

COMMONWEALTH OF MASSACHUSETTS
TOWN OF NEW MARLBOROUGH

PERSONNEL POLICY

Adopted October 20, 2003
Effective November 1, 2003
Amended August 16, 2004
Amended January 24, 2005
Amended *May 9, 2011*



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PERSONNEL POLICY

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I. GENERAL PROVISIONS

A. Authority

This personnel Policy is promulgated pursuant to the Board of Selectmen's authority as the Executive Officers for the Town and in its capacity as the appointing authority.

B. Purpose

1. To establish, in writing, policies and procedures governing employment with the Town.
2. To insure that all policies are consistently applied to employees of the Town.
3. To facilitate uniform and efficient administration of said policies and procedures.

C. Application

This policy shall be provided in writing to each new employee as part of his /her orientation packet.

These regulations apply to: full-time employees, part-time employees, and occasional employees. All those employees whose job requires them to work less than twenty (20) hours each week on a regular basis, seasonal employees, and other employees specifically exempt by law are not covered. The Highway Superintendent and Administrative Assistant shall be covered under separate contract with the Board of Selectmen. Employees of the Police Department and Fire Company are covered by separate policies on file in Town Hall or with the department supervisor.

D. Administration

The Board of Selectmen (the "Board") shall administer this policy. A review of this policy will be scheduled annually. A revised policy will be distributed to employees promptly after revisions.

E. Rules of Interpretation

These regulations are intended to be in accordance with all applicable State and Federal Laws. In the event of a conflict, the applicable State and Federal Law shall apply.

This policy statement supersedes all previous policy. Interpretation of any policy matter will be made by the Board.

F. Amendments

Proposals to change and/or amend these regulations shall be submitted to the Board in writing. A majority of the full Board shall, at a public meeting, ratify or disapprove the proposed amendment. The amendment shall become effective within fourteen (14) days of publicly posted notice.

G. Definitions

FULL-TIME EMPLOYEE – An employee hired to work a minimum of forty (40) hours per week on a regular basis.

PART-TIME EMPLOYEE – An employee hired to work less than forty (40) hours per week on a regular basis or an employee hired seasonally to work a minimum of forty (40) hours a week.

OCCASIONAL EMPLOYEE – An employee who is not hired on a regular basis, and works less than twenty (20) hours per week on a regular basis.

REGULAR BASIS – Expected to work every week of the year, subject to vacation and sick leave.

PROBATIONARY EMPLOYEES – All employees shall be probationary employees for the first three (3) months of their employment and for the first (3) months following an appointment into a different classification. During an employee's probationary period, the employee may be disciplined, up to and including termination, without cause and without notice.

EMPLOYEE FILE – Each employee shall have a file containing pertinent information, not limited to performance reviews, job descriptions, or supervisor's comments. The file is accessible to the employee and shall be located in the office of the Treasurer at the Town Hall.

EMERGENCY APPOINTMENT – Emergency appointments shall be for a term of three (3) months or less. The normal hiring process shall commence immediately after the emergency appointment.

H. Non-Discrimination

It is the continuing policy of the Town to recruit and employ the best qualified individuals without regard to race, color, creed, religion, national origin, age, sex, sexual orientation, handicap or status as disabled or veteran as defined and required by Federal and State laws and regulations. Equal opportunity applies to all personnel actions such as recruiting, hiring, compensation, benefits, promotions, training, transfers, terminations, and opportunities for training. No preference is given to the hiring of relatives or friends of current employees, but referrals are welcome.

Every new hire will be required to document and execute an INS verification form (I-9) stating that he/she is legally authorized to work in the United States.

I. Americans with Disabilities Act

The Town is committed to providing equal employment opportunities to otherwise qualified individuals with disabilities who are able to perform the essential functions of the job. The employee shall notify the immediate supervisor of the need for workplace modifications and the functional limitations caused by the disability. The immediate supervisor shall address such request. All requests will be reviewed by the Board. Also, when appropriate, the Town may require additional information from the employee's physician, other medical or other rehabilitation professionals.

J. Sexual and Other Non-Harassment Policy

The Town strives to maintain an environment where all employees will work free from unlawful harassment. The Town will not tolerate unlawful harassment of any kind, including offensive, unwelcome physical or verbal behavior regarding race, national origin, age or disability. Sexual harassment is also unlawful and is prohibited. The sexual harassment policy is on file in the office of the Board.

II. GENERAL HIRING POLICY

The Town will hire the most qualified persons. Any open, paid position in the Town for Full Time, Part Time or Occasional employment shall first be advertised in local periodicals to the extent determined by the Board. Each candidate shall present a resume of his/her work experience and a completed job application. The department supervisor who shall do the initial screening shall first review said applications. The supervisor's recommended list shall then be sent to the Board which shall schedule and conduct

screening interviews in closed session. A final public interview may be conducted by the Board.

In case an urgent, unforeseen vacancy occurs, a department supervisor is authorized to hire, on a temporary basis, an employee to fill that vacant position without a formal vote by the Board. Any person hired under this emergency provision shall have no expectations that the Board will appoint him/her permanently. If a department supervisor hires an employee to fill an unforeseen vacancy, the Board shall follow the general provisions of this section before appointing an employee to fill the vacancy.

Applicants' references, CORI (Criminal Offender Record Information) and SORI (Sex Offender Record Information) will be contacted as part of the selection process.

Required evaluations may be written, oral, practical, physical or any combination thereof. Physical examinations will be conducted by an independent agency such as an occupational resource service.

Effective immediately it shall be Town policy that all newly hired employees will be considered probationary employees for a period of three (3) months. After a satisfactory three-month review said new hires shall be accorded the same benefits as those provided to the Town's regular employees.

DRUG AND ALCOHOL POLICY

A complete Drug and Alcohol Policy for the Town is on file in the Town Hall. The Board reserves the right to implement additional drug and alcohol testing policies.

All persons being hired for a position that requires a Commercial Drivers License (CDL) must be given a provisional employee drug test under the Federal Highway Administration, Department of Transportation Alcohol and Drug ruling. All employees holding positions that require a CDL may be randomly tested for alcohol and drug use under that policy.

III. APPOINTMENT

The Board will make appointments, set starting salaries, and determine employment transfers, promotions, or demotions of all individuals. Recommendations of department heads will be given consideration.

Individuals selected for employment will receive written notification of a starting date and time and shall report to the Town Treasurer, who shall explain all of the benefits and options the employee is entitled to and shall assist the employee with the appropriate forms pertaining to payroll deductions, life insurance, group health insurance, retirement and others as applicable.

The department supervisor will be responsible for on-site training and orientation regarding specific rules, regulations, policies and procedures of the employee's assigned position.

The employee shall receive a copy of the job description pertaining to his/her position at the time of hire.

IV. COMPENSATION

A. Salary and Increases

The Board shall set compensation after consultation with the appropriate department supervisor. The department supervisor and the Board will reassess compensation of each employee annually.

B. Overtime

The normal workweek consists of forty (40) hours, Monday through Friday, based on an eight (8) hour day.

Hourly employees will be paid at the rate of time and one-half for hours worked in excess of eight (8) hours in one day and/or forty (40) hours in one week, with the exception of paid holidays (Section V(C)(1)). No other rate of overtime pay is authorized.

Supervisors will keep time-sheets on standard forms provided by the Town and submit weekly records to the Board.

C. Travel Time / Mileage

Employees authorized to operate their own vehicle for Town business shall be reimbursed at a per-mile rate set annually by the Board.

Toll fees, parking fees, etc. are not to be included in such reimbursement, and may be requested separately.

All requests for reimbursement must be made within thirty (30) days of their occurrence and submitted in writing with receipts to the Administrative Assistant, with the approval of the relevant department supervisor.

V. LEAVE

A. Vacation Leave

1. Schedule

The following vacation schedule is effective for all employees entitled to vacation time:

	<u>Days Vacation</u>
At end of First Full	
Year of Employment	5
Second	5
Third thru Seventh	10
Eighth and more	15

2. Eligibility

Vacation time begins to accrue with the conclusion of the probationary period, but is only available after the employee has completed twelve (12) consecutive months of employment.

3. Scheduling and Use

Paid vacation must be taken in the year following the full employment year in which it is credited.

Vacation pay will be made on the last payday before vacation leave is taken. If a holiday falls in an employee's vacation leave, the employee will receive an extra day off in the same fiscal year.

All requests for vacation or other leave for more than two (2) consecutive days must be made in writing to the supervisor or Board at least fourteen (14) days prior to requested vacation leave. On a weekly basis, supervisors shall report to the Board in writing all vacation leaves taken by an employee.

Employees may not trade extended work weeks for longer vacation leave than that specified for their years of service without the express, written consent of the Board.

4. Payment in Lieu of Vacation

Should circumstances arise which prevent an employee from using paid vacation leave, the employee may petition the Board for payment in lieu of such leave. Said payment may be for a period of ten (10) days or less, and shall be subject to fund availability. The Board's decision regarding such petitions shall be final.

Vacation days not taken due to work schedule will not be lost to the employee. A request for payment in lieu of or a request to hold over day(s) until a future time will be considered by the Board.

B. Part Time Employees

Part Time employees, who work less than forty (40) hours per week, will have his/her vacation time prorated according to the percentage of full time he/she works compared to forty (40) hours.

C. Paid Holidays

1. Holidays

Employees required to work on a holiday shall be paid at double the regular pay rate for any and all hours worked on that day and also shall be eligible to reschedule their holiday time off with approval of the department supervisor.

This is the schedule of paid holidays for the Town:

New Year's Eve (1/2day)
New Year's Day
Martin Luther King's Birthday
Presidents Day
Patriots Day
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans Day
Thanksgiving Day
Day after Thanksgiving
Christmas Eve (1/2 day)
Christmas Day

Full Time employees and Part Time employees shall be eligible for holiday leave upon hire. occasional employees shall not be paid for holidays unless they would normally work on the holiday.

2. Personal Leave

Full Time employees who have worked at least one (1) year shall be eligible per fiscal year for three (3) paid days for personal matters that cannot be conducted outside an employee's regular scheduled shift. Prior permission is required from the department supervisor.

3. Bereavement Leave

- a. Three (3) paid funeral days, not to be charged to personal or sick leave days, shall be granted for the death of spouse, child, parent, guardian, sibling, grandparent, or grandchild. If needed, additional days may be granted at the discretion of the department supervisor.
- b. One (1) paid funeral day per year for any other relative.
- c. Extenuating circumstances shall be considered by the Board in granting additional funeral days throughout the year with or without pay.

The supervisor must report all funeral days to the Board on a weekly basis.

D. Sick Leave

1. Paid Sick Leave

In the event of bona fide personal and non-service connected sickness or injury for which no compensation is received under Workers Compensation, salaried employees are eligible for sick leave. Supervisor must submit weekly record of days to the Board.

Employees shall be allowed up to three (3) days paid sick leave per year. After three (2) days absence, a doctor's certificate will be required for sick pay not to exceed fifteen (15) days. However, the Board may require a doctor's certificate at any time in the first three (2) days.

Eligibility for sick leave will begin after three (3) months of employment. Sick leave shall accrue from year to year. Upon an employee's termination of service to the Town, the employee would receive his accumulated sick leave days to be paid based on the salary prevailing at the time. Sick Leave accumulation will not exceed 14 days.

2. Leave of Absence without Pay

Leave of absence without pay may be granted at the discretion of the Board. Leaves of absence without pay will, however, generally be restricted to fourteen (14) days per year.

Family and Medical Leave is available to employees who have worked at least 1250 hours in twelve (12) months immediately preceding the leave. Under the provisions of the Family and Medical Leave Act, employees may take up to twelve (12) weeks of unpaid leave during a continuous twelve month period for certain family and medical reasons. It is available for the following reasons:

- a. For birth of a child and to care for the newborn.
- b. For placement with the employee of a child for adoption or foster care.
- c. To care for a spouse, child or parent with a serious health condition
- d. Because of employee's own serious health condition that prevents him/her from performing his/her job

Under the Federal Family and Medical Leave Act of 1993, employees that have actually worked 1250 or more hours in the prior twelve (12) month period are eligible for up to twelve (12) weeks of unpaid, job-protected leave in a twelve (12)-month period. Detailed provisions of the Act are on file.

E. Jury Duty

The salaried employees required to perform jury duty will receive the difference between his/her regular pay and the pay received from jury duty. The employee shall notify the supervisor of all jury duty days and provide verifying documentation in the week subsequent to the conclusion of jury service.

F. Notice of Days Off

On a weekly basis on the payroll sheet, the supervisor must give notice to the Board of all days off for any reason.

G. Breaks

An employee who works shall be entitled to a 1/2 hour unpaid lunch break. All other breaks shall be determined by the supervisor.

VI. INSURANCE BENEFITS

Eligibility

Employees regularly working a total of twenty (20) hours or more per week are eligible for insurance benefits.

The Town will provide group medical benefits, dental benefits and a \$10,000 life insurance policy to all Full Time and Part Time employees. The Town will contribute a minimum of 60% toward the monthly premium for each of these policies.

Workers Compensation is paid 100% by the Town for all employees.

The Town reserves the right to alter, amend, or modify any and all benefit plans.

VII. RETIREMENT PLAN

A copy of the Retirement Plan is on file in the Town Hall.

Full Time employees and Permanent Part Time employees automatically participate in the Berkshire County Retirement Plan. After ten (10) consecutive years of employment, and provided the employee is retired and not employed elsewhere, the Town will pay 50% of the health insurance premiums for the Employee only. Upon attaining the age of 65 years, an employee must enroll in Medicare Part B at which time the Town will pay 50% of the cost of Part B insurance and no other medical insurance premiums provided the employee is retired and not employed elsewhere.

VIII. SAFETY AND CLOTHING

An employee who has been issued or provided Town equipment such as uniforms, tools, vehicles, materials, etc. is expected to exercise reasonable care in the use and preservation of such equipment and to observe all safety precautions while carrying out assigned work. All such equipment shall be returned to the Town when employment ends.

IX. CONDUCT AND DISCIPLINE

A. Conflicts of Interest

All Town employees and officers are required to comply with the provisions of Massachusetts General Laws, Chapter 268 A, the Commonwealth Conflict of Interest Statute. Any potential conflict of interest should be disclosed and discussed with the department supervisor, who may in turn, seek counsel to determine if a conflict exists.

B. Town Property

Employees shall not use or allow the use of Town property of any kind for other than official or otherwise authorized activities.

X. DISCIPLINARY ACTIONS

Violations may result in verbal reprimand, written reprimand, and suspension with or without pay, probation or discharge. The severity of the disciplinary

action shall be in accordance with the severity of the situation as determined by the Board.

Such actions may be imposed upon an employee for failure to fulfill his/her responsibilities as an employee, including, but not limited to, any of the following:

- A. Failure to perform job requirements.
- B. Use of fraud in securing the position.
- C. Insubordination or disobedience in carrying out reasonable directions given by a supervisor.
- D. Consumption of alcoholic beverages while on duty.
- E. Use and/or possession of illegal narcotics while on duty.
- F. Reporting to work unable to perform duties due to use of alcohol or drugs.
- G. Conviction of a felony or a misdemeanor subject to a prison term of more than six (6) months
- H. Absent without leave without valid excuse.

XI. DISCIPLINE

All employees are required to follow regulations necessary for proper operation of Town departments. Disciplinary action shall be the responsibility of the department supervisor or appointing authorities that shall exercise their responsibility with discretion and with concern for the employee.

When discipline is deemed appropriate, it is policy to use a progressive system when practicable. Furthermore, discipline shall be for cause, and shall follow the basic concepts of due process as established by administrative procedures.

When disciplinary action is used, an employee will be informed verbally and/or in writing of the following specific elements:

The nature of the offense

Additional administrative action deemed appropriate

What the employee must do to avoid future disciplinary action

How much time the employee has to correct the problem

What further disciplinary actions will occur if performance does not improve.

All disciplinary actions are to be documented and retained in the employee's personnel file.

Disciplinary Actions

Verbal Reprimand

Verbal reprimand shall be presented with maximum regard to avoiding embarrassment to the employee and shall include a statement concerning the purpose of the warning. A verbal reprimand shall be noted in the employee's personnel file.

Written Reprimand

If the verbal reprimand fails to correct the situation, the employee shall be issued a written reprimand. This shall include the reason(s) for the reprimand and document a plan to remedy the situation, including specific date(s) by which the behavior shall be improved. The employee may include a written response to the reprimand in his/her file.

A written reprimand may be also used without a verbal reprimand if the seriousness of the action warrants it.

Probation

Should verbal or written reprimands fail to correct unsatisfactory job performance or a disciplinary situation, an employee may be placed on disciplinary probation for a period of no more than ninety (90) days. During the probationary period, the department supervisor and the employee will work together to correct the situation. When the probationary period expires, the department supervisor and the employee together will examine whether the employee's performance and/or behavior has been satisfactorily resolved.

The employee has the right to request a hearing before the Board during the probationary period.

Suspension

At the discretion of the department supervisor, an employee may be suspended without pay for cause as defined in Section X. Within two business days of the effective date of the suspension, the employee and the Board shall be provided with a written notice, stating the reason(s) for and the length of the suspension. A suspension shall be for a maximum of five (5) business days.

Suspensions may be in lieu of verbal or written reprimands and may be effective immediately.

The employee may request a hearing regarding the suspension before the Board which will schedule such a hearing within five (5) business days.

Termination for Disciplinary Reasons

All employees are subject to termination. The Board and the department supervisor shall provide the employee with written notice which states the reason(s) for the termination and the effective date of the termination. The employee has the right to a review hearing and must request this hearing within two (2) business days of the receipt of the termination notice. The hearing shall take place within ten (10) business days.

Until final determination, the employee will be placed in inactive status, without pay and is not permitted to enter the employment premises or earn benefits.

XII. PROCEDURE FOR EMPLOYEE CONCERNS

A. General

All employees have a right to have concerns regarding their employment heard in a fair, equitable and timely manner. An employee, or his/her legal representative, who brings up a concern, shall be entitled to a prompt response. The employee shall not be penalized in any way for expressing a concern, regardless of the outcome. All steps in the grievance procedure must be thoroughly documented in the employee's personnel file.

B. Grievance Procedure

A grievance is a dispute between an employee and the department supervisor arising out of an exercise of administrative discretion by the department supervisor.

The following steps shall be used in resolving the grievance:

1. Any employee with a concern will first discuss it with the department supervisor. They are encouraged to work together to resolve the problem at this level.
2. The employee and department supervisor shall then confer with the Board's Administrative Assistant who will act as a mediator.
3. If after such conference, a satisfactory understanding and/or solution of the grievance not been reached, the employee may appeal to the Board in writing within fourteen (14) days.
4. The Board shall act upon such grievance within fourteen (14) days. The decision of the Board shall be final and binding on all parties.

XIII. DISCLAIMER

Nothing in this policy is to be construed as a contract. The Town may change any terms or conditions of employment that are stated in the policy or are established through employment practices. No statement of policy or practice contained in this document shall be construed as a contractual commitment or obligation of the Town to any individual employee or any group of employees. All employees are employed on an at-will basis.

Policies, guidelines, and benefits described in this document will change from time to time. The Town reserves the right to amend, supplement or rescind any provision of this policy document as it deems appropriate. Revisions and updated materials shall be incorporated into the policy.

XIV. SEPARATION

Should any employee deem it necessary or desirable to leave the Town's employ, the employee will give the Board fourteen (14) days written notice prior to such separation date.

Unfinished Business

Pursuant to Mass. General Law, should the nature of the work require certain tasks to be completed, including, but not limited to final reports, audits, or return of Town property, the employee will be required to complete them to the supervisor's satisfaction. Town property issued to the separating employee must be returned in good condition prior to the separation date.

XV. EXIT INTERVIEWS

A. Purpose

An exit interview provides management with valuable information from the employee, will help shape future organizational policies and decision making, and brings formal completion to a relationship between the individual and the Town.

B. Procedure

1) The interview is voluntary for the employee. Upon receipt of the employee's letter of resignation, the department supervisor will initiate an exit interview with the employee prior to the last day of employment. If an interview cannot be scheduled prior to the termination date due to scheduling conflicts, the interview may be conducted after the termination date within one week.

2) In the event that the employee elects not to engage in an exit interview with the department head, she/he may request a meeting with the Board, which shall

designate a representative who will schedule a private meeting with the individual to discuss the reason(s) for resignation or dismissal. The Board may also invite an employee who has resigned or has been dismissed to meet with it through its representative. The Board reserves the right to invite any former employee to meet with the representative regardless of how his/her employment was terminated.

Following that meeting, the designated Selectman will meet with the department head to discuss the concerns of the employee. The Selectman will then report back to the full Board, which will forward any recommendations or instructions back to the department supervisor.

XVI. REIMBURSEMENT POLICY

A. Representation

The policy shall pertain to individuals who have left the employment of the Town, Town Officials, elected or appointed, who are no longer in service to the Town, but have been requested, directed, or ordered by a regulatory or judicial body to partake in events requiring their participation as a party involved in an action taken while they were in the employment/service of the Town. Prior to engaging in any such activities, the individual will obtain written authorization from the Board for purposes of any potential reimbursement. Failure to obtain said authorization will result in denial of reimbursement.

All requests for reimbursement of said expenses while the individual is employed by or in service to the Town should be governed by existing policies for employees/officials seeking reimbursement.

Once approved, all submitted expenses shall be documented in writing, with receipts and/or other necessary forms, letters, etc. and submitted to the Board.

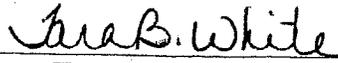
Under no circumstances may current or former employees request reimbursement for legal services or expenses associated with the employee's participation in the proceeding unless required by law.

Adopted this 9th day of May 2011.

This policy shall take effect immediately.



Charles M. Loring, III
Chairman



Tara B. White
Board of Selectmen



Lawrence H. Davis, III

This policy shall be provided, in writing to each new employee as part of his/her orientation packet.

All employees must sign the Acknowledgement page and return it as soon as possible.

ACKNOWLEDGEMENT

I, _____, certify that I have been given a copy of the Personnel Policy for the Employees of the Town of New Marlborough. I have read said policy and agree to conform to said policy in every way.

Employee's Signature

Printed Name

Date