Town of Concord

PERSONNEL BYLAW

2009

Personnel Bylaw

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DEFINITIONS

As used in this bylaw, the following words and phrases shall have the meanings shown below unless a different construction is clearly required by the context or by the laws of the Commonwealth.

"Board" - the Personnel Board.

"Classification" - a group of positions whose duties and responsibilities are sufficiently similar that the same descriptive title, qualifications and compensation can be applied with equity to all positions in the classification.

"Classification Plan" - a listing of all approved position classification titles and a summary job description for each classification.

"Compensation Plan" - a listing of the minimum, maximum and intermediate wage or salary rates for each title in the Classification Plan.

"Continuous Employment" - (either full-time or part-time) year-round employment which is uninterrupted except for authorized leaves of absence.

"Department Head" - the appointed official assigned administrative jurisdiction over a functional department of the Town.

"Employee" - an employee of the Town.

"Employment Status "- a category which defines the intended terms of an employment position, as to its length and number of hours worked.

"Full-time Employee" - an employee retained in a full time position.

"Full-time Position" - a position which requires the services of an employee for 37.5 or 40 hours per week whichever is defined as full-time for that classification.

"Limited Status Position" - a position which requires the services of an employee for either uninterrupted or occasional periods for an annual average of less than 20 hours per week and does not require reappointment for each period of work. *(Rev. 4/09)*

"Limited Status Employee" - an employee retained in a limited status position.

"Maximum rate" - the highest rate in a salary range.

"Minimum rate" - the lowest rate in a salary range.

"Part-time Employee" - an employee retained in a part-time position.

"Part-time Position" - any position which requires the services of an incumbent for less than the 37.5 or 40 hours per week, whichever is defined as full-time for that classification.

"Personal Rate" - a salary above the maximum rate of the salary range, applicable only to a designated employee.

"Position" - a defined set of duties and responsibilities to which one employee is appointed to perform.

"Promotion" - the movement of an employee from one position into another position which is in a classification with a higher maximum salary.

"Rate" - a sum of money designated as compensation for personal services on an hourly, weekly, annual or other basis.

"Reclassification" - the movement of a position from one classification to another classification.

"Regular Employee" - an employee retained in a regular position, either full-time or part-time.

"Regular Position" - a year-round, full-time or part-time position of 20 hours or more per week which requires the services of an employee in continuous employment for an indefinite term. *(Rev. 4/09)*

"Salary Range or Grade" - an established range of salary or wage rates included in the Compensation Plan.

"Salary Structure Movement" - Any increase or decrease in a salary range which is approved by Town Meeting.

"Seasonal Position" - a position which requires the services of an employee for a designated portion of each year.

"Step" - a specific rate in a salary range or grade.

"Temporary Employee" - an employee retained in a temporary or seasonal position or in a regular position on a temporary basis.

"Temporary Position" - a full-time or part-time position which requires the services of an employee for a temporary period of time. *(Rev. 4/09)*

"Town" - the Town of Concord.

Section 1. PURPOSE AND APPLICATION OF BYLAW

This Bylaw shall be known and cited as "The Town of Concord Personnel Bylaw." Its purpose is to establish an equitable and efficient system of personnel administration for Town employees.

All Town departments and positions shall be subject to the provisions of this bylaw except elected officers, employees with personal contracts, employees covered by a collective bargaining agreement, and employees of the school department. All questions of doubt or dispute relative to interpretation of this bylaw shall be settled by the Personnel Board. *(Rev. 4/97)*

If any provision or application of this Bylaw is determined to be invalid under state or federal law, such decision shall not be construed to affect the validity of any other application or provision of this Bylaw.

Section 2. PERSONNEL BOARD

This Personnel Bylaw shall be administered by a Personnel Board consisting of five (5) members. Members of the Personnel Board shall be appointed by the Board of Selectmen for three (3) year terms.

No member of the Personnel Board may be an employee of the Town nor hold Town office, whether appointed or elected, but any such member may serve on behalf of the Town on any committee negotiating with Town employees.

Members of the Personnel Board shall serve without compensation.

The Personnel Board shall meet regularly as necessary to consider such business as may be presented by Town officials, Town employees, and others.

At any meeting of the Personnel Board, action by a majority of those Board members present shall be binding. At least three (3) members of the Board shall be present in order to constitute a quorum.

Section 3. PERSONNEL POLICIES AND PROCEDURES

The Personnel Board and Town Manager shall adopt and maintain personnel policies and procedures to implement these bylaws and to address employment-related matters not covered by these bylaws. Such personnel policies and procedures shall include (but not be limited to) performance evaluation, grievance procedure, disciplinary action, layoff, employee safety, affirmative action and sexual harassment.

Employees shall be provided an opportunity to review and comment on any proposed personnel policy that could have a significant impact on the conditions of their employment.

Section 4. EMPLOYMENT STATUS

Each employment position in the Town of Concord shall be assigned one of the following "employment status" designations by the Town Manager. An employee shall be assigned the same employment status as the position he/she holds and the employee's eligibility for leave and insurance benefits shall be based on the employment status of that position as defined in this bylaw and personnel policy.

Regular, Full-Time: Continuous, year-round employment for 37.5 or 40 hours per week, whichever is defined as full-time for that classification.

Regular, Part-time: Continuous, year-round employment for less than full-time, but at least 20 hours per week. *(Rev. 4/09)*

Limited Status: Employment for uninterrupted or occasional periods for an annual average of less than 20 hours per week that does not require reappointment for each period of work. *(Rev. 4/09)*

Temporary (Full-time or Part-time): Employment in a seasonal position or for a temporary period of time, either on a full-time or part-time basis. *(Rev. 4/09)*

Each temporary or seasonal position held by an employee is considered separately in determining an employee's status. If an employee holds a series of consecutive temporary positions, he/she shall continue to be designated as a temporary employee.

Section 5. CLASSIFICATION PLAN

5.1 Definition and Authority

A classification plan shall be maintained for all regular-status Town positions. The Classification Plan shall consist of a listing of all approved position classification titles and a summary job description for each classification, both of which are hereby incorporated by reference into this bylaw. The Classification Plan shall provide a uniform system for grouping positions based on the nature and complexity of the duties assigned and the minimum qualifications required to perform those duties.

All changes to the list of job titles included in the Classification Plan must be approved by Town Meeting. No person shall be appointed or promoted to any regular-status position under a title not included in the Classification Plan.

5.2 Job Descriptions

The Personnel Board shall prepare and maintain summary job descriptions for all position classifications in the Classification Plan. Such descriptions shall consist of a statement describing the essential nature and level of the work performed by employees in that classification; illustrative examples of typical tasks and duties assigned; and the required or desirable qualifications for the classification.

These classification descriptions shall be interpreted as descriptive only and not restrictive. They shall be construed solely as a means of identifying and grouping positions and not as prescribing what the duties or responsibilities of any job shall be.

5.3 Allocation of Positions to Classifications

Whenever a new position is established, the Personnel Board shall review the duties and qualifications of the position and allocate it to the appropriate classification.

Whenever an existing position is assigned new duties so that a new level of work exists and in effect a new position is created, the Personnel Board shall review the duties and qualifications of the position and determine if it should be reallocated (i.e., "reclassified") to another classification. (See Section 10.4 of this Bylaw for information on how such a reclassification would impact an employee's pay.)

In the event the Personnel Board determines that a new or changed position requires the establishment of a position classification not included in the Classification Plan, it may temporarily authorize the addition of a new title to the Classification Plan, subject to ratification at the next Town Meeting.

5.4 Periodic Review of the Classification Plan

It shall be a responsibility of the Personnel Board to review position classifications and job descriptions at reasonable intervals, as it deems necessary and as resources are available.

Section 6. COMPENSATION PLAN

6.1 Definition and Authority

A compensation plan shall be maintained for all regular-status Town positions. The Compensation Plan shall consist of minimum, maximum and intermediate wage or salary rates for each title in the Classification Plan, and is hereby incorporated by reference into this bylaw.

Each department head shall be responsible for having the wages and salaries for regular-status Town employees under his/her jurisdiction fixed in accordance with, and only in accordance with, the rates set forth in the Compensation Plan.

6.2 Amendments to the Compensation Plan

All amendments to the Compensation Plan must be approved by Town Meeting. The Personnel Board shall be responsible for preparing and presenting recommended amendments to the Compensation Plan at Town Meeting.

In the event the Personnel Board determines that the establishment of a new position or the reclassification of an existing position requires a change in the compensation plan

(e.g., adding or changing a salary range or reallocating an existing classification to a different salary range), it may temporarily authorize the necessary change subject to ratification at the next Town Meeting.

Any increase in wages or salaries under this section shall be effective only if funds are available for the purpose.

6.3 Periodic Review of the Compensation Plan

It shall be a responsibility of the Personnel Board to review rates of pay at least every three (3) years. Whenever the Personnel Board reviews the Compensation Plan, it shall take into account and give such weight as it may deem appropriate to the following:

a. Rates of pay for like positions in other Massachusetts towns considered by the Personnel Board to be comparable to Concord.

b. Rates of pay for like jobs (if any) in commercial and business establishments in the area of Concord and vicinity.

c. The current level of the Consumer Price Index for Urban Wage Earners and Clerical Workers, Boston, Massachusetts.

Section 7. SALARY SCHEDULES FOR TEMPORARY AND LIMITED STATUS POSITIONS

The Personnel Board shall be responsible for establishing and maintaining salary schedules for temporary and limited status positions. No person shall be employed in a temporary or limited status position under a title or wage rate not included in the Personnel Board's approved salary schedules for such positions or in the Town's regular Classification and Compensation Plans.

Section 8. IN-TRAINING STATUS

Regular employees shall be considered to be "in-training" during their first six months of service in a position. Employees may be released from their position at any time during the in-training period without right to appeal such action through the Town's established grievance procedure. Prior to the end of the six month in-training period, each employee's job performance will be reviewed by the department head to determine if s/he should continue in the position. When extenuating circumstances exist, the Town Manager may extend the in-training period for up to an additional six (6) months.

Both new and promoted regular employees shall complete an in-training period.

Section 9. HOURS OF WORK

9.1 Work Week

The full-time work week for each employee shall be designated by the Town Manager as 37.5 or 40 hours in accordance with the duties and responsibilities of the position held. *(Rev. 4/97)*

9.2 Overtime

1. Employees determined to be non-exempt under the Fair Labor Standards Act shall receive one and a half times their hourly rate (including longevity and other special pays as required by federal law) for time worked over 40.0 hours in the work week. In addition, Personnel Policies and Procedures may provide for pay at one and a half times the hourly rate for time worked outside of an employee's regular work schedule. In lieu of overtime pay and with the mutual consent of the employee and his/her department head, these employees may receive compensatory time off at the rate of one and one half times the number of overtime hours worked. *(Rev. 4/98; 4/07)*

2. Employees whose positions are exempt under the Fair Labor Standards Act shall not receive overtime pay. These employees may receive appropriate compensatory time off for prolonged work hours with the prior approval of the Town Manager. *(Rev. 5/01)*

9.3 Non-contiguous Work

Employees determined to be non-exempt under the Fair Labor Standards Act who are assigned or recalled to work for periods that are non-contiguous with their regular workday will receive a minimum of four (4) hours pay for such work when the assignment or recall was made less than eight (8) hours prior to the scheduled start time. When eight (8) hours or more notice is given the employee for such work, a minimum of two (2) hours pay will be given. *(Rev. 4/07)*

Section 10. PAY POLICIES

10.1 Appointment Rates

New employees and employees who receive a promotion will typically be appointed at the minimum salary rate of the position's classification; however, the Town Manager may appoint an employee at a higher starting salary up to the mid-point of the salary range. In special cases, and with the prior approval of the Personnel Board, a new employee, and employees who are promoted, may be appointed at a salary above the midpoint of the range, but not in excess of the maximum rate. The Personnel Board shall routinely receive reports regarding appointments of new hires and appointments which are promotions. *(Rev. 4/95)*

10.2 Increases Within the Salary Ranges

The Town Manager and Personnel Board shall adopt a plan for providing employees with salary increases within the ranges specified in the Compensation Plan. Increases within the salary ranges may only be granted when an employee's performance is found to be satisfactory. *(Rev. 4/98)*

10.3. Incentives and Reward

The Town Manager and Personnel Board may adopt programs which provide monetary and/or non-monetary incentives and rewards to recognize unusual accomplishments and circumstances such as temporary additional duties, useful suggestions, high productivity, outstanding achievements, etc. Such incentives and rewards may provide an employee with pay which exceeds the maximum of the salary range, however, such pay may not become a permanent part of the employee's compensation. Any program adopted under this section shall be effective only if funds are available for the purpose. *(Rev. 4/97)*

10.4 Reclassifications

1. **Positions Reclassified to a Higher Salary Grade**
   An employee whose position is reclassified to a higher salary grade shall receive a rate of pay in the new salary range. The Town Manager may increase the employee's base rate of pay up to a percentage equivalent to the percent increment between the minimum pay of the former range and the minimum pay of the new range. When the position is in a step pay plan the employee will normally be paid a step in the new range which is closest to this percent. With prior approval of the Personnel Board the Town Manager may approve a salary outside of this guideline when circumstances relating to the position warrant a higher pay. In no case shall the employee receive a salary greater than the top of the salary range of the higher classification. *(Rev. 4/95)*

2. **Positions Reclassified to a Lower Salary Grade**
   If an employee's position is reclassified to a lower salary grade, the employee's current salary shall not change. If the employee's current salary is below the new range's maximum, the employee will receive salary increases in accordance with policy until the maximum is reached. If the employee's current salary is above the new range's maximum, the employee's current salary will become a personal rate and the employee shall receive no further increases in pay (including salary structure movement) until such time as the personal rate is exceeded by the new salary range.

10.5 Acting Pay

An employee may be assigned to assume temporarily some or all of the duties of another position from which an incumbent is absent. Additional compensation shall be given for such assignments when all of the following conditions have been met:

a. The employee is assigned to perform a majority of the significant duties of a budgeted, higher paid position from which an incumbent is absent.
b. The duties of the higher paid position are assigned to and performed by the designated employee for fifteen (15) or more consecutive work days.
c. The assignment is approved by the Town Manager.

Employees who perform the duties of a higher paid position under the above provisions, shall receive "acting" pay beginning on or retroactive to the first day of the assignment.

Acting pay shall be a rate in the salary range of the position being filled. The Town Manager may appoint an employee at an acting rate of pay up to an amount which provides the employee with a percent increase equivalent to the percent increment between the minimum pay of the employee's current range and the minimum pay of the new range. Employees who are assigned acting duties of a position in a step pay plan may be paid the step in the new range which is closest to this percent. With prior approval of the Personnel Board and when circumstances relating to the position warrant, an employee may be appointed at a rate of pay beyond this guideline. In no case shall the employee receive a salary greater than the top of the salary range of the higher classification. *(Rev. 4/95)*

Acting pay shall apply to any overtime worked in the higher classification (when eligible), but shall not apply to any paid leave taken or accrued during the acting assignment, unless authorized by the Town Manager.

10.6 Longevity Pay

Regular, full-time employees shall be entitled to receive "longevity" pay in recognition of years of continuous service, as follows:

# of Years Continuous Service	Longevity Pay
5	$125 per year
10	$250 per year
15	$400 per year
20	$600 per year

Regular, part-time employees will receive credit for years of continuous service on the same basis as full-time employees, but will receive longevity pay prorated to their average weekly work schedule.

Town Personnel Policies and Procedures may provide further definition of the calculation of continuous service and the schedule for payment of longevity pay.

10.7 Other Special Pays

1. **Stand-By Pay**
   When an employee is required to remain on call during off-duty hours, s/he shall receive stand-by pay in accordance with a schedule approved by the Town Manager and Personnel Board.

2. **Uniform Pay**
   Uniform pay may be granted to employees who are required to wear special clothing on the job, in accordance with a schedule approved by the Town Manager and Personnel Board.

10.8 Workers' Compensation

In the event a employee is incapacitated as the result of an injury or illness arising out of and in connection with his/her employment with the Town and for which workers compensation is payable, s/he may use first any accumulated sick and then any other accrued leave time to supplement the difference between workers compensation payments and the regular straight time rate of pay.

Section 11. SICK LEAVE

11.1 Accrual

Upon hire, each regular, full-time employee shall be credited with three (3) days of sick leave accrual. Additional sick leave will not be accrued until the employee completes three (3) months of service, at which time he/she shall begin to accrue sick leave at the rate of one day for each month of active employment. Each part-time regular employee shall accumulate sick leave on a prorated basis in proportion to the percentage of full-time hours worked There is no maximum on the amount of sick leave that may be accumulated. *(Rev. 5/01)*

11.2 Use

Sick leave is generally granted to employees for protection against loss of pay due to their own personal illness or injury, and to attend medical appointments with health care professionals. However, up to five (5) sick days per fiscal year may be used by an employee when his/her personal attendance is necessary during the illness or injury of an immediate family member. Use of more than five (5) days of an employee's accumulated sick leave for the purpose of caring for a family member may be approved by the Town Manager in the event of serious, long-term illness or injury. Definition of "immediate family member" for the purposes of family sick leave shall be determined by Personnel Policies and Procedures. *(Rev. 4/02)*

Department heads may, at their discretion, require medical certification of any illness or injury for which sick leave is used.

Town Personnel Policies and Procedures may provide further definition of the accrual and use of sick leave.

11.3 Sick Leave Payoff

Unused sick leave shall not be paid off when an employee terminates employment with the Town except upon retirement, as provided below.

When an employee who was hired prior to July 1, 1992 retires from Town employment, he/she shall be paid for 50% of the accumulated sick leave balance he/she holds at the date of retirement, up to a maximum of 62 days of pay (i.e., 50% of 124 days of accumulated sick leave). Employees hired on or after July 1, 1992 shall not be eligible for sick leave payoff upon retirement.

In the event of an employee's death while on the payroll of the Town (prior to retirement), his/her designated beneficiary shall be paid 50% of his/her accumulated sick leave at the date of his/her death, up to a maximum of 62 days of pay (i.e., 50% of 124 days of accumulated sick leave).

"Retirement" as used in this section shall mean when an individual begins to collect a retirement pension as an active Town retiree. An employee who voluntarily takes deferred retirement is not eligible for payment of accumulated sick leave.

Section 12. HOLIDAYS

12.1 Holiday Leave

Except as noted below, one day of paid leave shall be granted to all regular status employees for each of the following days:

Holidays	Observed On:
New Year's Day	January 1
Martin Luther King Day	Third Monday in January
Presidents' Day	Third Monday in February
Patriot's Day	Monday Designated by the Commonwealth
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans' Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day After Thanksgiving	Day After Thanksgiving
Christmas Day	December 25

The Personnel Board and Town Manager may adopt policies that reduce the amount of holidays granted and/or provide alternate holidays and dates of observance for employees who work in the Beede Center or other operations that remain open when Town offices are generally closed. *(New 4/08)*

Regular, part-time employees shall receive prorated holiday leave based on the ratio of their average weekly hours to the full-time workweek for their positions.

To qualify for holiday pay, an employee must be on paid status on his/her last regularly scheduled work day immediately preceding the holiday and on his/her first regularly scheduled work day immediately following the holiday.

Town Personnel Policies and Procedures may provide further definition of the leave and/or pay granted for holidays defined above.

12.2 Holidays Worked

Except as noted below, when an employee who is paid on an hourly basis is required to work on New Year's Day, Christmas Day or Thanksgiving Day, s/he shall receive two (2) times his/her hourly rate of pay in addition to any holiday pay for which s/he may be eligible. When such an employee is required to work on any other observed holiday, s/he shall receive one and one-half (1 1/2) times his/her hourly rate of pay in addition to any holiday pay for which s/he may be eligible. *(Rev. 5/01)*

The Personnel Board and Town Manager may adopt a different pay policy for holidays worked by employees in the Beede Center or other operations that maintain a different schedule than Town offices. *(New 4/08)*

The Fire Chief shall be paid for holidays worked in accordance with M.G.L. Chapter 48, Section 57E, as amended from time to time. *(New 5/01)*

The Police Chief shall be paid for holidays worked in accordance with M.G.L. Chapter 147, Section 17F, as amended from time to time. *(New 5/01)*

Section 13. VACATION LEAVE

13.1 Accrual

The Personnel Board and Town Manager shall adopt policies regarding how regular-status employees accrue vacation leave. *(Rev. 5/01)*

Regular, part-time employees shall accrue vacation on a pro-ration of the above schedule, based on the ratio of their average weekly hours to the full-time workweek for their positions.

Town Personnel Policies and Procedures may provide further definition of the accrual and use of vacation leave.

13.2 Maximum Vacation Accrual

Accumulation of vacation hours is limited to a maximum of the employee's annual accrual level, plus five (5) days. In unusual circumstances approved by the Department Head and Town Manager, an employee may accumulate more than this maximum.

13.3 Use and Payoff of Vacation

No vacation time may be taken until an employee has completed six (6) months of service, unless authorized in advance by the Town Manager. *(Rev. 5/01)*

When an employee leaves the employ of the Town, s/he shall be paid for any unused vacation earned up to the last day worked.

Section 14. BEREAVEMENT LEAVE

Up to three (3) days of paid leave may be granted by a department head to any regular employee when such leave is needed because of the death of a member of the employee's immediate family. Definition of "immediate family member" for the purposes of bereavement leave shall be determined by Town Personnel Policies and Procedures. The Town Manager may grant additional paid leave to an employee when warranted by special circumstances relating to a death. *(Rev. 4/04)*

Section 15. PERSONAL LEAVE

Each regular employee shall be granted three (3) days of paid personal leave during each fiscal year.

Personal leave may be used by the employee for any personal reason; however, the scheduling of such leave must be approved by the appropriate department head.

No personal leave may be taken until an employee has completed three (3) months of service, unless authorized in advance by the Town Manager. *(Rev. 5/01)*

Regular part-time employees are entitled to personal leave pro-rated to their weekly schedules.

Personal leave must be used in the fiscal year earned. Any unused personal leave shall be forfeited at the end of each fiscal year and upon termination or retirement. In the event a terminating employee has used more personal time during the current fiscal year than earned, the excess used will be charged against accrued vacation or deducted from final pay as necessary. *(Rev. 5/93)*

Town Personnel Policies and Procedures may provide further definition of the accrual and use of personal leave.

Section 16. MILITARY LEAVE

Employees who serve as members of a reserve component of the US armed forces shall receive their regular pay, in addition to any military pay, for up to seventeen (17) days of their annual tour of duty (per M.G.L. Chapter 33, Section 59 as adopted by Town Meeting, March, 1948). Annual tour of duty does not include orientation courses and weekend or other inactive duty drills.

A reservist employee shall receive unpaid leave to attend orientation courses and weekend or other inactive duty drills unless the employee elects to voluntarily take vacation, holiday, or personal leave time.

Section 17. JURY DUTY

Regular employees who serve on jury duty on any regularly scheduled work day shall receive the difference between their normal pay and pay received for jury duty (excluding travel allowance). An employee will report to work on any scheduled work day that his/her attendance is not required for jury duty.

For the purposes of this policy, "regular" employment shall be defined by M.G.L. Chapter 234A, Section 48.

Section 18. UNPAID LEAVES OF ABSENCE

18.1 Family and Medical Leave

The Town Manager and Personnel Board shall adopt and implement personnel policies and procedures which comply with the Family and Medical Leave Act of 1993. *(Rev. 4/94)*

18.2 Other Leaves of Absence

Unpaid leaves of absence not covered by the Family and Medical Leave Act of 1993 may be granted at the discretion of the Town Manager. *(Rev. 4/94)*

18.3 Accruals During Leaves

Employees may be required to use other accrued leave balances prior to being granted any unpaid leave of absence, as determined by Town Personnel Policies and Procedures. No paid leave time or seniority shall accrue to an employee beyond the thirtieth (30th) calendar day of an unpaid leave of absence.

Section 19. INTERRUPTION OF EMPLOYMENT

Any regular employee who leaves Town service while in good standing and is subsequently rehired by the Town will, upon successful completion of one year's service, be given credit for his/her previous years of service for the purposes of vacation accrual and longevity pay.

Section 20. LEAVE FOR TEMPORARY AND LIMITED-STATUS EMPLOYEES

Temporary and limited-status employees may be eligible for paid sick, holiday, vacation and/or personal leave when approved by the Town Manager and Personnel Board. *(New 5/01)*