

BOROUGH OF SOUTH PLAINFIELD

DECLARATION OF PERSONNEL POLICY

ADOPTED

SEPTEMBER 26, 1983

AMENDED

April 22, 1993

## INDEX

|                                      | <u>Page</u> |
|--------------------------------------|-------------|
| Preface                              | 1           |
| History of South Plainfield          | 2           |
| Organizational Chart                 | 3           |
| Declaration of Personnel Policy      | 4           |
| Employee Titles                      | 6           |
| Public Employment                    | 7           |
| Safety at Work                       | 7           |
| Employment Process                   | 8           |
| Work Hours                           | 9           |
| Time and Attendance                  | 9           |
| Overtime                             | 9           |
| Pay Periods and Deductions           | 10          |
| Pay Plan and Employee Benefits       | 10          |
| Schedule of Paid Holidays            | 11          |
| Vacation and Sick Leave              | 12          |
| Jury Duty Leave                      | 14          |
| Maternity Leave                      | 14          |
| Leave of Absence Without Pay         | 14          |
| Funeral Leave                        | 14          |
| Military Leave                       | 14          |
| Longevity                            | 15          |
| Outside Employment                   | 15          |
| Acceptance of Gifts or Favors        | 15          |
| Filing a Position                    | 15          |
| Promotions                           | 16          |
| Title Changes                        | 17          |
| Transfers                            | 17          |
| Seperation from Service - Retirement | 18          |
| Disciplinary Action                  | 19          |
| Employee Suggestions                 | 19          |
| Grievances                           | 20          |
| Use of Borough Vehicles              | 21          |
| Sexual Harassment Policy             | 24          |

## History of South Plainfield

The Borough of South Plainfield was incorporated in 1926, but the area was actually settled some 260 years earlier and thrived as a part of the Township of Piscataway.

Piscataway was founded in 1666 in an agreement between settlers from New England and Phillip Carteret, the Governor of the territory. After a dispute with local indians, the Unami Tribe, a subtribe of the Lenni-Lenapi Tribe, over land rights of 1667, the settlers repurchased the land in an agreement with three chiefs. The Dismal Swamp, located in South Plainfield, was mentioned in the agreement.

The earliest name of South Plainfield was Tow Town, then Brooklyn, then New Brooklyn and Sampton. Original roads still in use today are Oak Tree, Sampton, Rahway and New Market Avenues. The first settlers naturally built their homes along these roads.

By 1834 New Brooklyn and Sampton had a school house, a post office, a store, and about 25 dwellings. In the 1870's the Lehigh Valley Railroad made South Plainfield it's yard and is still in use today.

Until this time the sole industry in town was an ice house, a saw mill, a grist mill, and a flax factory, all situated around Spring Lake. In 1912, Spicer Manufacturing Co. came to town followed by Rock Wool Corp. and Harris Steel. The Volunteer Fire Co. was organized in 1907 with a two wheel cart, 6 pails and a couple of axes.

In 1923 New Brooklyn broke away following a legislative act and upon favorable vote of the residents, became incorporated in 1926.

Hadley Airport was constructed in 1924 and became part of South Plainfield in 1926 with the incorporation. It was at Hadley Field that the first trans-atlantic mail flight took off.

The present PAL building was once the site of an amusement park and a lake for swimming called Holly Park. The VFW Post Hall and the professional building on Park Avenue were once the sites of two hotels -- The Thornton Hotel and the Campbell Hotel.

From those 25 dwellings in 1834 and a handful of industries, South Plainfield has grown considerably with a current population of over 22,000 and hundreds of commercial and industrial interests. Many of the original homes are still standing and have been officially recognized with historical placques displayed on the homes. And after 71 years, Harris Steel is still in full operation on New Market Avenue.

The town has changed a great deal physically but the same pride and community spirit exists today as it did back in 1926 when South Plainfield incorporated. South Plainfield is a community where residential, commercial and industrial sectors live and work harmoniously and contribute to the future of our town.

## PREFACE

This is a layman's guide to the personnel policy of the Borough of South Plainfield. It is subordinate to and subject to changes or interpretation by the Mayor and Council and other controlling authorities as may be deemed in the best interests of all concerned.

The administration of this policy is the responsibility of the Borough Administrator and Department Heads and Officers in coordination with the Governing Body. The Governing Body shall monitor all personnel policies and make appropriate amendments when necessary to insure the most efficient, equitable and safe working conditions possible.

This guide provides a written statement of the general terms and conditions of employment by the Borough of South Plainfield. It is the desire of the Mayor and Council to provide a working environment which is free of confusion and which encourages open communication among all members of our borough family. Every effort shall be made to stimulate high morale by fair administration of this policy and by consideration of the rights and interests of our employees, consistent with the best interests of the Borough.

Ours is an active organization of dedicated men and women devoted to the further development of the plans and goals of our community. We all take pride in our work and our accomplishments and encourage each employee to exemplify this attitude in their daily responsibilities.

At the General Election held on November 7, 1950, the electorate of the Borough of South Plainfield approved the adoption of the provisions of the Civil Service Act of the State of New Jersey. Therefore, the rules of the Civil Service Commission hereby constitute the guidelines used for employment in the Borough.

We encourage you to familiarize yourself with the pages that follow. If you should have any questions or wish to discuss any part of this policy, please see your Department Head.

# RESIDENTS OF SOUTH PLAINFIELD

\*  
\*  
\*

## MAYOR AND BOROUGH COUNCIL MEMBERS

\*

### BOROUGH ADMINISTRATOR

BOARDS & AGENCIES\*\*\*\*\*

LIBRARY

MUNICIPAL COURT

LEGAL AFFAIRS

SAFETY UNITS

AUDITOR

\*\*\*BOROUGH CLERK  
ADMINISTRATION  
PURCHASING

| ASSESSING | CODE        | ENGINEERING | FINANCE | HEALTH | PUBLIC WORKS | MUNICIPAL COURT | POLICE | RECREATION |
|-----------|-------------|-------------|---------|--------|--------------|-----------------|--------|------------|
|           | ENCORCEMENT |             |         |        |              |                 |        |            |

By Ordinance #815 there shall be a Borough Administrator to assist the Mayor and Council and act as Liason between the Governing Body and the various departments, bodies, and other officials of the Borough of South Plainfield under the supervision and control of the Mayor and Council.

Each Department of the Borough shall have a Supervisor known as the Department Head. In the Department of Public Works, there shall be a Superintendent assisted by an Assistant Superintendent, and various Foreman. In the Police Department, there shall be a Chief of Police with various officers under his charge. It is the responsibility of each Department Head to supervise the activities of his/her staff to insure efficiency and quality service in the Department.

Each Department will be assigned a member of the Borough Council who will act as Liason. The Council Liason will work with the Department Head on all matters concerning his/her department's operation and will refer back to the Governing Body those matters which require the Council's consideration.

All staff members in a given Department are directly responsible to his/her Department Head. All questions, suggestions, grievances, etc. will be referred to the Department Head who then may choose to review and discuss the matter with the Administrator and the Mayor and Council.

## DECLARATION OF PERSONNEL POLICY

The Mayor and Council of the Borough of South Plainfield do hereby declare the following principles to constitute the personnel policy of the Borough.

1. The New Jersey State Civil Service Law and the Civil Service Rules of the State of New Jersey shall provide for the basic framework for employment in the municipal government.
2. Employment in the borough system shall be based on merit and fitness, free of political consideration.
3. Just and equitable incentives and conditions shall be established and maintained in order to promote efficiency and economy in the operation of the municipal government.
4. Positions of like duties and responsibilities shall be classified and compensated on an equitable basis.
5. Appointments, promotions and other personnel actions shall be based on systematic tests and/or evaluations of an individual's knowledge and performance, and where appropriate, these shall be carried out through the borough's participation in the New Jersey Civil Service System.
6. Continuity of employment shall be subject to good behavior, satisfactory job performance and availability of funds.
7. All personnel employed by the Borough of South Plainfield shall be appointed by the Mayor and Council on the advice of the Administrator and, where appropriate, shall be subject to the approval of the Civil Service Department of the State of New Jersey.
8. It is the responsibility of the Department Head to see that employees in their department achieve certification and permanent status within a reasonable time period.
9. All offices and positions in the municipality shall be allocated to a "Classified" or "Unclassified" service.
10. Unclassified service shall include all elected officials, volunteer personnel who render service without compensation, consultants and counsel rendering temporary professional service and all other offices or positions that are so listed as Unclassified by N.J.S.A. 11:22-2.
11. Classified service shall include all positions as outlined in Ordinance #      Supplement the Revision of Codification of All General Ordinances of the Borough of South Plainfield by supplementing and adding Chapter 5, Civil Service 5:2-1 et seq. (See page 6 for list of titles)
12. The Administrator shall, from time to time, review the job classes and submit a report thereof to the Mayor and Council for their review.

13. All candidates for employment by the Borough shall be residents of the Borough, unless such requirement is specifically waived by the Mayor and Council.
14. Administration of the personnel system is the responsibility of the Borough Administrator and/or other personnel so designated by the Mayor and Council. The Administrator shall, in turn, direct each Department Head as to their responsibilities in administering the personnel policies of the Borough in their given area.
15. The ultimate control of the personnel system of the Borough rests with the Mayor and Council through their power to enact the annual operating budget and through the adoption of required ordinances to establish and regulate the various municipal departments, positions and salaries. In addition the Mayor and Council exercises control over personnel policies through the adoption of a personnel ordinance and ratification of union contracts establishing working conditions and fringe benefits for all municipal employees.
16. Each employee of the Borough is directly responsible to his/her Department Head or Supervisor. Any problems, question, or suggestion must be directed to the Department Head or Supervisor for consideration and appropriate action.
17. Any employee who is injured in the performance of duties shall report the accident to his/her supervisor immediately for proper processing.
18. Personnel records shall be adequately maintained by the Department Heads in coordination with the Payroll Clerk's office for each employee and shall contain the date of appointment, promotions, job titles, salaries, commendations, disciplinary action, leave of any type taken and accumulated, etc. It is the responsibility of the Department Head to file a weekly report with the Payroll Clerk regarding their staff members attendance record for each week.
19. The policies set forth in this declaration shall at all times be subject to the Civil Service Rules of the State of New Jersey which prescribe the basic minimum standards for the employment of municipal personnel to which the Borough of South Plainfield subscribes.
20. If any provision of this policy or its application to any person is deemed invalid, the remaining provisions shall continue to be valid and effective.

CLASSIFIED SERVICE - TITLES

Assistant Engineer  
Accounts Clerk  
Assessing Clerk-Typing  
Assistant Public Works Superintendent  
Bookkeeping Machine Operator  
Building Maintenance Worker  
Cashier  
Clerk  
Clerk-Typist  
Clerk-Transcriber  
Construction and Road Inspector  
Deputy Municipal Court Clerk  
Deputy Violation Clerk  
Engineering Aide  
Engineer Draftsman  
Equipment Operator (Sweeper)  
Fire Alarm Operator  
Fire Protection - Sub-Code Official  
Foreman  
Heavy Equipment Operator  
Laborer  
Mechanic  
Mechanic Foreman  
Mechanic's Helper  
Municipal Court Clerk  
Payroll Clerk  
Plumbing Sub-Code Official  
Police Records Clerk  
Principal Account Clerk-Typing  
Principal Assessing Clerk  
Principal Bookkeeping Machine Operator  
Principal Cashier  
Principal Clerk Stenographer  
Principal Clerk Transcriber  
Principal Clerk-Typing  
Principal Engineering Aide  
Program Coordinator  
Public Works Foreman  
Public Works Superintendent  
Road Foreman  
Sanitary Inspector  
Senior Accounts Clerk  
Senior Accounts Clerk-Typing  
Senior Assessing Clerk-Typing  
Senior Bookkeeping Machine Operator  
Senior Clerk Stenographer  
Senior Clerk Transcriber  
Senior Engineering Aide  
Senior Maintenance Repairer (Carpenter)  
Senior Mechanic Foreman  
Senior Payroll Clerk  
Senior Sewer Repairman  
Sewer Repairman  
Supervising Cashier  
Supervisor of Account  
Superintendent of Recreation  
Telephone Operator-Receptionist  
Terminal Operator  
Truck Driver  
Violation Clerk

## SAFETY AT WORK

Safety is everyone's business. We urge every employee to observe safety rules and exercise precaution while at work.

Every job should be performed in as safe a manner as possible and be cautious of possible hazards. If you see a potential source of danger, report it to your supervisor.

If an accident occurs while an employee is working he/she must notify his supervisor immediately in order for the necessary reports to be filed with the insurance company. Claims for Workmen's Compensation is approved only by the insurance carrier. According to the present insurance carrier, an employee may go to the doctor of his choice. Every accident should be reported to the insurance carrier no matter how small.

## EMPLOYMENT PROCESS

Vacancies shall be posted in the Municipal Building and advertised in various newspapers, government publications, etc. to attract qualified competitive applicants.

A pre-employment application shall be completed by each person who applies for a position in the Borough. Applications shall include an employment history, educational history, qualifications, personal data and references. Willful misrepresentation or falsification of facts on the application will result in disqualification or dismissal of the applicant or employee.

Interviews will be set up with the applicant and the Department Head and Administrator along with the Council Committee members assigned to the Department involved. After the interview, the interviewing officials may conduct a check on the information provided by the applicant as deemed necessary by the Administrator.

Appointment to a position shall be made by the Mayor and Council on the recommendation of the Administrator and Department Head.

A new employee shall serve a probationary period of 90 working days. Upon satisfactory completion of the probation period, the employee shall be placed on a seniority list retroactive to his/her first day of employment. An employee who does not successfully complete the probationary period will be terminated. Performance evaluations will be conducted by the Department Head with the Administrator. Probation may be extended another 60 working days if the performance is marginal.

As established by local ordinance, employment in the Borough of South Plainfield requires that the applicant be a resident of the Borough. Only when no qualified applicant resides in the Borough will this requirement be waived.

A Personnel history file will be established by the Administrator and Payroll Clerk when you are employed. You have the right to review your own file upon request. It is important to keep your personal file up to date so we ask that you notify the Payroll Clerk of any changes in vital personal statistics including address, marital status, tax exemptions, phone number, and insurance beneficiary.

All appointments to vacancies shall be in accordance with the Civil Service Rules of the State of New Jersey. Complete information on Civil Service is available in the Borough Administrator's office.

## WORK HOURS

The normal work week of the municipality shall consist of 5 days, Monday through Friday and shall consist of no less than 35 hours and no more than 40 hours.

All municipal offices shall be open and staffed from 9:00 A.M. to 5:00 P.M. except as otherwise specified by the Administrator. No office is to be left unattended during normal office hours unless approved by the Borough Administrator and then, should only be in case of emergency.

If you find that you must leave on an emergency, you must notify the Administrator of the situation so that a replacement can be arranged during your absence.

All office employees are entitled to a one hour lunch break and two 15 minute coffee breaks - one in the morning and one in the afternoon. These breaks should be scheduled with your Department Head. We respectfully request that during your breaks you do not visit other employees who are on duty as this causes interruptions from important Borough work.

## TIME AND ATTENDANCE

Accurate and complete attendance records shall be maintained by each Department Head and submitted to the Payroll Clerk on a weekly basis.

If an employee finds that he/she will be delayed or absent from work, this should be reported to the Department Head prior to normal reporting time.

Being punctual is of the utmost importance. Any tardiness, and the reason thereof, shall be noted on your time card. Recurring or chronic tardiness shall be cause for salary deductions or other appropriate action.

Please be advised that you are expected to be on duty the full time specified above. If you leave early or come in late, this must be indicated on your attendance card.

## OVERTIME

Overtime shall be kept to a minimum and must be authorized only by the Department Head or Administrator. Overtime is subject to availability of funds in the current account budget. Compensation for overtime shall be made at a rate of 1-1/2 times the hourly rate or as otherwise stated by contract.

## PAY PERIODS AND DEDUCTIONS

Paychecks will be distributed every Friday. Federal income tax, State income tax, unemployment and Social Security deductions are automatically withheld from your check according to law. Additional deductions may be made for pensions, union dues, retirement (IRA Account), etc. as arranged by you with the payroll clerk. All questions regarding pay should be directed to the Payroll Department.

## PAY PLAN AND EMPLOYEE BENEFITS

The salary of an employee of the Borough of South Plainfield is set by the Mayor and Council by the adoption of a yearly Salary Ordinance. The Borough shall pay its employees on a weekly basis.

Employees may be compensated for overtime work when such compensation has been approved by the employee's Department Supervisor or the Administrator. Overtime compensation shall commence only after the employee has worked the regular number of hours in any one work week. Authorized overtime compensation shall be computed at the hourly rate equal to 1-1/2 times the equivalent hourly rate computed from the base.

In the case of the Borough's Police Force, overtime hours and the procedure for payment shall be established during contract negotiations and shall be subject to the provisions of said contract.

The municipality provides various fringe benefits which are in addition to a weekly paycheck. The cost of these benefits are borne either in part or in whole by the Borough. The following is a list of benefits offered by the Borough:

- Blue Cross/Blue Shield Hospitalization with Major Medical
- Blue Cross Prescription Drug Program
- Vision Care Plan
- Dental Care Plan
- Pension Plan

Detailed information on each of these programs is available in the Payroll office.

From time to time an employee may find it necessary to make changes in the coverage offered because of changes in marital status, family status, address changes, withholding tax modifications, etc. It is the responsibility of each employee to notify the Payroll office of any changes so that we can make the necessary adjustments on your records. Failure to do so may cause problems for both you and the Payroll office so it is very important to follow proper procedures in regard to changes.

Employees covered under the State Health Benefits Program should familiarize themselves with the terms and conditions of the program. Special note is given to the case of a leave of absence without pay. If you are on a leave without pay, your coverage shall terminate on the last day of the coverage period for which premiums have been paid. If you are on a leave without pay and wish to have your coverage continued during your leave, you may pay the total premium to the Borough

#### SCHEDULE OF PAID HOLIDAYS

The schedule of holidays for municipal employees are set by the Mayor and Council on January 1 of each year and generally are as follows:

New Year's Day  
Martin Luther King Day  
Lincoln's Birthday  
Washington's Birthday  
Good Friday  
Memorial Day  
Independence Day  
Labor Day  
Columbus Day  
Veteran's Day  
Election Day  
Thanksgiving Day  
Christmas Day  
Personal Birthday

The observance of Holidays generally depend on the Department where you work. Employees working in Administrative Offices are usually granted 14 paid holidays per year. Other Borough employees, because of the nature of their jobs and services, are granted a different Holiday schedule.

Generally, if a Holiday falls on a Sunday it shall be observed on the following Monday. If a Holiday falls on a Saturday it shall be observed on the preceding Friday. Any day designated by the Governor of the State of New Jersey or the President of the United States as a Holiday will also be observed by the Borough.

Should a Holiday occur while an employee is on vacation or sick leave, that day shall be credited to the accrual system of vacation and sick leave.

## VACATION AND SICK LEAVE

The first six months of employment there will be no paid sick or vacation days. Upon completion of the first six months of employment, an employee will have then accumulated six sick days and six vacation days for the six months previously worked. An employee upon completion of the first six months is then entitled to use the accumulated days. For each month worked thereafter, one sick day and one vacation day is due the employee per month. The total for the first year worked will then be 12 vacation days and 12 sick days.

The second year of employment will entitle an employee to 15 sick days and 12 vacation days immediately.

The following schedule shall apply to earned vacation time allowed for Municipal employees and Police Officers:

| Years Employed   | Municipal Employees           | Police Officers  |
|------------------|-------------------------------|------------------|
| First Year       | 1 day for each month employed |                  |
| 2 thru 4 years   | 12 vacation days              | 12 vacation days |
| 5 thru 9 years   | 15 vacation days              | 17 vacation days |
| 10 thru 14 years | 18 vacation days              | 20 vacation days |
| 15 thru 19 years | 21 vacation days              | 23 vacation days |
| 20 thru 24 years | 24 vacation days              | 26 vacation days |
| 25 years or more | 27 vacation days              | 29 vacation days |

No employee shall carry more than 10 vacation days from the previous calendar year. The maximum days of vacation for payment upon retirement shall be the yearly entitlement plus ten days from the previous year.

Requests for vacation leave shall be submitted for approval by the Department Head at least one month in advance. Vacations should be taken at such times and for such terms as the Administrator and Department Heads determine to be in the best interest of the Department and the Borough. In scheduling vacations, Department Heads shall give consideration to employee requests and determine schedules with preference given to those with seniority in the Department. Employees should try to avoid being on vacation during peak work times as this could cause a hardship on your co-workers.

Department Heads shall submit their vacation schedule to the Council Liason at least one month in advance.

The following schedule shall apply to earned sick leave allowed for Municipal employees and the rules governing accumulation:

| Years Employed         |                               |
|------------------------|-------------------------------|
| First Year             | 1 day for each month employed |
| 2nd Year or Thereafter | - 15 days per year            |

Sick leave is defined as absence from duty due to illness, accident or exposure to a contagious disease, attendance upon a member of the immediate family who requires care

If an employee should leave work after reporting in for the day, his/her record will indicate a half day sick leave or one-half day vacation, whichever the employee shall choose.

Accumulated sick leave is controlled by Ordinance #890 of the Borough of South Plainfield. An employee may accumulate up to 6 calendar months (180 days) of sick time which will be compensated for upon retirement. All employees who accumulated more than 6 months (180 days) of sick time prior to December 31, 1980 shall be credited for the full amount so accumulated up to December 31, 1980 and compensated therefor on retirement.

There shall be no compensation to any employee for accumulated sick time beyond 6 months (180 days) total upon retirement except as noted above. Accumulated sick time should be used prior to retirement but with some prudence as long term illness may sometimes occur and therefor be needed by the employee.

At the time of retirement, the employee shall be compensated for up to 6 calendar months (180 days) or any portion thereof which has been certified by the Payroll Clerk at the prevailing rate of pay.

When an employee has been absent from duty for a period of 5 consecutive working days, the Department Head may request the employee to furnish medical certification by a physician verifying the employee's condition. Failure of the employee to furnish a certificate may result in the absence being disapproved and said absence being charged as absence without leave. No pay will be received in this case and may be cause for other appropriate action.

In the event that an employee uses all available sick time and must be absent, the employee must contact the Department Head and Payroll clerk to determine the appropriate course of action. The employee may be granted a special leave of absence without pay. A request for leave without pay must be made in writing to the Department Head and such leave may be granted for a period not to exceed six months. The matter must be approved by the Mayor and Council.

Sick leave due to injury received on the job shall not be charged against the employee's sick time account. However, statutory limitation of one year will be strictly adhered to.

## JURY DUTY LEAVE

When an employee is called for Jury Duty, the employee shall be paid the regular rate of pay upon proper presentation of evidence of jury service and shall not be required to remit the jury pay to the Borough. If during Jury Duty, for any given reason an employee has been excused, or if there is no court scheduled for any given day, an employee is expected to report to work. If an employee does not report to work he or she will be charged for a sick or vacation day.

## MATERNITY LEAVE

Female employees shall be allowed to use accrued sick time and vacation time for maternity leave. The period of actual incapacity for work must be supported by a physician's certificate. The employee may request additional leave without pay for up to 6 months with the approval of the Administrator.

## LEAVE OF ABSENCE WITHOUT PAY

The Borough Administrator may grant the privilege of a leave without pay to an employee for a period not to exceed 6 months with the consent of the Council Liason. Any additional leave must be approved by the Mayor and Council. Additional leave may be granted for an additional 6 month period. No further leave may be granted except by approval of the Civil Service Commission for reasons as established by Commission regulations.

## FUNERAL LEAVE

Employees shall be granted up to 3 days to attend or make arrangements for a funeral of a deceased member of the employee's immediate family. The immediate family is defined as spouse, child, mother, father, mother-in-law, father-in-law, brother, sister, sister-in-law, brother-in-law, grandparent, grandchild, or relative residing in employee's home. This time shall not be charged against the employee's sick or vacation time. If additional time is needed approval may be granted by the Administrator and time is charged against sick time or vacation.

## MILITARY LEAVE

Any employee who is a member of the National Guard or Reserves and is required to undergo field training will be granted leave and will receive full pay during active duty. This leave will be in addition to normal sick or vacation time.

## LONGEVITY

In addition to annual salaries, employees may be entitled to receive longevity compensation according to the following schedule and at the discretion of the Mayor and Council:

|                     |             |
|---------------------|-------------|
| 5 Through 9 Years   | 2% increase |
| 10 Through 14 Years | 4% increase |
| 15 Through 19 Years | 6% increase |
| 20 Years or More    | 8% increase |

These increments will be added to the base pay of the employees and will be incorporated into the Salary Ordinance.

## OUTSIDE EMPLOYMENT

No employee shall accept outside employment if there is any reasonable probability that such employment will interfere with an employee's performance or attendance, or compromise an employee's position with the Borough through a conflict of interest.

## ACCEPTANCE OF GIFTS OR FAVORS

No official or municipal employee shall accept any valuable gift, whether in the form of a service, loan, thing or promise from any person, firm, corporation, etc. which to his/her knowledge is interested in any manner whatsoever in business dealings with the Borough of South Plainfield. An employee may not accept a gift, favor or thing of value that might tend to influence him/her in the discharge of his/her duties.

## FILLING A POSITION

At the time a position is to be filled, where appropriate, the Civil Service Commission will certify the top three names from the employee applicant list. The appointment will then be made from this list to fill the position.

In the event that the appointment is to be made from a list of employees who have been laid off, the top name from this list of lay-offs will be certified to the Borough.

If an eligibility list is not available, the Borough may make a temporary appointment pending an open competitive exam.

All employees appointed to the classified service category shall serve a probationary period of 90 days. At the end of the probationary period, the Department Head in consultation with the Borough Administrator and Council Liason, may discontinue the service of any such employee if, in their opinion, the employee is unwilling or unable to perform the duties of the position in a satisfactory manner. The Administrator shall notify the employee in writing of said discontinuance and of the reasons for the same, and shall forward a copy of the said notice to the Department of Civil Service of the State of New Jersey.

The 90 day probationary period shall also apply to an employee who is promoted to a higher classification but shall in no way affect the rights and status in the original or lower classification.

Each new Police Officer shall be required to satisfactorily complete a basic Police Training Program recognized by the N.J. Police Training Commission during the first year and prior to receiving permanent appointment.

Classified employees who satisfactorily complete their probationary period shall have permanent employment status, conditioned upon good behavior and satisfactory job performance. They shall be subject to removal by the appointing power only for cause or for reason of economy, after proper notice and the opportunity to be heard, as set forth under the Civil Service Rules of the State of New Jersey.

# PROMOTIONS

It is the policy of the Borough, whenever it is possible to fill positions from within the ranks of the various Borough employees who posses the necessary qualifications and experience and who have performed their duties in an efficient manner.

Promotions to higher level positions will be filled according to Civil Service Guidelines where appropriate. Notice of vacancies will be posted and may be subject to competitive exams.

## TITLE CHANGES

If an employee feels that his/her job description and work responsibilities have changed significantly, that employee may request a review by the Borough Administrator. The following steps should be followed:

1. By November 1 the employee must notify his/her immediate supervisor that they want a review of their job description. This review will include the employee, the Department Head and the Administrator.

If it is concluded that the employee's work responsibilities have changed enough to warrant a change in title, the matter will be brought to the attention of the Mayor and Council and they will decide whether the employee should be given:

- a) A new title
  - b) Establish a completely new classification
  - c) Opportunity to test for a new classification
2. If it is concluded in the review that a change is not warranted but the employee still feels that a change is warranted, the employee may contact his/her Council Liason and request a desk audit by Civil Service.

All title changes will be made according to the Rules of Civil Service.

## TRANSFERS

As a general policy regarding transfers, transfers from one position to another or one department to another will be considered favorably when it is in the best interest of the municipality and the employee to make such a change.

All transfers will be made after the Department Head and Administrator have had an opportunity to review the request and discuss it with the Council Liason. Only on the recommendation of the Administrator will such transfers be approved.

No vacation or sick time will be lost in the event of a transfer.

## SEPERATION FROM SERVICE

Employees who have attained permanent status may be temporarily suspended from the Municipality's employ by layoff or suspension, or permanently seperated by resignation, dismissal or retirement, subject to the Rules and Regulations of the Civil Service Department of the State of New Jersey.

1. LAYOFFS - Whenever there is a lack of work or a lack of funds which may require a reduction in the number of employees in a department, the required reductions shall be made by the Mayor and Council. Employees shall be laid off according to their length of service within the effected job classification in a particular department. Employees so affected shall be given 45 days notice.

2. RETIREMENT - Employees enrolled in the Public Employees Retirement System, the Police Retirement System, etc. are subject to the benefits, requirements and provisions of those plans. Specifics on age at time of termination of duty can be determined by the Payroll Clerk.

All employees who plan to retire from Municipal employment must submit a letter of resignation to the Mayor and Council a year in advance so that the governing body may make the necessary arrangements for compensation of accrued time, plan for your replacement and begin training of the replacement.

As stated in the area on sick leave, you may accumulate up to 6 months of sick time during your employment with the Borough. At your retirement, you will be compensated for the time accrued. Vacation days shall be pro-rated on a monthly basis up to date of retirement (current year).

3. RESIGNATION - An employee may resign from his/her position by tendering a written letter of resignation to his Department Head who, in turn, shall forward it to the Council Liason of the Department. Unless there are disciplinary charges pending against the employee, the Administrator shall notify the employee of acceptance of his/her resignation in good standing. An employee shall give a minimum of one month's notice before the effective date of his/her resignation. Failure to do so will result in a loss of vacation and sick day credit.

4. SUSPENSION - When in the opinion of the Department Head after consultation with the Administrator and Council Liason, an employee's performance or conduct justifies disciplinary action short of dismissal, the Administrator is empowered to suspend the employee without pay or with reduced pay. A list of areas of misconduct according to Civil Service is stated under the Section on Dicipinary Action (Sheet 19).

## DISCIPLINARY ACTION

We hope that you will not be involved in these matters, but occasionally some employees must be reprimanded for actions not in conformance with conduct expected of Borough employees. The following are examples of misconduct according to Civil Service Rules, and are cause for disciplinary action and/or separation from service:

1. Neglect of duty
2. Incompetency or inefficiency
3. Incapacity due to mental or physical illness
4. Insubordination
5. Intoxication while on duty
6. Chronic or excessive absenteeism
7. Disorderly or immoral conduct
8. Willful violation of Civil Service Statutes, rules or regulations, or other statutes related to public employment
9. Conviction of a crime (felony)
10. Negligence of or willful damage to public property, or waste of public supplies
11. Conduct unbecoming an employee of the Borough
12. The use or attempt to use one's authority or official influence to control or modify the political action of any person in the service or engaging in any form of political activity during working hours
13. Falsifying documents
14. Absence without leave
15. Chronic or excessive tardiness

As a Civil Service employee it is to your benefit to review the Civil Service Rules of the State of New Jersey and become familiar with them. Should you have any questions regarding Civil Service, please contact your Department Head or the Borough Administrator.

## EMPLOYEE SUGGESTIONS

All employees are encouraged to submit constructive suggestions and proposals to their supervisors. It is the goal of everyone connected in the operation of the Borough to insure maximum efficiency and a high standard of performance for the people of South Plainfield.

## GRIEVANCES

Nothing set down in this section will abrogate the rights of municipal employees and the rules and regulations of the New Jersey Department of Civil Service and all employees may select to proceed under those rules instead.

All employees covered by contract will not be included in this section as formal grievance procedures are set forth separately.

A grievance is any difference regarding hours of work, wages, or working conditions between the Borough and the employee. The following procedures should be followed in the event an employee feels that he/she has not been treated fairly.

1. The complaint must be submitted in writing to the employee's immediate supervisor within ten days of the occurrence. The supervisor will investigate and attempt to resolve the problem in a swift and equitable manner. The supervisor will notify the grievant of his determination within 14 days of the filing.
2. If the matter is not resolved at this management level, the employee may present the grievance to the Administration for consideration. The Administrator will then investigate and attempt to resolve the problem and again, a response will be sent to the grievant within 14 days of the second filing.
3. If a solution is still not possible, the employee may contact his/her Council Liaison for a decision from the Mayor and Council.

All papers and documents relating to the grievance will be kept in the employee's personnel file. Notification of any action taken will be sent to the employee in writing.

The filing of a grievance will not be construed unfavorably on the employee's good standing, performance, loyalty, or desirability to the public service. It is the policy of the Borough that all employees be treated fairly and those who feel that they have not been so treated have a right to present their grievance to the appropriate management official for consideration.

The provisions contained in this guide are subject to and controlled by the provisions of any ordinance, rule or regulation of the Civil Service Commission. The provisions contained in this guide do not supercede any bargaining agreements between the Borough and employee associations.

If any such phrase, sentence, clause, paragraph, or subtitle of this guide be held invalid by competent jurisdiction, such provisions shall not affect the remaining portions of this guide.

## USE OF BOROUGH VEHICLES

Borough vehicles are to be used for Borough business and for Borough related activities only. Borough vehicles are not for personal use.

Some examples of personal uses are: transportation of spouses, children, friends or relatives. Transportation to places of public accommodation such as theaters, shopping centers, golf courses, churches, restaurants, vacations, etc. This listing is not all-inclusive, however, it does emphasize the Borough's intent and each employee should exercise good judgment and be guided accordingly.

Borough vehicles are to be used only if considered the most efficient and economical means of transportation when compared with other available means of transportation.

Borough vehicles are to be driven by Borough employees only. Department head approvals are to be obtained prior to using Borough vehicles.

Borough vehicles used for out of town business are to be used only during business hours and only for official Borough business.

Any passengers of Borough vehicles are limited to either Borough employees or individuals who have an official Borough business reason requiring transport.

Employees driving Borough vehicles must have a valid driver's license, must observe federal, state and local motor vehicle laws and regulations and must personally assume responsibility for payment of fines for violations committed.

Employees are encouraged to wear seat belts at all times while operating or riding as a passenger in a motor vehicle on Borough business.

Borough vehicles are to be returned immediately after they have served their purpose. Employees using vehicles shall not keep them overnight.

### Dedicated Vehicles

Borough vehicles will only be assigned to specific individuals for full-time take-home use where the individual is subject to the following conditions:

Subject to call-out at any hour to maintain vital services through handling of emergencies.

Such dedicated use is limited to a daily, one-way commute of 35 miles or less.

Dedicated use is limited to:

Police Chief  
Fire Chief  
Deputy Fire Chief  
(1) Fire Inspector  
Emergency Management Coordinator

Any other dedicated use must be pre-approved by the Mayor and Council.

#### Use of Personal Vehicles

Personal vehicles may be used on Borough business when such use is necessary provided prior approval is obtained from the employee's department head. Each instance should be considered individually. A personal vehicle is defined as an employee-owned personal vehicle that is properly registered with the appropriate state authority in the name of the employee or a member of the family. All employees using a personal motor vehicle for business purposes shall maintain a valid policy of vehicle liability insurance. Minimum liability coverage for all employee-owned vehicles used for Borough business shall be \$50,000/\$100,000 bodily injury and \$10,000 property damage. Copies of the declaration page of the employee's vehicle liability policy shall be kept on file by the Borough Clerk's office and updated annually or semi-annually to reflect any changes to the coverage provisions or as changes are made.

Going to and coming from work shall not be considered Borough use of personal vehicles.

Reimbursement for travel expenses shall be at the current IRS allowable rate. Effective April 3, 1993, the travel allowance of 28 per mile shall be paid. These expenses shall be recovered through the use of the normal petty cash fund.

The Borough maintains via an umbrella policy, coverage for claims for bodily injury and property damage not otherwise covered by employees' coverage for accidents involving Borough use of personal vehicles.

A Borough employee involved in an accident with a personal vehicle while on Borough business shall report the accident immediately to his/her insurance carrier and to his/her department head.

In the event that an employee's vehicle is damaged as a result of an accident when said vehicle is being used for Borough business and said vehicle is not covered by the owner's collision policy, the Borough shall pay to the employee the appraised value of the vehicle less its salvage value when said vehicle has been damaged beyond repair. The employee shall subrogate all rights he/she might otherwise have regarding said property damage to the Borough in consideration of this collision coverage.

Disciplinary Action

In the event any employee violates the guidelines set forth in this section of the Personnel Policy Manual with regard to Borough vehicles, such employee shall be subject to disciplinary action in accordance with the applicable provisions of Civil Service guidelines.

**BOROUGH OF SOUTH PLAINFIELD  
POLICY AND PROCEDURE ON SEXUAL HARASSMENT**

It is the policy of the Borough of South Plainfield to maintain a working environment that is free from all forms of discrimination, including sexual harassment.

No employee should be subjected to unsolicited and unwelcomed sexual overtures or conduct, either verbal or physical. No employee should be subjected to a hostile or offensive working environment created by sexual harassment.

Sexual harassment refers to behavior that is not welcome, that is personally offensive, lowers morale and therefore, interferes with our work effectiveness.

Each supervisor has a responsibility to maintain the workplace free of sexual harassment. This duty includes discussing this policy with all employees and assuring them that they are not to endure insulting, degrading or exploitive sexual treatment.

It shall be a violation of this Policy for any employee of the Borough to harass another employee through conduct or communications of a sexual nature, because of gender or sexual orientation. It shall also be a violation of the Policy for any supervisor who is aware that sexual harassment is taking place to fail to promptly report the matter to the Borough Administrator.

**DEFINITION OF SEXUAL HARASSMENT**

A. Sexual harassment shall consist of unwelcomed sexual advances or flirtations, requests for sexual favors, continual or repeated verbal abuse of a sexual nature, sexually explicit or graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual and the display in the workplace of sexually suggestive objects or pictures and other inappropriate verbal or physical conduct of a sexual nature made by any employee when:

1. Submission to sexual harassment is made either explicitly or implicitly a term or condition of an individual's employment.
2. Submission to or rejection of sexual harassment by an individual is used as the basis for employment decisions affecting that individual; or
3. Sexual harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

B. Sexual harassment may include, but is not limited to, the following:

1. unwelcome sexual advances, such as offensive sexual flirtations, repeated requests for dates or love letters after rejection of overtures
2. discussing sexual activities
3. pressure or coercion for sexual activity
4. repeated remarks to a person, with sexual or demeaning implications
5. unwelcomed intentional touching, such as patting, pinching or brushing against another's body
6. suggesting or demanding sexual involvement accompanied by implied or explicit threats concerning one's evaluation, raise, promotion, etc.
7. display of nude, or pornographic or sexually suggestive pictures, objects or cartoons, etc.
8. practical jokes about gender-specific traits

C. Sexual harassment may also consist of intimidating, abusive or hostile behavior of a nonsexual nature toward an employee because of gender or sexual orientation. Verbal abuse and hostility that is not sexual in character but is directed solely at females because they are female, or males because they are male, for example, is likewise a violation of this Policy on the same level as harassment of a sexual nature. Specifically, no supervisor or department head shall threaten, insinuate, either explicitly or implicitly, that an employee's submission to or rejection of sexual advances will in any way influence any personnel decision regarding that employee's employment, wages, advancement, assigned duties, shifts or any other condition of employment or career development.

D. Sexual harassment can also take the form of offensive conduct by nonemployees, such as vendors, outside contractors and consultants against employees in the workplace.

#### PROCEDURES

Because of the nature and seriousness of sexual harassment in the workplace, the receipt of complaints, investigation and recommendation for disciplinary action, if necessary, shall be the responsibility of the Borough Administrator.

### 1. REPORTING VIOLATIONS.

Although any person who feels he/she is the victim of sexual harassment as defined herein is encouraged to first file a complaint with their specific supervisor or department head, he/she may file a complaint directly with the Borough Administrator. If any Department Head or supervisor receives a complaint regarding sexual harassment, or becomes aware of instances of sexual harassment, he or she must promptly report the incident to the Borough Administrator. Employees are encouraged to try to resolve disputes with the help of their immediate supervisor. However there is no requirement that the employee exhaust the chain of command in relation to sexual harassment complaints. Rather, an employee can go directly to the Borough Administrator at any time during the complaint process. The filing of a bona fide complaint or otherwise reporting sexual harassment will not adversely affect the individual's employment status or future terms and conditions of employment.

### 2. INVESTIGATION.

The Borough Administrator shall promptly commence an investigation of the allegations of sexual harassment which may include interviews and written statements from the victim, the alleged harasser and any witnesses. The Borough Administrator may request the assistance of the Borough Attorney, other supervisory personnel, or outside sources, in conducting the investigation. Confidentiality shall be maintained throughout the investigation process.

A written report of the investigation shall be prepared by the Borough Administrator within three days of the conclusion of the investigation with a copy sent to the victim and alleged harasser. The Borough Administrator may initiate any remedial or disciplinary action the Borough Administrator deems necessary with the advice and consent of the Mayor and Council.

### 3. SANCTIONS.

If the allegations of sexual harassment are found to be meritorious, the Borough Administrator with the advice and consent of the Mayor and Council shall immediately institute remedial and/or corrective action which may include counseling, change in work assignments or disciplinary action up to and including termination. Any disciplinary action shall be consistent with applicable collective bargaining agreements and the New Jersey Department of Personnel rules and regulations. The victim of sexual harassment shall be informed of the nature of any disciplinary action taken.

The Borough Administrator may monitor future conduct of the parties involved in order to reasonably insure that the remedial action taken has been effective in stopping the harassment and that no retaliation has occurred.

#### 4. APPEAL.

If any individual is aggrieved with the investigation, findings and/or remedies pursuant to this Policy, he/she may assert any right of appeal contained in the applicable collective bargaining agreements or Employee Handbook, if appropriate, file a complaint with the New Jersey Division on Civil Rights, or pursue any other civil remedy.

#### 5. NOTIFICATIONS.

This Policy will be distributed to all employees and Department Heads of the Borough and incorporated in employee handbooks. The Policy shall also be included in any standard operating procedures manual of any Department. Every employee shall be required to certify that they have received a copy of this Policy. This certification shall be maintained in each employee's personnel file. The Policy shall also be permanently placed on all employee bulletin boards in every Department. It shall be a violation of this Policy to remove the Policy from any bulletin board or deface this Policy in any manner. Mandatory training sessions on this Policy and the prevention of sexual harassment shall be held for all personnel during appropriate in-service training programs and orientation sessions.

#### 6. EMPLOYEE RESPONSIBILITY.

It is the duty of all employees, including supervisory personnel, to be familiar with this Policy. More importantly, each employee has a stake in preventing sexual harassment and thus shares responsibility with the Borough Administrator in eliminating sexual harassment in the workplace. Employees who have witnessed sexual harassment or feel victimized by sexual harassment are encouraged to come forward with complaints. Employees should also inform their co-worker or supervisor in no uncertain terms that conduct is offensive and unwelcome. Often, disputes arise only because of misconceptions and insensitivity, which can be corrected simply through communication. If self-help remedies do not resolve the dispute, report the matter promptly to the Borough Administrator. Also, all employees have a responsibility to cooperate fully with the investigation of sexual harassment. Although the extent of each investigation will vary, confidentiality and cooperation are crucial at all levels. Finally, any retaliatory conduct or recurrence of the offensive behavior should be reported immediately to the Borough Administrator.

Additional information on sexual harassment in the workplace and the Borough's antidiscrimination policies in general are available at the Borough Administrator's office.

POLICY ADOPTED: 4/13/95

## Fact Sheet #28: The Family and Medical Leave Act of 1993

### THE FAMILY AND MEDICAL LEAVE ACT OF 1993

See The CFR

The U.S. Department of Labor's Employment Standards Administration, Wage and Hour Division, administers and enforces the Family and Medical Leave Act (FMLA) for all private, state and local government employees, and some federal employees. Most Federal and certain congressional employees are also covered by the law and are subject to the jurisdiction of the U.S. Office of Personnel Management or the Congress.

FMLA became effective on August 5, 1993, for most employers. If a collective bargaining agreement (CBA) was in effect on that date, FMLA became effective on the expiration date of the CBA or February 5, 1994, whichever was earlier. FMLA entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons. The employer may elect to use the calendar year, a fixed 12-month leave or fiscal year, or a 12-month period prior to or after the commencement of leave as the 12-month period.

The law contains provisions on employer coverage; employee eligibility for the law's benefits; entitlement to leave, maintenance of health benefits during leave, and job restoration after leave; notice and certification of the need for FMLA leave; and, protection for employees who request or take FMLA leave. The law also requires employers to keep certain records.

### **EMPLOYER COVERAGE**

FMLA applies to all:

- public agencies, including state, local and federal employers, local education agencies (schools), and
- private-sector employers who employed 50 or more employees in 20 or more workweeks in the current or preceding calendar year **and** who and engaged in commerce or in any industry or activity affecting commerce — including joint employers and successors of covered employers.

### **EMPLOYEE ELIGIBILITY**

To be eligible for FMLA benefits, an employee **must**:

1. work for a covered employer;
2. have worked for the employer for a total of 12 months\*;
3. have worked at least 1,250 hours over the previous 12 months\*; and
4. work at a location in the United States or in any territory or possession of the United States where at least 50 employees are employed by the employer within 75 miles.

\* See special rules for returning reservists under USERRA.

## LEAVE ENTITLEMENT

A covered employer must grant an eligible employee up to a total of 12 workweeks of **unpaid** leave during any 12-month period for one or more of the following reasons:

- for the birth and care of the newborn child of the employee;
- for placement with the employee of a son or daughter for adoption or foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition; **or**
- to take medical leave when the employee is unable to work because of a serious health condition.

Spouses employed by the same employer are jointly entitled to a **combined** total of 12 work-weeks of family leave for the birth and care of the newborn child, for placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.

Leave for birth and care, or placement for adoption or foster care must conclude within 12 months of the birth or placement.

Under some circumstances, employees may take FMLA leave intermittently — which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule.

- If FMLA leave is for birth and care or placement for adoption or foster care, use of intermittent leave is subject to the employer's approval.
- FMLA leave may be taken intermittently whenever **medically necessary** to care for a seriously ill family member, or because the employee is seriously ill and unable to work.

Also, subject to certain conditions, employees **or** employers may choose to use accrued **paid** leave (such as sick or vacation leave) to cover some or all of the FMLA leave.

The employer is responsible for designating if an employee's use of paid leave counts as FMLA leave, based on information from the employee.

**"Serious health condition"** means an illness, injury, impairment, or physical or mental condition that involves either:

- any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; **or**
- Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:

(1) A health condition (including treatment therefor, or recovery therefrom) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that **also** includes:

- treatment two or more times by or under the supervision of a health care provider; **or**
- one treatment by a health care provider with a continuing regimen of treatment; **or**

(2) Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence;  
**or**

(3) A chronic serious health condition which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; **or**

(4) A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; **or**

(5) Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g., chemotherapy or radiation treatments for cancer).

**"Health care provider" means:**

- doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctors practice; **or**
- podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice, and performing within the scope of their practice, under state law; **or**
- nurse practitioners, nurse-midwives and clinical social workers authorized to practice, and performing within the scope of their practice, as defined under state law; **or**
- Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; **or**
- Any health care provider recognized by the employer or the employer's group health plan benefits manager.

## **MAINTENANCE OF HEALTH BENEFITS**

A covered employer is required to maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance premiums while on leave.

In some instances, the employer may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

## **JOB RESTORATION**

Upon return from FMLA leave, an employee must be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.

In addition, an employee's use of FMLA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to **before** using FMLA leave, nor be counted against the employee under a "no fault" attendance policy.

Under specified and limited circumstances where restoration to employment will cause substantial and grievous economic injury to its operations, an employer may refuse to reinstate certain highly-paid "key" employees after using FMLA leave during which health coverage was maintained. In order to do so, the employer must:

- notify the employee of his/her status as a "key" employee in response to the employee's notice of intent to take FMLA leave;
- notify the employee as soon as the employer decides it will deny job restoration, and explain the reasons for this decision;
- offer the employee a reasonable opportunity to return to work from FMLA leave after giving this notice; **and**
- make a final determination as to whether reinstatement will be denied at the end of the leave period if the employee then requests restoration.

A "key" employee is a salaried "eligible" employee who is among the highest paid ten percent of employees within 75 miles of the work site.

## **NOTICE AND CERTIFICATION**

Employees seeking to use FMLA leave are required to provide 30-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable.

Employers may also require employees to provide:

- medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member;
- second or third medical opinions (at the employer's expense) and periodic recertification; **and**
- periodic reports during FMLA leave regarding the employee's status and intent to return to work.

When intermittent leave is needed to care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the employer's operation.

Covered employers must post a notice approved by the Secretary of Labor explaining rights and responsibilities under FMLA. An employer that willfully violates this posting requirement may be subject to a fine of up to \$100 for each separate offense.

Also, covered employers must inform employees of their rights and responsibilities under FMLA, including giving specific written information on what is required of the employee and what might happen in certain circumstances, such as if the employee fails to return to work after FMLA leave.

## **UNLAWFUL ACTS**

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to FMLA.

## **ENFORCEMENT**

The Wage and Hour Division investigates complaints. If violations cannot be satisfactorily resolved, the U.S. Department of Labor may bring action in court to compel compliance. Individuals may also bring a private civil action against an employer for violations.

## **OTHER PROVISIONS**

Special rules apply to **employees of local education agencies**. Generally, these rules provide for FMLA leave to be taken in blocks of time when intermittent leave is needed or the leave is required near the end of a school term.

Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime under Regulations, 29 CFR Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the "salary basis" requirements for FLSA's exemption extends only to "eligible" employees' use of leave required by FMLA.

The FMLA does not affect any other federal or state law which prohibits discrimination, nor supersede any state or local law which provides greater family or medical leave protection. Nor does it affect an employer's obligation to provide greater leave rights under a collective bargaining agreement or employment benefit plan. The FMLA also encourages employers to provide more generous leave rights.

### **Where to Obtain Additional Information**

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

**U.S. Department of Labor**  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

**1-866-4-USWAGE**  
TTY: 1-866-487-9243  
**Contact Us**

**ORDINANCE NO.2105**

**AN ORDINANCE AMENDING THE BOROUGH CODE  
RE: PERSONNEL POLICIES.**

*Amended -  
Ordinance # 2105*

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of South Plainfield, County of Middlesex, State of New Jersey that the Code of the Borough be amended to add Chapter 78, Article III as follows:

**ARTICLE III: Application for Employment.**

**78-6 – APPLICATION.**

An application form for employment must be completed by each person applying for a position with the Borough of South Plainfield. This completed application will be referred to the department head of the department having the particular opening.

**78-7 – INTERVIEW.**

If an interview is deemed appropriate by the department head of the department having a particular opening, within that department head's discretion, the department head or their designee will conduct a such interview with each applicant and apprise the candidate of the Borough Personnel Policies, conditions of employment, salary range and benefits, and the duties of the position. If the position under consideration is that for a department head, the Borough Administrator will be responsible for the interview in place of the department head.

**78-8 – INVESTIGATION.**

If the department head, or Borough Administrator as the case may be, following the interview, concludes that the candidate meets the requirements for the position, the department head or Administrator will conduct a background check or direct that such background check be conducted, conduct a reference investigation, and check all previous employment. If such information is favorable, in the case of the department head, they shall recommend hiring to the Administrator. In the case of the Administrator, if such information is favorable, the Borough Administrator may arrange for an interview with the Administration and Finance Committee of the Borough Council.

**78-9 – POLICE OFFICER POSITION EXCEPTED.**

If the applicant is applying for a position as police officer, all procedures shall be in accordance with the Borough's contract with the applicable police officer's union.

**78-10 – EXAMINATION.**

For any position, except seasonal employment positions, if the application is for a position of public works worker, or for any position that may involve driving or operating any type of motor vehicle owned or leased by the Borough, or in the course of business for the

Borough, upon adoption by the Borough Council of a resolution authorizing the hiring of the applicant conditioned upon the applicant completing a physical examination, the department head shall arrange a physical examination for the applicant at the Borough's expense to include testing for use of prohibited drugs or misuse of alcohol. In the event that an applicant tests positive, or otherwise fails the examination, the Borough will not hire or rehire the applicant at that point in time. This does not preclude the Borough from hiring the applicant at a later date, provided that the applicant can show proof that he or she has satisfactorily completed a rehabilitation program approved by a substance abuse professional or otherwise remedied the condition which caused the applicant to be deemed unfit for the position. In such case, prior to being hired, the applicant will submit to another test at the Borough's expense. In the event that an applicant refuses to submit to such physical examination and testing, they shall be disqualified from being considered for employment. In the event an applicant fails to attend a scheduled appointment for the examination and testing and does not provide a reason or excuse deemed valid in their sole discretion of the department head of the department having the particular opening, they shall be disqualified from consideration of employment. In the event an applicant does not attend a scheduled examination and testing and provides an excuse deemed valid by the department head in their sole discretion, the examination and testing must be rescheduled within 48 hours or the original scheduled appointment. Failure to attend a rescheduled examination will be considered as a refusal, and the applicant will be disqualified for consideration of employment. No reason or excuse will be accepted for a second missed appointment.

For seasonal employment, which shall be defined as employment for 120 days a year or less with the Borough, this section shall not apply except that the applicant may be required to submit to testing for use of prohibited drugs or misuse of alcohol, at the discretion of the Administrator or department head.

#### 78-11 – SUCCESSFUL COMPLETION OF HIRING PROCEDURES.

Following the successful completion of the foregoing procedures, the Borough Administrator will notify the department head to advise the candidate of the starting date, and report to the office of the Administrator to complete the necessary employment formalities.