next by an employee.

(2) An employee shall be allowed to carry over annual leave earned as of the last full pay period in Fiscal Year 1995, even if such accumulated amount is in excess of the maximum allowed in Subsection (d)(1), above.

(3) Annual leave hours in excess of the maximum allowed to be carried over to the next leave year shall be converted to sick leave.

(e) Annual Leave Day.

(1) An annual leave day shall mean a day when an employee would otherwise be required to work and receive pay, including regular and special holidays, sick leave days, and other nonwork days.

(f) Charge Against Annual Leave.

(1) Charges against an employee's annual leave account shall be in even increments of one-half (1/2) hour for periods of time the employee is absent on approved annual leave.

(g) Advancement of Annual Leave.

(1) Annual leave may be used by an employee only as earned, except that advance leave may be granted to an employee up to a maximum of ten (10) working days of leave at the discretion of the employee's appointing authority; provided however, that the combined total advance of annual and sick leave in any one (1) leave year shall not exceed ten (10) working days. If an employee is terminated from County service with a minus leave balance, the employee shall be indebted to the County for the monetary value of the leave advance.

(h) Forfeiture of Accrued Annual Leave as a Disciplinary Action.

(1) Pursuant to the provisions of Sections 16-193 and 16-194, an employee may be required to forfeit from one (1) to twenty (20) days of accrued annual leave as a disciplinary action.

(i) Payment for Accumulated Annual Leave Upon Separation from County Service. Provisions are set forth in Section 16-221.02 of this Code.

(j) Credit for Previous County Employment or Employment in Other County Funded Activities.

(k) An employee's previous employment service with the County, or employment service with an activity funded in whole or in part with County funds, shall be, upon the written request of the employee and verification thereof by the Director of Human Resources Management,



considered as County service time for the purpose of establishing the employee's annual leave earning rate under the earning schedule established in Subsection (c), above.

(CB-1-1976; CB-71-1977; CB-165-1978; CB-73-1982; CB-128-1982; CB-124-1987; CB-113-1991; CB-43-1993; CB-47-1993; CB-62-1995; CB-22-2000; CB-91-2003)

#### **Sec. 16-221. Sick leave.**

(a) General.

(1) Sick leave shall be granted to employees who are eligible to earn annual leave.

(b) Sick Leave Year.

(1) The leave year for sick leave shall be the same as the leave year for annual leave.

(c) Sick Leave Accrual.

(1) All full-time employees, as defined in Section 16-181(a), shall earn four and one-half (4 1/2) hours of sick leave each pay period with a periodic adjustment to insure that each such employee earns fifteen (15) days of sick leave per leave year.

(2) All part-time employees, as defined in Section 16-181(b), with the exception of those part-time employees allocated to the class of School Crossing Guard, shall earn sick leave during any pay period, provided that any such employee shall have worked a minimum of forty (40) hours in such pay period, in accordance with the following schedule:

<b>HOURS WORKED PER PAY PERIOD</b>	<b>HOURS EARNED PER PAY PERIOD</b>
40 thru 49	2.3
50 thru 59	2.9
60 thru 69	3.5
70 thru 79	4.0
80	4.6

Those part-time employees allocated to the class of School Crossing Guard shall earn one (1) hour of sick leave for each twenty (20) hours reported.

(d) Sick Leave Accumulation.

(1) There shall be no limit on the amount of sick leave an eligible employee may accumulate in any leave year. Unused sick leave balances in any leave year shall be automatically carried forward to the next sick leave year and credited to an employee's sick leave account.

(e) Granting of Sick Leave.

(1) Subject to the provisions of Subsection (f), below, an employee shall be entitled to use earned sick leave for any one (1) of the following reasons:

(A) Sickness, disability, or serious health condition which incapacitates an employee. As used in this Subtitle, the term serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider;

(B) Necessary medical or dental appointments;

(C) Confinement at home because of quarantine;

(D) Illness or serious health condition of the employee's spouse, parent, mother- or father-in-law, grandchild, grandparent; or child (including biological, adopted, foster, stepchild, or legal ward) that requires care by the employee during normal work hours;

(E) Birth of a child, pursuant to the provisions of Section 16-225.02;

(F) Adoption of a dependent child, pursuant to the provisions of Section 16-225.02; and

(G) Death of anyone in an employee's family, not to exceed five (5) working days; provided further, that for purposes of this subparagraph, the term "family" shall include the employee's spouse, child (including biological, adopted, foster, stepchild, or legal ward), parent, grandparent, grandchild, brother, sister, brother- or sister-in-law, mother- or father-in-law, or son- or daughter-in-law.

(f) Approval of Sick Leave.

(1) An appointing authority shall examine each request for sick leave made by an employee and determine if the granting of sick leave is justified based on the provisions of Subsection (e), above. An appointing authority may require that an employee submit written evidence from a licensed physician, or other appropriate verification, to validate or support sick leave requests.

(2) Whenever an appointing authority determines that an employee has a medical condition that may seriously impair the employee's ability to perform the duties and responsibilities of the employee's position or may jeopardize the health or safety of the employee, fellow employees or the general public, the appointing authority, after receiving a confirming medical opinion, may place the employee in a sick leave status pending corrective treatment or other resolution of the matter.

(3) In the event that a sick leave request is not approved by an employee's appointing authority, any absence of the employee from work notwithstanding shall be charged against the employee's annual leave account or, in the alternative, charged as leave without pay.

(g) Charges Against Sick Leave.

(1) Charges against an employee's sick leave account shall be in even increments of one-half (1/2) hour for periods of time the employee is absent on approved sick leave.

(h) Advance of Sick Leave.

(1) In the event that an employee's accrued sick leave is exhausted and the employee is absent from work for any one (1) of the reasons set forth in Subsection (e), above, the employee shall be advanced sick leave as needed up to an amount equal to the employee's accumulated annual leave unless the employee requests annual leave or authorized leave without pay. Annual leave so encumbered may not be subsequently used until such time as the employee has earned sufficient sick leave to offset any such advance.

(2) An employee may be advanced sick leave, in addition to that provided in subparagraph (h)(1), above, up to a maximum of ten (10) working days, at the discretion of the employee's appointing authority; provided however, that the total advance of sick and annual leave in any one (1) leave year combined shall not exceed ten (10) working days.

(i) Repayment of Unliquidated Advance of Sick Leave.

(1) Whenever an employee is separated or dismissed from County employment under any circumstances with an unliquidated advance of sick leave outstanding at the time of such separation or dismissal, the sick leave advance shall be satisfied as follows:

(A) The employee's accumulated annual leave account shall be charged by reducing the number of such accumulated annual leave days in an amount equal to the number of unliquidated sick leave days; and/or,

(B) The monetary value of the unliquidated sick leave shall be deducted from any final salary payment due the employee at the time of separation or dismissal and, where such deduction shall not satisfy the monetary value of the unliquidated sick leave, the employee shall be liable to the County for the payment of the balance thereof.

(j) Disposition of Accumulated Sick Leave Upon Termination of Employment. Provisions are set forth in Section 16-221.02 of this Code.

(k) The County Executive may establish procedures for the donation of accrued annual or sick leave by a County employee to another County employee for use as sick leave.

(CB-1-1976; CB-71-1977; CB-73-1982; CB-128-1982; CB-107-1985; CB-31-1988; CB-113-1991; CB-47-1993; CB-22-2000)

**Editor's Note:** CR-107-1979 provided that sick leave attributable to an employee's own illness or disability shall be reported in an earning category which will result in exemption from FICA payroll taxes.

#### **Sec. 16-221.01. Governmental leave credit.**

(a) Annual or sick leave accumulated by an individual while employed by a governmental agency, the budget of which is subject by law to review or approval by the County, may be credited as a beginning leave balance when an individual is employed by the County provided:

(1) The Director of Human Resources Management shall verify the employee's accumulated leave balances;

(2) The employee has not received a cash payment or other consideration from the agency in liquidation of leave; and

(3) No more than thirty (30) days of annual or sick leave balance may be carried over by an employee under the provisions of this Section.

(CB-92-1989; CB-91-2003)

#### **Sec. 16-221.02. Sick and Annual Leave disposition upon separation.**

(a) The annual and sick leave balances accumulated by an employee shall, upon the employee's separation from employment, with proper notice of separation as determined by the employee's appointing authority, be liquidated in the following manner:

(1) The employee may elect to retain all or any portion of the employee's sick and annual leave balances credited to the employee's leave record for the period of time equal to the employee's eligibility for reappointment as determined in accordance with Section 16-148(a)(8);

(2) The employee may elect to apply all or any portion of the employee's sick and annual leave balances to employment elsewhere, provided another employer has agreed to accept accumulated sick or annual leave balances for credit on behalf of the employee;

(3) Except in the case of an employee who is entitled to credit for sick and annual leave balances under the terms of an applicable County sponsored pension plan, the employee may elect to receive cash payment for all or any portion of the employee's annual leave balance in an amount equal to the total number of unused annual leave hours multiplied by the employee's final base hourly rate of pay, subject to the following limitation:

(A) The maximum total amount of annual leave eligible for cash payment upon separation shall be the amount of remaining accumulated leave earned as of the end of the last full pay period in Fiscal Year 1995, or three hundred sixty (360) hours, whichever is greater;

(B) Any accrued annual leave not eligible for cash payment may be converted to sick leave.

(4) For all or any portion of the employee's sick leave balance earned as of the end of the last full pay period of Fiscal Year 1995, the employee may elect to receive cash payment in an amount equal to the total number of unused sick leave hours multiplied by one-half of the employee's base hourly rate of pay as of June 30, 1995, or as otherwise established by an applicable collective bargaining agreement and/or salary schedule. Sick leave earned beginning the first pay period of Fiscal Year 1996 is not subject to cash payment to the employee upon separation. Any employee who is entitled to credit for sick and annual leave under the terms of an applicable County sponsored pension plan will only be entitled to receive cash distribution for leave balances in accordance with the terms of the applicable pension plan.

(5) Notwithstanding any provision in this Section to the contrary, an employee who is involuntarily separated from employment with the County for disciplinary reasons is not entitled to any payment for unused sick leave.

(6) Notwithstanding any provision in this Section to the contrary, an employee who has been separated from employment under a separation-disability action pursuant to Section 16-189 shall forfeit any sick leave hours accumulated at the time of the employee's separation.

(7) Upon retirement, an employee shall be entitled to receive credit on an actuarial equivalent basis for unused sick leave for which an authorized cash payment has not been elected as creditable service in accordance with the applicable provisions of the State Personnel and Pension Article, Annotated Code of Maryland, as amended, and the terms of any applicable County sponsored pension plan.

(CB-113-1991; CB-62-1995; CB-22-2000)

#### **Sec. 16-222. Administrative leave.**

(a) Administrative leave may be granted to any full-time or part-time employee by the employee's appointing authority for any one (1) of the following reasons:

- (1) Performance of jury duty;
- (2) Where an employee is subpoenaed to appear before a court or otherwise officially requested to appear before a public body, public agency or commission on matters relating to government business;
  - (2.1) When summoned as a witness in a criminal case;
- (3) For the purpose of voting not to exceed two (2) hours following the opening of the polls or two (2) hours prior to the closing of the polls;
- (4) For the attendance in an official capacity as a representative of the County, at meetings, symposiums, conferences, conventions, or hearings;
- (5) For the purpose of taking educational courses directly related to the employee's work as determined by the employee's appointing authority; provided that such requests for administrative leave shall be approved in advance by the Director of Human Resources Management and shall not exceed a total of twenty (20) working days, or the prorated hourly equivalent thereof for part-time employees, in any one annual leave year;
- (6) For the purpose of investigating an alleged act of misconduct by an employee as required under the provisions of Section 16-193(c)(2)(A)(ii);
- (7) Participation in blood donor program;
- (8) Guard of honor at burial services;

(9) For the purpose of undergoing a medical examination as may be required by the employee's appointing authority under the provisions of Sections 16-189 or 16-221(f)(2);

(10) For the employee in interest to consult with appropriate County personnel regarding grievances and adverse action appeals, applicable equal employment opportunity programs, skills assessment, and benefit planning and counseling;

(11) For the purpose of emergency volunteer services in public safety activities as defined in the County Code by an employee not in a public safety class of work for not more than three (3) hours on any one occasion; provided that the employee requesting administrative leave for this purpose has previously notified the appointing authority in writing of the employee's volunteer firefighting commitment;

(12) For the purpose of permitting an employee to be placed on leave during the five (5) day notice period required in Section 16-201, when the appointing authority believes that the employee's presence at work would not be in the agency's best interest;

(13) For the purpose of volunteering in the Prince George's County public and private schools not to exceed eight (8) hours per year;

(14) For bereavement leave in accordance with Section 16-221(e)(1)(G), not to exceed three (3) working days in the event of the death of an employee's spouse, child, or parent and not to exceed one (1) working day in the event of the death of any other member of the employee's family.

(b) In addition to the provisions of Subsection (a), above, administrative leave may be granted to any full-time or part-time employees by the County Executive, or the County Executive's designee, for any one of the following reasons:

(1) Extreme inclement weather, or other hazardous working conditions, which may prevent an employee from reporting to work or which may require an early release from work; or,

(2) Performance of emergency civilian duty in the public interest.  
(CB-1-1976; CB-84-1977; CB-20-1982; CB-128-1982; CB-50-1991; CB-4-1996; CB-100-1997; CB-19-2000; CB-22-2000; CB-91-2003)

#### **Sec. 16-223. Military leave.**

(a) Military leave shall be approved for an employee by the employee's appointing authority as follows:

(1) **Military Leave With Pay - Active Duty For Training.** Military leave with pay, not to exceed fifteen (15) working days per wage reporting year, shall be granted to employees who are reservists or members of the National Guard of the United States or the Reserves ordered to active duty for training.

(2) **Military Leave With Pay - Active Duty for Domestic Emergencies.** Military leave with pay shall be granted to employees who are members of the National Guard of the United States or the Reserves who are ordered on domestic emergency duty related to disaster relief or civil disturbance, provided, however, that such leave shall not exceed fifteen (15) working days for each such domestic emergency, except when ordered to active duty under the authority of the Governor pursuant to Article 65, Section 42 of the Annotated Code of Maryland.

(3) **Salary Supplement - Extended Active Duty for National Emergencies.** Employees who are members of the National Guard of the United States or the Reserves ordered to active duty by authority of the President of the United States pursuant to Title 10 or Title 32 of the United States Code for a period not to exceed twelve (12) consecutive months shall be eligible

for a salary supplement equal to the difference between the employee's base rate of pay and the employee's base military pay.

(4) **Military Leave Without Pay.** Military leave without pay shall be approved by an appointing authority when an employee enlists or is drafted into the uniformed services of the United States or, upon exhaustion of an employee's military leave with pay entitlement, when a member of the National Guard of the United States or the Reserves is required to perform active duty for training or inactive duty training in accordance with Title 38, Chapter 43 of the United States Code (Veterans Reemployment Rights Act of 1994).

(5) **Restoration to Position After Military Leave Without Pay.** An employee shall be entitled to return to the position the employee occupied at the time the employee was granted military leave without pay, as provided in subparagraph (a)(4), above, subject to the following conditions:

(A) The employee requests the employee's appointing authority to restore the employee to the employee's position within ninety (90) calendar days after the effective date of the employee's discharge from active military duty; or

(B) The employee, if hospitalized at the time of discharge from active military duty, requests the employee's appointing authority to restore the employee to the employee's position within ninety (90) calendar days after discharge from the hospital; and

(C) The employee was separated from active military duty under honorable conditions and was entitled to reemployment benefits pursuant to Title 38 United States Code Section 4304.

(D) In the event an employee sustains a disability during military service and cannot perform the duties of his or her former position, the employee shall be reinstated in a position with similar pay, circumstances, and seniority.

(CB-1-1976; CB-165-1978; CB-102-1979; CB-98-1992; CB-1-2002)

**Editor's Note:** CB-1-2002, Section 2 required the Personnel Officer to establish a leave donation program and further provided that other funds identified by the County Executive would provide for the salary supplement if insufficient leave is not donated.

CB-1-2002, Section 3 provided that military leave benefits applied retroactively to any employee who was ordered to active military service on or after September 11, 2001.

CB-1-2002, Section 4 provided that the leave donation program and the supplement to military leave pay for employees who are no longer in a military leave with pay status created by CB-1 shall terminate on February 24, 2003.

CR-4-2003 provided for a military leave salary supplement and a continuation of health care benefits paid for by the County and provided that the salary supplement expires on February 25, 2005.

#### **Sec. 16-224. Disability leave.**

(a) An employee who is temporarily disabled in the performance of the employee's work shall be entitled to receive full salary for the period of the temporary disability without charge against the employee's annual or sick leave, subject to the following conditions:

(1) The disability is temporary in nature and resulted from an injury or illness sustained directly in the performance of the employee's work;

(2) Where the temporary disability incapacitates the employee to the extent that the employee appears to be unable to adequately perform the duties and responsibilities of the

employee's position, the employee may be detailed, in accordance with the provisions of Sections 16-122 and 16-189(c) to other duties within the capacity of the employee to perform, as determined by a licensed physician, for the period of the temporary disability; provided, however, that the unwillingness of the employee to accept such a detail as directed by the employee's appointing authority shall make the employee ineligible for disability leave during the period of temporary disability;

(3) A licensed physician employed or retained by the County shall provide a narrative report describing the nature of the illness/injury, the treatment plan, and the prognosis and shall certify to the physical and/or mental ability of the employee to continue working, to return to work, or to accept a temporary detail; provided, however, that the County may accept the narrative report and certification of the employee's licensed physician in lieu of the certification by the County's physician;

(4) Disability leave not to exceed one hundred and eighty (180) calendar days or such other amount established in the Salary Plan for any one (1) injury, including recurrences of the same injury shall be granted by the Director of Human Resources Management in accordance with personnel procedures promulgated by the Director of Human Resources Management;

(5) The employee shall assign to the County such nonmedical benefits as awarded for the temporary disability by the State Workers' Compensation Commission for the State of Maryland; and,

(6) The Director of Human Resources Management shall develop personnel procedures to implement the provisions of this Section.

(CB-1-1976; CB-128-1982; CB-124-1987; CB-22-2000; CB-91-2003)

#### **Sec. 16-225. Leave without pay.**

(a) General. Leave without pay may be granted to an employee by the employee's appointing authority with the approval of the Director of Human Resources Management. Leave without pay shall be granted only when the interests of the County will not be jeopardized due to the absence of the employee.

(b) Eligibility for Leave Without Pay. Leave without pay may be granted to any employee when the employee's appointing authority is reasonably certain that such leave is in the best interest of the County and that the employee will return to County service on or before the expiration of the approved period of leave.

(c) Granting of Leave Without Pay.

(1) Leave without pay may be granted by an appointing authority, with the approval of the Director of Human Resources Management, for periods up to, but not to exceed, one (1) calendar year for any one (1) request, for any one (1) of the following reasons:

(A) To retain an employee whose accumulated sick and annual leave, including advances, has been exhausted; or

(B) To allow an employee to participate in educational programs, when such participation will contribute to the employee's efficiency and effectiveness as a County employee; or

(C) To allow an employee who has applied for a workers' compensation temporary total award to be placed directly on leave without pay without requiring the employee to exhaust accumulated sick or annual leave; or

(D) To allow an employee who has been on approved sick leave or annual leave to be retroactively placed in a leave without pay status after receipt of a workers' compensation temporary total award, pursuant to duly developed, approved and issued personnel procedures.

(2) Leave without pay may be granted by an appointing authority, with the approval of the Director of Human Resources Management, for a period up to, but not to exceed, thirty (30) calendar days per request, for reasons personal to an employee.

(3) Upon exhaustion of an employee's sick leave, leave without pay shall be granted upon the written request of an eligible employee for family and medical leave, subject to the provisions of Section 16-225.01(b).

(d) Status of an Employee While on Leave Without Pay.

(1) The employee shall be placed in a nonpay status at the salary rate in effect as of the date immediately preceding the effective date of commencement of approved leave without pay.

(2) Subject to paragraph (3), below, the employee shall have the option to maintain active coverage under the County's health and life insurance plans and retirement program for the period of approved leave without pay, provided the entire costs thereof, including the employer contributions, are paid by the employee in a manner as determined by the Director of Human Resources Management under duly developed, approved and issued personnel procedures.

(3) If the employee is in an approved leave without pay status during a period of temporary disability resulting from injury or illness sustained in the performance of the employee's work, the County shall make such employer contributions as are required in order to maintain active coverage for the employee under the County's health and life insurance plans, provided the employee elects to continue payments of required employee contributions.

(4) If the employee receives a workers' compensation temporary total award for any portion of a period when the employee has been in an approved leave without pay status, the County shall reimburse the employee for the employer's cost of maintaining the benefits referred to in paragraph (2) of this Subsection, in accordance with duly developed, approved and issued personnel procedures.

(5) The failure of the employee to return to duty on or after the expiration date of the approved period of leave without pay shall be considered as an automatic resignation by the employee to become effective as of the date immediately preceding the date of the expiration of the leave.

(6) If the employee is in an approved leave without pay status for family and medical leave in accordance with Section 16-225.01(b), the County shall make such employer contributions as are required in order to maintain active coverage for the employee under the County's health and life insurance plans, provided the employee has been employed by the County for at least twelve (12) months and has been in a paid status for at least one thousand forty (1,040) hours during that time and elects to continue payments of required employee contributions. If the employee fails to return from family and medical leave after the period of leave has expired, for a reason other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to family and medical leave or other circumstances beyond the control of the employee, the County shall recover the premium that the County paid for maintaining health and life insurance coverage for the employee during any period of unpaid leave. The County may require that a claim that an employee is unable to return to work because of the continuation, recurrence, or onset of the serious health condition be supported by a certification issued by the appropriate primary health care provider.

(CB-1-1976; CB-128-1982; CB-107-1988; CB-47-1993; CB-13-1994; CB-22-2000; CB-91-2003)



**Sec. 16-225.01. Parental, family, and medical leave.**

(a) Parental leave. Up to five (5) days of paid parental leave shall be granted to employees who are eligible for family and medical leave pursuant to this Section.

(b) Family and Medical leave.

(1) General. Except as noted in this Subsection, family and medical leave shall be granted to employees who are eligible to earn annual leave who have been employed by the County for at least twelve (12) months and who have been in a paid status for at least one thousand forty (1,040) hours during the previous twelve (12) months. Family and medical leave shall also be granted, for purposes of parental responsibilities associated with the birth or adoption of a dependent child, to any employee eligible to earn annual leave, regardless of the employee's length of service with the County. An employee shall be entitled to a total of fifteen (15) workweeks of family and medical leave during any 12-month period.

(2) Duration. Family and medical leave shall not exceed fifteen (15) workweeks of any combination of paid leave and leave without pay in accordance with Section 16-225.

(3) Granting of family and medical leave. Subject to the provisions of Subsections (c) and (d), below, an employee may be granted family and medical leave only for one (1) or more of the following:

(A) Because of the birth of a child of the employee and in order to care for such child;

(B) Because of the placement of a minor child with the employee for adoption or foster care;

(C) In order to care for the spouse, child, parent, or parent-in-law of the employee, if such spouse, child, parent, or parent-in-law has a serious health condition;

(D) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee;

(E) The employee may use any combination of earned and available parental, sick, annual, or personal leave for paid family and medical leave.

(c) Approval of parental, family, and medical leave.

(1) Any employee may request parental, family, or medical leave.

(2) An appointing authority shall examine each request and determine whether the employee's request meets the provisions of this Section. An appointing authority may require an employee to submit certification by the appropriate primary health care provider in order to make this determination.

(3) The employee's request shall be granted if it meets the requirements of this Section.

(d) Use of parental, family, or medical leave. All leave taken pursuant to this Section:

(1) Must be used within twelve (12) months of the birth of the child or placement of the child with the employee for adoption or foster care;

(2) Is subject to a thirty (30) day advance notice requirement if the necessity for leave is foreseeable;

(3) May be taken under a method involving a reduced workday or workweek, an intermittent basis, or any combination thereof.

(CB-107-1988; CB-47-1993; CB-13-1994 CB-22-2000)

**Sec. 16-226. Absence without leave.**

(a) General. Absence without leave shall mean a nonpay status wherein the employee is absent from work without a specified grant of approved leave.

(b) Employee Status While Absent Without Leave. An employee absent without a specified grant of approved leave shall be subject to dismissal for the abandonment of the employee's position in accordance with the provisions of Section 16-193.

(c) Conversion to Other Leave. Absence without leave may be converted to annual leave, sick leave, or leave without pay with the approval of an employee's appointing authority upon presentation of acceptable proof by the employee that the unauthorized absence of the employee from the employee's position was due to extenuating circumstances beyond the employee's control.

(CB-1-1976)

**Sec. 16-227. Compensatory leave.**

(a) To the extent permitted by applicable Federal Law, all employees who are determined to be eligible for compensatory leave in accordance with the applicable provisions of the Salary Plan shall be granted such leave at such rates as are established under the applicable schedules within the Salary Plan for each hour or part thereof worked in excess of forty (40) productive hours per work week, subject to the following conditions:

(1) If the employee is exempted from the provisions of the Fair Labor Standards Act with respect to overtime compensation and the employee was determined to be eligible to receive overtime compensation for such excess hours worked in accordance with the provisions of Section 16-139, but funds were not available for the payment of such overtime compensation; or

(2) The employee was determined to be ineligible to receive overtime compensation for such excess hours worked in accordance with the provisions of Section 16-139.

(b) Any employee covered by the provisions of the Fair Labor Standards Act shall only be eligible to receive compensatory leave in lieu of overtime compensation to the extent permitted by applicable Federal law.

(c) Any employee entitled to be granted compensatory leave in accordance with Subsection (a), above, shall be granted such leave by the employee's appointing authority, provided that the compensatory leave shall be granted within a reasonable period of time after being earned or within such appropriate work period as may be required pursuant to any applicable Federal law.

(CB-1-1976; CB-107-1985; CB-22-2000)

**Sec. 16-228. Personal leave.**

(a) Personal Leave. Personal leave in an amount as established in the Salary Plan shall be granted to all permanent, full-time employees eligible for annual leave. Personal leave shall be granted to all permanent, part-time employees eligible for annual leave on a prorated basis in accordance with hours worked. Personal leave may be used for any purpose.

(b) Personal Leave Year. The leave year for personal leave shall be the wage reporting year.

(c) Charges Against Personal Leave. Personal leave may be taken in increments in accordance with the Salary Plan.

(d) **Personal Leave Accumulation.** There shall be no accumulation of personal leave days from one leave year to the next leave year. Unused time shall be forfeited at the end of the leave year, or upon separation or dismissal from County employment.

(e) **Request for Personal Leave.** Personal leave shall be requested by the employee and approved by the employee's appointing authority in advance of use.  
(CB-1-1976; CB-165-1978; CB-128-1982; CB-98-1992; CB-22-2000)

#### **Sec. 16-229. Furloughs.**

(a) Employees occupying full or part-time positions in either the classified or exempt service, who are entitled to earn annual leave as provided in Section 16-220, may be required to take leave without pay as a furlough under any one (1) of the following circumstances:

(1) Where the County Executive determines that an ascertained shortfall in revenue, based upon available projections, during any fiscal year requires the compensation level of a department, agency, or office to be reduced; or,

(2) Where a reduction in the compensation level of a department, agency or office is effectuated in the County's approved annual expense budget; or,

(3) Where an appointing authority requests, and the County Executive approves, furloughs for employees under the appointing authority's jurisdiction in order to meet the compensation level funded for the department, agency, or office in the County's approved annual expense budget.

(b) Whenever furloughs are required under any one (1) of the circumstances described in Subsection (a), above, the County Executive shall transmit to the County Council a Furlough Plan, in resolution form, which sets forth:

(1) The circumstance warranting the furlough action;

(2) The number of employees to be affected by the furlough action identified by agency, salary, grade and salary schedule;

(3) The number of furlough days or hours affected employees will be required to take;

(4) The period of time over which furlough days or hours will be required; and,

(5) The dollar amount of compensation savings expected to result from the Furlough Plan.

(c) The Furlough Plan shall not require any employee to take more than one (1) furlough day or eight (8) furlough hours of regularly scheduled work time, whichever is greater, in any given pay period, as defined in Section 16-126; provided, however, that in order to effect savings related to the closing of certain buildings for specified periods, the Furlough Plan may require more than one furlough day in a pay period provided that the furlough time shall be charged to employees in such a manner that no more than one (1) furlough day may be charged to an employee during any one pay period unless requested by the employee.

(d) The Furlough Plan may include the crediting of annual leave to the annual leave account of any employee required to take a furlough, in an amount equal to the number of furlough hours an employee is required to take, notwithstanding the annual leave accrual schedule or maximum accumulation established in Section 16-220 or any Salary Plan.

(e) Notwithstanding the provisions of Section 16-219, an employee on furlough the last regular work day before or the first regular work day after a holiday will be entitled to receive holiday leave pay.

(f) Notwithstanding the provisions of Section 16-220, an employee on furlough will continue to earn annual leave at the employee's regular annual leave earning rate.

(g) The County Council shall approve or reject the Furlough Plan as submitted by the County Executive.  
(CB-90-1991)

**Editor's Note:** CR-96-1991 approved a furlough plan submitted by the County Executive and provided a five-day increase in the permitted annual leave carry-over provision for employees in Salary Plan Schedules A, D-1, G, PO, S-1 (FO), and W-1.