

Town of Shutesbury

Number: 940507

Personnel bylaw

Bylaw Name _____

Adopted at the **Annual**/Special Town Meeting held: May 7, 1994

and approved by the Attorney General's Office on _____

Amendments:

Town Meeting date	Attorney General approval date
May 6, 2000	
May 5, 2001	
May 4, 2002	
May 27, 2003	
May 1, 2004	
February 7, 2006	N/A

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BY:.....

TOWN OF SHUTESBURY

PERSONNEL BY-LAW

Adopted: May 1995
Amended: May 2, 1998
Amended: May 6, 2000
Amended: May 5, 2001
Amended: May 4, 2002
Amended: May 27, 2003
Amended: May 1, 2004
Amended: February 7, 2006

TOWN OF SHUTESBURY

Personnel Bylaw

SECTION 1. Name of Bylaw/Authority

- 1.1 This bylaw shall be known as the Personnel Bylaw of the Town of Shutesbury and is hereby adopted pursuant to the provisions of Chapter 41 of Section 108C.

SECTION 2. Coverage/Applicability

- 2.1 This bylaw is applicable to all persons employed by the Town of Shutesbury except school employees, Town Counsel, unionized employees and those who render certain intermittent, temporary or casual services. This bylaw does not constitute a contract of employment.
- 2.2 Should the provision of a Collective Bargaining Agreement or Professional Contract be in conflict with the Personnel Board Bylaw, the provisions of the Collective Bargaining Agreement or Professional Contract shall prevail.
- 2.3 It shall be the policy of the Town of Shutesbury to guarantee equal opportunity to all qualified applicants and to all employees with respect to initial appointment, advancement, compensation and general working conditions without regard to age, race, creed, color, sex, national origin, disability or sexual preference.
- 2.4 Employees hired before the adoption of this bylaw will not lose any pre-existing benefits passed by Town Meeting or authorized by the Selectboard, as noted in written records.

SECTION 3. Definitions

As used in this bylaw, the following words and phrases shall have the following meanings unless a different meaning is clearly required by the context or by Federal or State laws.

- 3.1 **Administrative authority:** The elected or appointed board or individual having jurisdiction over a function or activity.
- 3.2 **Board:** The Personnel Board, as defined by Section 4 of this bylaw.
- 3.3 **Casual service:** Service rendered by an employee in a position calling for part-time employment, which service does not constitute continuous employment. This service is rendered occasionally and without regularity according to the demands therefor.
- 3.4 **Compensation plan:** The totality of all wage and salary schedules.
- 3.5 **Conflict of Interest:** Public employees are covered by G.I. c.268A, which is the conflict of interest law. If an employee has any questions regarding that law, they are advised to contact the State Board of Ethics.
- 3.6 **Continuous employment:** Employment uninterrupted except for vacation leave, sick leave, or other authorized leave of absence.
- 3.7 **Department:** Any working unit, board, committee, commission or other agency of the town subject to this bylaw.
- 3.8 **Department head:** In addition to all other duties, the individual within a department or boards, committees or commissions with the authority to recommend individuals to the Selectboard for appointment, discipline, termination.

- 3.9 Employee: A paid person who is appointed to a full-time, part-time or intermittent position.
- 3.10 Employee Eligible for Benefits (EEFB): A paid person who works twenty (20) or more hours per week and is therefore entitled to benefits.
- 3.11 Exempt employee: A salaried employee who is employed in an executive, administrative or professional capacity and is not generally entitled to overtime pay. Reference the Fair Labor Standards Act.
- 3.12 Family: The immediate family shall include the employee's spouse or significant other, children, parents and siblings.
- 3.13 Full-time employee: An individual retained in full-time, continuous employment as defined below.
- 3.14 Full-time employment: Employment for not less than forty hours per week, fifty-two (52) weeks per year, minus legal holidays and authorized vacation leave, sick leave and other authorized leaves of absence.
- 3.15 Hourly employee: Non-stipend position with either continuous or non-continuous service dependent on the length of the task.
- 3.16 Increment: The dollar difference between step rates.
- 3.17 Intermittent service: Service rendered by an employee in a position calling for part-time employment, which service, although constituting continuous employment is not rendered during prescribed working hours, daily, weekly or annually, but is rendered according to the demands for such service.
- 3.18 Leave without pay: Leave of absence from employment approved by Administrative Authority for a definite time period during which employee shall accrue no benefits.
- 3.19 Maximum rate: The highest rate in a range that an employee normally is entitled to attain.
- 3.20 Minimum rate: The lowest rate in a range that is normally the hiring rate of a new employee.
- 3.21 Non-exempt employee: An employee whose primary duty is not executive, administrative or professional in nature. Reference the Fair Labor Standards Act.
- 3.22 Part-time employee: An individual who works less than full time and is not seasonal.
- 3.23 Part-time employment: Employment for less than full-time employment, as defined.
- 3.24 Personal rate: A rate above the maximum rate applicable only to a designated employee.
- 3.25 Position: An office or post of employment in the Town service with duties and responsibilities calling for the full-time or part-time employment in the performance and exercise thereof.
- 3.26 Promotion: A change from a position of lower pay and/or compensation to a position with greater pay and/or compensation.
- 3.27 Range: The dollar difference between minimum and maximum rates of pay, for a particular job.
- 3.28 Rate: A sum of money designated as compensation for hourly, daily or weekly service.
- 3.29 Review Period: Initial six-month period of employment in a position during which time evaluation takes place.
- 3.30 Salaried employee: An individual receiving a set sum of pay for weekly compensation for the job regardless of exempt or non-exempt status.
- 3.31 Seasonal employee: A temporary employee engaged periodically.
- 3.32 Town: The Town of Shutesbury.

SECTION 4. Personnel Board

- 4.1 Pursuant to the vote of Annual Town Meeting in May 1991, there was established a five (5) person Personnel Board. The Personnel Board is charged with the following responsibilities:
 - 4.1.1 Providing for the compilation of a Personnel Bylaw for the Town of Shutesbury and recommending amendments, additions and revisions thereto.
 - 4.1.2 Describing the duties and responsibilities of all positions to which this bylaw is applicable.
 - 4.1.3 Reviewing periodically the duties and responsibilities of such positions.
 - 4.1.4 Proposing a compensation plan for those positions.
 - 4.1.5 Reviewing said compensation plan.
 - 4.1.6 Proposing working conditions and fringe benefits for employees occupying the positions to which this bylaw is applicable.
 - 4.1.7 Providing for the compilation and revisions of an employee handbook which describes the conditions of employment with the Town including job descriptions, compensation plans, fringe benefits and vacations.
- 4.2 The membership of the Personnel Board shall be as follows: One (1) member appointed by the Board of Selectmen; one (1) member of the Finance Committee to be drawn from and chosen by the Finance Committee; and three (3) members at large to be appointed by the Moderator. All moderator-appointed members shall be registered voters of the town and no appointees shall be employees of the Town or under the direction of the School Committee. The term of office shall be for three (3) years, except for the first term, which shall be as follows in order to create staggered terms: Selectman, one (1) for one (1) year; Finance Committee one (1) for two (2) years and three members at large, one (1) for one (1) year, one (1) for two (2) years, and one (1) for three (3) years. The Town Administrator shall be a non-voting member.
- 4.3 Vacancies, other than by expiration of terms, shall be filled in the same manner and by the same authority for the balance of the unexpired term as outlined in 4.2 above. In the event that such a vacancy is not filled within sixty (60) days, the remaining members of the Personnel Board shall fill the vacancy for the balance of the unexpired term.
- 4.4 A member may be appointed to succeed himself/herself, but the entire tenure shall not exceed three (3) consecutive terms of office [nine (9) years].
- 4.5 The Board shall be invested with all the powers and duties specified in MGL Chapter 41 Section 108C.
- 4.6 Within thirty (30) days after the Board has been appointed and annually, it shall convene and by majority vote, elect among the Board membership:
 - 4.6.1 A Chairperson
 - 4.6.2 A Secretary
- 4.7 Duties of the Chairperson
 - 4.7.1 Call the Board together and preside at its meetings
 - 4.7.2 Represent the Personnel Board at Selectboard meetings, town meetings and budget hearings
 - 4.7.3 Prepare for publication any proposed bylaw amendments and administer the process prescribed for such amendments
 - 4.7.4 Act as the administrator of this bylaw and initiate such activity as prescribed by the bylaw.

- 4.7.5 Chair may appoint a Vice-Chairman pro tem to assume responsibility in the Chair's absence.
- 4.8 Duties of the Secretary:
 - 4.8.1 Inform the Town Clerk of all Board meetings so that they can be posted as required by law
 - 4.8.2 Keep Board minutes and receive and deliver communications
 - 4.8.3 Immediately, and not later than ten (10) days after occurrence, notify in writing the Town Clerk and the appointing authority of a vacancy on the Board
 - 4.8.4 Be responsible for all its files and records
 - 4.8.5 Prepare its annual report in cooperation with the Chair
 - 4.8.6 Submit to the Town Clerk one (1) copy of the minutes of each meeting.
- 4.9 Any three (3) members shall constitute a quorum for the transaction of business.
- 4.10 The Board shall oversee the administration of personnel policies and shall establish such procedures as it deems necessary for the proper administration thereof. It may employ assistance and incur expenses as it deems necessary, subject to the appropriation of funds therefor.
- 4.11 The Board shall maintain the employee handbook provided for in Section 4.1.6 of this bylaw.
- 4.12 Additional Board responsibilities:
 - 4.12.1 From time to time, on its own motion, investigate the duties and rates of salaries or wages for any or all positions of this bylaw. Such reviews shall be made at such intervals as the Board deems necessary and to the extent which the Board considers practicable. The Board of Selectmen may on an annual basis request that such an investigation be made.
 - 4.12.2 The Board shall assist the Selectmen and departments by preparing and reviewing current information as to municipal salary and wage rates, fringe benefits and working conditions, acting in this capacity as the technical staff to the Town.
 - 4.12.3 The Board shall maintain written job descriptions for all Town positions. Each description shall consist of a statement describing the essential functions of the job and the characteristics that distinguish each position. A job description is intended to generally describe the responsibilities pertaining to a particular position and is not meant to interfere with the ability of the immediate supervisor to assign duties.
 - 4.12.4 The Board shall monitor and oversee the administration of this bylaw. From time to time, by its own vote, it may issue, amend or revoke its policies, regulations and procedures. The Personnel Board may also recommend amendments to this bylaw and submit such amendments to the Town Meeting.

SECTION 5. Employment Practices

5.1 Hiring

- 5.1.1 Hiring authority: The Selectboard, with the advice and recommendations of the department heads (and others) is the hiring authority with the following exceptions:
- 5.1.1.1 The Library Trustees hire the Library Director
 - 5.1.1.2 The Superintendent or Principal hires school personnel with approval by the School Committee
 - 5.1.1.3 The Fire Chief appoints the deputy and such officers as he/she may think necessary
 - 5.1.1.4 The Regional Health District hires the Health Agent.

5.1.2 Hiring Procedures

- 5.1.2.1 Subject to the provisions of this policy, if a vacancy occurs or a new position is established, the Department Head shall, subject to the approval of the Selectboard, advertise the opening. The Selectboard, with the advice and recommendations of the department heads (and others) is the hiring authority. Positions will be filled in accordance with the search procedures. No open positions, part-time or full-time, for employment in the Town, shall be filled until the position has been posted for at least seven (7) days on a public bulletin board at the Town Hall, except those positions filled on an emergency basis. Applications shall be received and interviews conducted as specified in the major or minor search procedures.
- 5.1.2.2 Prior to being interviewed, a prospective employee will be given a job description and a copy of the benefit package pertaining to her/his prospective position.

5.1.3 Physical exam: After a conditional offer of employment is made, employees in certain departments (as determined by the Selectboard) may be required to complete a physical examination for the sole purpose of determining if the employee can perform the essential functions of the job.

5.1.4 Review Period: The first six (6) months of an employee's continuous service shall constitute her/his review period. The employee will receive notification of completion of the review period.

5.2 Compensation

- 5.2.1 Compensation shall be in accordance with the Compensation Plan. The starting point in the salary range will be determined by the Selectboard/Search Committee with regard to experience and expertise in the field.
- 5.2.2 Employees hired before March 15th will be eligible for a Step Increase at the beginning of the next fiscal year pending successful completion of the review period.

5.3 Hours

- 5.3.1 The working day for an EEFB shall be 8 hours.
- 5.3.2 The working week for an EEFB shall be 40 hours.
- 5.3.3 The working week for part-time personnel shall be pro-rated based on a 40 hour week. For example, a twenty (20) hour work week divided by five (5) days would be a four-hour day. It will always be assumed that the number of hours worked per week is divided by five (5) days regardless of the number of actual days or the length of the day worked
- 5.3.4 Overtime - Non-exempt Employees
 - 5.3.4.1 Compensation for hours over 40 shall be compensated by paying the employee 1.5 times his/her hourly rate for those hours or by granting him/her 1.5 times the number of hours off with pay depending on the employee's choice. Said hours off shall be taken within the same or subsequent week.
 - 5.3.4.2 All working time on Sundays or holidays shall be compensated for at 2 times the regular hourly rate or 2 times the number of hours off with pay unless those days constitute a regular working day for the individual.
 - 5.3.4.3 If a part-time employee is asked to work more than his/her regularly scheduled hours, he/she shall be paid at his/her regular hourly rate, unless and until, the number of hours worked exceeds forty (40) in one week. If the employee is unable to work the additional hours, it will not reflect negatively on his/her employment.
 - 5.3.5.4 All overtime hours must be approved in advance by the employee's supervisor in writing.

SECTION 6. Disciplinary Action/Grievance Procedures

- 6.1 Disciplinary Actions. The Supervisor may use any, all or none of the following actions as indicated in the discipline of an employee: Oral reprimand; Written reprimand; Disciplinary Probation; Suspension; Termination. These actions are to be utilized in accordance with the procedures set forth in the Personnel Handbook for the Town of Shutesbury.
- 6.2 Grievance Procedures. Grievances may be pursued and addressed in accordance with the procedures set forth in the Personnel Handbook for the Town of Shutesbury.

SECTION 7. Leaves and Holidays

- 7.1 Bereavement:
An EEFB is entitled to three (3) days bereavement leave for a death in the immediate family. One (1) day will be granted for any other special, long-term relationship. The Selectboard may grant, at their discretion, special bereavement leave in the event of a death.
- 7.2 Family and Medical Leave. An EEFB is entitled to family and medical leave in accordance with the Family and Medical Leave Act of 1993 and any other amendments thereto and in accordance with the provisions of the relevant state statute. The description of and procedures for such leave are described in the Personnel Handbook of the Town of Shutesbury.
- 7.3 Holidays
- 7.3.1 The recognized holidays shall be New Year's Day, Martin Luther King Day, Presidents' Day, Patriot's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day. Any holiday falling on a Saturday will be celebrated on the preceding Friday, and any holiday falling on a Sunday will be celebrated on the following Monday. All EEFBs are entitled to be paid for these holidays. Should an employee be required to work on a holiday, he/she shall receive twice the basic rate of pay for hours worked on the actual holiday. This provision does not apply to those employees who are regularly scheduled to work on Sundays or holidays. An employee who does not normally work on a day a holiday is observed may take the next work day as that holiday.
- 7.3.2 On an annual basis, the Selectboard may decide to grant extra time around Thanksgiving Day, Christmas Day and New Year's Day.
- 7.4 Jury Leave
- 7.4.1 Employees who are required to serve on a jury shall be paid their full pay by the Town for the first three (3) days of such jury duty.
- 7.4.2 For service beyond the three (3) days, the Town will make up the difference (excluding travel) between the employee's regular compensation and the jury compensation for a period not to exceed four weeks.
- 7.4.3 Proper evidence of jury duty must be submitted to the department head.

- 7.5 Leave without pay
EEFBs may take an unpaid leave of absence for up to two months with the approval of Administrative Authority and the Selectboard.
- 7.6 Military Leave
Employees who are called for temporary military duty shall receive a leave of absence pursuant to Massachusetts General Laws, Chapter 33, Section 59, or based upon provisions of all federal acts including the Gulf War Veteran Act. The employee must present his/her department head with a copy of his/her military orders regarding the leave request.
- 7.7 Personal Leave
- 7.7.1 An EEFB shall be entitled to a number of hours equivalent to two (2) paid, pro-rated personal days per year. This time does not accrue beyond the end of the fiscal year. In the event that an employee holds two positions, only one of which is benefited, the personal time shall be based on the total hours worked in both positions, not to include overtime.
- 7.7.2 Each personal day is proportional to the percent of total time worked, in relation to an eight (8) hour full-time day. For example, a twenty (20) hour workweek divided by five (5) days would be a four-hour personal day. Employees may take partial personal days with the Supervisor's permission.
- 7.8 Sick Leave
- 7.8.1 Sick leave may be used because of the illness of the employee or the immediate family. A doctor's documentation of illness will be required by the supervisor for an absence of more than five (5) consecutive workdays.
- 7.8.2 EEFBs shall be entitled to a number of hours equivalent to fifteen (15) paid sick days per year. Each sick day is proportional to the percent of regular time worked, in relation to an eight (8) hour full-time workday. For example, a twenty (20) hour workweek divided by five (5) days would be a four-hour sick day. Employees may take partial sick days with the Supervisor's permission. In the event that an employee holds two positions, only one of which is benefited, the sick time shall be based on the total numbers of hours worked in both positions, not to include overtime.
- 7.8.3 Employees may carry over unused sick days, accumulating up to the equivalent of ninety (90) days. Upon termination of employment, the employee will not receive payment for unused sick leave time.
- 7.8.4 Emergency Sick Leave Bank. A bank of sick leave time shall be established to allow for the voluntary contribution of time by employees for the emergency use by an employee whose leave has been exhausted. Procedures for such a bank will be established and overseen by the Personnel Board or its designee.
- 7.9 Vacations
- 7.9.1 Vacation time accrues from the beginning of the employment period but may not be used until the end of the review period.
- 7.9.2 Earned vacation days which are not used in the year earned may be accumulated to a maximum of the employee's annual allotment of vacation time or to a maximum of number of hours equivalent to twenty (20) days, whichever is smaller. The time must be used before the end of the next fiscal year.

- 7.9.3 Part-time employees who work 20 or more of the regular hours as defined in Section 5 are entitled to paid vacation on a pro-rated basis. For example, a twenty (20) hour work week divided by five (5) days would be a four-hour vacation day. In the event that an employee holds two positions, only one of which is benefited, the vacation time shall be based on the total hours worked in both positions, not to include overtime.
- 7.9.4 The supervising authority and employee shall schedule all vacations so that the vacation time will cause the least interference with the performance of the regular work of the Town. Employees may take partial vacation days with the Supervisor's permission.

<u>Time in Service</u>	<u>Time of Vacation Earned</u>
1-6 months	5 days
6-12 months	an additional 5 days
2 years	11 days
3 years	13 days
4 years	14 days
5 years	15 days
6 years	16 days
7 years	17 days
8 years	18 days
9 years	19 days
10 years	20 days
11 years	21 days
12 years	22 days
13 years	23 days
14 years	24 days
15 years	25 days
16 years	26 days
17 years	27 days
18 years	28 days
19 years	29 days
20 years	30 days

- 7.9.5 In case of the involuntary termination of an employee, vacation time from the prior year shall not be compensated in cash or otherwise. The employee shall receive compensation for any unused time accrued during the current year.
- 7.9.6 Provision may be made for a new employee with previous relevant experience to begin employment with an appropriate level of vacation days as determined by the hiring authority.
- 7.10 Small Necessities Act. Pursuant to MGL Chapter 109 Act of 1998, an employee who is covered under FMLA is allowed to take off up to 24 hours per year without pay to take care of essential family business.

SECTION 8. Employment Benefits

8.1 Insurance

- 8.1.1 Health Insurance: Health Insurance, including an HMO, PPO and Indemnity plans, is available to all EEFBs. The Town of Shutesbury contributes 75% of the premium with the employee paying 25% unless these percentages are changed by a Town vote. An employee who leaves employment (for reasons other than gross misconduct) may continue to receive group coverage through COBRA (Consolidated Omnibus Budget Reconciliation Act) for up to 18 months. Said employee will be responsible for 100% of all insurance premiums and will be required to pay a 2% administrative fee in addition to the full premiums. Employees eligible for Medicare shall be required to obtain such coverage and shall be eligible for supplemental health insurance coverage.
- 8.1.2 Life Insurance: It is offered to eligible employees. The Town of Shutesbury contributes 75% of the premium with the employee paying 25% unless these percentages are changed by Town vote.
- 8.1.3 Worker's Comp: Employees are covered by worker's comp for accidents that occur while on the job.
- 8.1.4 Employee Assistance Plan: EAP is available to eligible employees who feel the need to ask for counseling.
- 8.1.5 Dental Insurance: Dental Insurance is available to all eligible employees. The employee is responsible for paying 100% of the premium.
- 8.1.6 Long-term disability insurance is available to all eligible employees. The employee is responsible for paying 100% of the premium.

8.2 Retirement

- 8.2.1 Participation in the Franklin County Retirement System (FCRS) is mandatory for all employees who are eligible under their rules and regulations. Individuals not eligible for participation in the FCRS shall participate in the O.B.R.A. (Omnibus Budget Reconciliation Act) system.
- 8.2.2 A qualified retiree may enroll in a Shutesbury Health Insurance program within 60 days of retirement, or a qualifying event, if the individual was enrolled in a Shutesbury Health Insurance Program for at least one year prior to retirement.

Upon retirement (but not resignation) from Shutesbury on or after the eligible retirement age and after a minimum of ten (10) years of creditable service in Shutesbury in an EEFB (employee eligible for benefits) position, the Town will pay 50% of the cost of an individual health plan offered by the Town. Retirees will have the option of applying the Town contributory dollar amount to the same health benefit family plan. Employees eligible for Medicare shall be required to obtain such coverage and comply with Chapter 32B section 18 of the M.G.L.

The surviving spouse of a retiree may enroll in a Shutesbury Health Insurance program within 60 days of the eligible retiree's death. The Town will pay 50% of the cost of an individual health plan offered by the Town. Said spouse will have the option of applying the Town contributory dollar amount to the same health benefit family plan. Spouses eligible for Medicare shall be required to obtain such coverage and comply with Chapter 32B section 18 of the M.G.L. and shall lose this

benefit should they remarry or qualify, through their own employment, for another health benefit.

8.3 Professional Development benefit.

Employees should make every effort to participate in available training programs within their department's budget. The Personnel Board will consider requests for supplemental funds for unanticipated learning opportunities.

SECTION 9. Repeal and Amendments

The Town of Shutesbury Personnel Policy Bylaw may be repealed or amended by a majority vote of Town Meeting following a public hearing called for the purpose of discussing the proposed changes.

SECTION 10. Severability

In the event that any provision of this bylaw shall be deemed invalid, unreasonable, illegal or unconstitutional by a court of law, such provision shall be stricken or modified so as to render it valid, reasonable, legal or constitutional. The invalidity of any provision shall not be construed to invalidate any other provision of this bylaw.