

TOWN OF UPTON
PERSONNEL
BY-LAW

ADOPTED MAY 1996
AMENDED:
JUNE 1997
MAY 1998
MAY 2000
MAY 2001
MAY 2004
MAY 2005
MAY 2006
MAY 2007
MAY 2008
MAY 2010

I. PURPOSE AND SCOPE

This bylaw documents the personnel procedures of the Town of Upton and covers all employees of the Town of Upton, with the exception of elected officials and those employees under the jurisdiction of the Mendon Upton Regional School District.

Those persons, boards, and committees endowed with the responsibility of management must ensure the proper administration of approved personnel procedures for their department. This bylaw may be amended, by a vote at a town meeting, as needed to keep pace with changing policies and legislation. Although no one has the authority to deviate from the bylaw, each manager does have the responsibility to notify, in writing, the Personnel Board when any provisions of the bylaw may no longer serve the best interest of the town, its departments, or its employees.

This bylaw aims to ensure compliance with all federal, state, and town laws, rules, policies and procedures as well as contractual commitments to our employees. *If there are any conflicts between this bylaw and the specific terms of any collective bargaining contract duly entered into by the town, the specific terms of that contract will govern and will apply only to those employees covered by that contract.*

II. DEFINITIONS AND DESCRIPTIONS

A. Employee

Persons who act on behalf of the Town of Upton, whether appointed or hired, and who receive compensation from the Town, with the exception of elected officials and those employees under the jurisdiction of the Mendon-Upton Regional School District. Employees are to be distinguished from Independent Contractors who are not governed by this bylaw.

B. Hiring Authority

Persons, Boards, and Committees specifically empowered to employ individuals on behalf of the Town. The Hiring Authority may include: Board of Selectmen, Board of Health, Library Board of Trustees, Board of Assessors, Town Clerk, Treasurer-Collector, Planning Board or Town Manager.¹

In many situations the Hiring Authority may delegate the execution of specific personnel matters to the appropriate Department Head or Supervisor. The level of involvement of the Hiring Authority must be established as part of the working relationship between the Hiring Authority and its Department Heads and Supervisors. The phrase "Hiring Authority" or its "designee" is used in instances in which the Hiring Authority may delegate its responsibilities. In any case, the Hiring Authority has responsibility for those activities delegated to its Department Heads and Supervisors.

C. Personnel Board

The Town shall establish a Personnel Board having all of the powers and duties described in this bylaw and in the General Laws of Massachusetts. The Personnel Board shall be composed of up to five members appointed by the Board of Selectmen for three-year terms. Elected officials or employees of the Town shall not be appointed to the Personnel Board. As originally constituted, one member shall be appointed for a term of one year, two members shall be appointed for a term of two years, and two members shall be appointed for a term of three years. Thereafter one or two members shall be appointed for terms of three years, so as to maintain five members.

At the beginning of each fiscal year the Personnel Board shall meet and elect one member as Chairperson. The Personnel Board shall meet as required. A quorum for the Personnel Board shall be three members and all matters will be decided by the vote of a majority of members present.²

Adopted: Annual Town Meeting - May 1996

Amended: June-1997 Rev. 01 -1
Amended: May 2000 Rev. 01-3
Amended: May 2004 Rev. 01-5
Amended: May 2006 Rev. 01-7
Amended: May 2008 Rev 01-9

Amended: May 1998 Rev. 01-2
Amended: May 2001 Rev. 01-4
Amended: May 2005 Rev. 01-6
Amended: May 2007 Rev .01-8
Amended: May 2010 Rev.01-10

D. **Personnel Coordinator**³

The Town Manager or Selectmen's Designee shall act as the Personnel Coordinator. The Personnel Coordinator works under the guidance of the Chairperson of the Personnel Board. The duties of the Personnel Coordinator include:

- Maintaining central personnel files for each employee in the Town
- Posting all open positions
- Collecting resumes and applications for employment
- Maintaining personnel policies and documents
- Distributing revised personnel policies and documents
- Orienting new employees to Town policies and benefits

E. **Exempt vs. Non-Exempt Employees**

The Personnel Board is responsible for the classification of all Town employees as Exempt or Non-Exempt per the provisions of the Fair Labor Standards Act.

1. **Exempt:**

Those employees who are paid a salary and are not eligible for overtime. Exempt employees are expected to work those hours required to perform their job in a satisfactory manner.

2. **Non-Exempt:**

Those employees who are compensated on an hourly basis and who are eligible for overtime compensation. Non-Exempt employees must document hours worked.

F. **Employee Types**

1. **Regular Full Time:**

Those employees employed 40 or more hours per week for fifty-two weeks per year.

2. **Regular Part Time:**

Those employees employed fewer than 40 hours per week, but for fifty-two weeks per year.

3. **Temporary:**

Any employee hired for less than fifty-two weeks per year (e.g., seasonal employees and fill-ins).

4. **Stipend:**⁴

Any employee/position whose hours are not regularly scheduled from week to week.⁵

G. **Independent Contractor**

Independent Contractors are individuals who contract with the Town of Upton for the performance of specific tasks. Independent Contractors are not employees of the Town of Upton and are not covered by this bylaw. All independent contractors must supply the Town with a certificate of insurance and must complete any required tax forms.

The Town of Upton shall not enter into Independent Contractor agreements with current employees of the Town for duties, which are substantially similar to their regular job functions.

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H. Seniority

The Town of Upton values long term employees and rewards them with increases in earned vacation time. The Town of Upton does not use seniority as a sole basis for promotion, raises, or selection of work assignments.

III. TOWN EMPLOYEE CODE OF CONDUCT

A. Code of Conduct

The Town of Upton adopts an ethical code of conduct that recognizes that public employment is a public trust. This means that the affairs of government must be conducted openly, honestly, and impartially. When ethical standards falter or seem to falter, public confidence is destroyed and the problems, rather than the achievements, of government become focal issues for the public. In order to ensure the trust of the public, employees of the Town of Upton will, at a minimum, conduct themselves according to the specific standards of impartiality, objectivity, and integrity detailed in the “Code of Conduct for Public Employees” developed by the Massachusetts Office of the Inspectors General. A summary of the document is given below.

B. Code of Ethics

Professional integrity is the foundation of a respectable, well-run municipality. Ethics provide a guide for conduct by helping human beings order their values in particular situations. In the case of conflicting values, ethical reflection helps people to decide which of their choices constitutes the paramount value. Awareness of ethical principles and reflection on the application of those principles to actual situations are essential to fulfilling the very public role of a municipal employee. In all cases, employees must be aware and self-reflective about how their daily conduct reflects or fails to reflect the values expressed by the town as an organization or the employee as an individual.

The key principles of professional ethics are as follows:

- EQUALITY:** Rendering a consistent quality of service to all, regardless of political affiliation and status. One achieves fairness by rendering no special favors.
- EQUITY:** Providing equal treatment in some cases and unequal treatment in others (e.g. Compensatory education for under privileged people, special job training programs, and subsidized housing)
- LOYALTY:** Being aware of one’s ultimate loyalties (e.g. to the Constitution, the structures of Government, the law and to fellow employees)
- RESPONSIBILITY:** Accepting personal responsibility for all actions.

C. Conflict of Interest

All employees must complete State training on ethics. This must be done within 90 days of their date of hire and repeated every two calendar years during their employment. (Refer to MGL Chapters 268 A and 268 B).⁶

Employees of the Town of Upton are prohibited from:

- Using or attempting to use an official position to secure an unwarranted privilege.
- Giving a reasonable impression that they can improperly influenced in performing their official duties.
- Willfully disclosing or knowingly using confidential information that is not available to the public by law and is acquired in the course of official duties.
- Accepting outside employment that would impair independent judgment in exercising their duties.
- Having a direct or indirect financial interest in a contract made by any agency of the town.
- Accepting extra payments, gifts or privileges beyond their salary in return for performing their job. This includes promises of future employment, favors or services.
- Acting as an agent or attorney for anyone other than the town if the town is a party in the matter.

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- Obtaining unfair advantages by the improper use of friendship, associations, or confidential information.
- Recruiting, hiring, transferring, promoting or firing members of their immediate family (the employee's spouse; and the parents, children, brothers and sisters of the employee or his or her spouse)
- Using official authority to interfere with or affect the result of any election or nomination for office.
- Enter into Independent Contractor agreements with the Town for duties, which are substantially similar to their regular job functions.⁷

IV. RECRUITMENT, SELECTION AND ORIENTATION OF EMPLOYEES

The Town of Upton strives to hire and retain the most qualified employees. The Town also maintains a policy of affirmative action in hiring. These goals guide the recruitment and selection of employees, including transfers, promotions, and job postings. The Town of Upton is an equal opportunity employer.

A. Requisition⁸

All requests to fill vacancies for Regular Employees are made by the Hiring Authority, or designee, on a *Personnel Requisition Form* forwarded to the Personnel Board. It is the Personnel Board's responsibility to establish and/or confirm the appropriate Job Title, Salary Grade and Salary Range for the position requested and will act within ten (10) working days of receiving the *Personnel Requisition Form*.

Before the recruitment process for a Temporary employee, the Personnel Board should be notified by the Department head or Hiring Authority that the process is beginning.

No position shall be created without being classified by the Personnel Board.

B. Recruitment⁹

The Personnel Coordinator is responsible for all postings and all requests for postings should be forwarded to the Personnel Coordinator.

All applications will be directed to the Personnel Coordinator who will be responsible for recording and distributing these to the appropriate department. The Town of Upton acknowledges its obligation to protect the privacy of employees and applicants by exercising all due consideration with respect to personnel records and will to the extent possible maintain the confidentiality of all applicants.

The Town of Upton maintains a policy of promoting from within and will, at least initially, advertise all *available* positions internally. Internal postings are open to all current employees, subject to the Town's conflict of interest policy.

1. Internal Posting¹⁰

Internal notices of vacancies will be posted for a minimum of five (5) working days before any action of employment is taken. Notice of vacancies will be posted on selected bulletin boards in the Town Hall. In addition, copies of posting will be sent to each department (e.g. Police Station, Fire Station, DPW Garage, and Town Library). Postings will include the position description, minimum qualifications, salary grade, and due date for receipt of applications. If the same position was posted internally within 90 calendar days, the applicants from the previous posting should be considered prior to reposting the position.

2. External Posting

External recruitment may include notices of vacancies to job banks, community organizations and associations, and advertisements in newspapers, professional journals, or newsletters. Postings will include a brief position description, minimum qualifications, salary grade, and due date for receipt of applications.

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Newly created positions will not be posted until approval and funding by a vote at Town Meeting.

Existing positions that have been vacated will be posted only after all potential promotional candidates are reviewed. Promotions must follow procedures set forth in Section Six (VI) C.

C. Applicant Screening and Selection¹¹¹²

Applications will be accepted by the Personnel Coordinator within the period of time specified on the position announcement. All applications received after the deadline has passed shall not be considered, but will be retained in the event that the position must be reposted.

Once the application deadline has passed, the Hiring Authority, Department Head and a representative of the Personnel Board will screen all applications. Candidates who appear to meet the minimum requirements for the position shall be considered for interviews. In the event that there are more than five qualified candidates, the Hiring Authority, Department Head and representative of the Personnel Board may elect to interview only those candidates who appear to be most qualified. The Interview Team may recommend the position be reposted if it is in the best interest of the Town. It is important that the results of the screening and selection process are documented fully.

An interview team or search committee comprised of the Hiring Authority (or designee), Department Head (or designee from the Hiring Authority in the case of an available Department Head position) and a representative of the Personnel Board will interview those candidates most qualified for the position. Any additional interviewers will act in an advisory capacity. In some cases, repetitive interviews will be used to narrow the field of candidates. All interviews shall comply with applicable state law.

Following the interview, the interview team will verify references and will recommend to the Hiring Authority candidates (if appropriate, first, second, third choice) for employment, a proposed starting salary within the currently approved budget and employment date. The Hiring Authority will make final approval regarding employment, transfers, promotion, and starting salary of any prospective employee. Should the first recommended candidate not be hired, for any reason, the Hiring Authority may, at its discretion, extend an offer to other candidates if so recommended by the interview team.

The Hiring Authority's office will notify the Department Head, the Personnel Coordinator and the individual to be employed, promoted, or transferred of the starting salary and starting date. In the case of transfer or promotion, the Hiring Authority's Office will communicate with all affected departments in an attempt to determine a mutually compatible starting date.

All new employees shall supply proof of citizenship or valid verification of permission for employment in the United States (I-9 form). All payroll and personnel changes and additions necessitated by the employment, transfer, or promotion of any individual will be reported on the *Employee Action Form*. The Employee Action form is the official record of employment status: It details every change in status including address, title, position, wage and salary adjustments, and longevity information. The employee's supervisor will complete the form and forward the form to the Department Head and the Hiring Authority for approval. To the extent possible, the *Employee Action Form* should be received by the Hiring Authority before the employee begins employment with the Town. Upon receipt and approval, the Hiring Authority will forward copies to the Treasurer-Collector or Town Accountant, the Department Head, the Personnel Coordinator and the Personnel Board

D. Screening Physical

Prior to commencement of work each potential regular full time or regular part time employee is required to pass a pre-employment screening physical. This physical will be conducted at the Town of Upton's expense. Individual departments may employ more extensive screening processes as appropriate to the nature of work performed by their department.

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E. Probationary Period¹³

Each new regular employee, including current employees promoted to new positions, ¹⁴except for employees transferring/promoted to positions within the same Division/Department, will be subject to a six (6) month period of probation which will conclude with a performance review, performed by the Hiring Authority or its designee. The probationary period may be extended at the discretion of the Hiring Authority or its designee. The probationary period will end with the probationary employee either being discharged or made a regular employee of the Town of Upton. ¹⁵During the probationary period, employees working a regularly scheduled week of 20 or more hours will accrue sick and vacation time, but may not use these benefits until after the probationary period. Termination of probationary employees is not subject to grievance procedures.

F. Employee Orientation

Employees who feel comfortable in their surroundings are more likely to be productive, safe, and satisfied employees. Orientation to Upton municipal offices and procedures is essential for new and transferred employees. The goals of orientation are to

- Familiarize new employees with the physical layout of their new offices and the municipal environment.
- Help new employees develop favorable impressions of the organizations, the job and fellow workers
- Satisfy employee needs for security and acceptance
- Familiarize the new employee with all applicable Town and Departmental Policies, Procedures, and bylaws.

All new employees will report on the starting date to the Hiring Authority, or its designee, who is responsible for giving each new employee an overview of the structure and function of Upton town government. This description should include an explanation of how the employee's job relates to the others within an office and in the town as a whole. All new employees should be introduced to every person with whom they will come into contact and should be told where to go for information and assistance. Supervisors are also responsible for job-specific, on-site training and orientation regarding detailed explanation of the job they are expected to perform and should be given a current copy of their job description. This introduction should include detailed explanations and illustrations of work procedures and equipment, including hands-on use of equipment under the direction of the supervisor. Safety issues should be stressed during this orientation.

¹⁶The new employee will also meet with the Personnel Coordinator who is responsible for explaining the Town's Personnel Policies and Benefits and terms of employment. The new employee shall sign acknowledging receipt of the Personnel By-Law of the Town of Upton.¹⁷ In addition, the Personnel Coordinator will give the new employee the summary of the State Ethics Law, receipt of which will also be acknowledged with a signature, which will then be filed with the Town Clerk. The new employee will be reminded to complete the State Ethics training on-line within 90 days and to provide the Town Clerk with their certificate of completion. All appropriate forms (e.g. income tax deductions, life insurance, group health insurance, and retirement forms should also be completed during this meeting with the Personnel Coordinator.

G. Access to Personnel Files

Each employee has a personnel file in the Town Hall, maintained by the Personnel Coordinator. In this folder are employment history, application and/or resume, attendance records, accident reports correspondence pertaining to the employee or job, records of courses or special training received, job performance evaluations, documentation of disciplinary action, and documentation of any grievances filed by the employee.

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Access to these files IS LIMITED to the employee's Supervisor, Department Head, Hiring Authority, Personnel Board and the Personnel Coordinator. The Personnel Coordinator shall maintain a record of those persons examining each file. An employee may review his or her file at a time convenient to the employee and the Personnel Coordinator. The employee may make copies of the information within the file but may not remove any information from the file.

V. **WAGE AND SALARY ADMINISTRATION**

A. **Position Classification**

It is the responsibility of the Personnel Board to maintain a position Classification Plan. This plan is the basis of establishing equitable pay scales, recruiting qualified employees, and performing necessary administrative tasks. Position classification aims to equitably group positions into a series of Salary Grades on the basis of the requirements and responsibilities of the position.

The Personnel Board is responsible for developing and maintaining a series of criteria, which are used to evaluate each position in the Town of Upton. The criteria (e.g. required knowledge and experience) are chosen to independently measure those characteristics for which each position is compensated.

The Personnel Board in conjunction with the Hiring Authority, or designee, will rate each position within the Town using each of the chosen criteria. These criteria may also be weighted so as to better reflect their impact upon a positions responsibilities. The weighted totals of the criteria rankings are then used to group positions into a series of Salary Grades. The Salary Grades will then each contain positions requiring approximately equal requirements and responsibilities.

B. **Reclassifications**

The Personnel Board is committed to maintenance of the Classification Plan to assure recognition, through reclassification, of positions that expand or diminish in levels of responsibility and duties. The Personnel Board shall reevaluate all positions at intervals not to exceed five (5) years. If there is a significant problem before the reevaluation, the Hiring Authority, or designee, shall take the following steps.

1. The Hiring Authority, or designee, shall request a classification review. Written requests should be submitted to the Personnel Board. The Hiring Authority should document the basis for requested reevaluation of position classification.
2. The Personnel Board is responsible for researching and investigating the reclassification request. The request must be recognized at the next official Personnel Board meeting and within twenty (20) working days the Personnel Board will have prepared a written response and timetable for action. The response will include a recommendation for action and justification for the recommendation.

C. **Title of Positions & Job Descriptions**

The Personnel Board is responsible for the establishment of Position Titles and for the grouping of similar positions together under common titles. The Position Titles developed by the Personnel Board shall be the Official titles for all purposes having to do with the position, and shall be used to designate the position in all payrolls, budget estimates and official reports, and in every other connection involving personnel and fiscal processes. No person shall be appointed, employed or paid as an employee in any position under any title other than those developed by the Personnel Board, nor shall any person be employed unless he shall actually perform the duties and tasks of that position.

The Personnel Board shall maintain current approved written job descriptions of all positions. These position descriptions shall conform to all ADA guidelines. Each contains a statement describing the

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essential nature of the work and characteristics that distinguish the position from other positions. The Hiring Authority, or its designee, and the Personnel Coordinator shall be required to retain current job descriptions and to submit suggested revisions to the Personnel Board for review and disposition.

D. Compensation Plan¹⁸

It is the responsibility of the Personnel Board to develop and recommend a Compensation Plan that establishes salary ranges for each of the Salary Grades in the Town of Upton. The Compensation Plan will be used to make salary recommendations at town meetings and during the hiring process. The Compensation Plan will reflect the high standard the town holds for its employees and establish a salary structure that enables the Town of Upton to recruit, retain and reward highly qualified employees. In order to compensate employees with salary ranges that are equal to the median of comparable communities, the Personnel Board will determine and recommend annual adjustments to the Compensation Plan. The entire Compensation Plan will be reviewed at intervals of no more than five (5) years.

E. Overtime

The Town of Upton shall pay non-exempt employees at a rate of one and one half times the base hourly rate for hours worked beyond forty (40) per week in accordance with the Fair Labor Standards Act. All overtime must be approved by the Hiring Authority or its designee. Hours worked will not include any sick time, vacation time, personal leave, or other leaves of absence whether paid or unpaid used during the week.

Exempt employees are compensated on a salaried basis, regardless of the number of hours worked.

VI. EMPLOYEE DEVELOPMENT

A. Performance Evaluation

To ensure impartiality in the selection of employees for work assignments, training, promotions, and salary increases; to promote understanding between employees and supervisors and to ensure the most effective utilization of personnel, each employee shall receive an orderly, objective, and accurately documented review of his or her work performance once a year. The performance evaluation is to provide a forum for employees and supervisors to assess work performance, compare it with standards set by Department Heads and help the employee develop training needs and future performance goals for strengthening performance and enhancing job satisfaction.

The Personnel Board is responsible for the development and maintenance of an *Employee Evaluation Form*, which will be used for all employees. Employees are to be evaluated prior to the completion of their probationary period and at the end of each calendar year thereafter. An Employee Evaluation form will be completed for each employee by the immediate supervisor who will record his or her judgment on the performance review form. This review is a forum for supervisors and employees to discuss job performance strengths and weaknesses. This review also provides a chance for supervisors and employees to review the progress made toward fulfilling current and past goals and to set formal goals for the upcoming year. Both the employee and supervisor must sign and submit this form to the Department Head and Hiring Authority for review. The Hiring Authority is responsible for submitting fully completed forms to the Personnel Coordinator who will include them in the employee's file.¹⁹

Although this review is formally completed only once annually, employee performance evaluation is an ongoing process that should provide feedback, both congratulatory and constructive, and increase two-way communication between the supervisor and the employee. The performance evaluation should be conducted in a confidential manner and privately with an employee. Supervisors are not to discuss compensation issues (annual adjustments) during the evaluation review.²⁰ This is not the purpose of the review and will be determined at a separate time.

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All employees must sign the form in order to indicate that they have read their performance evaluation and that it has been explained to them by the supervisor. The signature does not in any way connote agreement with its contents. An employee who disagrees with the employee performance review may submit an addendum or may request, in writing, a reevaluation using the Town's Grievance Procedure.

B. **Salary Review**

The Town of Upton conducts salary reviews annually to recommend salary increases to the Town on a merit system. Employees' salaries within the salary structure are based on job knowledge and performance.

The policy of the Town of Upton is to grant its personnel salary increases for meritorious work performance on the recommendation of the employee's immediate supervisor and Hiring Authority. These increases are not automatic, nor do they result from tenure. Increases should result in the employee's salary progressing through the salary range in accordance with the performance rating received from his/her evaluation. In preparing a salary adjustment recommendation, consideration should be given to:

1. Employee's performance during entire evaluation period.
2. Position of the employee's salary within the applicable salary range
3. Period of time since the employee's salary was last adjusted²¹
4. Wage guidelines from the Personnel Board and the Finance Committee

Department Heads will be responsible for recommending salary adjustments to the Personnel Board, the Hiring, Authority, the Finance Committee and ultimately to the Town at town meeting. Salary adjustments will ordinarily be voted at the annual Town meeting and will be effective July 1.

If the salary adjustment process indicates that the position is currently being paid above the maximum for the current salary grade level, the Department Head should complete and submit to the Personnel Board a request to reevaluate the position under Section V.B. of the Personnel By-law regarding Reclassifications.²²

C. **Promotions**^{23 24}

It is the policy of the town to hire and retain the most qualified employees. Accordingly, employees may be promoted to new positions. There are two types of promotions, Available Position Promotions and Reclassification Promotions. The Personnel Board has the responsibility to determine whether a promotion is an Available Position Promotion or a Reclassification Promotion. All available positions are subject to recruitment procedures as described in Sect. IV part B.

1. **Available Positions**
Available position promotions occur as a result of an existing position being vacated or a new position being created. When a position is vacated, the Hiring Authority or designee will review current staff for promotional eligibility. A recommendation of the most qualified candidate, (based on e.g. merit, qualifications) will be made to the Hiring Authority and the Personnel Board consisting of performance record, qualifications (education, years experience and other criteria) recommended salary, and any other action to be taken for approval.
2. **Reclassifications**
Reclassification Promotions result when the duties and responsibilities of a position have increased sufficiently to justify an increase in the position's Salary Grade. This type of promotion results in the elimination of one position and the creation of a new position at a higher salary

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grade. This type of promotion will not result in another position being vacated, does not require posting and will not necessarily result in a salary increase.

D. Training and Career Advancement Opportunities

The Town of Upton encourages both individuals and institutional training programs and opportunities. All employees are encouraged to plan their careers and gain new skills for personal advancement. It is the responsibility of the Supervisor and the Department Heads to ensure that their employees are given guidance in selecting training programs specific to their positions. During an employee's evaluation the employee and supervisor should identify a career path and plot a training/education program that will promote progress toward that goal.²⁵

VII. CONDITIONS OF WORK

A. Alcohol and Drug Use

Except when required in official performance of duty (such as breathalyzer demonstrations by police officers) the use or possession of alcohol at the work place, coming to work or returning to work under the influence of alcohol will not be tolerated. Violation shall constitute just cause for immediate disciplinary action including termination.

No controlled substance shall be used or possessed by any employee during work hours of such employee, including all breaks and meal periods. Violation shall constitute just cause for immediate disciplinary action including termination.

The Department of Public Works shall, in accordance with applicable federal and state laws, prepare and administer a policy describing drug and alcohol testing of all employees required, for performance of their jobs, to hold a Commercial Drivers License.

B. Grievances

All employees have a right to have grievances and concerns regarding employment heard in a fair, equitable, and timely manner. The decision to air a grievance will not result in any penalty to the employee, regardless of the final decision. All steps in the grievance procedure must be thoroughly documented in the employee's personnel file.²⁶

1. The employee should raise any questions, concerns, or grievances with the immediate supervisor. The employee and supervisor are encouraged to work together to resolve the problem at this level. If the employee is still not satisfied, the employee may, within ten (10) working days of the immediate supervisor's decision or failure to act, submit a written grievance to the Department Head.
2. The Department Head will meet with the employee to discuss the case within ten (10) working days and will provide the employee with a response within ten (10) working days of their meeting. If the employee is still not satisfied, the employee may submit a written grievance to the Hiring Authority.
3. The Hiring Authority will meet with the employee to discuss the case within ten (10) working days and will provide the employee with a response within ten (10) working days of their meeting. If the employee is still not satisfied, the employee may submit a written grievance to the Personnel Board.
4. The Personnel Board will meet with the employee to discuss the case within ten (10) working days. Based on the written grievance and any other information presented, the Personnel Board

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will make a final determination concerning the case within ten (10) working days of their meeting. The employee shall have no further right of appeal.

Employees may bring fellow employee(s) during the grievance review to act as witnesses and should supply evidence supporting their case. Time limits may be extended with the agreement of both parties.

C. Harassment²⁷²⁸

The Town of Upton does not condone any behavior that promotes an intimidating or hostile working atmosphere for any of its employees. The inappropriate conduct of one employee should never have the purpose or effect of interfering with another employee's work performance or of creating an intimidating, hostile, or offensive work environment. The employees of the Town of Upton should accept individuals and promote teamwork and cooperation rather than polarization and exclusion. Consequently, the Town of Upton upholds a strict code of conduct regarding harassment and will take appropriate action against offenders.

Sexual Harassment is unlawful, violating Title VII of the Civil Rights Act of 1964, as amended, and Massachusetts General Law (M.G.L. c. 151B).

Harassment includes but is not limited to: (1) conditioning or threatening to condition concrete employment benefits on sexual favors; and (2) creating a hostile or offensive working environment. A hostile work environment occurs when employees are subjected to unwelcome sexual advances, requests for sexual favors, intimidation, ridicule, and insults and other verbal or physical conduct of a racial, sexual or other nature that has the purpose or effect of unreasonably interfering with an individual's work performance.

Any employee, who believes he or she has been the subject of harassment, may first attempt to resolve the problem through discussion with the harasser. In cases in which discussion of the problem with the person presents particular stress or difficulties, the complainant may consult on an informal and confidential basis with any member of the Board of Selectmen.

If an employee who in good faith believes he or she has been the subject of or has witnessed harassment and would like to file a formal complaint, he or she is encouraged and requested to report the offensive conduct to the employee's supervisor, and the Board of Selectmen in writing. Refer to the Harassment Policy, available from the Personnel Coordinator for full details.

All reports of harassment will be taken seriously and responded to immediately. Any employee found to have engaged in harassment will be subject to appropriate discipline. Courses of action may include verbal warning (written), written warning, counseling, probation, suspension, or discharge.

Harassment may result from conduct by the employee or the employee's agents, vendors, supervisory employees, coworkers or non-employees. Harassment may also result from conduct occurring either on or off the worksite.

Harassment refers to behavior which is unwelcome. Examples of conduct that a reasonable person might find hostile or abusive include: unsolicited remarks, gestures, physical contact, display or circulation of sexually suggestive or insulting written materials or pictures that debilitate morale, and that therefore interfere with work effectiveness.

D. Safety Policies and Procedures²⁹

All employees have the responsibility to use good judgment and to follow all policies and procedures. Maintaining safe working conditions requires the cooperation of town management and employees. Management has a responsibility to locate and define potential safety problems within the workplace and

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to establish safety policies and procedures. The town has an obligation to maintain safe working conditions and to inform employees of existing safety policies and practices particular to each department. Departments should develop their own Safety Policies.

The Hiring Authority and the Personnel Coordinator shall be notified immediately of all accidents. The Department Head should conduct a full investigation with the appropriate organizations (i.e. Health care) when an accident occurs on the job. The finding should be sent to the Hiring Authority and Personnel Coordinator for proper disposition.

Any work related injury where recovery lasts for more than 30 work days is automatically subject to the Early Intervention Plan described in M.G.L. Chapter 32, Section 5B. At such time as a work related injury requires this intervention, the Personnel Coordinator shall be notified in order to begin the assembly of the required team of partners who will follow the employee's rehabilitation and return to work.

All individuals driving or riding in a town-owned vehicle are required to wear a seat belt. In addition, proper on-site first aid, CPR, or other live-sustaining techniques should be known by employees in high-risk jobs in order to avoid further injury.

E. Attendance and Hours of Work

The Hiring Authority, or its designee, is responsible for establishing work schedules for their areas of responsibility. The Hiring Authority, or its designee, is responsible for ensuring that employees under their charge comply with work schedules, including vacation and sick time, and are counseled for failing to meet same.

The Town of Upton does not compensate its employees for mealtime.

All nonexempt employees must account for the hours worked. Timecards must be completed and signed by each non-exempt employee, and also signed by his or her supervisor. No one other than the employee may fill out his or her timecard except in cases of extended illness. Any violation of the timecard policy will result in disciplinary action.

The Board of Selectmen is responsible for developing, distributing, and administering an *Emergency Closing Policy*. This policy will cover all employees of the Town of Upton, even those not under the direct responsibility of the Board of Selectmen.

VIII. TERMINATION OF EMPLOYMENT

A. Resignation³⁰

The Town of Upton requests that all employees present a statement of resignation to their Supervisor in writing at least two (2) weeks prior to the date of resignation. Earlier notification is always appreciated.

All employees should participate in an exit interview, designed to elicit information about the reason(s) for termination and conditions of employment. The Personnel Board should conduct this interview and use the information gathered through these interviews to pinpoint problem areas within the organization.

B. Progressive Discipline

The purpose of disciplinary action is to correct undesired conduct, behavior or productivity problems, and in doing so to help an employee become a better employee. Disciplinary action is designed to correct improper performance once it is shown the employee knew or should have known, what was expected from him or her and that he or she was capable of performing properly but failed to do so. Disciplinary action will be taken if an employee impairs departmental operations, either through activity disruptive

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behavior or through non-performance of assigned responsibilities. Disciplinary action may result from, but is not limited to, incidents where:

- the Town's public image has been seriously damaged
- serious risks of liability have been created
- employee safety has been seriously compromised
- an employee displays inappropriate chronic absenteeism or tardiness
- an employee refuses to carry out direct orders or instructions
- an employee is unable to perform assigned tasks
- an employee has demonstrated, directly or constructively, that less severe corrective action did not change performance significantly.

Employee culpability is an important element in the decision to use disciplinary action. Culpability means the employee violated the directive purposely, recklessly, negligently or without due regard for the explicit and intended meanings in official directives, orders and memorandums. Performance deficiencies caused by employee culpability shows a lack of regard for the Town or department's mission, therefore, they are treated as a more serious problem than are errors due to ignorance or lack of ability, even though the results are the same or similar. When it is established through substantial evidence that employee culpability exists and immediate termination is not warranted, progressive discipline shall be the appropriate resolution.

It is the policy of the Town of Upton to avoid terminating an otherwise productive employee when performance problems occur. A preferred practice is to use progressive disciplinary action to bring about change once it is shown that an employee knew or should have known that such conduct, behavior, or work productivity failed to comply with established directives, provided that:

- the conduct, behavior or performance was not caused by a lack of skills or ability that the typical employee would not be expected to possess.
- prior to taking such disciplinary action, other lesser forms of action, such as supervisory counseling were appropriate to use and were followed

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. The Town does not intend to illegally discriminate against current employees or potential employees on the basis of sex, ethnic background, race religion, color, age or physical disability in any disciplinary or termination proceedings. Whenever disciplinary action is used, an employee will be informed 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 problem³¹
- what further disciplinary action will occur if performance does not improve

Progressive Discipline consists of the following steps.

1. **Written Warning**
Written warnings are written records and the first step in the progressive discipline system. They are intended to be the least form of discipline. To be effective, however, written warnings must be timely; otherwise the employee may believe that future infractions will be tolerated.
2. **Written Reprimand**
A written reprimand is the second step in discipline, unless circumstances of the case justify a higher level of discipline, in which case this step can be bypassed.
3. **Suspension**

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Suspension is a serious intervention and occurs when an employee fails to respond positively to lesser forms of discipline. Suspension can also be the first step in progressive discipline if the act, and/or the result of the act, is serious enough that a written warning or reprimand would not promote the intent or spirit of the purpose and need for disciplinary action.

4. **Termination**

All employees are subject to termination for the following general conditions:

- Consistent performance failure(s) or a single performance failure that results in serious consequences to the Town's public credibility or ability to do business in an effective and efficient manner, with or without fault.
- Decisions of administration as permitted and retained by law (e.g. abolition of position; layoff because of lack of money)

Termination for performance failure (through acts of omission or commission while on or off the job) can occur. While no attempt is being made here to list all situations that may result in such removals, the following examples illustrate the kinds of failure that could lead to a cause of termination: insubordination; threatening a supervisor; fighting and assaults; provoking a fight or assault; forbidden harassment; endangering another; drug or alcohol abuse; theft; false reporting and situations where performance is not reasonably expected to improve. Situations where performance is not reasonably expected to improve include past failures to respond positively to progressive discipline; habitual violations of directives; work effort requiring excessive supervision after reasonable training has occurred to prepare the employee for the duties and responsibilities of the position; the employee's failure to learn the informal aspects of the job not covered by formal training but that are reasonable to expect of a competent employee who has gained knowledge and experience from the normal work environment; and the employee's failure to accept the Town or department's purpose, mission, and/or code of ethics.

If an employee's performance requires an investigation, the employee may be placed on paid administrative leave pending the outcome of the investigation. Depending on the findings, the employee may be terminated. If this occurs employees are provided with information that includes:

- The reason for the termination
- The effective date of the termination

IX. EMPLOYEE BENEFITS

A. **Vacation**^{32 33}

³⁴As of July 1, 2008, regular full time, and regular part time employees who work 20 or more hours per week, are eligible for paid vacation time as described below:

Vacation time is earned on an accrual basis. The accrual rate is shown in the table below. Vacation Hours are calculated using the following formula:

(Regular Hours Worked) times (Accrual Rate Factor) equals Vacation Hours

<u>Years of Service</u>	<u>Accrual Rate Factor</u>	<u>FT Hours</u>	<u>Vacation</u>
Less than one	.0192	2080	40 Hours
One but less than five	.0385	2080	80 Hours
Five but less than ten	.0577	2080	120 Hours
Ten or more	.077	2080	160 Hours

Example: [employee of 1-5 years]: 1040 hours worked / year [20 hours per week] x 0.0385 = 40 hours = 2 weeks.

Probationary employees will accrue vacation days but will not be allowed to use this benefit until it is earned, at the end of their probationary period.

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Employees are allowed to carry over up to ten (10) days vacation into the following fiscal year with the recommendation of the Department Head and approval of the Hiring Authority. The Department Head should manage this situation to ensure the time is used within a reasonable time frame.

Employees are not allowed to use vacation until it is earned. The schedule of vacation time must be approved by the Department Head. Department Heads must have their vacation time approved by the Hiring Authority.

A lump sum payment will be made to employees who terminate employment with unused accrued vacation time. The last day of actual work is the termination date for the employee. Employees may not add unused vacation days to their last day actually worked in order to postpone their termination date, whether to accumulate more vacation time, prolong insurance benefits, or for any other purpose.³⁵

B. Sick Time³⁶

Regular full time, and regular part time employees who work 20 or more hours per week, every week, shall accrue sick time at the rate of 15 days per year. The accrual rate shall be calculated using the following formula: Regular Hours Worked times 0.0577 equals Sick Time Hours earned. Unused sick days shall accumulate from year to year to a maximum accumulation of 20 days. Probationary employees will accrue sick time but will not be allowed to use this benefit until their probationary period is over.

Example: 2080 hours [full year] x 0.0577 = 120 hr. = 15 days

For periods of absence from work of three days or more, a physician's certificate shall be required upon return to work.

Unlike unused vacation days, which are paid to an employee upon termination, unused sick time is not paid to the employee. It reverts back to the Town of Upton.³⁷

C. Medical Plan

Regular Full time employees may voluntarily enroll in the Town's group Medical Plan as now offered by Blue Cross/Blue Shield and a Health Maintenance Organization. Payment for the coverage will be made 75% by the Town and 25% by the employee for Blue Cross/Blue Shield, and ³⁸75% by the Town and 25% by the employee for the Health Maintenance Organization.

Employees in part-time positions who work at least 20 hours regularly per week, each week of the year, are also eligible for the Town's group Medical Plan.³⁹

D. Life Insurance

Term Life Insurance in the amount of \$20,000.00⁴⁰⁴¹ is included as part of the Town's Medical Plan

E. AD&D Insurance⁴²

Regular full time and part time employees may choose to enroll in a voluntary AD&D plan. This plan is an option to all non-union town employees working regular part-time and regular full-time hours. This is a voluntary plan administered by the Town. Monthly premium costs are paid for by the participating employees.

F. Dental Insurance⁴³

Regular full-time and part-time employees may choose to enroll in a voluntary dental plan. This plan is an option to all non-union town employees working regular part-time and regular full-time hours. This is a voluntary plan administered by the Town. Monthly premium costs are paid for by the participating employees.

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G Holidays - the following eleven days shall be paid holidays:⁴⁴

New Year's Day	Martin Luther King Day	Washington's Birthday
Patriot's Day	Memorial Day	Fourth of July
Labor Day	Columbus Day	Veteran's Day
Thanksgiving Day	Christmas Day	

The Town of Upton shall follow the State of Massachusetts' holiday calendar. If an employee is required to work on a holiday, his or her supervisor will allow equivalent time of at a mutually convenient time. No other days shall be taken, other than as vacation days.

H. Leaves⁴⁵

1. Jury Duty

The Town will pay the difference between Jury Duty and the employee's regular pay

2. Bereavement Leave⁴⁶

The Town will, with approval of the Department Manager, grant up to three days leave with pay in the event of death in the immediate family.

3. Military Leave

The Town will pay the difference between military and regular pay for up to two weeks if the military pay is less than the regular pay.

4. Family Medical Leave⁴⁷

Eligible employees may take up to a maximum of 12 weeks job protected leave each year for one or more of the following reasons: (1) for the birth or placement of a child for adoption or foster care; (2) to care for an immediate family member (spouse, child, parent) with a serious health condition; or (3) to take medical leave when the employee is unable to work because of a serious health condition. This leave is first drawn and paid for by an employee's accrued sick leave. If an employee does not have enough accrued sick leave to cover the leave period, the rest of the 12-week maximum period taken will be unpaid under these provisions. Once on unpaid family/medical leave, the Town of Upton will continue coverage for medical benefits, however, the employee will be required to pay their normal portion of the premium. Accruals of vacation and sick time will continue for the first thirty (30) days of a family medical leave. For more details and provisions, please refer to the Family/Medical Leave policy. This leave policy complies with state regulations and the Family Medical Leave Act.

5. Personal Leave of Absence⁴⁸

An employee may, with the recommendation of the Department Head and specific approval of the Hiring Authority, be granted up to two days of personal leave without pay to meet a serious personal obligation that cannot be met other than during working hours.

6. ⁴⁹

7. Selectmen's Emergency Leave

The Selectmen may, at their discretion, grant an emergency thirty-day leave during which time medical benefits will continue to be paid by the Town. At the discretion of the Board of Selectmen this leave may be with or without pay.

I. Consolidated Omnibus Budget Reconciliation Act (COBRA)⁵⁰⁵¹

In accordance with the Consolidated Omnibus Budget Reconciliation Act (COBRA), a federal statute, employees and/or dependents who lose eligibility from the Town of Upton's sponsored group medical insurance may continue coverage for a specified length of time depending upon the qualifying event; termination of employment or reduction of work hours - 18 month; disability - 29 months; death, divorce or

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legal separation of employee - 36 months; dependent of employee entitled to Medicare - 36 months; dependent child's loss of eligibility - 36 months. Covered individuals will be responsible for 100% of the cost of the insurance. For more details, please contact the Personnel Coordinator.

J. Worker's Compensation⁵²⁵³

The Town will provide employees with worker's compensation.

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- ¹ Revised – May 2010
 - ² Revised – May 2010
 - ³ Revised – March 2010 for new governmental structure
 - ⁴ Revised – May 2004
 - ⁵ Added – May 2001
 - ⁶ Added – May 2010
 - ⁷ Typographical & Grammatical Corrections - May 1997
 - ⁸ Deleted and Replaced – May 1998
 - ⁹ Deleted and Replaced – May 1997
 - ¹⁰ Deleted and Replaced – May 2000
 - ¹¹ Deleted and Replaced – May 1997
 - ¹² Revised – May 2010
 - ¹³ Revised - May 2000
 - ¹⁴ Added – May 2007
 - ¹⁵ Revised – May 2006
 - ¹⁶ Revised – May 2010
 - ¹⁷ Typographical & Grammatical Corrections – May 1997
 - ¹⁸ Deleted and Replaced - May, 2001
 - ¹⁹ Typographical & Grammatical Corrections – May 1997
 - ²⁰ Typographical & Grammatical Corrections – May 1997
 - ²¹ Typographical & Grammatical Corrections – May 1997
 - ²² Added - May 2001
 - ²³ Deleted and Replaced – May 1997
 - ²⁴ Revised – May 2000
 - ²⁵ Typographical & Grammatical Corrections – May 1997
 - ²⁶ Typographical & Grammatical Corrections – May 1997
 - ²⁷ Deleted and Replaced – May 1997
 - ²⁸ Revised – May 2010
 - ²⁹ Revised – May 2010
 - ³⁰ Deleted and Replaced - May, 2001
 - ³¹ Typographical & Grammatical Corrections – May 1997
 - ³² Deleted and Replaced – May 1997
 - ³³ Deleted and Replaced – May 2005
 - ³⁴ Revised – May 2008
 - ³⁵ Added – May 2000
 - ³⁶ Deleted and Replaced – May 2005
 - ³⁷ Added – May 2000
 - ³⁸ Revised – May 2007
 - ³⁹ Added - May 2001
 - ⁴⁰ Revised - October 2002
 - ⁴¹ Updated – May 2010
 - ⁴² Added – May 2010
 - ⁴³ Added – May 2010
 - ⁴⁴ Renumbered – May 2010

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- 45 Renumbered – May 2010
 - 46 Revised – May 2006
 - 47 Deleted and Replaced – May 1997
 - 48 Deleted and Replaced – May 1997
 - 49 Deleted – May 1997
 - 50 Deleted and Replaced – May 1997
 - 51 Renumbered – May 2010
 - 52 Title Changed – May 1998
 - 53 Renumbered – May 2010

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