

# **PERSONNEL BYLAW (5-5-79)**

**(Amendment accepted @ ATM May 4, 2009)(Amended ATM May 6, 2014)**

## **SECTION 1: PURPOSE**

This bylaw shall be known as and cited as "The Town of Leicester Personnel Bylaw." Its purpose is to establish personnel policies which may be adopted by the Town under provisions of Massachusetts General Laws, Chapter 41, Section 108A, and the Home Rule Amendment. These policies shall encompass a Job Classification and Compensation Plan and leave benefits.

## **SECTION 2: DEFINITIONS**

For the purpose of this Bylaw, the words and phrases used herein shall have the following meaning, except in those instances where the context clearly indicates a different meaning:

**ACTING:** Performing the duties and having the responsibilities of another position on a temporary basis without having officially been appointed to the position.

**APPOINTING AUTHORITY:** Any person, board, or commission having the power of appointment or employment pursuant to Massachusetts General Laws.

**BOARD:** The Personnel Board.

**CASUAL EMPLOYEE:** An individual employed in a position calling for work which does not constitute regular employment; the work being rendered occasionally and without regularity on an ad hoc basis, according to the demands, therefore as determined by appointing authority.

**CLASSIFICATION:** A job title of a position or a group of positions similar in duties, authority, responsibility, and qualifications.

**CLASSIFICATION DATE:** First day of employment in a given classification.

**CLASSIFICATION PLAN:** A listing of all approved job titles and an occupational grouping of classifications.

**COMPENSATION PLAN:** A listing of wages designated to job classifications.

**CONTINUOUS SERVICE:** Paid full-time and part-time employment in the service of the Town, which is not interrupted by resignation, termination, or dismissal. "Continuous service" shall include all leave with pay.

**DAY:** One-fifth (1/5) the total number of regularly scheduled hours in one work week.

**DEPARTMENT HEAD:** The officer, board, or other body having immediate charge and control of a department or agency.

**FULL-TIME EMPLOYEE:** An individual in the employ of the Town regularly scheduled for an average of not less than thirty-two (32) hours per week for fifty-two (52) weeks per annum.

**HIRE DATE:** First day of employment with the Town.

**INTERMITTENT EMPLOYEE:** An individual employed in a position whose service, although regular, is not rendered for prescribed working hours, either daily, weekly, or annually, but is rendered as required according to the department head or appointing authority.

**ON-CALL EMPLOYEE:** An individual in the employ of the Town who has been designated as available for duty as needed.

**PART-TIME EMPLOYEE:** An individual in the employ of the Town regularly scheduled for less than thirty-two (32) hours per week for fifty-two (52) weeks per annum. Part-time employees regularly scheduled for a minimum of twenty (20) hours per week for fifty-two (52) weeks per annum qualify for certain benefits as defined by this Bylaw.

**PROBATIONARY EMPLOYEE:** Any new employee whose tenure in the Town service has not exceeded 90 days; such employees have limited rights during this stage of their employment and may be discharged at any point at which the level of performance is determined to be unacceptable by the appointing authority. At the end of the probationary period, a written review shall be prepared by the department head which will state whether the probationary employee has performed satisfactorily to be accepted as a regular Town employee. If the performance is not acceptable, the reason or reasons will be stated. The original 90 probationary period may be extended with the written approval of the Town Administrator.

**RATE:** Amount of money designated as compensation for a job classification.

**TOWN:** The Town of Leicester.

**WORK WEEK:** The total number of regularly scheduled hours from Sunday to the following Saturday.

### **SECTION 3: PERSONNEL BOARD**

The Personnel Bylaw shall be administered by a Board consisting of five (5) residents of the Town, who shall be appointed by the Board of Selectmen. The term of office of members of the Board shall be three years, but the terms of no more than two members shall expire the same year.

No elected or appointed officer of the Town of Leicester and no person employed by the Town of Leicester shall be eligible for service on the Board. The Board shall meet regularly as necessary to consider such business as may be presented by Town officials, Town employees, and others. Any member of the Board missing three (3) consecutive meetings without sufficient reason may be subject to removal. At least three (3) members of the Board shall be present in order to constitute a quorum. At any meeting of the Board, action by a majority of all the Board members shall be binding. The Board shall serve without compensation.

### **SECTION 4: DUTIES OF PERSONNEL BOARD**

a. The Board shall review and approve written position descriptions and personnel policies, which shall be drafted by the Town Administrator and subject to approval by the Board of Selectmen upon the Town Administrator's recommendation. The descriptions shall not be interpreted as complete or limiting definitions, and employees shall continue to perform duties assigned by their supervisors.

b. The Town Administrator and department heads shall keep such records of Town employees as the Board may require. The Board shall keep such records of its own, as it considers appropriate

c. The Board shall review the job classification and compensation plan under its jurisdiction at intervals of not more than three (3) years. The Board may review and approve existing job classifications as drafted by the Town Administrator and subject to approval by the Board of Selectmen upon the Town Administrator's recommendation. No new classification(s) shall be established without a report of the Board, subject to the subsequent ratification of its actions by the Board of Selectmen. No new classification shall permanently exist until such ratification.

### **SECTION 5: APPLICATIONS**

a. The provisions of this Bylaw shall apply to all employees in the service of the Town of Leicester, except for positions filled by popular election, positions under the jurisdiction of the School Committee, positions covered by collective bargaining units of the Town pursuant to Chapter 150E of the General Laws, and positions covered under other contracts. This Bylaw may be used as a guide for authorized officials in determining the compensation of, and personnel policies for those employees that are not specifically governed under this bylaw.

b. Nothing in this Bylaw or the Administrative rules and regulations adopted by the Board shall limit any rights of employees under Massachusetts General Laws, Chapter 150E, or Chapter 31.

c. Subject to the General Bylaws of the Town and this Bylaw, the Town Administrator shall be responsible for the day-to-day administration of the personnel system, in accordance with the policies of the Board. The Town Administrator may formulate, with the approval of the Board, personnel guidelines and directives for the purpose of effecting standardized, efficient, and equitable personnel procedures and practices. The Town Administrator may obtain such information or records as may be necessary from department heads in order to carry out his/her duties under this Bylaw.

d. The Appointing Authority shall notify the Board upon selection of an applicant to a position with the Town and shall provide all pertinent information for the records of the Board. In the case of a Board of Selectmen appointment, the Town Administrator shall notify the Board.

## **SECTION 6: CONFLICT AND MODIFICATION**

If any of the provisions of this Bylaw conflict with any relevant state law, the conflicting provision of this Bylaw shall be deemed modified by the law or regulation sufficiently only to end the conflict.

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

## **SECTION 7: AMENDMENTS**

This Bylaw may be amended by vote of the Town at any Annual or Special Town Meeting. The Board shall make a report and recommendation to the Town prior to the taking of any action by the Town on any proposed amendment. Failure of the Board to report shall not prevent the Town from taking action on the proposal of this Bylaw, or application thereof.

## **SECTION 8: POLICIES AND PROCEDURES**

The Personnel Board shall establish, adopt, and maintain such policies, procedures, rules, and regulations as it deems necessary for the implementation and administration of this Bylaw.

## **SECTION 9: SICK LEAVE**

Full-time and part-time employees of the Town subject to this Bylaw shall be allowed, without loss of pay, sick leave for personal illness as provided for in this section.

**9.1 RATE OF ACCUMULATION** Full-time and part-time benefit-eligible employees shall accrue and accumulate earned sick leave credit for personal illness at the rate of one-fifth (1/5) the total regular weekly scheduled hours x 1¼ for each full month of service.

**9.2 MAXIMUM ACCUMULATION** Full-time and part-time employees may earn and accumulate sick leave up to a maximum of ninety (90) days.

**9.3 USE OF SICK LEAVE** No sick leave with pay shall be granted during the first three (3) months of employment. The Town will allow an employee to use up to five (5) days of sick leave per calendar year for the purpose of caring for a spouse, child, or parent of either the employee or the employee's spouse, or for any person living under the same roof as part of the family, who is seriously ill or injured. A seriously ill or injured person is defined as any person under the care of a doctor who has been confined to a home or hospital with a serious verifiable medical condition.

**9.4 SICK LEAVE EXTENSION** A full-time employee with ten (10) years of service and seventy (70) days of earned sick leave at the date of first absence for illness or disability of a prolonged and uninterrupted nature, shall be compensated at 60% of base pay while absent from work for said sickness for the period of time commencing upon exhaustion of sick leave and all other paid leaves, and ending on the first anniversary date of the illness. If prior to the first day of an extended illness, a full-time employee with five (5) years of service has been credited with thirty-five (35) or more days of accrued sick leave, then upon exhaustion of sick leave and all other paid leaves, the employee shall be compensated at 30% of his/her base weekly salary or wage until the first anniversary date of the extended illness. Employees on worker's compensation shall not be eligible for compensation under this provision.

**9.5 DEDUCTIONS** Any compensated sick leave actually taken by any employee shall be deducted from his/her sick leave credit. Holidays and days not included in the employee's normal workweek shall not be deducted from sick leave credit. Loss of time directly attributed to injury incurred while performing regular duties and qualifying for workers compensation shall not be charged to sick leave.

**9.6 WITHIN TOWN SERVICES** No transfer within the service of the Town shall affect the amount of earned sick leave credit and accumulations to which an employee has been entitled under this Bylaw. Upon transfer to another department, the employee's former department head shall transfer the employee's sick leave record to the employee's new department head.

**9.7 UPON RETIREMENT** Upon retirement from the Town, an employee with a minimum of twenty (20) years of service shall be entitled to payment of twenty (20) days of accrued sick leave credits. If a retiree with twenty years of service has fewer than 20 days of accrued sick leave credits, he/she shall be paid the balance of said accrual. One (1) day would be equal to one-fifth (1/5) of the regularly scheduled hours per week.

**9.8 ABSENCES** For absences on account of sickness in excess of three (3) consecutive working days, the department head may request a physician's certificate. For absences on account of sickness in excess of five (5) consecutive working days, the department head shall require a physician's certificate.

**9.9 EARNING SICK LEAVE WHILE ON LEAVE OR WORKERS' COMPENSATION** All employees entitled to sick leave under this Bylaw shall earn sick leave credit even while in the status of paid sick leave. Employees entitled to sick leave under this Bylaw shall earn sick leave credit up to one year from the anniversary of the illness while in the status of Workers' Compensation. No sick leave will accrue while on unpaid leave. Accrual will resume upon return to work.

## **Section 10: VACATION LEAVE**

**10.1 ELIGIBILITY** Upon completion of the 90-day probationary period, full-time and part-time benefited employees as defined in this Bylaw shall be entitled to paid vacation in accordance with the following schedule.

The vacation year of the Town shall be the period of July 1 to June 30, inclusive. Any Town employee working twenty (20) or more hours per week will be credited as of June 30<sup>th</sup> with vacation leave with pay for the subsequent year not to exceed the following:

**10.1.1 VACATION LEAVE FIRST YEAR OF SERVICE** For any employee with less than one (1) years' service, the following schedule will be used to determine vacation for the first fiscal year:

### **INCLUSIVE HIRE DATES**

From	Through	Vacation Hours Earned (1 <sup>st</sup> years' service only)
Jul 1	Jul 1	2.00 X Weekly Authorized Hours
Jul 2	Aug 1	1.80 X Weekly Authorized Hours
Aug 2	Sep 1	1.60 X Weekly Authorized Hours
Sep 2	Oct 1	1.40 X Weekly Authorized Hours
Oct 2	Nov 1	1.20 X Weekly Authorized Hours
Nov 2	Dec 1	1.00 X Weekly Authorized Hours
Dec 2	Jan 1	0.80 X Weekly Authorized Hours
Jan 2	Feb 1	0.60 X Weekly Authorized Hours
Feb 2	Mar 1	0.40 X Weekly Authorized Hours
Mar 2	Apr 1	0.20 X Weekly Authorized Hours
Apr 2	Jun 30	0.00 X Weekly Authorized Hours

**10.1.2 ACCRUAL OF VACATION LEAVE AFTER FIRST YEAR OF SERVICE** For service after July 1 after the first year of employment up to and including four full years of service completed June 30, vacation leave is two (2) times the weekly authorized hours. If a person enters municipal service on the first working day of a vacation year, that year shall constitute the first of four (4) years completed.

For five (5) through nine (9) years of service, inclusive, completed on June 30 the vacation leave is three (3) times the weekly authorized hours.

For ten (10) through nineteen (19) years of service, inclusive, completed on June 30 the vacation leave is four (4) times the weekly authorized hours.

For twenty (20) years or greater of service, inclusive, completed on June 30 the vacation leave is five (5) times the weekly authorized hours.

One (1) week shall be the total number of regularly scheduled hours between Sunday and Saturday.

Temporary employees or employees working fewer than 20 hours per week are not entitled to Vacation Leave.

**10.2 USE OF VACATION LEAVE** Vacations shall be scheduled with the approval of the department head and Town Administrator for such time as best serves the needs of the department and the public. Although vacation accruals begin from date of hire, vacation entitlement and use commences upon completion of the 90-day probationary period.

Vacation leave is not cumulative from year-to-year, except upon the written approval of the Town Administrator. The Town Administrator may, in his/her sole discretion, authorize a carryover of not more than ten (10) days. This shall be subject to notification in writing to the Board of Selectmen.

**NOTE:** There will be a period of adjustment with a higher maximum carryover permitted for FY15 to allow use of previously earned vacation accruals under the previous provisions of this bylaw.

**10.4 TERMINATION OF EMPLOYMENT** Upon termination of employment with the Town, an employee shall be entitled to payment of all unused accrued vacation credit prorated to the date of separation.

**10.5 EARNING VACATION WHILE ON LEAVE OR WORKERS' COMPENSATION** Employees will continue to earn vacation credit while on paid leave. An employee will continue to earn vacation credit while in the status of workers' compensation for up to one year from the anniversary date of the injury. No vacation credit will accrue while on unpaid leave. Accrual will resume upon return to work.

**10.6 RATE OF PAY FOR VACATION LEAVE** Vacation Leave will be paid at the employee's base pay rate at the time of vacation.

## **SECTION 11: OTHER LEAVES**

**11.1 MILITARY TRAINING** Full-time employees who are required to report for temporary summer, or a like period of training in the military forces of the nation or the Commonwealth, shall be paid an amount equal to the difference between compensation for a normal working period and the amount paid for military training; provided that the employee furnish to his/her Department head an authenticated copy of the orders issued to him/her and an authenticated certificate showing the date or dates on which such duty was performed. Instead, an employee, on his/her request, may schedule his/her regular vacation during his/her period of military leave. The maximum amount of military training allowed in a fiscal year is seventeen (17) working days.

**11.2 JURY DUTY** An employee required to serve on a jury on days he/she is scheduled to work, shall be paid his/her regular wages for the first three (3) days, or part thereof, of such juror service, at his/her regular straight time rate. For fourth and subsequent days of such juror service, the employee shall be paid the difference between the amount received as juror compensation (excluding travel allowance) and the employee's straight time wage.

An employee seeking compensation in accordance with this Section shall notify the Department head after receipt of the notice of selection for jury duty and shall furnish a written statement to the Town showing dates of juror service, time served, and the amount of juror compensation received.

If an employee is required to appear in Court as a defendant or witness in an action arising out of the performance of his/her duties for the Town, the employee shall be construed to be on duty for the Town if such time as he/she is officially required to be in court falls within his/her regularly scheduled working hours. The employee shall provide prior notice to his/her Department head of such court appearance and such documentation as may be requested by the Department head.

**11.3 MATERNITY LEAVE** All qualified full-time and part-time employees, as defined in this Bylaw and covered by MGL Chapter 149, Section 105D, shall be entitled to maternity benefits.

**11.4 FAMILY AND MEDICAL LEAVE** The Town of Leicester shall provide its employees Family and Medical Leave in accordance with provisions of the Federal Family and Medical Leave Act and the Massachusetts Small Necessities Act. The Board of Selectmen may issue such rules, regulations, and policies as may be necessary to carry out the Acts. The Town Administrator shall administer the leave program.

**11.5 BEREAVEMENT** In the event of a death in the immediate family of a full-time or part-time employee, he/she will be entitled to a maximum of one (1) regularly scheduled work week of Bereavement Leave. Paid bereavement begins the first day following death and is payable according to the following:

- **One (1) work week:** Employee's spouse or domestic partner, child, step-child, parent, step-parent, brother, sister, step-brother, step-sister.
- **Three (3) consecutive days:** Employee's grandparents, grandparents-in-law, grandchild, mother-in-law, father-in-law, son-in-law, daughter-in-law.
- **One (1) day:** Employee's brother-in-law, sister-in-law, aunt, uncle, nephew, niece, first cousin.

Bereavement Leave is normally granted immediately following a death in the family. If funeral arrangements are postponed or when other unusual circumstances exist, the employee may, with supervisory approval, defer the Bereavement Leave to a later date. Bereavement Leave cannot be paid in addition to any other paid time off such as Holiday, Vacation, Sick, or Personal Leave. However, if an employee is being paid Sick, Vacation, and/or Personal Leave, he/she may request to be paid Bereavement Leave.

If an employee is regularly scheduled to work on a day on which a holiday falls and is on Bereavement Leave, he/she will be paid Bereavement Leave for his/her regularly scheduled hours and will receive Holiday Compensatory Leave for his/her regularly scheduled hours.

#### **11.6 PERSONAL LEAVE**

a. Full-time and part-time benefited employees will accrue personal leave *annually*. This shall be calculated as follows: Eligible employees will accrue 0.75x their average regularly scheduled hours per work week annually.

During the first year of employment each such employee will be eligible for the following Personal Leave:

- Hired between July 1-October 30 – 1.0x annual accrual
- Hired between November 1-February 28(29) – 0.33x annual accrual
- Hired between March 1-June 30 – 0.00x annual accrual

Personal Leave shall be scheduled with prior approval of the department head subject to the operating and staffing needs of the department as determined by the department head. Personal Leave must be used during the fiscal year in which it is awarded and cannot be carried over from fiscal year to fiscal year. Personal Leave not used by the end of the fiscal year shall be forfeited and may not be converted to cash. Upon termination or retirement Personal Leave may not be converted to cash.

#### **11.7 HOLIDAY LEAVE. This section effective upon approval at 2009 Town Meeting (June 16-09).**

Full-time and part-time benefited employees shall be paid for each of the following holidays as outlined below:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
President's Day	Veteran's Day
Patriot's Day	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	

#### **If a full-time or part-time employee is:**

1. regularly scheduled to work on a day on which a holiday falls, he/she will be paid for his/her regularly scheduled hours.
2. regularly scheduled and required to work on a day on which a holiday falls, he/she will be paid straight time for hours worked and receive holiday pay for his/her regularly scheduled hours.
3. not regularly scheduled to work on a day on which a holiday falls, he/she will receive Holiday Compensatory Leave at one-fifth (1/5) the total number of hours he/she is regularly scheduled to work during a normal work week.

4. not regularly scheduled to work on a day on which a holiday falls but is required to work (with the exception of department heads), he/she will be paid straight time (or according to overtime rules, if applicable) for hours worked and receive Holiday Compensatory Leave at one-fifth (1/5) the total number of hours he/she is regularly scheduled to work during a normal work week.

**NOTE: Holiday Compensatory Leave will be scheduled at the discretion of the department head and must be taken within six (6) months.**

**11.8 AUTHORIZED LEAVE WITHOUT PAY** Leaves of absence without pay may be granted only after the written recommendation of the department head and the approval of the Board of Selectmen. The Board of Selectmen shall consider whether the leave is scheduled for such time as best serves the needs of the department and the public.

**11.9 UNAUTHORIZED LEAVE WITHOUT PAY** Any absence which has not been authorized by law, this Bylaw, or by administrative rules and regulations shall be unauthorized leave without pay. Any employee who is absent for a period of five (5) consecutive workdays without specific authorization for such absence shall be deemed to have permanently vacated his/her position, unless authorization is subsequently granted by the Town Administrator.

## **PART II: SALARY/WAGES**

### **SECTION 12: COMPENSATION**

All employees included in the Job Classification and Compensation Plan shall be eligible to receive pay based upon their job classifications. All job classification adjustments shall be subject to written recommendation of the appointing authority with the approval of the Board.

The starting rate shall be the minimum of the salary range of the job classification to which the new employee has been hired. Upon the recommendation of the Town Administrator, the Appointing Authority may provide a starting rate higher than the minimum of the salary range up to the mid-point of the salary range. The recommendation must substantiate that the candidate possesses prior job experience, extra qualifications, and/or education that directly relates to the job classification.

**12.1 PERFORMANCE REVIEW** A written evaluation of each employee's performance shall be conducted annually by the department head on such form as the Town Administrator shall require. The purpose of the performance review is to provide a periodic, formal process to review the employee's performance matched against prior mutually-agreed upon goals and objectives. The written performance evaluation shall be reviewed with the employee and signed by both parties attesting to the review; however, the employee only attests to the review itself, not necessarily its contents.

Base Wage increases are based on merit and ability as determined through the annual performance review process. They are not automatic. The department head shall perform the evaluation, and the Town Administrator shall review it. Employees who receive a satisfactory or better evaluation shall be eligible for a base wage increase. The Town Administrator shall determine the amount of any increase in light of the availability of appropriated funds and the employee's overall performance. If the employee receives a satisfactory or better review from his department head and funds have been appropriated, the employee may appeal the Town Administrator's decision to award a base wage increase below the average on a percentage basis (including the decision to award the employee no base wage increase) to the Board of Selectmen, which shall confer with the employee, the department head, and the Town Administrator.

**SECTION 13: CLASSIFICATION** Refer to the Town's "Classification and Compensation Plan."

**SECTION 14: PAY SCHEDULE** Refer to the Town's "Classification and Compensation Plan."

## **SECTION 15: HEALTH FUND AGREEMENT AND TRUST**

A. Non-bargaining unit members shall be eligible to participate in the Town's Health Fund Agreement and Trust, established pursuant to Section 15 of Chapter 32B, where non-bargaining unit members live outside of the HMO service area and who were full-time employees retiring after November 1, 1994 from the service of the Town.

B. To be eligible for benefits under the Trust, a retired employee must be participating in the Town's health insurance program unless said employee is located in an area where it is unavailable, and must be actually retired under Chapter 32 of the Massachusetts General Laws.

C. The Town's minimum financial contribution and liability under the Trust shall not be less than 50%. The Board of Selectmen shall have the right to adjust the Town's level of contribution and to set a financial cost ceiling on the Town's contribution under the Trust.

D. No person receiving benefits under this bylaw may pyramid health insurance benefits with another health insurance program of the Town.

E. The Board of Selectmen may adopt appropriate rules and regulations to implement this bylaw.